STATEMENT BY

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ON

REPORT OF

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CHAPTER VI: PROTECTION OF PERSONS IN THE EVENT OF DISASTER

This topic is ripe for codification and progressive development in response to the various General Assembly resolutions concerning disasters and humanitarian emergencies including the countless resolutions and declarations including those recommended by the Third Committee. Various Guidelines have been adopted reflecting the perspectives of various stakeholders involved in humanitarian work and diplomacy such as the ICRC and the IFRCRC and the OCHA which are formulated as non-binding operating guidelines or practical manual. Very few, if any, of the Third Committee resolutions relevant to this topic make any reference to the ongoing work of the ILC on the topic. However, it is gratifying to note that in their introduction to the recent guidelines for UN and non-state actors carrying out humanitarian missions, the Special Coordinator for Humanitarian and Emergency Relief and the Special Representative on Internally-Displaced Persons took note of the ILC's work on this topic which they described as exploring additional Responsibilities of States in cases of Disasters and humanitarian emergencies. We believe that the ILC could add value by bringing greater legal clarity and precision to the soft law developed by disparate stakeholders taking account the fact the a number of Groups of States and regional organizations have already adopted binding treaties such as the African Union Convention on Protection and Assistance of Internally Displaced Persons, the Inter-American Convention on Disaster Assistance and the Food Aid Conventions which set out generally agreed legal principles including transparency, non-discrimination, impartiality, neutrality and information-sharing, non-interference, respect for the dignity of affected populations, sovereignty and territorial integrity, priority to be given to vulnerable goods and the duty of assisting States to avoid making food aid in times of emergency assistance undermine the sustainable long term development of agricultural and related economic sectors of the receiving or affected state; the primary duty of States to assist their populations and a correlated duty to request assistance where required assistance exceeds the national capacity of affected the States; the duty of neighbouring third states to facilitate and not impede humanitarian assistance passing through territorial to the affected state.. the right of affected populations discriminated against or deliberately deprived of humanitarian assistance for political reasons to directly request emergency or humanitarian assistance in times of disaster has been recognised in some of these instruments. The African Union Convention on Internally Displaced even confers a duty and right of Member States to intervene to assist and protect internally displaced persons in situations of threats to or breaches of international peace and security. It is our understanding that the definition of Disasters encompasses both natural and made-made causes of disasters.

CHAPTER VII: IMMUNITY OF STATE OFFICIALS FROM FOREIGN CRIMINAL JURISDICTION

In view of the persistent objections by many African States concerning the provisions of the Rome Statute of International Criminal Court, the African Union Commission on International Law (AUCIL) is also examining this subject. I am aware that some members of AUCIL have began general consultations with the ILC in keeping with their respective Statutes. In this spirit, the Special Rapporteur may wish to interact with the AUCIL Special Rapporteur to exchange views on this particular subject.
It is recalled that the ICC was established partly with the view to overcoming the deadlock in determining the scope of universal jurisdiction under customary international law in cases of genocide and other international crimes in the context of ensuring individual accountability for genocide, war crimes and crimes and crimes against humanity. During the process of negotiating
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the Genocide Convention, the International community was divided on the question as to whether the Convention should give rise to a universal jurisdiction over Genocide for nationals of States Parties and non-States alike. The international community failed to achieve a consensus on whether a permanent international criminal court could be established for