

Observations on the text of draft principles on protection of the environment in relation to armed conflicts, adopted by International Law Commission on first reading

A) Introduction and General Observations

1. At the request of the International Law Commission (hereafter “ILC”), the United Nations Legal Counsel, on behalf of the Secretary-General, transmitted text of the draft principles on protection of the environment in relation to armed conflicts adopted by the ILC on first reading (A/74/10, Chapter VI, hereafter “Draft Principles”), inviting Governments, international organizations and others to submit comments and observations.
2. This note contains observations of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in light of international human rights norms and standards, in particular those contained in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other relevant instruments, as well as human rights jurisprudence and applicable international environmental law. The note focuses on some of the most relevant issues addressed by the Draft Principles and the accompanying commentaries from a human rights perspective.
3. OHCHR welcomes and supports the integrated approach in the Draft Principles and related commentaries of civil, cultural, economic, political and social rights in the context of protection of the environment in relation to armed conflicts. It also welcomes that the Draft Principles and the related commentaries consistently refer to linkages between the environment and the enjoyment of a range of human rights, including through references to the human right to a healthy environment, which has been recognized by more than 150 States, demonstrating a growing legal and normative consensus.¹

B) General observations on the relationship between human rights and the environment

4. As reflected in the Draft Principles and the related commentaries, United Nations human rights treaty bodies have recognized and referenced linkages between human rights and the environment, including in their general comments ([CCPR/C/GC/36](#); [CEDAW/C/GC/37](#); [CRC/C/GC/15](#); [E/C.12/2002/11](#)). In particular, the Committee on Economic, Social and Cultural Rights (CESCR) has stated in its General Comment No. 14 that the right to health includes a healthy environment as an “underlying determinant of health” ([E/C.12/2000/4](#), para. 4). The Human Rights Committee also noted in its General Comment No. 36 that “environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life” ([CCPR/C/GC/36](#), para. 62). An increasing number of cases and decisions before the Committees are also addressing linkages between human rights and environment.²
5. The Human Rights Council (HRC) has noted that “more than 155 States have recognized some form of a right to a healthy environment in, inter alia, international agreements or their national constitutions, legislation or policies” ([A/HRC/RES/46/7](#)). The HRC has also “[r]ecogniz[ed] the benefits of seeking to mitigate and minimize the negative effects of pollution and other forms of environmental degradation in situations of armed conflict and post-conflict contexts, and expressing its deep concern at the threats posed to the effective enjoyment of human rights by persons in vulnerable situations, including children, women and girls, youth, persons with disabilities, older persons, indigenous peoples, local communities, refugees, internally displaced persons and migrants”. Other recent HRC resolutions have addressed specific issues related to human rights and the environment including a safe and stable climate ([A/HRC/RES/44/7](#)), recognition and protection of environmental human rights defenders ([A/HRC/RES/40/11](#)), and toxic wastes ([A/HRC/RES/45/17](#)). Resolution 45/30 acknowledges “ongoing discussions in the International Law Commission on the toxic remnants of war, and concerned at the possible threat that they pose to the full enjoyment of the rights of the child” ([A/HRC/RES/45/30](#)).

¹ See e.g. [A/HRC/RES/46/7](#); and Human Rights for the Planet - high-level international conference on human rights and environmental protection, Statement by United Nations High Commissioner for Human Rights, Michelle Bachelet, 5 October 2020.

² [CCPR/C/126/D/2751/2016](#); [CCPR/C/127/D/2728/2016](#), noting in para. 9.11 that “without robust national and international efforts, the effects of climate change in receiving states may expose individuals to a violation of their rights [...], thereby triggering the *non-refoulement* obligations of sending states.” See also [A/HRC/10/61](#), para. 18.

6. OHCHR welcomes references to positions of the Human Rights Council Special Procedures mandates in the commentaries to the Draft Principles.³ The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment has noted that “more work is necessary to clarify how human rights norms relating to the environment apply to specific areas, including [...] the effects of armed conflict on human rights and the environment” ([A/HRC/37/59](#), para. 18). A number of special procedure mandate holders have further engaged with climate change and environmental degradation, and on the contours of the right to non-discrimination in this context.⁴

7. The United Nations Secretary-General’s Call to Action for Human Rights, issued in February 2020, also contains a dedicated section on rights of future generations, especially climate justice, highlighting as a key action going forward to “increase United Nations support to Member States at field level for laws and policies that regulate and promote the right to a safe, clean, healthy and sustainable environment, and for effective individual access to justice and effective remedies for environment-related concerns”.⁵

8. This enhanced focus on the human right to a healthy environment aligns with developments in the work of the United Nations human rights treaty bodies as outlined above, in decisions by regional human rights mechanisms and courts⁶ and national courts,⁷ and in environmental law and policy. The latter include the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement); the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention); the Paris Agreement; and the negotiations for the post-2020 Global Biodiversity Framework; as well as resolutions of the United Nations Environment Assembly (UNEA).⁸

9. For instance, UNEA Resolution 4/17 on promoting gender equality and the human rights and empowerment of women and girls in environmental governance is the first UNEA resolution with a specific focus on human rights and a healthy environment ([UNEP/EA.4/Res.17](#)). Two other recent UNEA resolutions referenced in the commentaries to the Draft Principles highlight the linkages between environmental degradation and armed conflict while also referencing human rights ([UNEP/EA.2/Res.15](#), preambular paragraph 13; [UNEP/EA.3/Res.1](#), preambular paragraph 8 and para. 1).

C) Observations relating to the structure of the Draft Principles

10. The Draft Principles include principles of general nature, principles applying *before* the outbreak of an armed conflict, as well as principles applicable *during* armed conflict, in situations of *occupation*, and *after* armed conflict, with the related commentaries affirming that the structure in three temporal phases (before, during and after armed conflict) was chosen for practical reasons (Draft Principle 1, Commentary para. 2). The Commission also emphasizes that there might be a certain degree of overlap between the three phases

³ In 2012, the HRC established the mandate for the Independent Expert on Human Rights and the Environment in Resolution [19/10](#), which was extended as a special rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment in 2015 (resolution [28/11](#)). A number of additional relevant thematic reports have been issued by the mandate, e.g. focusing on a healthy biosphere and the right to a healthy environment ([A/75/161](#)); good practices on the right to a safe, clean, healthy and sustainable environment ([A/HRC/43/53](#)) safe climate ([A/74/161](#)); clean air and the right to a healthy and sustainable environment ([A/HRC/40/55](#)); children’s rights and the environment ([A/HRC/37/58](#)); framework principles on human rights and the environment ([A/HRC/37/59](#)); biodiversity ([A/HRC/34/49](#)); climate change ([A/HRC/31/52](#)); implementation of human rights obligations relating to the enjoyment of a healthy environment ([A/HRC/31/53](#)); good practices ([A/HRC/28/61](#)); mapping ([A/HRC/25/53](#)); and preliminary report outlining the linkages between environment and human rights as well as States’ obligations to protect these rights ([A/HRC/22/43](#)).

⁴ This includes [A/71/229](#); [A/75/207](#); [A/HRC/16/49](#); [A/HRC/19/54](#); [A/HRC/19/54/Add.1](#) [A/HRC/36/46](#); [A/HRC/41/39](#); [A/64/255](#); [A/71/281](#); [A/75/298](#). See additional references in OHCHR, [Frequently Asked Questions on Human Rights and Climate Change](#) (2021).

⁵ United Nations, [The Highest Aspiration: A Call to Action for Human Rights](#).

⁶ E.g. cases by the European Court of Human Rights, Community Court of Justice of the Economic Community of West African States, and the Inter-American Court of Human Rights as highlighted in footnote 1182 of the Commentary. See also the Inter-American Court’s decision in *Indigenous Communities of the Lhaka Honhat Association v. Argentina*, 2020.

⁷ E.g. decision of the Supreme Court of the Netherlands, *Urgenda Foundation v. State of the Netherlands*, 20 December 2019. See also judgment of the German Federal Constitutional Court, *Neubauer, et al. v. Germany*, 29 April 2021; Supreme Court of Norway, *People vs. Arctic Oil*, 22 December 2020; Supreme Court of the United States of America, *Juliana v. United States*, 30 July 2018.

⁸ See African Charter on Human and Peoples’ Rights, Article 24; Aarhus Convention, Article 1; Escazú Agreement, Article 1; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, Article 11; and ASEAN Human Rights Declaration, Article 28. See also Declaration of the United Nations Conference on the Human Environment, 1972, preambular para. 1 and Principle 1; Rio Declaration on Environment and Development (Rio Declaration), 1992, Principle 1; Paris Agreement, 2015, preamble.

(Draft Principle 1, Commentary para. 1) and that such phases are closely connected (Draft Principle 2, Commentary para. 2).

11. OHCHR acknowledges the effort by the Commission to delimit the Draft Principles in a coherent manner, not limited exclusively to situations of armed conflict. Most obligations applicable to States under international law will apply across all such temporal periods. This is true also for international human rights law, which to a varying degree are relevant in the interpretation of all the Draft Principles.⁹ The structure of the Draft Principles in different temporal phases may lead to a potential lack of clarity as to when and how international rules concerning natural resources, the protection of the environment and the responsibility and liability of States and non-State actors apply. While not intended to be read as precluding the application of principles outside their temporal placement in the draft (e.g. Draft Principle 2, Commentary para. 2), there may be potential risk that the structure might nonetheless be read in this manner.

12. In light of the foregoing, it is recommended that the Draft Principles state that the temporal phases are interconnected, may not definitively be sequenced and that the application of principles to more than one phase is not precluded. Situations may not be easily qualified as falling in one or the other phase as defined in the Draft Principles, also taking into account geographic scope. Alternatively, the subheadings in question could be deleted or amended in this sense.

D) Observations on the interplay between International Human Rights Law and International Humanitarian Law relevant for the protection of the environment in relation to armed conflicts

13. OHCHR welcomes the reference in the Draft Principles and its commentaries to the application of international humanitarian law and other applicable international law, including international human rights law, as well as to the interplay between of armed conflict and post-conflict situations on the one hand and the protection of the environment on the other hand.¹⁰

14. Regarding the relationship between international humanitarian law and international human rights law, the commentaries assert that during armed conflict, the “law of armed conflict” is *lex specialis*.¹¹ A possible interpretation of this position may be that the application of international humanitarian law is taken to preclude the application of other branches of international law during armed conflict. It is context, the consistent practice of UN human rights mechanisms taking a wider, integrating approach is recalled. Taking into account the judgement of the International Court of Justice,¹² the Human Rights Committee concluded that “the Covenant applies also in situations of armed conflict to which the rules of international humanitarian law are applicable. While, in respect of certain Covenant rights, more specific rules of international humanitarian law may be specially relevant for the purposes of the interpretation of Covenant rights, both spheres of law are complementary, not mutually exclusive” (CCPR/C/21/Rev.1/Add. 13, para. 11). Further, the Committee recalled that like the rest of the ICCPR, Article 6 of the ICCPR continues to apply also in situations of armed conflict to which the rules of international humanitarian law are applicable, including to the conduct of hostilities, and that while rules of international humanitarian law may be relevant for the interpretation and application of Article 6 when the situation calls for their application, both spheres of law are complementary, not mutually exclusive (CCPR/C/GC/36, para. 64). This position has been consistently maintained by the Committee and other UN human rights treaty bodies.¹³

15. Regional human rights courts have adopted the same approach.¹⁴ Notably, in *Georgia v Russia (II)*, the European Court of Human Rights held the legally appropriate approach to be to examine “the interrelation

⁹ The general obligation to protect against violations of human rights law is one example. The argument is equally applicable to specific norms addressed, such as the duty to cooperate and the right of access to information (ICESCR, Article 2 (1)).

¹⁰ Consistent with [A/HRC/RES/46/7](#), preamble; [A/HRC/RES/45/30](#), preamble. Two other recent UNEA resolutions referenced in the Commentary highlight the linkages between environmental degradation and armed conflict while also referencing human rights, see [UNEP/EA.2/Res.15](#); [UNEP/EA.3/Res.1](#) (also referenced above at para. 9).

¹¹ With respect to the term “applicable international law”, Draft Principle 13, Commentary para. 5 states that “it must be noted that the law of armed conflict is *lex specialis* during times of armed conflict, but that other rules of international law providing environmental protection, such as international environmental law and international human rights law, remain relevant”. Similarly, Draft Principle 14, Commentary para. 2; Part IV, Commentary para. 6; and Principle 9, Commentary para. 4.

¹² *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, paras. 216-217.

¹³ See [CCPR/C/GC/35](#), para. 64; [CCPR/C/GC/37](#), para. 97; [CEDAW/C/GC/30](#), paras. 20-21; [E/C.12/CAF/CO/1](#), para. 9; and [E/C.12/ISR/CO/4](#), paras. 8-9.

¹⁴ European Court of Human Rights (ECtHR), *Hassan v The United Kingdom* [GC], app no 29750/09, Judgment of 16 September 2014, para. 104; Inter-American Court of Human Rights, *Cruz Sánchez et al. v. Peru*, Judgment of 17 April 2015, para. 272. See also Corte Interamericana de Derechos Humanos y Comité Internacional de la Cruz Roja, Cuadernillo de

between the two legal regimes with regard to each aspect of the case and each Convention Article alleged to have been breached [ascertaining] each time whether there is a conflict between the provisions of the Convention and the rules of international humanitarian law.”¹⁵

16. In light of the above, it is recommended that the Draft Principles and their commentaries further emphasise the interplay between international humanitarian law and other branches of international law, taking into account the existing practice by human rights mechanisms referred to above.

E) Observations on the integration of the preventive approach

17. OHCHR welcomes the integration of the preventive approach throughout the Draft Principles, establishing a range of preventive measures aiming at avoiding or mitigating environmental damage.¹⁶ As highlighted in Draft Principle 2, the purpose of the Draft Principles is to enhance the protection of the environment in relation to armed conflict, including through preventive measures and remedial measures.

18. In this regard, under human rights treaties such as in the ICCPR, the general legal obligations of States include the obligation *to respect* and *to ensure* the rights in the respective treaty.¹⁷ States must thus adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfil their legal obligations ([CCPR/C/21/Rev.1/Add. 13](#), para. 7). The duty to respect entails a State’s duty to refrain from committing human rights violations ([CCPR/C/21/Rev.1/Add. 13](#), para. 7). The duty to ensure encapsulates the general obligation to take positive measures to protect individuals ([CCPR/C/21/Rev.1/Add. 13](#), para. 8; [CCPR/C/GC/36](#), para. 21.) In relation to the right to life, the Human Rights Committee has noted that States are “under a due diligence obligation to undertake reasonable positive measures, which do not impose on them disproportionate burdens, in response to reasonably foreseeable threats to life originating from [actors and entities] whose conduct is not attributable to the State” ([CCPR/C/21/Rev.1/Add. 13](#), para. 21). As further highlighted by the Committee, the “duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity [including] degradation of the environment” ([CCPR/C/GC/36](#), para. 26). The Human Rights Committee has also affirmed that this obligation applies also with respect to environmental pollution ([CCPR/C/126/D/2751/2016](#), para. 7.3). Lastly, the “[i]mplementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm” (para. 62).

19. Likewise, the CESCR has made clear that the ICESCR establishes obligations of States parties to *respect, to protect and to fulfil*.¹⁸ The obligation to protect requires that States adopt legislative, administrative, educational and other appropriate measures, to ensure effective protection against ICESCR rights violations linked to business activities, and that they provide victims of such corporate abuses with access to effective remedies ([E/C.12/GC/24](#), para. 14).

20. These obligations apply both with respect to situations on a State party’s territory, and in all contexts where the State party exercise jurisdiction,¹⁹ and are applicable in peacetime as well as during armed conflict.²⁰ In light of the foregoing, it is recommended that the Draft Principles express the obligation to protect in general terms, taking into account these understandings of obligations under international human rights law. It is also

Jurisprudencia de la Corte Interamericana de Derechos Humanos No. 17. Interacción entre el Derecho Internacional de los Derechos Humanos y el Derecho Internacional Humanitario (2021).

¹⁵ European Court of Human Rights (ECtHR), *Georgia v Russia (II)* [GC], app no 38263/08, Judgment of 21 January 2021, para. 95.

¹⁶ Draft Principles 2, 6, 7, 8, and 20 (2).

¹⁷ See e.g. ICCPR, Article 2 (1).

¹⁸ [E/C.12/GC/24](#), para. 10. See also in relation to the nature of the obligations under ICESCR and the minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enshrined in the Covenant in Committee on Economic, Social and Cultural Rights, General Comment no. 3 (Contained in Document E/1991/23), paras. 9-10.

¹⁹ [CCPR/C/21/Rev.1/Add. 13](#), para. 10; [CCPR/C/GC/36](#), para. 63; [CCPR/C/120/D/2285/2013](#), para. 6.5; [E/C.12/GC/24](#), para. 10. On the extraterritorial obligation to protect, CESCR noted that it includes the obligation by States parties to prevent and redress infringements of Covenant rights that occur outside their territories due to the activities of business entities over which they can exercise control, see [E/C.12/GC/24](#), para. 30.

²⁰ [CCPR/C/21/Rev.1/Add. 13](#), para. 11; [CCPR/C/GC/36](#), para. 64. CESCR stated “States should also refrain from unlawfully polluting air, water and soil, e.g. through industrial waste from State-owned facilities, from using or testing nuclear, biological or chemical weapons if such testing results in the release of substances harmful to human health, and from limiting access to health services as a punitive measure, e.g. during armed conflicts in violation of international humanitarian law.” ([E/C.12/2000/4](#), para. 34). See also OHCHR, [Protection of Economic, Social and Cultural Rights in Conflict](#).

recommended that these obligations are reflected in the commentaries, where relevant.²¹ It is also suggested that the Draft Principles' preventive approach be strengthened throughout, applying a more comprehensive treatment of the duty to respect and to protect against environmental harm.

F) Observations on non-discrimination

21. References to the Convention on the Rights of Persons with Disabilities (CRPD) could be included in the commentaries, including to Draft Principles 23, 24, 25 and 26. In particular, the Commission may wish to refer to Article 11 of the CRPD referencing the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters. Security Council Resolution 2475 on the rights of persons with disabilities in armed conflicts and humanitarian crisis recalls Article 11 of the CRPD, underlines the benefit of providing sustainable, timely, appropriate, inclusive and accessible assistance to civilians with disabilities affected by armed conflict, and urges State parties to comply with the obligations applicable to them under the CRPD ([S/RES/2475](#), preamble, para. 4 and para. 11). The Committee on the Rights of Persons with Disabilities has issued several concluding observations of relevance to this topic (see e.g. [CRPD/C/GBR/CO/1](#), para. 29 (b); [CRPD/C/RWA/CO/1](#), para. 22 (a)-(c); [CRPD/C/NPL/CO/1](#), para. 20; [CRPD/C/OMN/CO/1](#), para. 23; [CRPD/C/PHL/CO/1](#), para. 23; and [CRPD/C/POL/CO/1](#), para. 18).

22. Moreover, it is worth noting that human rights mechanisms have repeatedly held that people of African descent suffer disproportionately from environmental pollution and lack of access to clean water ([A/HRC/27/68/Add.1](#); [A/HRC/42/59/Add.2](#); [A/HRC/45/44/Add.1](#); [A/HRC/45/44/Add.2](#); [AL USA 33/2020](#)). Corresponding reference could be included in the commentaries to the Draft Articles.

G) Observations relating to the principles of general application

Draft Principle 5

23. OHCHR welcomes the reference in Draft Principle 5 to “protect the environment of the territories that indigenous peoples inhabit” and to the participation of indigenous communities in the question of remedial measures. United Nations human rights mechanisms have repeatedly raised concerns and recommendations in relation to the impact of environmental damage on indigenous peoples and their enjoyment of human rights.²² Indeed, damage to their territory and lands may affect their survival and well-being, as well as specific ways of life, livelihood and ancestral traditions.

24. For the purpose of taking remedial measures, the Draft Principle provides for such consultations and for cooperation with indigenous peoples concerned “[a]fter an armed conflict” (Draft Principle 5, para. 2). In light of the application of human rights during armed conflict and the duty to protect the rights of individuals under the jurisdiction of the State highlighted above, the duty to take measures to take remedial measures is not temporally restricted to after the end of armed conflict. Thus, consultations and cooperation should not be limited as a matter of law to post-conflict situations.

25. Further, the Draft Principle highlights that States “should undertake effective consultations and cooperation with indigenous peoples concerned ... for the purpose of taking remedial measures.” Under human rights law, such remedial measures may follow as matter of legal obligation. In particular, Article 28 of the

²¹ An example where such revision could be necessary may be draft principle 26, which encourages States to provide relief and assistance to those affected by environmental damage “where the source of environmental damage is unidentified, or reparation is unavailable”. The Commentaries make clear that the notion of unidentified source of environmental damage is intended to denote situations where establishing responsibility is complex, while “unavailable reparation” is intended to denote circumstances where no internationally wrongful act has occurred. However, as noted, the general duty to protect human rights may entail an obligation to take positive measures to protect human rights, irrespective of whether there is an identifiable subject of international law which could be held responsible to provide reparations for the damage to the environment. Moreover, the principle and its commentaries suggest that relief and assistance measures referred to in principle 26 are not intended to refer to measures of reparation following an internationally wrongful act. However, such measures could instead follow as a legal obligation from the general duty to protect human rights. Such an obligation to protect would not be altered where there is available reparation, either from the State exercising jurisdiction or where a third-State is responsible for the environmental damage. Therefore, instead of constituting a surrogate for reparations, they may be more appropriately viewed as complementary to them, and in some circumstances, following from the legal obligations of States.

²² [CERD/C/CAN/CO/21-23](#), para. 19 (a); [CERD/C/USA/CO/7-9](#), para. 10; [CERD/C/MEX/CO/18-21](#), para. 23; [CERD/C/ECU/CO/23-24](#), paras. 16-17; [E/C.12/CMR/CO/4](#), paras. 16-17; [E/C.12/COD/CO/4](#), para. 14 and [E/C.12/COL/CO/6](#), para. 15. See also [A/HRC/36/46](#); [A/71/229](#); and [A/HRC/27/66](#).

United Nations Declaration on the Rights of Indigenous Peoples states that indigenous peoples “have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been [...] damaged without their free, prior and informed consent” (see also UNDRIP Article 20 (2)).

26. The Draft Principle also recommends that States undertake consultations and cooperation with indigenous peoples “through appropriate procedures and in particular through their own representative institutions”. As stated in UNDRIP Article 19, “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and *informed consent* before adopting and implementing legislative or administrative measures that may affect them” (emphasis added). Further, in its General Recommendation No. 23 on the rights of indigenous peoples, the Committee on the Elimination of Racial Discrimination called upon States to ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent. In its Views concerning the *Poma Poma v. Peru* case, the Human Rights Committee stated that when an indigenous community constitutes a minority, measures which substantially compromise or interfere with the culturally significant economic activities of a minority or indigenous community require the participation in the decision-making process by the community in question. Such process requires not simply consultation but the free, prior and informed consent of the members of the community. ([CCPR/C/95/D/1457/2006](#), para. 7.6). UN human rights treaty bodies have also addressed this issue in their concluding observations in relation to States’ periodic reports ([A/52/18](#), Annex V, para. 4.d, see also [CCPR/C/95/D/1457/2006](#), para. 7.6; [CCPR/C/COL/7](#); paras. 42-43; [CCPR/C/GTM/CO/4](#), para. 39 (a); [E/C.12/COL/CO/6](#), para. 18 (b); [CERD/C/MEX/CO/18-21](#), para. 21(a)-21(c); [CERD/C/COL/CO/17-19](#), para 13(a)).²³

27. In light of the foregoing, OHCHR recommends taking into account the above standards set forth in international human rights instruments in the further framing of Draft Principle 5.

Draft Principle 8

28. As noted in Draft Principle 8, Commentary para. 2, the “draft principle covers both international and internal displacement”. Accordingly, it would be appropriate for the Guiding Principles on Internal Displacement ([E/CN.4/1998/53/Add.2](#)) to be referenced in the Commentary. The Commission may also wish to include additional references to human rights materials in this context (e.g. [A/75/207](#); [A/HRC/RES/35/20](#)).

Draft Principle 9

OHCHR welcomes the reference to State responsibility for an international wrongful act, in relation to the armed conflict, that causes damage to the environment, and wishes to raise, for the Commission’s consideration, the following observations in relation to the scope of this Draft Principle.

29. The principle as currently formulated would seem to overlook reference to various situation of relevance to the context of draft principles where the State might be appropriately held responsible, including in relation to its obligations under international human rights law. Responsibility for the failure, for example, to take measures during peacetime to prevent harm to the environment in situations of armed conflict would may be seem to fall outside the scope of principle 9. As highlighted in the present submission, the types of wrongful acts which may occur in conjunction with damage to the environment caused during armed conflict may occur before and after an armed conflict.

30. Further, the current language of Draft Principle 9 makes reference only to State responsibility. As a more flexible approach, Draft Principle 9 could make general reference to the law on responsibility under international law, without necessarily excluding possibility that, for instance, an international organisation or other analogous subject of international law, could also be responsible for a wrongful act in certain circumstances.²⁴

31. In addition, Draft Principle 9 currently does not cover individual responsibility for international crimes causing harm to the environment. In its Part II, the draft principles include only the duties and liability of corporate entities in principles 10 and 11, in the context of State obligations to regulate the conduct of private actors. Given the significant impact/damage that private actors may cause to the environment, it is

²³ See also [A/HRC/36/46](#), paras. 44-50; and [A/HRC/27/66](#), paras. 56-58.

²⁴ International Law Commission, Draft articles on the responsibility of international organizations.

recommended to consider inclusion of the notion of individual responsibility for international crimes causing harm to the environment in the Draft Principles.

32. If Draft Principle 9 were to include the issues referenced above, the wording with respect to the scope of the duty to provide reparations for environmental harm would also be amended accordingly.

33. Lastly, it is also encouraged that the Draft Principles and their commentaries further address other actors' responsible for environmental damage, in relation to an armed conflict. Organized armed groups, as defined by international humanitarian law, are under the obligation to respect international humanitarian law. Moreover, UN human rights mechanisms have considered that international customary human rights law has been and is gradually evolving towards recognizing certain human rights obligations on the part of *de facto* authorities and non-State armed groups exercising government-like functions and with effective control over territory, being obliged to respect human rights norms and standards, including ensuring respect of economic, social and cultural rights of persons within the territory under their control.²⁵

Draft Principles 10 and 11

34. OHCHR welcomes that the Draft Principles highlight corporate responsibility to respect human rights and the Commentaries' reference to human rights due diligence. CESCR has stated that the obligation to protect entails a positive duty to adopt a legal framework requiring business entities to exercise human rights due diligence to identify, prevent and mitigate the risks of violations.²⁶

35. Draft Principles 10 and 11 refer to "corporations and other business enterprises *operating in or from a State's territory*". As stated, international human rights law provides for the positive obligation to ensure the human rights of persons in their territory *or under their jurisdiction* (e.g. [CCPR/C/120/D/2285/2013](#), para. 6.5). In particular, the CESCR referred to the obligation of States to control the activities of "corporations domiciled in their *territory and/or jurisdiction* (whether they were incorporated under their laws, or had their statutory seat, central administration or principal place of business on the national territory), without infringing the sovereignty or diminishing the obligations of the host States under the Covenant".²⁷ It is thus suggested to include in Draft Principles 10 and 11 a reference to corporations and other business enterprises operating in or from the territory *or under the jurisdiction* of a State. Limiting the application of Draft Articles 10 and 11 to entities operating in or from the territory of a State risks excluding other relevant connections between a company and States that may implicate a State's obligations under international human rights law.

36. Draft Principles 10 and 11 also refer to "harm caused by [the private entity] to the environment, including in relation to *human health*" (emphasis added), which may not fully capture the obligation to prevent and to ensure liability for serious human rights abuses.²⁸ In this regard, UN human rights mechanisms have addressed how environmental degradation affects the effective enjoyment of a range of human rights. The United Nations Special Rapporteur on human rights and environment has noted that "[d]amage to the biosphere is having a major impact on a wide range of human rights" including "the rights to a healthy environment, life, health, food, water, sanitation, an adequate standard of living, development and culture" ([A/75/161](#), para. 31; see also [A/HRC/47/46](#)). The Draft Principles may thus emphasize that when acting in an area of armed conflict or in a post-armed conflict situation, business enterprises have responsibility to respect human rights.

37. Further, in relation to the reference to harm to the environment caused by corporations and other business enterprises operating "in an *area* of armed conflict" (emphasis added), it is recalled that international humanitarian law governs the determination whether an armed conflict exists within the meaning of Common Article 2 or Common Article 3 of the Geneva Conventions based on the prevailing circumstances. The reference to "area" may be understood as a fixed geographic area and leads to some ambiguity as to the timing and scope of the determination of such area. It is thus suggested to use a reference to "in *the context of an armed conflict*" in Draft Principles 10 and 11.

38. Draft Principle 10 refers to corporations and other business enterprises "*acting in an area of armed conflict or in a post-armed conflict situation*" (emphasis added) and thus raises question whether the due

²⁵ See e.g. [CEDAW/C/GC/30](#), para. 16; UNMISS and OHCHR, [Access to health for survivors of conflict-related sexual violence in South Sudan](#), May 2020.

²⁶ [E/C.12/GC/24](#), paras. 16 and 50. See also [E/C.12/COL/CO/6](#), para. 13 (a)-(c)), [A/73/163](#); [A/75/212](#), para. 44; [A/HRC/38/20/Add.2](#), para. 8; UN Guiding Principles on Business and Human Rights, Guiding Principles 18 to 21.

²⁷ [E/C.12/GC/24](#), para. 26. See also [CRC/C/GC/16](#), para. 43; UN Guiding Principles on Business and Human Rights, Guiding Principles 1 and 2.

²⁸ The rights of indigenous peoples, for example, is in many respects inherently tied to their land. There is a risk that liability for harm caused to the environment and human health would not capture the harm to the rights of the indigenous community tied to the environment damaged.

diligence obligation solely covers the corporate actor's own operations. In its General Comment 24, CESCR refers to "a due diligence requirements to prevent abuses of Covenant rights *in a business entity's supply chain and by subcontractors, suppliers, franchisees, or other business partners*" ([E/C.12/GC/24](#), para. 16). Therefore, it is suggested to include reference to the supply chain, in order to enhance effectiveness of the due diligence obligation.

39. In relation to Draft Principle 11, it is noted that the United Nations Guiding Principles on Business and Human Rights consistently refer to adverse human rights impacts caused *or contributed to* by business enterprises (Guiding Principles 15, 17, 19 and 22).²⁹ This is recognized in the reference to Guiding Principle 17 in Draft Principle 11, Commentary para. 2. Further, in its General Comment No. 24, CESCR to negative impacts on the enjoyment of Covenant rights "caused or contributed to" by decisions and operations of business entities ([E/C.12/GC/24](#), para. 16). In order to avoid potential circumvention of liability rules, it is recommended to amend Draft Principle 11, adding to the formulation in question "can be held liable for harm caused *or contributed to* by them to the environment".

40. Guiding Principles 25 to 27 of the UN Guiding Principles on Business and Human Rights outline measures to ensure access to effective remedies. Equally, in its General Comment 24, the CESCR has noted that States are required to provide victims of such corporate abuses with access to effective remedies ([E/C.12/GC/24](#), paras. 14-15).³⁰ It is therefore also suggested that the Commentary to Draft Principle 11 align with the approach taken in the Guiding Principles and General Comment No. 24 on States' obligations to ensure access to effective remedy when abuses occur within their jurisdiction.

41. Note is taken of the focus in the Draft Principle 11, Commentary para. 3 on the relationship between the parent company and the subsidiary, and its reference to de facto control. In OHCHR's view, there may be multiple routes to liability beyond de facto control.³¹ These include management or joint management of the relevant harmful activity; provision of defective advice and/or promulgating defective group-wide safety/environmental policies implemented by the subsidiary; and promulgating group-wide safety/environmental policies and taking active steps to ensure their implementation by the subsidiary. In addition, there are several different circumstances in which one corporate entity can and should be held liable for harm directly caused by a different company or actor.³² The CESCR, for example, has recommended that "[c]orporations domiciled in the territory and/or jurisdiction of States parties should be required to act with due diligence to identify, prevent and address abuses to Covenant rights by [...] subsidiaries and business partners, wherever they may be located" ([E/C.12/GC/24](#), para. 33). With regards to liability, it considers that States parties must "remove substantive, procedural and practical barriers to remedies, including by establishing parent company or group liability regimes" (para. 44). In light of the foregoing, OHCHR recommends adjusting language in the Draft Principles 10 and 11 taking into account the above standards and practices.

Part 3 - Draft Principles 12 to 19

42. To a large extent, Part 3 addresses principles relevant to the protection of the environment in the context of the conduct of hostilities. In this context, further to the discussion above, it is recalled that human rights law continue to apply, as a matter of law, within the narrower scope of the law on the conduct of hostilities ([CCPR/C/GC/36](#), para. 64). It is suggested that the Commentaries clarify that not all uses of force occurring during a state of armed conflict will necessarily be regulated by the law on the conduct of hostilities. In *Armed Activities* the International Court of Justice held that, even during armed conflict, "some rights ... may be exclusively matters of human rights law" Justice (*Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*), Judgment, para. 217). Consistent with this position, human rights bodies have affirmed that the law on the conduct of hostilities is only applicable where the use of force has a nexus to the armed conflict. The Human Rights Committee has thus held that international humanitarian law is relevant in the interpretation of the Covenant only "when the situation calls for their application" ([CCPR/C/GC/37](#), para. 97). Similarly, the African Commission on Human and Peoples' Rights has held that

²⁹ [E/C.12/GC/24](#), para. 16. See also [OHCHR Accountability and Remedy Project: Improving accountability and access to remedy in cases of business involvement in human rights abuses](#). See [ARP I report](#), paras 21-23 and Policy Objectives 12.3-12.4 (for private law claims) and 1.5-1.6 (for public law offenses) as well as [ARP I addendum](#), paras. 42-54 (and 6-20). In para. 4 of the Commentary to Draft Principle 11, [ARP I report](#) references could be added, particularly paras. 21-23 and Policy Objectives 12.3-12.4 (for private law claims) and 1.5-1.6 (for public law offenses); [ARP I addendum](#), 42-54 (and 6-20).

³⁰ See also [E/C.12/COL/CO/6](#), para. 13 (a) - (c).

³¹ Outlined in the *Vedanta* case, which is referenced in the Commentary. See also *Okpabi & Ors v Royal Dutch Shell Plc & Anor* [2021] UKSC 3 (12 February 2021).

³² See e.g. [ARP I report](#), paras 21-23; [ARP I addendum](#), paras. 45-54.

“International humanitarian law on the conduct of hostilities must only be applied during an armed conflict and where the use of force is part of the armed conflict” (African Commission on Human and Peoples’ Rights, General Comment No. 3 (2015), para. 33). Where there is no nexus to the armed conflict, the use of force affecting the rights of individuals is entirely regulated by international human rights law.

Draft Principle 13

43. Paragraph 3 of Draft Principle 13 states that “*No part of the natural environment may be attacked, unless it has become a military objective*”. The Fourth Geneva Convention³³ and Additional Protocol I³⁴ provide that the civilian population, individual civilians and civilian objects *shall not be the object of attack*.³⁵ This wording allows for an attack to be lawful as long as it is directed against a military objective and the incidental damage to civilian objects is not excessive, reflecting principles of distinction and proportionality and removing potential ambiguity in relation to the question of wilfulness. Moreover, rather than determining that an object becomes a military objective permanently, international humanitarian law looks at whether at the given time an object by its nature, location, purpose or use makes an effective contribution to military action and its destruction, capture or neutralization offers a definite military advantage.³⁶ To ensure harmonious and consistent reading, it is thus suggested to formulate Draft Principle 13 (3) as follows: “*No part of the natural environment shall be the object of attack, unless it constitutes a military objective under international humanitarian law.*”

Draft Principle 15

44. Draft Principle 15 states that “[e]nvironmental considerations shall be taken into account when applying the principle of proportionality and the rules on military necessity.” In this context, it is recalled that, under international humanitarian law, in the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects.³⁷ This principle of precaution apply to the natural environment in as much as at the given time it does not constitute a military objective under international humanitarian law. It is thus suggested to include the principle of precaution in Draft Principle 15.

Draft Principle 20

45. OHCHR welcomes the inclusion of Draft Principle 20 on the general obligations of occupying powers. Mindful of the application of international humanitarian law,³⁸ it is also welcomed that the accompanying commentary, in para. 3, recognises the complementary application of international human rights law situations of occupation.³⁹ Human rights treaties have recognised occupation, directly or through a subordinate local administration, as a form of exercise of jurisdiction.⁴⁰ An occupying power is under an obligation to respect and to ensure the human rights within the occupied territory ([E/C.12/ISR/CO/4](#); [CCPR/C/ISR/CO/4](#)), within the parameters set forth in the 1907 Hague Regulations and the 1949 Geneva Convention IV. The general duty to prevent, addressed above, will thus also be applicable in situations where environmental harm is likely to prejudice the enjoyment of human rights.

46. Paragraph 2 of Draft Principle 20 provides that the occupying power shall take appropriate measures to prevent *significant* harm to the environment of the occupied territory that is likely to prejudice the health and well-being of the population of the occupied territory. In line with the purpose of the provision to indicate that

³³ Fourth Geneva Convention, Article 11 (in relation to hospital and safety zones) and Article 18 (in relation to civilian hospitals). Article 22 provides that aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases, or for the transport of medical personnel and equipment “shall not be attacked”.

³⁴ Additional Protocol I, Article 51(2) and Article 52(1). The same terminology is used in relation to medical units (Article 12(1)), enemy hors de combat (Article 41(1)), occupants of aircraft (Article 42(1) and (2)), works and installations containing dangerous forces (Article 56(1) and (5)), as well as Grave Breaches (Article 85(3) and (4)).

³⁵ Rule 7 on the principle of distinction between civilian objects and military objectives of the ICRC Study on Customary International Humanitarian Law states that “Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects attacks must not be directed against”, again emphasizing that an attack affecting civilian objects may not be unlawful as long as it is directed against a military objective and the incidental damage to civilian objects is not excessive.

³⁶ See Additional Protocol I, Article 52(2); ICRC Study on Customary International Humanitarian Law, Rule 8 on the definition of military objectives.

³⁷ Additional Protocol, Article 57(1); ICRC Study on Customary International Humanitarian Law, Rule 15 on the principle of precautions in attack.

³⁸ See 1907 Hague Regulations; Fourth Geneva Convention; Additional Protocol I.

³⁹ In associated footnote 1294 of the Commentary, suggest to add reference to E/C.12/ISR/CO/4, 2019, para. 14-15.

⁴⁰ [CCPR/C/21/Rev.1/Add. 13](#), para. 10; [CCPR/C/GC/36](#), para. 63; ECtHR, *Loizidou v Turkey*, app no 15318/89, judgment (preliminary objections) of 23 March 1995; ECtHR, *Ilaşcu and others v Moldova and Russia [GC]*, app no 48787/99, judgment of 8 July 2004.

environmental harm can have adverse effects, including on human rights of the population in the occupied territory (Principle 20, Commentary para. 5), it is suggested to reconsider the reference to “significant” in the Draft Principle to ensure that the Draft Principle is consistent with the duty to prevent under international human rights law. It would also be consistent with the best interests principle anchored in the underlying norms of the laws of occupation, as the 1907 Hague Regulations and the 1949 Geneva Convention IV preserve the rights of protected people and strictly regulate the actions of the occupying power ([A/72/556](#), para. 34-35).

47. Further, in relation to the reference to “health and well-being” in paragraph 2 of Draft Principle 20. The commentaries reference certain sources, explaining the reasons for the choice and the meaning of these concepts, in particular Article 55 to Protocol I Additional to the Geneva Conventions forming part of the general protection of the civilian population against the effects of hostilities. It prohibits the use of means and methods of warfare which may be expected to cause widespread, long-term and severe damage to the natural environment, and thereby cause prejudice to the health and survival of the population. The obligations of the occupying power in paragraph 2 go beyond such provision. In addition, the commentaries make a general reference to human rights law, albeit without specific reference to human rights instruments or practice by human rights bodies. Thus, it is suggested to broaden the scope of protected interests to ensure that Draft Principle 20 includes duty to prevent harms to the environment that are likely to affect human rights that may not necessarily be directly related to the health or well-being of individuals.⁴¹

Draft Principle 21

48. Draft Principle 21 concerns the use of natural resources in occupied territory by an Occupying Power. The provision contains a reference to “under the law of armed conflict”. As highlighted in Draft Principle 21, Commentary para. 5, the international legal framework for the exploitation of natural resources is regulated by international humanitarian law and other areas of international law, including international human rights law. Accordingly, it is recommended that the Draft Principle be amended more generally to “provided by international law” or comparable formulation.

Draft Principle 22

49. OHCHR welcomes Draft Principle 22 on due diligence, in relation to which the Commission may wish to consider the observations made above regarding the use of the qualifier “significant” and further referring to human rights mechanisms in the relevant commentary.⁴²

Draft Principle 24

50. Draft Principle 24 regulates the sharing or granting of access to information. The right of access to information is an important and established principle under international human rights law.⁴³ While recognising that human rights treaties are directly binding on States, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has asserted that the obligation to provide access to information is applicable *mutatis mutandis* to international organisations ([A/72/350](#)), and such a right has been recognised explicitly by some such organisations.⁴⁴

51. Paragraph 1 of the Draft Principle may imply two limitations on the scope of rights of access to information: the purpose of granting access is expressly to facilitate remedial measures; and the type of information subject to disclosure should be “relevant” to achieve that purpose. Under international human

⁴¹ Draft Principle 20, Commentary para. 5 also contains a reference to “key” human rights, closely linked to the protection of the quality of soil, water, and biodiversity. The Commission may wish to refer to “human rights” without a qualifier. In the associated footnote 1307, references to human rights mechanisms may be added (e.g. [A/HRC/34/49](#); and [A/75/161](#)).

⁴² [CCPR/C/GC/36](#), para. 22. As mentioned, the Human Rights Committee has affirmed that effective control over territory through occupation constitutes the exercise of jurisdiction within the meaning of the ICCPR, Article 2 (1).

⁴³ ICCPR, Article 19 (2); ICESCR, Article 12; [E/C.12/2000/4](#), paras. 11 and 12 (b). See also CEDAW, Article 12; American Convention on Human Rights, Article 13; Inter-American Court, *Claude Reyes et al v. Chile*, Judgment of 19 September 2006; European Convention on Human Rights, Articles 8 and 10; European Court of Human Rights, *K.H. and others v. Slovakia*, app. no. 32881/04, judgment of 28 April 2009, para. 44; and *Magyar Helsinki Bizottság v. Hungary*, Judgment of 8 November 2016, respectively; and African Charter on Human and Peoples’ Rights, Article 9. See also Council of Europe Convention on Access to Official Documents, CETS No. 205, adopted 18 June 2009, entered into force 1 December 2020 (Tromsø Convention); European Union Charter of Fundamental Rights, Article 42; Aarhus Convention; Escalzú Agreement.

⁴⁴ See Treaty on the Functioning of the European Union, article 15.

rights law, the right covers, in principle, all information held by public authorities.⁴⁵ Access to information may facilitate remedial measures, but such effect should not be interpreted to restrict the scope of the right itself. Further, restricting access to information “relevant” to remedial measures also suggests substantive restriction to the right of access to information. In order to be lawful as a matter of human rights law, such a restriction must be justified under the cumulative conditions applicable under the applicable human rights treaty.

52. In addition, the first sentence of Paragraph 2 of the Draft Principle may be understood as limiting the right of access to information beyond permissible limits set out in international human rights law. Article 19 (3) of the ICCPR recognises restrictions on the basis of national security, which while a legitimate ground, must also be provided by law, necessary and proportionate, in order to be justified, including in form of denial of access.⁴⁶ The relevant sentence also seems arguably unnecessary, as Draft Principle 24, paragraph, 1 *in fine* already includes the caveat “in accordance with their obligations under international law”, which permits restrictions based on national security considerations.

53. Lastly, it is recalled that the right of access to information applies before, during and after an armed conflict. With particular relevance for Draft Principles 12 to 19, and the need for transparency and accountability for harm caused to the environment, the Human Rights Committee has for example recommended that States should “disclose the criteria for attacking with lethal force individuals or objects whose targeting is expected to result in deprivation of life, including the legal basis for specific attacks, the process of identification of military targets and combatants or persons taking a direct part in hostilities, the circumstances in which relevant means and methods of warfare have been used, and whether less harmful alternatives were considered” ([CCPR/C/GC/36](#), para. 64).

Draft Principles 23 and 24

54. The right to full and equal participation of women in decision-making, planning and implementation as regards protection of the environment should be referenced in the Commentary to Draft Principles 23 and 24.⁴⁷ The Committee on the Elimination of Discrimination against Women has issued a number of relevant observations and recommendations (e.g. [CEDAW/C/GC/30](#); [CEDAW/C/GC/37](#); [CEDAW/C/GC/34](#); [CEDAW/C/GC/35](#)). Also relevant is the UNEA Resolution 4/17 on promoting gender equality and the human rights and empowerment of women and girls in environmental governance ([UNEP/EA.4/Res.17](#)).

Draft Principles 25 and 26

55. OHCHR welcomes the inclusion of the principle of cooperation with respect to post-armed conflict environmental assessments and remedial measures. The Commission may wish to consider amending the Draft Principles to reflect that under international human rights law, cooperation may, depending on the circumstances, also constitute a legal obligation. The ICESCR, for example, places a general legal obligation “to take steps, individually and through international assistance and co-operation” to progressively achieve the full realisation of the rights enshrined in the Covenant (Article 2(1)). The obligation of States to ensure progressive realization of economic, social and cultural rights also in conflict settings, has been expanded upon by CESCR.⁴⁸ Moreover, CESCR has interpreted the scope of the duty to cooperate, including in the context of the right to water.⁴⁹ With respect to the relationship between environmental degradation and the right to life, the Human Rights Committee has recommended States to cooperate with other States concerned about natural disasters and emergencies ([CCPR/C/GC/36](#), para. 62).

56. Moreover, the duty to cooperate under human rights law is broader than the specific contexts of environmental assessments and remedial measures covered by Draft Principle 25, and may, for example, include relief and assistance measures addressed under Draft Principle 26. As for example held by CESCR with respect to the right to water, “States should facilitate realization of the right to water in other countries, for example through provision of water resources, financial and technical assistance, and provide the necessary

⁴⁵ Tromsø Convention article 2; [CCPR/C/GC/34](#), para. 18; African Commission on Human and Peoples’ Rights, Declaration on Principles on Freedom of Expression and Access to Information, Principles 26, 28 and 31.

⁴⁶ On the interpretation of these requirements, see e.g. [CCPR/C/GC/34](#), paras. 25 and 34.

⁴⁷ On the right to participation, see e.g. [A/HRC/39/28](#). See also Rio Declaration, Principle 20. See also Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol), Article 18.

⁴⁸ [E/C.12/COD/CO/4](#), para. 6.

⁴⁹ CESCR stated that “it is particularly incumbent on States parties, and other actors in a position to assist, to provide international assistance and cooperation, especially economic and technical which enables developing countries to fulfil their core obligations”, [E/C.12/2002/11](#), para 38.

aid when required” ([E/C.12/2002/11](#)). It is thus suggested to consider whether the principle of cooperation should be stated beyond the scope of environmental assessments and remedial measures.
