

Working Group Protection of Persons in the Event of Disasters (Cluster 4)
Statement of Italy delivered by Mr Enrico Milano

Thank you Mr Chair,

With regard to Cluster 4, my delegation would like to make the following observations.

Articles 10, 11, 13 and 14 of the draft articles deal with the role of the affected State in the aftermath of a disaster. They are key provisions for the effective protection of persons affected by disasters as they give expression to the principle of sovereignty recalled in the preamble and in the commentary, as entailing both rights and responsibilities towards the population affected by a disaster. Once again in Italy's view they strike a good balance between the need to respect the sovereignty and primary role

regulating the entry of personnel and materials according to the actual needs which are specific and different in each disaster and avoid overwhelming the capacity of a State to receive assistance in short periods of time. Paragraph 2 is a balanced provision because, in line with similar approaches adopted in other legal regimes dealing with humanitarian assistance, such as international humanitarian law, it creates an obligation for the affected State to refrain from arbitrarily withholding consent. However, the provisions does not establish a corresponding right of assisting actors to enter the territory of the affected State and provide relief, even in cases in which consent could be held to have been denied arbitrarily. Paragraph 3, finally, is a procedural obligation aiming to apply the principle of good faith while leaving broad discretion to the affected State in the modalities by which its decision is communicated. Even the time requirement is moderated by the qualifier “whenever possible” in the provision.

Article 14 deals with the conditions on the provision of external assistance that the affected State may place. The legal perimeter of those conditions is identified in the draft articles, other applicable rules of international law and domestic legislation. Of great importance is the reference to the quality of assistance and to the fact that assistance must appropriate to the specific needs of the affected population. In other words, the provision seeks to avoid entry of unprofessional and ill-prepared organizations in the territory of the State or of specialized and competent relief personnel, which however is ill-suited for the specificities of the disaster just occurred. Detailed technical standards could be developed in a future treaty instruments or in subsequent instruments adopted under the treaty.

In sum, our delegation can support at this stage Articles 10, 11, 13 and 14 as they have been drafted and approved by the ILC and it is of the view that they will represent a solid basis for treaty negotiations on these important aspects.

That concludes our observations on cluster 3.

I thank you.