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Note Verbale

The Permanent Mission of the Kingdom of the Netherlands to the United Nations presents its compliments to the Executive Office of the Secretary-General of the United Nations and has reviewed with great interest the 21 draft articles on Protection of persons in the event of disasters, as adopted on first reading by the Commission at its sixty-sixth session. The draft articles have subsequently been submitted to Governments, competent international organizations, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies for comments and observations.

The Kingdom is pleased to submit some general observations as well as a number of comments in relation to specific articles.

General observations

The Kingdom congratulates the Special Rapporteur, Mr. Valencia-Ospina, on the results of his study so far. Given the overall quality of the draft articles, these articles are expected to play an important role in improving the protection of persons affected by disasters, in particular in situations where the scale of a disaster exceeds the response capacity of the affected state.

In this regard, the Kingdom wishes to underscore that the draft articles can be seen as an authoritative reflection of contemporary international law or as an attempt to progressively develop the law. However, it should be clear that the draft articles themselves are not legally binding.

Comments in relation to specific articles

Draft articles 3 and 4

As stated in previous comments submitted by the Kingdom, the Kingdom would have preferred to have these two draft articles merged into one draft article on the use of terms.

In relation to draft article 4, the Kingdom concurs with the decision of the Drafting Committee not to include definitions for "relevant non-governmental organization" and "risk of disasters".





The Kingdom also supports the inclusion of the phrase "or otherwise under the jurisdiction or control" in draft article 4 (a), which broadens the meaning of the term "affected State". In this regard, the Kingdom concurs with the view expressed by the Drafting Committee that the issue of consent of the affected State in situations where there might be multiple affected States merits further attention.

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Finally, in relation to the use of the term "relief personnel" in draft article 4 (e), the Kingdom signals the need for coherence in the terminology used in other draft articles, in particular draft article 17 (a) ('civilian and military relief personnel') and draft article 18 ('relief personnel' - without further specification).

Draft article 10

This draft article extends the general duty to cooperate to the pre-disaster phase. As stated previously, the Kingdom favours a clear focus of the draft articles on the phase of the actual disaster, with reference to the title of the study.

Draft articles 17 and 18

Given the need for enhanced attention to the protection of relief personnel, the Kingdom agrees with the decision of the Drafting Committee not to merge draft article 18 (Protection of relief personnel, equipment and goods) with draft article 17 (Facilitation of external assistance).

Draft article 21

While underlining the need to carve out situations of armed conflict from the notion of "disaster", the Kingdom notes the potentially broad scope of the current wording of this article. In this respect it could be advisable to rephrase this draft article into a more standard "without prejudice" - clause.

The Permanent Mission of the Kingdom of the Netherlands to the United Nations avails itself of this opportunity to renew to the Executive Office of the Secretary-General of the United Nations the assurances of its highest consideration.

