



Permanent Mission of Italy
UN - New York

Working Group – Protection of Persons in the Event of Disasters (Cluster 2)
Statement of Italy – delivered by Mr Enrico Milano

Thank you Mr Chair,

With regard to Cluster 2, my delegation aligns itself with the statement delivered by the distinguished representative of the European Union and would like to make the following observations in a national capacity.

Italy considers Articles 4, 5 and 6 key provisions of the draft articles, firmly grounded on existing international human rights law and the principles of humanitarian assistance. They regulate the so-called “vertical dimension” – namely the relationship between victims of a disaster and the actors providing assistance.

The wording in both Articles 4 and 5 on the obligation to respect and protect human dignity and human rights is reflective of contemporary international human rights instruments, that impose on States both an obligation to abstain from infringing upon fundamental human rights and a positive obligation to put in place all possible efforts to protect those fundamental rights. Italy has taken note of the indication in the

commentary that “the Commission did not consider it feasible to draw up an exhaustive list of all potentially applicable rights and was concerned that such a list could lead to an *a contrario* interpretation that rights not mentioned therein were not applicable.” Surely in Italy’s views these rights include the right to life, the right to food, the right to housing and the rights of persons with disabilities affected by a disaster. It will be for future treaty negotiations to establish whether some of these rights should be spelled out in a non-exhaustive manner, taking into account the specific context of disasters.

Future treaty negotiations may also consider deleting an autonomous provision on human dignity, such as the current Article 4, and having it instead clearly reflected in the preamble. In any case a future treaty instrument should clarify how this principle should guide relevant actors in their disaster risk reduction activities, as also mentioned in the commentary.

Article 6 is equally important as it specifies the humanitarian principles that should inform relief operations in the wake of disaster, including the principles of humanity, neutrality, impartiality and non-discrimination. These principles are largely transposed from international humanitarian law as applicable to armed conflicts. Of relevance is the reference in Article 6 to the needs of the particularly vulnerable, which may justify positive discrimination in certain situations. The commentary makes specific reference to girls, boys, women, elderly people, and persons with disabilities, including in the design and implementation of disaster risk reduction, humanitarian and recovery programming and post-emergency reconstruction – a specific reference, which is in line with the Sendai Framework 2015-2030 on disaster risk reduction. It is also important that the term “particularly vulnerable” is meant as open-ended to include other categories that may find themselves being particularly vulnerable to a disaster such as non-nationals and indigenous people.

Finally, Italy is of the view that Article 9 is of critical importance, in line with global policy frameworks endorsed by the GA. Article 9 provides for a due diligence obligation to put in place measures to prevent, mitigate and prepare for disasters, with a non-exhaustive reference to specific measures, such as the collection and dissemination of risk and past loss information, and the installation and operation of early warning system. This would be a key hard law complement to the existing soft global frameworks and policies, including those devised in recent years at the UN, in order to accelerate domestic efforts aimed at reducing disaster risk. For example, the specific reference to domestic legislative and regulatory measures under paragraph 1 is fully consistent with the findings of the recent Midterm Review of the Sendai Framework, which established that a lack of legal frameworks for DRR is hampering progress on the implementation of the framework. At the same time, Article 9 reflects the general practice of States and relevant organizations in global, regional, subregional and domestic contexts to develop new policy and legal instruments focusing on disaster risk reduction – an impressive list is presented in the commentary and does not of course keep into account developments in the last seven years. For instance, the mentioned Midterm Review Conference has reported 125 States with a National DRR Strategy, up from only 55 States in 2015 - with the latest SG Report on the Implementation of the Sendai Framework mentioning 129 having adopted domestic legislation on disaster risk reduction. Italy strongly supports the insertion of such an obligation in a future treaty instrument.

That concludes our observations on cluster 2.

I thank you.