

Japan Statement by Mr. IWATA shinya in the WG for the Protection of persons in the event of disasters Cluster 4 (The affected State) Oct. 8th 2024

Thank you, Mr. Madame Chair.

Japan has some comments and observations in this Cluster 4.

➤ First, Art.10: This article works well in the sense that the affected state has a moral and political responsibility for their populations. However, if the affected state fails to fulfill its obligation to ensure the protection of persons, it is not appropriate to interpret this article as describing a legal obligation that would lead to liability under international law or to domestic litigation. Therefore, we believe that the word “should” may be mo.

re appropriate here than the phrase “has the duty”.

➤ Second, Art.11 : The obligation of this article was not supported by existing state practice. We believe that the affected State has the right, not the obligation, to seek external assistance and that the phrase “has the duty to” could be replaced by “should”.

➤ Thirdly, Art.13 : This article would make affected states accountable for their refusal to accept external assistance. We must be aware that this accountability may put pressure on the affected state not to refuse the inappropriate external assistance. In addition, it should not overburden the affected state, which is busy responding to the disaster. We also point out that the word “arbitrarily” is ambiguous here. The commentary provides several examples of criteria for “arbitrarily”, which is informative. However, we still have some questions and concerns such as who will determine whether "arbitrarily" or not, possible political factors in this decision, and the possible legal consequences for he affected state.

➤ Finally, Art. 14: It is reasonable for the affected state to place certain conditions on external assistance. However, the specification of conditions should not be abused. From the perspective of not overburdening the affected state, our preference is for the word "should" over "shall".

That’s all the comments and observation from Japan.

Thank you, Madame Chair.