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# UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

UNITED NATIONS GENERAL ASSEMBLY, SIXTH COMMITTEE,  
UNGA78, AGENDA ITEM 86

PROTECTION OF PERSONS IN THE EVENT OF DISASTERS – CLUSTER 4

Delivered by Jonathan Hollis

1. The UK will now comment on draft Articles 10, 11, 13 and 14 in turn.

#### **Draft Article 10 – Role of the affected State**

2. The UK agrees with the two key principles set out in draft Article 10: that the affected State is at the centre of disaster response; and that the State should protect people in the event of a disaster.
3. Paragraph 2 of this draft Article provides that the State has the primary role in the “*direction, control, coordination and supervision*” of relief assistance. UN General Assembly resolution 46/182 which sets out the guiding principles of humanitarian assistance, affirms that the role of the State is “*initiation, organization, coordination and implementation*”. We query whether the use of ‘control’ and ‘supervision’ in this draft Article is appropriate, as it is a departure from resolution 46/182 and subsequent relevant resolutions and may be difficult to implement during a disaster where there is a large number of assisting actors operating.
4. Particularly noting the role of the State in respect of relief assistance as currently set out in paragraph 2, we would query the absence of provisions in the draft Articles to address the accountability of States for relief assistance received. In line with standard good practice relating to relief assistance States should have systems to identify and address corruption, fraud and aid diversion. We also note the importance of accurate assessments, as poor assessments can lead to assisting actors providing ineffective relief assistance. States should be accountable for the quality of assessments they provide.

#### **Draft Article 11 – Duty of the affected State to seek external assistance**

5. The UK supports the presumption in draft Article 11 that a State should seek assistance when a disaster manifestly exceeds its response capacity. We note that the draft Article does not create a defined process for ‘seeking assistance’ and we are in favour of the flexibility provided by this approach.
6. The UK notes that differing states will have different response capacities: We would therefore welcome further clarity on what “manifestly exceeding national capacity” means.

#### **Draft Article 13 – Consent of the affected State to external assistance**

7. Draft Article 13 reflects the core principle that provision of international relief assistance is contingent upon the consent of the affected State. The right to refuse an offer of external assistance is however qualified by paragraph 2 which sets out that consent shall not be withheld arbitrarily.
8. The UK agrees with the text of draft Article 13(3), and notes that the draft Article does not create a defined process for affected States to communicate decisions

regarding offers of external assistance. We are in favour of the flexibility provided by this approach.

9. The UK notes that the draft Article and commentary do not account for situations in which it is difficult to determine which the correct 'affected State' is from which to obtain consent, or where organs of the State are not functioning. The draft Articles are also silent in respect of navigating situations in which a State is arbitrarily withholding consent to the provision of international relief assistance.
10. The UK notes that the commentary to draft Article 13 makes reference to guidance in respect of armed conflicts to determine what is an arbitrary withholding of consent. While we agree that such guidance can provide valuable insights, we would caution against any suggestion that the provisions in these draft Articles could be read across to the provision of humanitarian assistance in an IHL context.

#### **Draft Article 14 – Conditions on the provision of external assistance**

11. Finally for this cluster, draft Article 14 concerns the placing of conditions by the affected State on the provision of external relief assistance. The UK notes the potential for overly onerous conditions to be applied in bad faith and therefore welcomes the text in this draft Article which specifies that any conditions shall be in accordance with the present draft Articles, applicable rules of international law and the national law of the affected State. Similarly, the UK supports the guidance in the commentary on what constitutes appropriate conditions.