



## UNITED STATES MISSION TO THE UNITED NATIONS

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### **U.S. Remarks at Meeting of the Sixth Committee Working Group on Agenda Item 86: Protection of Persons in the Event of Disasters**

#### **Cluster II**

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Thank you, [Mr./Madame Chair]. The United States is pleased to discuss Draft Articles 4, 5, 6, and 9.

Beginning with Draft Article 5, the United States agrees that States have obligations to respect and protect the human rights of persons on their territory and subject to their jurisdiction, in a manner consistent with international law, and therefore supports this Draft Article. With respect to Draft Article 4, the United States again strongly supports respect for the human rights of persons affected by disasters, but notes that this Draft Article could cause confusion insofar as it is duplicative of Draft Article 5 and overlaps with international human rights law. Furthermore, while some international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR), recognize the inherent dignity of the human person as an underlying principle, they do not impose a special or distinct obligation to protect “dignity” apart from other obligations. Therefore, we believe that Draft Article 4 may be more appropriately included in the Draft Articles’ preambular paragraphs.

With respect to Draft Article 6, the United States strongly supports the inclusion of the humanitarian principles in the Draft Articles, as they are greatly important to humanitarian responses. However, as the humanitarian principles are not binding international obligations, and are not part of international human rights law, it may be more appropriate for this paragraph to use non-binding language. Codification of the humanitarian principles as binding international law obligations would amount to a significant change with complex implications extending beyond the disaster response context, and would require further focused discussion and consideration, as well as consultation with relevant humanitarian actors.

Finally, turning to Draft Article 9, the United States recognizes the critical importance of disaster preparation and mitigation. However, we have significant concerns with the proposal in this Draft Article to create a new duty for states to take “appropriate measures” to “prevent, mitigate, and prepare” for disasters. Such an obligation would amount to a significant intrusion on state sovereignty, and it is unclear what states would need to do to comply with the obligation. Compliance may not be feasible for all states, depending on the circumstances. Furthermore, establishment of a legal obligation to “prevent” and “mitigate” disasters would be particularly problematic in light of the broad definition of “disasters,” as we discussed with

respect to Draft Article 3. If “disasters” are defined to include consequences of armed conflict or other serious political or economic crises, then this Draft Article could be read as including legal requirements that would go far beyond steps typically taken to respond to events typically understood as disasters. For example, this Draft Article could raise questions as to whether states have an obligation to engage in diplomatic steps that might reduce the likelihood of an outbreak of hostilities, or fiscal policy measures that might reduce the risk of an economic calamity.

The United States also disagrees with the suggestion that States Parties to the ICCPR already have an affirmative obligation under Article 6 to take positive measures to prevent or respond to disasters that result in loss of life. Article 6 of the ICCPR prohibits the arbitrary deprivation of life through state action and requires protection of that right by law, but it does not obligate States parties to take positive measures to address the threat or jeopardy to life caused by a disaster or calamitous event. State practice does not show that a duty to prevent or mitigate disasters exists in customary international law. While we appreciate that many states undertake efforts to reduce the risk of disasters or mitigate their effects, and applaud such efforts, we do not believe that is evidence of a widespread state practice to prevent disasters undertaken out of a sense of legal obligation. States undertake efforts to prevent disasters pursuant to their own domestic laws and for their own purposes. Furthermore, the most significant international frameworks on disaster risk reduction – such as the Sendai Framework – are non-legally binding, underscoring that states have not committed through their practices to binding obligations in this area.

In light of these concerns, the United States strongly recommends reframing Draft Article 9 as a non-binding principle or guideline. Furthermore, with respect to Paragraph 9(2), we suggest including a reference to measures that would not only identify and communicate risk, but also measures that would mitigate the risk of future loss of life. For instance, Paragraph 9(2) could include references to updating building codes, retrofitting structures against wind and seismic hazards, or elevating or relocating homes out of flood plains.

Thank you, [Mr./Madam Chair].