

## UN Diplomatic Conference of Plenipotentiaries on the Protection of Persons in the Event of Disaster

### Italy's proposals for amendment in accordance with GA Res. 79/128

#### draft Article 3 (a):

'(a) "disaster" means ~~an calamitous~~ event or series of events ~~resulting~~ **which result or may result** in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, **including damage to cultural heritage**, thereby seriously disrupting the functioning of **affected society or community, but excluding armed conflicts**'.

#### *Rationale:*

*The definition should cover situations that have already occurred or may occur ("may result"). Italy sees merit in explicitly mentioning the "cultural" dimension of disaster impacts. The term "communities" should be added alongside "society," as per the Tampere Convention and UNDRR Terminology. Italy sees merit in excluding mere cases of armed conflict from the notion of disaster, in line with UNDRR Terminology.*

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#### draft Article 3 (d):

(d) "other assisting actor" means ~~a~~ the **United Nations, other competent global, regional or sub-regional** intergovernmental organization, **the components of the Red Cross and Red Crescent Movement**; or a relevant **local or external** non-governmental organization or entity, providing assistance to an affected State with its consent;

#### *Rationale:*

*The proposed elements improve consistency with other notions/definitions used in the text (see Art. 7 on cooperation). Italy sees merit in referencing regional organizations (such as the EU or ASEAN). Components of the International Red Cross and Red Crescent Movement should be clearly identified as per Art. 7.*

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#### draft Article 3 (e):

(e) "external assistance" means ~~relief~~ personnel, equipment and goods, and services provided to an affected State by an assisting State or other assisting actor for disaster ~~relief~~ assistance;

*Rationale:*

*These amendments are proposed to avoid the risk that external assistance would be limited to the phase of response and would not include DRR phases (see the use of the term “relief” in the original version).*

....

**draft Article 3 (f):**

(f) “relief personnel” means civilian ~~or~~ **and** military personnel sent by an assisting State or other assisting actor for the purpose of providing disaster relief assistance. **Military assets should be used only where there is no comparable civilian alternative and only the use of military assets can meet a critical humanitarian need, unless when military assets are deployed as civil protection assets and are civilian in character and their use respect humanitarian principles**

*Rationale:*

*The proposed amendment is in line with the “last resort” principle enshrined in the Oslo Guidelines. The term “relief” should be avoided to designate personnel and such personnel should not be limited to the phase of assistance.*

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**draft Article 6: Humanitarian Principles**

~~Response to disasters~~ **Activities carried out in the application of this treaty** shall take place in accordance with the principles of humanity, neutrality, **independence** and impartiality, and **in particular** on the basis of non-discrimination, while taking into account the needs of ~~the particularly vulnerable~~ **persons in vulnerable situations, including the needs of women, children, older persons, persons with disabilities, vulnerable or disadvantaged groups.**

*Rationale:*

*The application of humanitarian principles should not be limited to the disaster response phase (the original version refers to “relief activities,” consistent with what was specified in the Commentary to Art. 6). There should be explicit reference to the principle of independence and further specification of categories of persons in vulnerable situations.*

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**draft Article 8: Forms of cooperation ~~in the response to disasters~~**

Cooperation ~~in the response to disasters~~ **in the application of this treaty may include, as appropriate, training; strengthening legal and institutional frameworks; capacity building; information-sharing, including notification of disasters; joint simulation exercises; assistance with evacuations; multi-hazard early warning systems; preparedness measures; voluntary financial contributions;** humanitarian assistance; coordination of international relief actions and communications; and making available ~~relief~~ assistance personnel, equipment and goods, and scientific, medical and technical resources.

*Rationale:*

*Fine-tune with the terminology of Art. 3(d) on measures of external assistance. The proposed text is intended to avoid limiting forms of cooperation solely to the disaster response phase. It also broadens the catalogue of possible forms of cooperation relevant in these contexts.*

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**draft Article 9: Reduction of the risk of disasters Disaster Risk Reduction**

(1) Each State shall reduce the risk of disasters by taking appropriate measures, including through legislation and regulations, to prevent, mitigate, and prepare for disasters.

(2) ~~Disasters risk reduction~~ **Such measures may include, as appropriate, the conduct of conducting risk and vulnerability assessments; the collection and dissemination of risk and past loss information; contingency planning; planning for evacuation and relocation; training, drills and simulation exercises; enhancing the resilience of housing and infrastructure; the installation and operation of multi-hazard early warning systems; using nature-based solutions to reduce natural hazards; including through developing pre-event recovery plans.**

(3) **States shall establish or strengthen national disaster risk management mechanisms, such as multi-sectoral national disaster risk management platforms, with designated responsibilities at the national through to the local levels to facilitate the coordination of disaster risk management efforts across sectors.**

*Rationale:*

*Italy proposes a slight tweak in the title to fully align with DRR terminology. It also seeks to expand the non-exhaustive list of measures potentially relevant to DRR. The proposed amendment makes explicit reference to DRR national platforms.*

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**draft Article 15 Facilitation of external assistance**

(1) The affected State shall take the necessary measures, ~~within its national law,~~ to facilitate the prompt and effective provision of external assistance, ~~in particular regarding:~~

~~(a) relief personnel, in fields such as privileges and immunities, visa and entry requirements, work permits, and freedom of movement; and~~

~~(b) equipment and goods, in fields such as customs requirements and tariffs, taxation, transport, and the disposal thereof.~~

**by assisting States and other assisting actors who act in accordance with the provisions of this treaty.**

(2) **The affected State shall endeavour to provide facilitations in relation to assisting personnel, in particular regarding:**

**a. Granting and/or expediting provisions of visas and any necessary work permits, without cost;**

**b. Establishing expedited procedures for temporary recognition of professional qualifications and licences;**

- c. Facilitating freedom of access and movement in and from the disaster-affected area;
  - d. granting, where necessary, temporary authorization to other assisting actors to legally operate on their territory;
- (3) The affected State shall endeavour to provide facilitations in relation to equipment and goods imported, exported or re-exported by or on behalf of assisting States and other assisting actors, in particular regarding:
- a. Exemptions from customs duties, taxes, tariffs or governmental fees as well as import, export and re-export restrictions;
  - b. Simplifying and minimizing documentation requirements, including through temporary recognition to foreign registration and plates for vehicles;
  - c. Reducing or simplifying the administrative procedures related to the entry and exit of specially trained animals and reducing or waiving any applicable quarantine requirements;
  - d. Facilitating the entry of funds, cash vouchers and currencies by assisting States and other assisting actors for the purposes of providing external assistance.
- (4) The affected State shall ensure that its relevant legislation and regulations are readily accessible, to facilitate compliance with national law.

*Rationale:*

*The proposed amendment sets out the general obligation of the affected State to take measures to facilitate external assistance. It also indicates that the limitations on these facilitations apply solely for the benefit of assisting actors who have been accepted by the affected State and who act in accordance with the treaty (to be read in conjunction with Art. 10 on the subjection of external actors to the direction, control, coordination, and supervision of the affected State and Art. 14 on the conditions for the provision of external assistance). It is also aimed at providing additional guidance to the implementing actors on the type of expected measures.*

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**draft Article 15-bis Role of Transit States**

**Each State Party shall, at the request of the affected State or other assisting actor, seek to facilitate the transit through its territory of external assistance to and from the affected State**

*Rationale:*

*Italy proposes a stand-alone provision on the implementation of support measures by transit States.*

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**Draft Article 18: Relationship to other rules of international law**

1. The present draft articles are without prejudice to other applicable rules of international law.

2. ~~The present draft articles do not apply to the extent that the response to a disaster is governed by the rules of international humanitarian law.~~

**In the event of a conflict between the rules under the present treaty and those under international humanitarian law, the latter shall prevail.**

*Rationale:*

*Aim of this amendment is to clarify, in line with the Commentary, the relationship between the future PPED instrument and international humanitarian law, giving precedence to the latter when relevant and in conflict with PPED provisions, while recognizing the potential gap-filling function of PPED provisions.*

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**draft Article 19: Conference of the Parties**

**1. A Conference of the Parties is hereby established.**

**2. The first meeting of the Conference of the Parties shall be convened by the Secretary-General of the United Nations no later than one year after the entry into force of this Agreement. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference of the Parties. Extraordinary meetings of the Conference of the Parties may be held at other times, in accordance with the rules of procedure.**

**The Conference of the Parties shall:**

**(a) Adopt decisions and recommendations related to the implementation of this Treaty;**

**(b) Adopt its rules of procedure and make arrangements for the functioning of the secretariat, including deciding on its seat.**

**(c) Review and facilitate the exchange of information among Parties relevant to the implementation of this Treaty;**

**(d) Promote, including by establishing appropriate processes, cooperation and coordination with and among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, with a view to promoting coherence and avoiding duplication among efforts;**

**(d) Establish such subsidiary bodies as deemed necessary to support the implementation of this Agreement, including through a technical body of experts, nominated by Parties and elected by the Conference of the Parties;**

**(e) Adopt a budget as necessary, at such frequency and for such a financial period as it may determine;**

**(f) Undertake other functions identified in this Agreement or as may be required for its implementation.**

**States not party to this Agreement, as well as the United Nations, other global, regional or sub-regional intergovernmental organization, the components of the Red Cross and Red Crescent Movement, and competent non-governmental organisations may be invited to attend these meetings as observers in accordance with the agreed rules of procedure.**

*Rationale:*

*The proposed provision is submitted as basis for discussion on the merits of creating some institutional mechanisms to enhance the implementation of the treaty and to allow its evolution over time. It is inspired by recent UN treaty-making practice.*