

## PHILIPPINES

### Submission of Comments on the Draft Articles on the Protection of Persons in the Event of Disasters

29 December 2025

#### I. Introduction

1. This submission is made pursuant, in particular, to General Assembly resolution 71/141 (2016), which took note of the Draft Articles and invited Governments to submit comments concerning the Commission's recommendation to elaborate a convention on their basis; resolution 73/209 (2018), which drew States' attention to that recommendation and requested the Secretary-General to invite Governments that had not yet done so to formulate observations thereon; and resolution 76/119 (2021), which took note of the comments and observations received from Governments and established the framework for further consideration of the Draft Articles within a working group of the Sixth Committee. This submission is further made pursuant to resolution 79/128 (2024), by which the Assembly decided to elaborate and conclude a legally binding instrument on the protection of persons in the event of disasters, based on the Draft Articles, by the end of 2027 at the latest, and invited Governments to submit proposals for amendments to the Draft Articles by 31 December 2025.
2. The Philippines attaches high importance to the progressive development and codification of international law in the field of disaster risk reduction, humanitarian assistance and the protection of persons in the context of disasters.
3. The Philippines reiterates its continued support for the overall objective of the Draft Articles, which is to enhance the protection of persons in the event of disasters by clarifying the rights and duties of States in relation to disaster risk reduction, preparedness, response, and early recovery.
4. The Philippines emphasizes the need for an instrument that reinforces, rather than duplicates, existing operational mechanisms, and which appropriately balances: (a) the sovereignty and primary role of the affected State; (b) the duty of States to cooperate; (c) respect for human rights and humanitarian principles; and (d) the imperative of reducing disaster risk as an integral part of protecting persons.
5. The Philippines regards the Draft Articles as an important contribution to strengthening cooperative, people-centred and rules-based approaches to disasters, in a manner that is complementary to existing global frameworks, including the Sendai Framework for Disaster Risk Reduction 2015–2030 and the 2030 Agenda for Sustainable Development.

6. The Philippines also notes the relevance of the Draft Articles to existing regional frameworks, such as the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), and other multilateral commitments to strengthen resilience, risk governance, and international cooperation.
7. The Philippines also recognizes the efforts of the ILC to reflect relevant developments in international law and policy and State practice, including the principles of humanity, human dignity, cooperation, the duty to reduce disaster risk, and respect for the sovereignty and primary role of affected States. In light of its own experience and national framework for disaster risk reduction and management, the Philippines welcomes the opportunity to share its perspectives and proposals as work proceeds towards the negotiation of a convention on the protection of persons in the event of disasters.
8. The Philippines reserves the right to supplement, refine or revise these comments upon further national consultations.

## **II. Comments on the Draft Articles and Commentary**

### **General Observations**

9. The components of the Draft Articles may be framed within a vertical axis and a horizontal axis.

The vertical axis consists of Draft Articles 4-6 and refers to the rights and obligations of the affected State and assisting actors towards natural persons affected by the disaster. It mirrors the approach of international human rights law (IHRL) wherein States and other actors are the duty holders and individuals are the right bearers. The vertical axis focuses on the duty of the disaster-affected State to protect persons present in its territory (Draft Article 1, in relation to Draft Article 10) regardless of the nationality or legal status of such persons. It also covers principles that shall be applied in the assistance to disaster-affected persons: respect for human dignity (Draft Article 4), human rights (Draft Article 5), humanitarian principles (Draft Article 6), and emphasis on the needs of vulnerable groups (Draft Article 6).

The horizontal axis covers Draft Articles 7-17 which establish the rights and obligations between the affected State and assisting actors and are guided by the principle of cooperation. Primary among these rights and obligations are the duty to cooperate in the provision of disaster assistance and related principles in the instrument (Draft Articles 7-9), the duty of the affected State to seek assistance based on certain conditions and the acceptance of external assistance based on consent (Draft Articles 10-14), measures to facilitate external assistance (Draft Articles 15-16), and termination of external assistance (Draft Article 17).

## Title and Preamble

10. The Philippines supports the acknowledgment of the UN Charter, and the primacy of State sovereignty and territorial integrity.
11. The principle of non-intervention should also be mentioned as a corollary to the principle of sovereignty in the preamble of the Draft Articles. This can strengthen safeguards against interpreting the duty to seek external assistance as a basis for intervention.
12. A distinction between “man-made” and “natural” disasters may be unnecessary, since the intention as also reflected in Draft Article 3 is for the Draft Articles to apply regardless of the type of disaster. An attempt to distinguish may also prove to be problematic.
13. The Sendai Framework Terminology on Disaster Risk Reduction<sup>1</sup> does not use the term “natural” or “human-made” disasters. Referring to disasters as “natural” implies inevitability and obscures the critical role of human vulnerability, exposure and risk governance. Similarly, the term “human-made” lacks precision and has generated concerns among Member States about definitional clarity.<sup>2</sup>

The reference to only “disasters” reflects widespread consensus in the disaster risk reduction community and aligns with the definition by the Open-ended Intergovernmental Expert Working Group on Terminology and Indicators Relating to Disaster Risk Reduction.

This also aligns the Draft Articles with the Sendai Framework for Disaster Risk Reduction and its Midterm Review. Alternatively, the more apt phrasing “disasters caused by natural or human-made hazards” may also be considered.

14. For PP3, we welcome the explicit recognition of essential needs and rights of persons affected by disasters. However, we propose the addition of the phrase “in accordance with international law” at the end of this paragraph.
15. The Philippines appreciates the statement on the rationale for the Draft Articles in PP2. The emphasis on human dignity, human rights, especially the right to life, and humanitarian principles, is consistent with the spirit of our national law, the “Philippine Disaster Risk Reduction and Management Act of 2010.”

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<sup>1</sup> United Nations Office for Disaster Risk Reduction (UNDRR). 2017. The Sendai Framework Terminology on Disaster Risk Reduction. "Disaster". Accessed 3 December 2025. <https://www.undrr.org/terminology/disaster>.

<sup>2</sup> Sources: Sendai Framework for Disaster Risk Reduction 2015-2030 (A/RES/69/283), Political Declaration of the Midterm Review of the Sendai Framework (A/RES/77/289), Report of the Open-ended Intergovernmental Expert Working Group on Terminology and Indicators Relating to Disaster Risk Reduction (A/71/644; A/RES/71/276)

16. In PP4, we propose to include the following language to enumerate the phases of a disaster: “... namely: prevention and mitigation; preparedness; response and early recovery, and recovery and rehabilitation.” These four pillars guide the Philippine National Disaster Risk Reduction and Management Council, consistent with the spirit of our national law,<sup>3</sup> and are also aligned with UNDRR, IFRC and OCHA references.
17. The final preambular paragraph affirms a fundamental premise for us: that the principle of sovereignty is a sine qua non in the protection of persons in the event of disasters, and that the primary role of the affected State in the provision of disaster relief assistance remains a core element underpinning the Draft Articles.

### Article 1 - Scope

18. The Philippines supports the strong emphasis on protection in the Draft Articles. Protection applies to all persons affected by disasters, regardless of nationality or legal status, and the Draft Articles operate on a basis of non-discrimination. We further note that vulnerable groups face compounded risks in disaster situations and therefore require particular attention. This approach is consistent with the principles of humanity, equality and non-discrimination reflected in the Charter of the United Nations and in international human rights law.
19. Draft Article 1 creates the obligation of States under international law to protect all persons in their territory or in a territory under their jurisdiction or control. Draft Article 1 and other Draft Articles create rights and obligations in the context of external disaster assistance. The scope can be further understood in terms of the *ratione materiae* (subject matter), *ratione personae* (entities subject of the instrument), *ratione temporis* (timeframe), and *ratione loci* (geographical scope).

The *ratione materiae* of the Draft Articles cover the rights and obligations of States in the context of external disaster assistance, from the time that it shall be sought by or offered to the disaster-affected State up to the period of its termination. The focus of the DAs is disaster response, while Draft Article 9 creates an obligation to reduce disaster risk (pre-disaster).

20. The Philippines also considers it important that the Draft Articles fully capture the disaster management continuum. The phrase “in the event of a disaster” may be interpreted as focusing primarily on the occurrence of a disaster and its immediate aftermath, such as response, early recovery, and rehabilitation, without sufficiently reflecting the relevance of pre-disaster phases, including prevention, mitigation, and preparedness.

Accordingly, we propose the following formulation for Draft Article 1:

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<sup>3</sup> Section II(A(1)), DSWD Administrative Order No. 17, series of 2023.

“The present draft articles apply to the protection of persons in the event of disasters, *in all phases of disasters, and in respect of persons present in the territory or in the territory under jurisdiction or control, irrespective of their nationality or legal status.*”

21. In terms of the *ratione personae*, the Draft Articles primarily cover the obligations of the affected State and the obligations of assisting actors, both State and non-State. The Draft Articles also establish the rights of natural persons who are affected by disasters.
22. The Philippines notes that the ILC Commentary indicates that the Draft Articles are intended to cover “people directly affected by the disaster.” At the same time, disasters often produce wider impacts on persons who are indirectly affected, including host communities in situations of disaster-related displacement, whose resources, services and coping capacities may come under strain. The relevance of the interests of host communities is also reflected in the Guiding Principles on Internal Displacement, which recognize the broader social and economic effects associated with large-scale movements of displaced persons.
23. In terms of *ratione temporis*, the Draft Articles cover the immediate post-disaster response and early recovery phase. The DAs also cover the pre-disaster phase (i.e. prevention and mitigation of disaster risk) insofar as the obligation to reduce disaster risk is concerned, though it is not the primary focus of the rest of the DAs.
24. The Philippines appreciates that the Draft Articles apply through the long-term phases of rehabilitation and recovery. Disaster rehabilitation and recovery constitute an integral component of the Philippines’ “National Disaster Risk Reduction and Management Plan 2020–2030: Results-Based Monitoring and Evaluation Plan.” The Philippines also recalls the “build back better” principle reflected in Priority 4 of the Sendai Framework for Disaster Risk Reduction 2015–2030, which emphasizes the importance of enhancing resilience during the recovery, rehabilitation and reconstruction phases.
25. The *ratione loci* consists of activities in the territory of the State where the disaster has occurred and, to some extent, in the territory of a ‘transit State’ as regards the disaster assistance transiting through it.<sup>5</sup> The disaster is not required to be of a transboundary nature for the rights and obligations in the DAs to be applicable.

## **Article 2 - Purpose**

26. The Philippines proposes the following formulation: “*To facilitate the adequate and effective response management to disasters...*”. The addition of the word “management” is intended to capture the broader framework of disaster response, including coordination and collaboration

with stakeholders and non-State actors, which may not be fully conveyed by the phrase “disaster response” alone.

27. The Philippines understands “adequate and effective” to refer to a high-quality response or reduction of disaster risk that meets the essential needs of affected persons. Comparable formulations, such as “effective and concerted” and “rapid and effective”, appear in existing instruments, including the ASEAN Agreement on Disaster Management and Emergency Response, where timeliness is implicit in the notion of effectiveness. What constitutes an “adequate and effective” response is further elaborated across the Draft Articles, including in Article 15. At the same time, the standard must remain grounded in what is realistic and feasible in a given disaster context; it is not expected to require a response that is “fully” effective in all circumstances. The Philippines considers that this standard should apply both to preparedness under Article 9 and to response under Articles 6 and 10. We also propose inserting language that reflects that the adequacy and effectiveness of disaster response or disaster relief assistance must be assessed in accordance with the respective capabilities of the affected State.
28. The Philippines notes the ILC Commentary indicating that “essential needs” refers to needs related to survival or similarly basic requirements in the aftermath of a disaster, and that the term “essential” reflects the immediacy and urgency of such needs. The Draft Articles appropriately emphasize meeting the essential needs of affected persons while fully respecting their rights. This approach also supports inclusive and equitable recovery by safeguarding human capital, preserving productive assets, and contributing to long-term economic stability, thereby aligning humanitarian objectives with broader development goals.
29. At the same time, the Philippines observes that the needs of affected persons evolve as a disaster progresses through its different phases. Immediate life-saving needs differ from the requirements of recovery and rehabilitation, including restoring day-to-day life, replacing lost documentation, rebuilding homes, and securing livelihoods. While the Draft Articles focus largely on immediate response, the long-term dimensions of recovery cannot be overlooked. In this regard, we recall the concept of durable solutions for internally displaced persons, which is achieved when displaced persons no longer have specific needs related to their displacement and can enjoy their rights without discrimination.<sup>4</sup> Durable solutions may take the form of sustainable reintegration at the place of origin, local integration in the area of displacement, or integration in another part of the country.

## **Article 3 - Use of terms**

### **(a) Disaster**

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<sup>4</sup> IASC Framework on Durable Solutions for Internally Displaced Persons, 2010. Accessible through: <https://www.preventionweb.net/publication/iasc-framework-durable-solutions-internally-displaced-persons>

30. The definition of a disaster under the “Philippine Disaster Risk Reduction and Management Act of 2010” is as follows: “a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources. Disasters are often described as a result of the combination of: the exposure to a hazard; the conditions of vulnerability that are present; and insufficient capacity or measures to reduce or cope with the potential negative consequences, Disaster impacts may include loss of life, injury, disease and other negative effects on human, physical, mental and social well-being, together with damage to property, destruction of assets, loss of services, Social and economic disruption and environmental degradation.”<sup>5</sup>
31. While the term “disaster” is defined broadly, the current phrasing may be interpreted as focusing primarily on sudden-onset shocks. This risks overlooking the reality that many States, including the Philippines, face slow-onset disasters. For example, the multi-year El Niño drought of 2015–2016 severely reduced rice production in Mindanao, creating food insecurity that unfolded gradually over months. The Philippines understands the term “disaster” to encompass slow-onset calamitous events such as droughts, sea-level rise, and public health emergencies, among others. To avoid ambiguity, the Philippines proposes that the definition be revised to expressly include both sudden-onset and slow-onset hazardous events.
32. The Philippines understands that the Draft Articles apply to all disasters arising from natural hazards or human-made causes. However, it is our view that the Draft Articles do not extend to serious events such as political or economic crises, which may undermine the functioning of society but fall outside the intended scope of the instrument.

The Draft Articles are event-triggered, not condition-triggered. Draft Article 3(a) defines a disaster as a “*calamitous event or series of events*” resulting in specified forms of harm (widespread loss of life, great human suffering, mass displacement, large-scale material or environmental damage). Political and economic crises are not “events” in this sense; they are structural or systemic developments that may unfold over time without a discrete hazardous occurrence. Including them would break the causal logic that underpins the definition.

The Draft Articles rely on hazard–impact framing consistent with international disaster law, including the Sendai Framework and regional instruments such as AADMER. The prevailing approach under these instruments conceptualizes disasters as the interaction between a *hazard* and *exposure/vulnerability*. Political and economic crises do not arise

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<sup>5</sup> Republic Act No. 10121, Section 3(h).

from hazardous events and therefore fall outside this internationally accepted analytical framework.

Including political or economic crises within the definition of “disaster” would also expand the Draft Articles beyond the mandate entrusted to the ILC by the General Assembly. The ILC’s mandate under GA resolutions was expressly limited to *disasters*, as understood in disaster law, not general societal disruptions. Incorporating political or economic crises would move the Draft Articles into the domain of governance, human rights, or development crises, which were not within the ILC’s remit.

For these reasons, the Philippines considers that political and economic crises should remain outside the scope of the Draft Articles, in order to maintain legal clarity, operational coherence, and alignment with the hazard-based understanding of disasters reflected in international practice.

33. The Philippines observes that the Draft Articles and their Commentary focus on the protection of persons affected by disasters and do not contain explicit provisions addressing damage to cultural heritage or to historic and environmental heritage. While other international instruments, such as the Additional Protocols to the Geneva Conventions, expressly provide for cultural-heritage protection in armed conflict, the present Draft Articles remain neutral on this issue. The Philippines underscores that, in disaster situations, the protection of persons necessarily enjoys primacy, given the difficult circumstances and the limitations on available resources. At the same time, disasters frequently cause severe damage to cultural and natural heritage, with long-term implications for communities and national identity.

Accordingly, the Philippines submits that, *as far as practicable* and taking into account the respective capacities of affected States, the future instrument should encourage consideration of cultural and environmental heritage in the course of protecting persons. This would promote a more holistic, integrated and sustainable approach to disaster response and recovery, without detracting from the priority of safeguarding life and meeting essential needs.

34. The Philippines notes that, in certain jurisdictions, there is a concept of an “imminent disaster” which would allow for access to resources even before the disaster. In the Philippines, the “Declaration of State of Imminent Disaster Act”<sup>6</sup> was recently enacted.
35. On whether or not armed conflict should be explicitly excluded in the definition of disaster, we note the comments that have asked for further clarification or explicit exclusion of armed conflicts from the definition of disaster, especially since armed conflicts are governed by the International Humanitarian Law. This matter was also considered by the

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<sup>6</sup> Republic Act No. 12287

Commission, which considered including an express exclusion of the applicability of the draft articles in situations of armed conflict as a further element in the definition of “disaster” (draft article 3, subparagraph (a)), so as to avoid any interpretation that, for purposes of the draft articles, armed conflict would be covered to the extent that the threshold criteria in draft article 3 were satisfied. However, as noted in the Commentary, such approach was not followed since a categorical exclusion could be counterproductive, particularly in situations of “complex emergencies” where a disaster occurs in an area where there is an armed conflict. As noted in the commentary, a blank exclusion of the applicability of the draft articles because of the coexistence of an armed conflict would be detrimental to the protection of the persons affected by the disaster, especially when the onset of the disaster predated the armed conflict. We are willing to engage with interested delegations to discuss this and related matters.

36. The Philippines notes the increasingly complex nature of cascading disasters. As described by the UNDRR, “cascading disasters arise from the interaction between human and ecological systems, where primary disruptions, such as extreme weather events, trigger secondary crises across interconnected sectors. These chains of disruption often escalate, exploiting vulnerabilities at both macro and micro levels, from global supply chains to local infrastructure governance.”<sup>7</sup>

This understanding is likewise reflected in the ASEAN Vision 2025 on Disaster Management, developed pursuant to the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), which recognizes that disasters are multi-faceted and often produce cascading effects.<sup>8</sup> The Sendai Framework for Disaster Risk Reduction 2015–2030 similarly endorses a multi-hazard approach.

While draft article 3 (a) already refers to a “series of events”, the Philippines considers that an explicit reference to *cascading* and *multi-hazard* events would better reflect current practice and policy on disaster risk reduction and management, and would assist in interpreting the scope of application of the draft articles in complex, interconnected scenarios.

The Philippines therefore proposes that draft article 3 (a) be revised as follows:

*“Disaster” means a calamitous event or series of events, including cascading, compounding or multi-hazard events, resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or*

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<sup>7</sup> United Nations Office for Disaster Risk Reduction (UNDRR). 2025. National disaster risk assessment: A guide for national practitioners, P. 106. Accessed 3 December 2025.

<sup>8</sup> ASEAN Vision 2025 on Disaster Management, accessible through: [https://asean.org/wp-content/uploads/2021/01/fa-220416\\_DM2025\\_email.pdf](https://asean.org/wp-content/uploads/2021/01/fa-220416_DM2025_email.pdf)

*environmental damage, thereby seriously disrupting the functioning of society.*

For the same reason, the Philippines suggests that draft article 9, paragraph 1, expressly refer to *systemic and cascading risks*, so as to make clear that the duty to reduce the risk of disasters encompasses the prevention and management of complex chains of disruption. In particular, the chapeau of draft article 9, paragraph 1, could be amended to read:

*“Each State shall reduce the risk of disasters, including systemic and cascading risks, by taking appropriate measures, including through legislation and regulations, to prevent, mitigate, and prepare for disasters.”*

**(b) affected State**

37. The Philippines understands the term “affected State” to encompass not only the national government but also the roles of the subnational authorities (e.g. local governments), in accordance with national framework and processes, given their critical role as first responders. Under the Philippine Disaster Risk Reduction and Management Act of 2010, for example, Local Disaster Risk Reduction and Management Offices are established in every local government unit and form an integral part of the national disaster-management architecture. The Philippines also recognizes the role of affected communities, including vulnerable groups, in determining appropriate and durable solutions, in accordance with domestic processes and mechanisms.

**(c) assisting State**

38. The Philippines understands the Draft Articles to be without prejudice to, and fully consistent with, the rights and prerogatives of States to extend consular and other forms of protection to their nationals affected by disasters abroad, in accordance with international law, including the Vienna Convention on Consular Relations, the Convention on the Rights of all Migrant Workers and Members of their Families, and applicable customary international law. For the Philippines, this is a core national interest, given the significant number of overseas Filipinos who may be caught in disasters in their host States. The 1987 Philippine Constitution mandates the State to “afford full protection to labor, local and overseas” and to promote their welfare, including overseas workers. This constitutional commitment is operationalized through legislation such as the Migrant Workers and Overseas Filipinos Act, which requires the government to provide adequate and timely social, economic and legal services to Filipino migrant workers, including assistance and repatriation in situations of distress.

The creation of the Department of Migrant Workers (DMW) under Republic Act No. 11641 further consolidates and strengthens the State’s machinery for the protection of Overseas Filipino Workers (OFWs) and their families. The DMW is mandated as the primary agency to protect the rights and promote the welfare

of OFWs by, inter alia, providing timely and responsive services to address their needs regardless of legal status and facilitating their safe return and reintegration. In this light, the Philippines understands that any future convention based on the Draft Articles should be interpreted and applied without prejudice to the exercise of consular protection and assistance-to-nationals functions by States, including measures for evacuation, repatriation, and other emergency protection of their nationals during disasters abroad.

**(d) other assisting actor**

39. We would welcome further clarification on the term “other assisting actor.” In our view, this should refer to international actors with an established structure and a recognized record in humanitarian protection. It would also be helpful for the Commentary to indicate the nature of their status, including their legal personality and whether they are governmental or non-governmental entities. Clearer understanding of who may fall under this category will also support affected States in ensuring that they work with actors that have the capacity, reliability, and accountability of assisting partners needed in disaster situations.

**(e) external assistance**

40. We understand that external assistance should be without prejudice to consular assistance.

41. We suggest adding “monetary aid” to the definition of “external assistance.” The Philippines’ own experience shows that external support during disasters often includes financial contributions alongside personnel, equipment, and goods. For example, the Philippines recently received monetary assistance from the United States, and has likewise extended monetary support to disaster-affected States, including Mongolia following the severe dzud. Recognizing “monetary aid” in the definition would reflect the full range of assistance typically provided in disaster situations and offer a more accurate and comprehensive understanding of external assistance.

**(f) relief personnel**

42. The Philippines notes that the phrase “sent by” in the definition of relief personnel may inadvertently create uncertainty as to the attribution of conduct and the allocation of responsibility between assisting States, assisting actors, and the affected State. The mere fact that personnel are “sent by” an assisting State or actor does not, in itself, determine whether their conduct is attributable to that State, nor does it resolve questions of accountability for acts committed during disaster relief operations. These matters must be governed by the applicable rules of international law, including the Articles on State Responsibility, relevant treaty obligations, and any operational agreements between the affected State and the assisting State or actor.

To avoid a gap in responsibility and ensure effective remedies for affected persons, it would be useful for the Draft Articles or their Commentary to clarify that assisting States and assisting actors retain obligations to ensure

appropriate oversight, vetting, discipline, and cooperation with domestic authorities of the affected State. Such clarification would support accountability, reinforce trust among States, and promote principled, rights-based humanitarian action.

43. On the question of whether military personnel should fall within the definition of “relief personnel,” the Philippines reserves its position at this stage. The deployment and utilization of military assets or personnel in disaster situations may raise considerations that intersect with constitutional provisions, domestic legal frameworks, and established policies governing the role of the armed forces. This matter requires further study.
44. We note that the term “relief personnel” is intended to refer specifically to individuals who provide direct relief to persons directly affected by a disaster. This is narrower than the term “humanitarian worker,” which in practice encompasses a broader range of actors engaged in protection, coordination, advocacy, and other humanitarian functions not limited to direct relief operations.

#### **(h) additional terms**

45. For additional terms, we recommend defining “Persons” in the context of this instrument. The Draft Articles do not define ‘affected persons’ or ‘persons’. The ILC commentaries limit the definition of an affected person to natural persons.<sup>18</sup> However, as this term is a core component of the Draft Articles, it should be clearly defined in the text itself. In addition to an individual perspective of ‘persons’, the term should be broadened to cover indigenous communities which hold certain rights at the communal level that may be affected by disasters (i.e. property rights, access to natural resources) and which may have specific humanitarian needs based on indigenous cultural practices.
46. The following definition is proposed:

*“Any person or group or community of persons, regardless of nationality or legal status, who is within the territory of the affected State at the time of the disaster and whose life, safety, or well-being is at risk.”*

The definition of persons also means the recognition of their rights as individuals and as a community, in accordance with international law. This would take into account the communal rights of groups, including indigenous people.

#### **Article 4 - Human dignity**

47. The Philippines supports the placement of human dignity as a core guiding principle for the provision of relief assistance. As it holds the same foundational position for various international human rights instruments and IHL, particularly common article 3 (1) (c) of the Geneva Conventions, Article 75 and 85 of

Additional Protocol I and article four of Additional Protocol II, also of the Geneva Conventions. We further agree that this obligation refers to both negative and positive aspects of the obligation that is to refrain from violations of human dignity and the positive duty to take action to protect human dignity.

48. We understand human dignity to encompass an adequate standard of living for evacuees, including but is not limited to adequate shelter, water, sanitation and hygiene, health facilities, and the ability of evacuees to sustain their livelihood while they are in evacuation. The Philippines has national guidelines on humanitarian protection providing for an adequate standard of living in displacement settings,<sup>9</sup> demonstrating State practice.

49. The Philippines notes that, although the draft article affirms the dignity of the human person, it does not expressly address the dignity of those who have died in disasters. Large-scale fatalities can create real risks, bodies left unidentified, the absence of proper registries, or mass burials carried out without the safeguards families expect. We believe this gap should be acknowledged.

For this reason, the Philippines proposes adding language that reflects well-established practice under international humanitarian law on the treatment of the deceased. This includes the search for and recovery of bodies, proper documentation and identification, timely notification of families, and the respectful handling and disposition of remains, always with a view to identification. These principles are widely accepted and would help ensure that dignity is respected throughout disaster situations, not only for the living but also for those who have lost their lives.

50. The Philippines submits that the obligation to respect and protect human dignity before, during, and after disasters should be fulfilled in a manner that, as far as practicable, is consistent with local culture, traditions, and belief systems to ensure effective communication, trust-building, and respectful treatment of affected communities. Cultural differences must be considered, especially with regard to dietary restrictions, burial rituals, and the like. For example, during the global pandemic, many Indigenous Persons were not able to practice mourning practices, which resulted in their collective pain of not being able to heal.

51. Support for women, children, the elderly, persons with disabilities, indigenous people, and members of other vulnerable groups also requires special attention in fulfilling the obligation to respect and protect human dignity. Children must be provided with a safe space to process the trauma. People with apparent disabilities must have access to mobility and accessibility devices, and response teams who can effectively communicate with the hard of hearing. People with unseen disabilities, particularly those with mental health conditions, will also require consideration.

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<sup>9</sup> Joint Memorandum Circular No. 2, series of 2021 issues by the Philippine Department of Social Welfare and Development, Department of Interior and Local Government, Department of Health, and Department of Education, <https://www.refworld.org/legal/decrees/natlegbod/2021/en/148169> (last accessed 4 December 2025).

52. The Philippines proposes to add the phrase “in accordance with existing international law” at the end of draft article 4. We understand that States must be allowed to fulfill this obligation to respect and protect the inherent dignity of the human person in accordance with its evolving capabilities, as consistent with the doctrine of progressive realization under international human rights law.

## **Article 5 - Human rights**

53. The Philippines understands the language of Article 5 to reflect the broad entitlement to human rights protection held by those persons affected by disasters in accordance with human rights treaties, customary international law, and non-binding texts to the extent that they reflect State practice. It also serves as a reminder of the duty of States to ensure compliance with all relevant human rights obligations applicable both during the disaster and the pre-disaster phase.

54. We note references made to derogations allowed in the current human rights regime for cases of public emergency. We recall that derogations under international human rights law entails strict limitations, safeguards, notifications, and review procedures. And in cases of public emergencies that threaten the life of the nation, derogations may only be allowed with respect to certain civil and political liberties and only to the extent strictly required by the exigencies of the situation. Moreover, there are fundamental rights which are non-derogable because they are indispensable for the protection of the human being, such as the right to life and the right on the basis of non-discrimination, which is also expressly upheld in these draft articles. It bears emphasizing, therefore, that based on these well-settled doctrines in international human rights law, derogations are narrowly construed and do not equate to the suspension of the entirety of human rights law during times of public emergency, including disasters, where relevant circumstances obtain. And we incorporate this understanding in our reading of the present draft articles.

55. On the scope of human rights referred to under the draft articles, we understand that the term “human rights” under draft article 5 includes the rights of indigenous people under international law. We agree with the ILC’s interpretation that human rights encompass not only international human rights law, but also rights acquired under domestic law, such as property rights. The Philippines understands this draft article to include the right of persons affected by disasters to access to information and transparency regarding disaster response management plans that concern them, such as relocation plans and durable solutions.

56. We support the ILC’s recognition of an intimate connection between human rights and the principle of human dignity reflected in draft article 4, reinforced by the close proximity of the two draft articles. We recognize that similar to draft article four on the obligation to respect and protect the dignity of the human person, the obligation to protect and respect human rights in here is not only on the part of states, but also other assisting actors to the extent or in such manner that they are able to take on legal obligations under international law.

57. Generally, disasters in the Philippines are climate change-related, such as those caused by increasingly intense and frequent typhoons. Climate change is a non-traditional threat to our national security, and often results in food insecurity, water insecurity, forced displacement, and loss of or damage to critical infrastructure. And although climate change is a global problem, the Philippines bears the brunt of the adverse effects of climate change due to its geographic location within the typhoon belt of the Pacific. As the International Court of Justice has found in its Advisory Opinion on the Obligations of States Relating to Climate Change, the adverse effects of climate change may impair the effective enjoyment of human rights, such as the right to life under Article 6 of the ICCPR and the right to an adequate standard of living under Article 11 of the ICESCR and Article 25 of the UDHR.<sup>10</sup> This is further supported by the ASEAN Declaration on Environmental Rights. Thus, the Philippines strongly advocates for the delivery of disaster response to duly consider the protection of the environment.

58. We reiterate our previous submission that cultural heritage, both tangible and intangible, is essential to the resilience, dignity, and recovery of disaster-affected communities. The protection of cultural identity, traditional knowledge, and sacred practices contributes to a people-centered, rights-based, and respectful humanitarian response. Thus, in addition to environmental protection, the preservation of cultural heritage should also be given due consideration in delivery of disaster response.

## **Article 6 - Humanitarian principles**

59. The Philippines welcomes the inclusion of the principles of humanity, neutrality, impartiality, and non-discrimination with consideration to the needs of vulnerable persons.

60. We reiterate our position that the principle of independence should be reflected in this draft article, consistent with General Assembly resolution 58/114, which recognizes independence as an important guiding principle for humanitarian assistance. Independence, in this context, is understood as “autonomy of humanitarian objectives from political, economic, military or other agendas.” At the same time, we understand independence in the practical context of ensuring the effective delivery of assistance, and not as a basis for disregarding the sovereign prerogatives of the affected State. Any exercise of independence must remain fully consistent with the consent given by the affected State, its primary role in disaster response, and its authority to direct and supervise relief operations.

61. The principle of neutrality also reinforces the apolitical nature of disaster response and reaffirms the principle that humanitarian activities may not be used for purposes other than responding to the disaster and rendering assistance. We also welcome the focus on non-discrimination in conjunction with the reference to the needs of the particularly vulnerable, which we

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<sup>10</sup> ICJ AO pars. 377, 380.

understand to include non-nationals who may otherwise not have ready access to resources and mechanisms for relief assistance. We reiterate that disaster response must also be sensitive to local culture, traditions, and belief systems. Response should not only be non-discriminatory, but also inclusive, leaving no one behind.

62. While the article is well-formulated, it can be strengthened by explicitly mentioning the “do no harm” principle. This principle, which is widely recognized in humanitarian work, ensuring that disaster response actions do not inadvertently create new vulnerabilities or exacerbate existing ones.
63. We support the ILC Commentary in its explanation that the term “vulnerable” encompasses both groups and individuals, and hence is preferred. While we also agree with the rationale behind the use of the qualifier “particularly”, we propose a non-exhaustive enumeration as indicative guidance on who may fall under this group, and specifically mentioning non-nationals. This finds basis under UNGA Res 69/135 and the IFRC Guidelines.
64. Specifically on the protection of children, the Philippines has passed Republic Act No. 10821, or the “Children’s Emergency Relief and Protection Act” which mandates the creation of a Comprehensive Emergency Program for Children. This program shall be used in handling disasters to protect children, pregnant and lactating mothers, and support their immediate recovery. The Philippines also recognizes the importance of collecting disaggregated data on vulnerabilities, exposure levels, and coping capacities in order to determine the needs of the particularly vulnerable and deliver the most effective response for them.
65. We propose draft article 6 to read as follows:

*Article 6 - Principles of Humanitarian Assistance*

*6.1 Response to disasters shall take place in accordance with the principles of humanity, neutrality, impartiality, independence, and on the basis of non-discrimination, while taking into account the needs of the particularly vulnerable, including girls, boys, women, older persons, persons with disabilities, persons living with HIV and other debilitating illness, and non-nationals. Gender and cultural sensitivity must also be considered in the programming of assistance. Populations in need shall not be exposed to further harm (“Do No Harm”) in the delivery of response. Assisting actors shall also maintain professionalism and accountability in the conduct of response.*

*6.2: Measures to support the needs may include collecting disaggregated data on individual and collective vulnerabilities, exposure levels, coping capacities, removing specific barriers to accessing assistance, preventing, monitoring, and responding to risks, and promoting the participation and representation of vulnerable groups.*

66. The Philippines reiterates its earlier position that this draft article should be understood as without prejudice to the right and duty of States to provide timely and effective consular assistance to their nationals, in accordance with the Vienna Convention on Consular Relations, the Convention on the Rights of all Migrant Workers and Members of their Families, and applicable customary international law, and other applicable rules, including in situations of disasters.

## **Article 7 - Duty to Cooperate**

67. The Philippines recalls that, through ASEAN and the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA Centre), it supports disaster response and assistance for ASEAN Member States using established regional mechanisms. Joint responses are carried out under the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), which enables rapid and coordinated action in times of disasters. For example, the Philippines was able to deliver humanitarian aid to Myanmar through the AHA Centre precisely because this mechanism is well-developed and recognized within the ASEAN framework.

In this light, the Philippines suggests the following language:

*“In the application of the present draft articles, States shall, as appropriate, cooperate among themselves, with subregional and intergovernmental organizations and mechanisms, including the United Nations, with the components of the Red Cross and Red Crescent Movement, and with other assisting actors.”*

68. It may be useful to clarify whether the duty to cooperate extends to non-State entities, which may not possess international legal personality and the capacity to acquire obligations under international law.

69. We also understand that the duty to cooperate under draft article 7 also applies in reducing the risk of disasters under draft article 9. The Draft Articles affirm the primary responsibility of States to reduce disaster risk. Disaster risk is systemic and transboundary in nature and its effective reduction depends on multilateral cooperation. Disaster risk governance at the national, regional, and global levels is critical for prevention, mitigation, preparedness, response, recovery, and rehabilitation. It fosters collaboration and partnership, and can help ensure that resources are available and easily accessible during disaster situations.

Sendai Framework paragraph 14 makes clear that national action must be complemented by international cooperation while paragraph 8 calls international, regional, subregional and transboundary cooperation “pivotal” and highlights the need for special attention to developing countries through multilateral channels, including support for capacity-building, technology transfer and finance.

70. We support maintaining a balance between the duty to cooperate and the principle of sovereignty. Concerns raised in earlier debates about cooperation

encroaching on sovereignty are addressed, in our view, by the use of the phrase “as appropriate,” which preserves necessary discretion for States. The Commentary likewise affirms that cooperation complements, rather than diminishes, the primary role of the affected State in caring for persons impacted by disasters.

71. In cases where there is constrained capacity to respond to a disaster, we understand that the duty to cooperate can be a way to augment the affected State’s capacity to respond. This is also supported by UNGA Resolution 46/182, par. 5: “The magnitude and duration of many emergencies may be beyond the response capacity of many affected countries. International cooperation to address emergency situations and to strengthen the response capacity of affected countries is thus of great importance. Such cooperation should be provided in accordance with international law and national laws. Intergovernmental and non-governmental organizations working impartially and with strictly humanitarian motives should continue to make a significant contribution in supplementing national efforts.”<sup>11</sup>

72. We recognize that cooperation among States and international actors can greatly improve the quality of data available to policymakers and, in turn, strengthen the responsiveness of disaster-related measures. The duty to cooperate encompasses the sharing of best practices, data, and information on hazards, risks, and disasters. State-to-State coordination for meteorological hazards is already well established through the World Meteorological Organization, and the sharing of satellite imagery has proven particularly valuable for assessing risks and monitoring typhoons.

### **Article 8 - Forms of cooperation in the response to disasters**

73. The Philippines views draft article 8 as an elaboration of the duty to cooperate in the context of disaster response, providing an illustrative list of possible forms of cooperation without creating new legal obligations. The Commentary notes that “resources” may include scientific, technical, and medical expertise, as well as equipment and tools useful for relief efforts.

In this regard, we propose adding “local and indigenous knowledge” to reflect the value of community-based expertise in effective disaster response. The provision could accordingly read:

*“...Cooperation in the response to disasters includes humanitarian assistance, coordination of international relief actions and communications, and making available relief personnel, equipment and goods, and scientific, medical and technical resources, as well as local and indigenous knowledge.”*

74. The Philippines understands this draft article to include sharing of technical information (e.g., meteorological and seismological data), data sharing to

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<sup>11</sup> UNGA Resolution 46/182, par. 5

monitor its delivery, provisions for logistical support and information management. Pre-positioning of goods and the sharing of accurate, real-time data and risk information are essential for effective disaster response. Risk information may also include climate seismological data points illustrative of risks. Cooperation must also include sharing of gender-responsive disaster data, GBV risk mitigation protocols, and inclusive DRR practices.

75. While the list of response measures in Draft Article 8 is non-exhaustive, it is important to emphasize the responsibility of assisting actors to integrate protection needs of affected persons and not just material humanitarian assistance. This is in consideration of the increase in protection risk of an affected population after disasters. An example would be to require assisting actors to put in place a policy for the prevention of sexual abuse and exploitation in humanitarian assistance as a condition for acceptance of their offer.
76. The forms of cooperation under draft article 8 are also without prejudice to the provision of consular assistance under Article 5 of the Vienna Convention on Consular Relations, and without prejudice to the application of Articles 67 and 71 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Consular assistance includes repatriation, not only of human remains but also of survivors.

## **Article 9 - Reduction of Risk of Disasters**

77. We understand that the obligation to reduce the risk of disasters is a corollary of sovereignty and non-intervention, and is anchored on the obligations of States to respect and protect human rights, in particular the right to life. Protection entails a positive obligation on States to take the necessary and appropriate measures to prevent harm from impending disasters.
78. We also recognize that the concept of due diligence and effectiveness are implied in the reference to the phrase “appropriate measures” in the draft articles.
79. We note that the obligation to reduce risks of disasters is reaffirmed in State practice in various multilateral regional bilateral instruments, such as the Sendai Framework and the ASEAN Agreement on Disaster Management and Emergency Response, and disaster risk reduction measures in national policies and legal frameworks, such as the Philippine Disaster Risk Reduction and Management Act of 2010, which strengthens disaster risk reduction and management and provides for the national disaster risk reduction and management plans.
80. Based on our experience, the most effective DRR measures include:
  - a. Area specific risk identification and assessment, considering elements which can compound risk exposure such as economic status, age, and health co-morbidities;
  - b. Nature-based solutions, which do not alter the ecosystem in which they are placed, as opposed to gray infrastructure;

- c. Cooperation and collaboration between sectors to prevent siloing of information and decision making, which can result in disjointed, costly, and inefficient interventions;
- d. Systematic and proper documentation and future application of lessons learned from previous disaster response and preparedness efforts, which informs evidence-based decision making.

81. We understand domestic DRR measures to also include the collection and dissemination of risk and past loss information, the installation and operation of early warning systems, pre-emptive evacuation, and anticipatory financing mechanisms. The importance of forecast-based and anticipatory humanitarian action cannot be overstated in DRR, and cooperation between States in this regard can be catalytic in saving lives and mitigating economic losses.

82. DRR measures also have clear economic significance as disaster risk reduction can substantially reduce immediate and long-term economic losses. It protects property, infrastructure, agricultural land, and other productive assets, while safeguarding human capital, including labor, education, and health. All these measures help maintain productivity and strengthen economic resilience in the face of recurring disasters. It is essential to reduce levels of risk and to avoid creating new risk by ensuring that public and private investments are risk-informed and do not increase the exposure of persons and economic assets to natural hazards. We agree that the harmonization of the measures and protocols is necessary for the effective prevention, reduction and management of disaster risk, without prejudice to bilateral, regional and multilateral instruments on the matter.

83. On the importance of data gathering for risk identification and assessment, we recognize that the scope of the draft article includes the right of access to data and sharing of information in the context of disaster risk and reduction.

In our experience, there have been some difficulties in data governance for sensitive personal data, such as ethnicity, religion, and HIV infection. We also note that there is a need to take into account the whole continuum of disasters during risk assessment, and cascading risks which could lead to another potential disaster must be identified and addressed at the soonest possible opportunity.

On the other hand, cooperation and collaboration between sectors also builds trust, which is essential in making communities more resilient. The role of communities exposed to risks in drawing up plans in disaster reduction and response is paramount to building trust. Cooperation between and among states is also of vital importance, and this can take the form of capacity building and technology transfer.

84. Similar to our submission in relation to draft article 6, the Philippines also recommends for States to undertake measures to reduce the risk of disasters keeping in mind the need to preserve the health of the environment and cultural heritage, incorporating indigenous and local knowledge systems and practices whenever applicable and practicable. We propose incorporating culture-

sensitive approaches in the draft articles aligns with the overarching goals of human disaster risk reduction.

85. We note further that the obligation in Draft Article 9 pertains to measures to be taken at the domestic level. Further as an obligation of conduct, not result, it must be read in light of the respective capacities of States and resources available to States to adopt and implement relevant measures. The goal of this Article is to reduce the risk of harm caused by hazard, as opposed to prevention and management of disasters.

86. Thus, we recommend the addition of the following language:

*“Each State shall, in accordance with its resources and capabilities, reduce the risk of disasters by taking appropriate measures, including through legislation and regulations, to prevent, mitigate, and prepare for disasters.*

*Disaster risk reduction measures include the conduct of risk assessments, the collection and dissemination of risk and past loss information, the strengthening of disaster risk governance, investment in structural and non-structural disaster resilience measures, the installation and operation of multi-hazard early warning systems, and “building back better” in recovery, rehabilitation and reconstruction, including through a whole-of-society approach.”*

#### **Article 10 - Role of the affected State**

87. The Philippines understands the primary role of the affected State to include not only the national government but also the role of the relevant subnational government units (or local government units), in accordance with domestic processes and mechanisms. These local authorities are often the first to identify and quantify needs, determine the quality of assistance required, particularly for vulnerable groups, undertake initial response and shape durable solutions for recovery and rehabilitation.

Our experience also shows that non-affected local governments routinely extend assistance to affected areas, deploying relief personnel, search-and-rescue teams, equipment, and goods as part of a broader national response.

88. The Philippines welcomes draft article 10 as a corollary of the principle of sovereignty. We seek further clarity on the extent of the affected State’s authority in directing, controlling, coordinating, and supervising relief assistance within its territory, including how this interacts with any operational control retained by assisting States over their deployed assets and personnel. We note that the ASEAN Agreement on Disaster Management and Emergency Response (AADMER) uses the standard of “overall control,” which may offer useful guidance. We agree with the Commission that, given its primary role, the affected State is best placed to determine when its capacity is overwhelmed and to communicate promptly with potential assisting States and assisting

actors. Timely information-sharing is essential to ensure that external assistance can be mobilized quickly and directed to those who need it most.

89. The Philippines understands the Draft Articles to be without prejudice to, and fully consistent with, the rights and prerogatives of States to extend consular and other forms of protection to their nationals affected by disasters abroad, in accordance with international law, including the Vienna Convention on Consular Relations, the Convention on the Rights of all Migrant Workers and Members of their Families, and applicable customary international law. For the Philippines, this is a core national interest, given the significant number of overseas Filipinos who may be caught in disasters in their host States.

90. In addition to affirming the primary role of the affected State, the Philippines underscores the importance of transparency in disaster response to the extent and in a manner necessary for the effective protection of persons and delivery of assistance. Reading draft articles 10, 11, 13, and 14 together, we propose that information on humanitarian assistance received and utilized, whether from domestic sources or external partners, be made publicly available.

#### **Article 11 - Duty of the affected State to seek external assistance**

91. The Philippines seeks clarification on the rationale of imposing a duty to seek external assistance on the affected State.

92. We support the Commission's view that the "duty" to seek assistance should be interpreted to mean that each State has the discretion to determine when a disaster manifestly exceeds its national response capacity and to decide whether or not it needs assistance from another State in a manner consistent with its highest interests and territorial sovereignty. This discretion must be exercised in good faith.

93. At this stage, the Philippines wishes to reserve on the issue of the duty of the affected State to seek assistance; however, we affirm the *right* of States to seek assistance as an exercise of sovereignty, complemented by the corresponding right of other States to respond, and the duty to cooperate under international law. The title for this Draft Article may be replaced with "Right" instead of "Duty" of the affected State to seek external assistance.

94. We are open to further qualification of the term "manifestly exceeds", as appropriate, including possible insertion of terms to invoke such standards in the current text, to provide further clarity in its operationalization. Based on our experience, the intensity or the nature of hazard, exposure of local communities, vulnerability, and availability of technology and knowledge could be good starting points in determining whether national response capacity has been manifestly exceeded.

95. Moreover, when external assistance is requested, we agree with the Commission that there must be a guarantee that the assistance will not be used as a pretext for intervening in the internal affairs of the affected State.

## **Article 12 - Offers of external assistance**

96. The Philippines notes that requests for assistance should be sent, received and decided by a national authority.
97. Draft article 12 is seen as without prejudice to the right of States to provide consular assistance to their nationals abroad in accordance with international law, including the Vienna Convention on Consular Relations, the Convention on the Rights of all Migrant Workers and Members of their Families, and applicable customary international law. We note that, under draft article 3, a State or actor acquires the status of an “assisting State” or “assisting actor” only when providing assistance to the affected State. It may be useful to consider how these definitions affect the status of States providing consular assistance to its nationals located in the affected State during a disaster.
98. We further note that offers of assistance made in accordance with these draft articles are not to be taken as interference in domestic affairs of the affected state, provided they are consistent with the sovereignty and primary role of the affected State. Offers of assistance should likewise be appropriate, culturally sensitive, and consistent with humanitarian principles.

## **Article 13 - Consent of the affected State to external assistance**

99. The right of each State to determine whether it requires assistance from another State, without being compelled to seek or accept it, should be clearly affirmed. This decision must remain within the sovereign discretion of the State concerned, to be exercised in accordance with its highest interests and territorial sovereignty, and in light of its primary duty to protect persons and ensure the provision of disaster relief assistance within its territory or under its jurisdiction or control.

In this regard, draft article 10, which affirms the affected State’s primary role in the direction, control, coordination, and supervision of relief assistance, should be read together with draft article 13, which requires the affected State’s consent for external assistance.

100. On the prohibition against arbitrarily withholding consent to external assistance, the Philippines agrees with the view that arbitrariness must be assessed on a case-by-case basis. Withholding consent cannot be deemed arbitrary where the affected State is capable and willing to provide adequate relief from its own resources, or where it has already accepted appropriate and sufficient assistance from another source.

Likewise, it is not arbitrary to refuse assistance that is offered in a manner inconsistent with the draft articles, including the principles on sovereignty, territorial integrity or in draft article 6, such as independence and non-discrimination.

Our understanding is that the purpose of this requirement is to prevent the use of consent for political or other extraneous reasons that could unduly delay the

delivery of assistance to persons facing imminent risks to life, health, or property. In this regard, unwarranted delays, particularly where they contribute to loss of life or significant harm, may indicate arbitrariness in the withholding of consent.

101. Recalling draft article 10, the Philippines underscores that the affected State has the primary role in the direction, control, coordination, and supervision of relief assistance, and should therefore be accorded a margin of appreciation to determine, in good faith, the form of assistance most appropriate to its needs. We further understand that under draft article 13, a State wishing to offer assistance cannot proceed unilaterally on the basis of its own assessment that the affected State's withholding of consent is arbitrary.
102. We agree that the phrase "make known its decision regarding the offer" affords the affected State needed flexibility in responding to offers of assistance, including through general public announcements when formal correspondence is not feasible during a disaster. As for the requirement to respond "in a timely manner," we understand this to mean as soon as reasonably possible in the circumstances, with timeliness assessed on a case-by-case basis given the operational constraints disasters often impose.
103. The Philippines reiterates that this draft article should be read to be without prejudice to the right and duty of States to render timely and effective consular assistance to their nationals in times of disasters, in accordance with international law, including the Vienna Convention on Consular Relations, the Convention on the Rights of all Migrant Workers and Members of their Families, and applicable customary international law.
104. The Philippines also notes that the draft articles do not address situations in which it may be unclear who is competent to give consent on behalf of the affected State, or where the State is, for whatever reason, unable to exercise its functions in a timely manner. We consider this an area that may warrant further reflection and clarification.
105. The Philippines notes that consent of the affected State in some cases may entail both formal and informal processes. Offers of external assistance may be extended even in the absence of a formal request from the affected State, as in the recent case of the Philippines in the aftermath of Tropical Cyclone *Tino* (*Kalmaegi*) and Super Typhoon *Uwan* (*Fung-wong*) in November 2025. Although the Philippine government did not issue a formal call for international humanitarian assistance (IHA), the Philippines nonetheless facilitated IHA offers from other governments and international non-governmental organizations.

The process of facilitating IHA offers in the Philippines involves both formal and informal mechanisms. The majority of donors extend offers of assistance through formal diplomatic channels, notifying the Philippine government of their intention to provide financial and/or in-kind assistance. Such notifications trigger the mechanisms of the Philippine International Humanitarian Assistance Cluster. The Philippines' Department of Foreign Affairs coordinates with

recipient agencies to confirm the acceptance of the offer and determine the items deemed acceptable. Thereafter, the Department submits the Cluster's recommendation to the Office of the President (OP) for the President's consideration and approval.

In some instances, donors first consult with the Philippine government through informal channels to ascertain the type of assistance still needed, taking into account the country's existing capacities, before formally extending their offer through diplomatic channels.

#### **Article 14 - Conditions on the provision of external assistance**

106. The Philippines understands the right to impose conditions to include modalities and the delivery of assistance, determination of proper channels, documentation or forms of assistance. This right is consistent with the sovereignty of the affected state. Conditions must ensure relief operations are not carried out for military and political reasons, and we understand this right to impose conditions to include the prerogative of the receiving State to decline entry of foreign military troops.

107. We also understand this right to impose conditions to include the identification and quantification of needs and prescribing the quality of assistance requested. While adequate quantity is necessary to meet urgent needs of disaster-affected populations, excessive assistance may have unintended consequences, such as straining logistics, creating dependency, or harming the local economy, particularly during the recovery phase. Explicitly recognizing the importance of balancing quality with appropriate quantity would strengthen the guidance provided to affected States and assisting actors in ensuring that external assistance remains effective, needs-based, and supportive of long-term recovery. When determining the quality of assistance for its request, we understand that the affected State shall take into account internationally accepted standards such as safety, security, nutrition, and cultural appropriateness.

108. With respect to the phrase "in accordance with national law", based on our experience, we note that this should not necessarily mean that those conditions must be embodied in national law or requiring the enactment of a specific national law for this purpose, considering that situations of disasters require prompt actions and prompt decision making, and so for as long as the conditions are communicated through or by duly appointed state authorities acting within their mandates and communicated properly, then we are of the opinion that this should be sufficient. This must also be understood to include agency-level rules, regulations and guidelines.

109. The Philippines supports the view that any conditions imposed by the affected State must be consistent with the draft articles, applicable international law, and national law, and should be reasonable, proportionate, and non-discriminatory. We also share the Commission's view that such conditions must not result in undue delay or reduction of essential relief. This aligns with General Assembly resolution 46/182, which emphasizes the need for timely and

effective humanitarian assistance, as well as the IFRC IDRL Guidelines, which encourage States to reduce legal and administrative barriers to relief operations. Including explicit language to this effect would help promote cooperation, clarity, and fairness in the delivery of assistance.

110. Draft article 14 may read as follows:

*The affected State may place conditions on the provision of external assistance. Such conditions shall be in accordance with the present draft articles, applicable rules of international law and the national law of the affected State. Conditions shall take into account the identified needs of the persons affected by disasters and the quality of the assistance, including internationally accepted standards relating to safety, security, nutrition, and cultural appropriateness. When formulating conditions, the affected State shall indicate the scope and type of assistance sought.*

#### **Article 15 - Facilitation of external assistance**

111. We welcome Draft article 15 as these are practical requirements of humanitarian assistance, allowing the rapid deployment of much needed relief assistance during disasters and we recognize the importance of facilitation of their delivery, in accordance with national laws.

112. On paragraph 1, the Philippines considers the formulation “shall, as far as practicable, take the necessary measures to facilitate the prompt and effective provision of external assistance” to be appropriate. It affirms the importance of facilitation while recognizing the reality that, in the immediate aftermath of a disaster, national capacities, infrastructure, and administrative systems may be disrupted. The qualifier “as far as practicable” reflects these operational constraints and allows the affected State to act to the fullest extent possible under the circumstances.

113. The Philippines wishes to underscore that any facilitation measures undertaken pursuant to Article 15 must be understood strictly within the scope and purpose of ensuring the prompt and effective provision of external assistance. Such measures should operate only to the extent necessary for the delivery of assistance in accordance with Articles 10, 13, and 14, and within the parameters of the affected State’s consent, direction, control, and supervision. To avoid ambiguity, the Philippines proposes that Article 15 explicitly reflect this understanding.

*Proposed formulation of Article 15:*

*Article 15 - Facilitation of external assistance*

1. *The affected State shall, as far as practicable, 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.*

*Such facilitation measures shall operate solely for the purpose of delivering external assistance in accordance with the consent, direction, control, and supervision of the affected State, and within the framework of Articles 10, 13, and 14.*

2. *The affected State shall ensure that its relevant legislation and regulations are readily accessible, to facilitate compliance with national law.*

114. The Philippines therefore proposes that the Draft Articles make clear that assisting actors, upon entry, are authorized to operate solely within the terms of consent granted by the affected State and only in relation to the specific disaster concerned. The facilitation provided under Article 15 should not be understood as permitting assisting actors to undertake activities beyond disaster relief, such as community organizing, capacity-building initiatives, or engagement with advocacy groups, nor as allowing movement or presence in areas unaffected by the disaster. Entry and operations must remain directly tied to the provision of prompt and effective relief.

115. Furthermore, the Philippines understands the facilitation obligations under Article 15 to operate in conjunction with Article 14 on conditions and Article 10 on the primary role of the affected State. Once assisting actors are present in the territory, their activities remain governed by the affected State's consent, direction, supervision, and applicable national laws, including rules on freedom of movement, operational parameters, and the specific scope of authorized assistance.

116. With respect to privileges and immunities and freedom of movement, the Philippines interprets Article 15 in conjunction with Article 14 and the relevant Commentary. Any privileges or immunities extended under Article 15 must be functional in nature, limited to what is strictly necessary for the performance of disaster relief activities, and determined on a case-by-case basis on occasions of disasters. They do not amount to sovereign immunity, nor do they diminish the affected State's authority to enforce its national laws, including entry, screening, and admissibility requirements. Accordingly, facilitation under Article 15 should not be understood as preventing the affected State from applying its domestic regulations to safeguard against the entry of individuals who may pose security or protection risks, including those with serious criminal backgrounds or those seeking to enter under false humanitarian prettexts.

117. With respect to Article 15, the Philippines notes that the provision is intended to ensure the prompt and effective delivery of external assistance, and that the affected State is required to take necessary measures, within its national law, to facilitate this. Subparagraph (a) appropriately identifies key facilitation requirements for relief personnel, such as visas, entry and work permits, and freedom of movement, which are essential for rapid deployment. Subparagraph (b) likewise covers the facilitation of equipment and goods, consistent with the Commentary's recognition that a wide range of relief items may be needed in an emergency. Given the practical demands of disaster response, we see value in further clarifying certain measures in the non-exhaustive list, including overflight and landing rights, simplified documentation for imports and transit, and temporary recognition of foreign vehicle registration. We also support paragraph 2 on ensuring that relevant legislation and regulations are readily accessible and note the usefulness of designating a competent authority, such as the NDRRMC in our context, to streamline these processes.
118. These articles align with the Philippines' existing operational guidelines for activating the NDRRMC's Philippine International Humanitarian Assistance Cluster (PIHAC), where the DFA serves as lead agency. The Philippines also hosts one of the ASEAN Disaster Emergency Logistics System (DELSA) warehouses, enabling the rapid deployment of relief goods to ASEAN Member States. Supplies from the DELSA facility in Camp Aguinaldo were recently used in response to the earthquake in Myanmar. This mechanism offers a useful model for efficient distribution of relief items.
119. The effective provision of external assistance - such as donated goods and equipment intended for disaster relief, tariff and tax exemptions - are covered by policies and regulations of the Philippines, such as the following:
- Section 105 paragraph "I" of the Revised Tariff and Customs Code of the Philippines as amended, provides that imported articles donated to or for the account of any duly registered relief organization, upon certification by the Department of Social Welfare and Development (DSWD) or the Department of Education (DepEd) as the case may be, shall be exempt from the payment of import duties.
  - Presidential Memorandum Order (PMO 36), s. 1992, authorizes the importation and donation of relief goods/articles/equipment for use in government relief and rehabilitation programs for calamity areas, as guided by the Tariffs and Customs Code of the Philippines (TCCP) and the prevailing provisions of the General Appropriations Act covering internal revenue taxes and import duties of national and local government agencies.
  - Executive Order No. 831 of 2009 bestows to the Department of Finance (DOF) complete discretion in authorizing tax and tariff exemptions for relief goods donated from abroad, provided that the donated relief goods/articles/equipment are for free distribution to calamity-declared areas and victims of calamities. In addition, these donations shall be for the account of the DSWD, or any relief organization not operated for profit and duly registered with the DSWD.

120. The Philippines considers it useful for Article 15(1)(a) to be made more specific, including by clarifying that relief personnel are facilitated “for the time necessary to carry out external assistance” and that such facilitation includes freedom of access and movement within affected areas. Any privileges and immunities should be strictly functional, narrowly tailored, time-bound, and exclude any misconduct done in the course of humanitarian assistance in relation to affected persons benefitting from humanitarian assistance.
121. The affected State should likewise ensure that relief personnel receive appropriate orientation upon arrival to enable them to operate effectively within the national context, and that after-action reviews and debriefings are conducted to support their well-being. In addition, pre-agreed arrangements and simplified procedures for humanitarian visas and customs clearances would further promote the prompt and effective entry of relief personnel, equipment and goods.
122. In the expediting of the entry of goods and equipment, care should be taken to ensure quality control. Safeguards may be implemented to protect from substandard goods, expired goods and irrelevant goods. Domestic processes must also ensure that there is no unnecessary delay due to onerous customs requirements.
123. Any aid received must be concessional, and grants-based. This also applies for recovery and rehabilitation.

#### **Article 16 - Protection of relief personnel, equipment and goods**

124. We support Article 16 which recognizes the basic duty of the affected state to endeavour to guarantee the protection of relief personnel, equipment and goods and not to cause harm to them. On the other hand, we appreciate the clarification that this duty should not entail the creation of unreasonable and disproportionate stress on the already compromised ability of the affected state to provide security and protection both to its own people as well as to relief personnel and their accompanying equipment and goods. That duty must be read in conjunction with Article 14 on conditions on the provision of external assistance and the duty of the assisting state to fully respect the affected State’s laws and regulations.
125. The Philippines notes its current legal framework, including the Price Act (RA 7581, as amended), which criminalizes profiteering and other abusive economic practices in areas declared under a state of calamity. These prohibitions apply to both State and non-State actors and are intended to prevent exploitation of affected populations during disasters.
126. We agree with the view that the obligation under Article 16 is context-dependent and that the measures required may vary. This duty must be read together with Article 14 on conditions for external assistance and with the obligation of assisting States and actors to respect the laws of the affected State. The affected State should retain a margin of appreciation in determining

the appropriate measures to fulfill this duty, and we therefore support the use of the qualifier “appropriate” in Article 16.

## **Article 17 - Termination of External Assistance**

127. The Philippines notes that draft article 17 recognizes the right of the affected State, the United Nations, and other assisting actors to terminate external assistance, which may be necessary for various reasons. This right is balanced by a soft obligation to consult other relevant actors, with the phrase “as appropriate” providing needed flexibility. We propose that this provision be read together with draft article 6, which requires that humanitarian assistance be carried out in accordance with the principles of humanity, neutrality, impartiality, and non-discrimination. The right of termination should likewise be exercised in a manner consistent with human dignity, human rights, and humanitarian principles.

128. We propose revising draft article 17 as follows:

*“The affected State, the assisting State, the United Nations, or other assisting actor may terminate external assistance at any time. Any State or actor intending to terminate shall provide appropriate notification. The affected State and, as appropriate, the assisting State, the United Nations, or other assisting actor shall consult with respect to the termination of external assistance and the modalities of termination, taking into account the needs and rights of the persons affected by the disaster. Termination should be undertaken in a manner consistent with the objectives of this instrument.”*

## **Article 18 - Relationship to other rules of international law**

129. With respect to Article 18, the Philippines understands the reference to “applicable rules of international law” to encompass, among others, the Vienna Convention on Consular Relations, the Convention on the Rights of all Migrant Workers and Members of their Families, and the relevant customary rules on consular assistance and protection. While it is not necessary for the Draft Articles to enumerate specific instruments, we consider it important to record this understanding, and note that, should an enumeration be included in future discussions, these instruments ought to be reflected accordingly.

130. The first paragraph of Article 18, indicating that the draft articles without prejudice to other applicable rules of international law, also applies to the rules of customary international law. In fact, the draft articles do not cover all the issues that may be relevant in the event of disasters. Moreover, the draft articles do not intend to preclude the further development of rules of customary international law in this field.

131. This draft article may need further study on the interplay among the draft articles and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency and World Health Organization Pandemic Agreement.

132. In disasters taking place in situations of armed conflict, these draft articles apply to the extent not covered by international humanitarian law.

133. It would be beneficial for the Draft Articles to include an explicit commitment that their interpretation and application should consistently aim to ensure the best possible protection of persons in disaster situations. Such a guiding principle would help anchor the instrument in its central humanitarian purpose and support coherent implementation across diverse contexts.

## **V. Conclusion**

134. The Philippines submits these initial comments in the spirit of constructive engagement and reaffirmation of its commitment to strengthening international law for the protection of persons in the event of disasters.

135. The Philippines will continue to engage actively in intergovernmental discussions, including through the Working Group, and looks forward to further dialogue with Member States, the ILC, the UN Secretariat and other stakeholders as consideration of the Draft Articles proceeds.