

**EGYPT**



**مصر**

Permanent Mission of Egypt  
to the United Nations  
New York

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نيويورك

**United Nations General Assembly  
Sixth Committee  
(79th Session)**

**Working Group on the Protection of Persons in Disasters  
Statement on Cluster One  
Preamble, Articles 1, 2, 3, and 18**

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**Check against delivery**

**Mr. Chairperson,**

**Preamble:**

In the interest of time, I will not express a position on the preamble. I will note that Egypt agrees with the views expressed by Brazil, Indonesia, and Mexico on the preamble especially on the principles of state sovereignty, non-intervention, and the non-use of force,.

**On articles 1 and 2:**

It is superfluous to include two provisions – one scope and another on purpose. We should be able to formulate a single provision that describes the object and purpose of this draft treaty.

In terms of the content of this provision on the object and purpose, I agree with some of the comments by the Representatives of the European Union and the Hashemite Kingdom of Jordan, and I would add that articles 1 and 2 have framed the scope of this draft treaty too narrowly. It focuses principally on disaster-response, and it does not adequately address the question of disaster preparedness, and it entirely overlooks rehabilitation and rebuilding in the aftermath of disasters. This is especially apparent in the use of the phrase “in the event of disasters” in draft article 1, and the phrase “adequate and effective response to disasters, and reduction of the risk of disasters” in draft article 2.

Accordingly, a new provision on the object and purpose of this draft treaty should include language that indicates that it also applies to “facilitating adequate and effective recovery, rehabilitation, and reconstruction.”

**Mr. Chairperson,**

**Article 3.**

On article 3(a), our view is that the ILC has defined the concept of disaster too narrowly.

Although the commentaries to the draft articles indicate that the intention of the ILC was to cover both sudden-onset and slow-onset events, and both natural and human-made disasters, we believe that article 3(a) does not adequately reflect that intention

Specifically, the requirement of two thresholds that must be met for an event to constitute a disaster – or as the ILC puts, “two causation requirements” – has the effect of restricting the scope of application of this draft treaty.

Specifically, Egypt is unconvinced of the need to include the phrase “seriously disrupting the functioning of society.” Moreover, ensuring that this draft treaty covers slow-onset events, the definition of disasters might need to include a phrase such as “a prolonged process”.

I also note that the commentaries state that it was the intention of the ILC to extend these articles to cover so-called “political or economic crises”. I am uncertain what this phrase means, and I am concerned it might be used in the future to interpret the scope of application of this draft treaty narrowly. If the purpose is to exclude armed conflicts, because IHL is the principally applicable *lex specialis*, that would be correct.

However, that is not what the phrase “political or economic” means. Indeed, I do not think the words “political” and “economic” have any definite juridical meaning. Moreover, how do you distinguish between political and economic phenomena. Is climate change political, economic, social or environmental? In my view it is all of those. Is a drought a hydrological, political, economic crisis? Is an accident in a nuclear facility a political or economic crisis?

Again, in my view it is all of those.

Therefore, in Egypt’s view, the definition of disaster – which is a linchpin of this draft treaty – needs to be expanded to ensure that it covers slow-and-

sudden onset events, whether they viewed as being political, economic, social, environmental or otherwise, while ensuring that IHL remains the principal applicable law in armed conflicts.

On article 3(b), Egypt is of the view that the definition of the affected state is too narrow. Specifically, it appears to adopt a solely territorial understanding of disasters. In reality, many disasters have transboundary effects, and there should be an obligation in this draft treaty ensure that a state does not cause a disaster in another state.

This is based on a well-founded rule found in conventional and customary sources and affirmed in precedents including that the *Trail Smelter Arbitration* of 1938 that stated the following: “[N]o State has the right to use or permit the use of its territory in such a manner as to cause injury . . . to the territory of another or the properties or persons therein.”

Therefore, Egypt would suggest adding language that indicates that concept of the “affected state” also includes states on the territory of which the “effects” of a disaster are manifested.

**Mr. Chairperson,**

### **Article 18**

Egypt supports the approach adopted by the ILC, which affirmed that International Humanitarian Law is the *lex specialis* that applies to situations of armed conflict.

Egypt notes, however, that IHL is not the sole applicable corpus of rules that applies during an armed conflict and that governs the conduct of belligerents in an armed conflict.

Indeed, the ICJ has noted – in its 1996 advisory opinion on the Threat or Use of Nuclear Weapons and in its 2004 advisory opinion on the wall – that obligations from other rules conventional and customary of international

law continue to apply alongside international humanitarian law during an armed conflict.

This includes obligations from international human rights law, environmental law, and international criminal law. Article 18(2) needs to be reconsidered to take account this.

The draft articles also need to be revisited to take account of the fact that experience has shown that international and non-international armed conflicts often have transboundary, transnational effects.

These effects are not governed by IHL. Other rules, such as human rights and refugee law, apply to these transboundary effects of armed conflicts. Egypt believes that any future draft treaty must take account of these transnational effects of armed conflict, which may very well amount to a disaster, and the draft articles would need to be revised to takes account of the continued application of these other areas of international law.