



General Assembly

Seventy-fifth session

Official Records

Distr.: General
30 November 2020

Original: English

Sixth Committee

Summary record of the 17th meeting

Held at Headquarters, New York, on Wednesday, 11 November 2020, at 10 a.m.

Chair: Ms. Weiss Ma'udi (Vice-Chair) (Israel)

Contents

Agenda item 87: The scope and application of the principle of universal jurisdiction
(*continued*)Agenda item 114: Measures to eliminate international terrorism (*continued*)Agenda item 77: Criminal accountability of United Nations officials and experts on
mission (*continued*)

Agenda item 88: Responsibility of international organizations

Agenda item 89: Protection of persons in the event of disasters

This record is subject to correction.Corrections should be sent as soon as possible, under the signature of a member of the
delegation concerned, to the Chief of the Documents Management Section (dms@un.org),
and incorporated in a copy of the record.Corrected records will be reissued electronically on the Official Document System of the
United Nations (<http://documents.un.org>)

20-14972 (E)



Please recycle



In the absence of Mr. Skoknic Tapia (Chile), Ms. Weiss Ma'udi (Israel), Vice-Chair, took the Chair.

The meeting was called to order at 10.05 a.m.

Agenda item 87: The scope and application of the principle of universal jurisdiction (continued)

Oral report of the Chair of the working group on the scope and application of the principle of universal jurisdiction

1. **Mr. Carazo** (Costa Rica), Chair of the working group, recalling that, pursuant to General Assembly resolution [74/192](#), the Committee had decided at its 1st meeting, held on 6 October 2020, that it would establish a working group to continue to undertake a thorough discussion of the scope and application of universal jurisdiction, without prejudice to the consideration of that topic and related issues in other forums of the United Nations, that the working group would be open to all Member States, and that relevant observers to the General Assembly would be invited to participate in its work, said that the working group had had before it various reports of the Secretary-General on the topic, dating back to 2010 ([A/75/151](#), [A/74/144](#), [A/73/123](#), [A/73/123/Add.1](#), [A/72/112](#), [A/71/111](#), [A/70/125](#), [A/69/174](#), [A/68/113](#), [A/67/116](#), [A/66/93](#), [A/66/93/Add.1](#) and [A/65/181](#)). The working group had also had before it the non-paper previously submitted by Chile ([A/C.6/66/WG.3/DP.1](#)), the informal paper of the working group ([A/C.6/66/WG.3/1](#)), which contained a road map on the methodology and issues for discussion, and the 2016 informal working paper prepared by the Chair, which had been discussed in previous sessions of the working group.

2. The working group had held two meetings, on 30 October and 5 November 2020. It had conducted its work in the framework of informal consultations. As in 2018 and 2019, the working group had exchanged views on the practice of States relating to the scope and application of universal jurisdiction. It had also held a discussion on the way forward, bearing in mind that at the current session, which marked the tenth anniversary of the working group, further intersessional work had been disrupted by the coronavirus disease (COVID-19) pandemic. The plenary debate at the 11th and 12th meetings of the Committee, held on 3 and 4 November 2020, had provided some useful information regarding delegations' positions.

3. At the first meeting of the working group, held on 30 October, he had presented an overview of past proceedings, including the discussions that had led to the informal working paper, reiterating that the issues

raised in the paper had been intended to be illustrative and without prejudice to future proposals made by delegations or to their positions. The paper had not been intended to reflect consensus among delegations and was expected to be subject to further deliberations. He had reminded delegations that no modifications to the text of the informal working paper had been introduced since 2016. No further modifications had been made at the current session.

4. To promote an exchange of views during both meetings of the working group, and to have a better appreciation of views of delegations on the item, delegations had been invited to address the following three questions, which had been circulated to them in advance: "what crimes are subject to prosecution on the basis of universal jurisdiction under your country's national laws?"; "what are the conditions, if any, to the applicability of universal jurisdiction for such crimes?"; and "what are the instances, if any, in which universal jurisdiction has been the basis of jurisdiction in the prosecution of crimes in your country?".

5. In response to each of those questions, several delegations had provided information on a range of crimes to which universal jurisdiction would apply under their national laws, as well as on the conditions for such application. Information had also been provided on judicial practice and the conditions under which national courts had recognized the applicability of the principle of universal jurisdiction. On the whole, the information provided had been similar to that submitted by Governments over the years to the Secretary-General in response to the various General Assembly resolutions on the item.

6. Some delegations had reiterated that there was no consensus on the principle of universal jurisdiction under international law. In that connection, the question had been raised whether any progress could be made on the item given the divergence of views among delegations. Some delegations had highlighted concerns regarding the potential abuse or misuse of universal jurisdiction and the need to avoid its politicization. The exchange of information on the practice of States had helped delegations have a better appreciation of the positions of other delegations. He hoped that such exchange would help to further advance work on the topic.

7. Following the exchange of views on the scope and application of universal jurisdiction, he had invited delegations to share their views on how to better achieve the mandate entrusted to the working group, seeking the best way to proceed. Several delegations had reiterated the importance and usefulness of dialogue in the

Committee and, in particular, the working group. In that regard, some delegations had welcomed the continued practice of reflecting State practice in the annual report of the Secretary-General. At the same time, there had been a proposal, which had garnered support among delegations, to establish the working group biennially in future, while maintaining the annual consideration of the item by the Committee.

8. As Chair of the working group, he had observed that the discussion had reflected diverse views among States on the complex and sensitive topic under consideration, but that progress could be achieved by further deliberations, focusing on certain points of convergence or divergence, with the aim that an open and honest debate might lead to increased understanding of the various issues raised by the subject. It had also been clear to him that the item raised serious issues of importance to States and that it was incumbent on the Committee to provide the necessary guidance. The COVID-19 pandemic had clearly affected the work of the working group and he hoped that conditions would soon improve to facilitate further consultations. With that in mind, he had expressed his readiness and availability to consult with delegations during the intersessional period and had urged delegations to engage with each other to pave the way forward in light of the significance of the topic.

9. **The Chair** said she took it that the Committee wished to take note of the report of the Chair of the working group on the scope and application of the principle of universal jurisdiction.

10. *It was so decided.*

Agenda item 114: Measures to eliminate international terrorism (continued)

Oral report of the Chair of the working group on measures to eliminate international terrorism

11. **Mr. Perera** (Sri Lanka), Chair of the working group, speaking via video link, and recalling that, pursuant to General Assembly resolution 74/194, the Committee had decided at its 1st meeting, held on 6 October 2020, to establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussions on the item included in its agenda by General Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations, said that, pursuant to paragraph 9 of General Assembly resolution 51/210 and consistent with past practice, the working group was open to all States Members of the United Nations or members of the specialized agencies or of the

International Atomic Energy Agency. In keeping with its established practice, the working group had decided that members of the Bureau of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996, to the extent of their availability, would continue to act as Friends of the Chair during the meetings of the working group.

12. The working group had had before it the report of the Ad Hoc Committee on its sixteenth session (A/68/37), which contained as annex I the preamble and articles 1, 2, and 4 to 27 of the draft comprehensive convention on international terrorism, prepared by the Bureau, incorporating the various proposals contained in document A/C.6/65/L.10, and written proposals in relation to the outstanding issues surrounding the draft comprehensive convention, contained in the report as annex II. The working group had also had before it a letter dated 1 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General (A/60/329), and a letter dated 30 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Chair of the Sixth Committee (A/C.6/60/2). The Chair had also drawn the attention of the working group to the previous year's oral report by the Chair of the working group, contained in document A/C.6/74/SR.34.

13. The working group had held two virtual meetings, on 16 October and 6 November 2020, convened against the backdrop of the plenary debate at the 1st, 2nd, 3rd and 4th meetings of the Committee, held on 6, 7, 8 and 12 October 2020. The working group had adopted its work programme and had held its discussions in the framework of informal consultations.

14. At its meeting on 6 November, the working group had adopted a proposed recommendation, based on paragraphs 25 and 26 of resolution 74/194, that the Committee, at the seventy-sixth session of the General Assembly, should establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussions on the item included in its agenda by Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations. The recommendation also recognized the valuable dialogue and efforts of Member States towards resolving any outstanding issues, and encouraged all Member States to redouble their efforts during the intersessional period. The recommendation would form part of the technical rollover of the draft resolution on the agenda item.

15. During the informal consultations held on 16 October 2020, the Chair had provided an overview of

the work undertaken over the years and an update on the status of the negotiations regarding the outstanding issues surrounding the draft convention. Work had proceeded on the general understanding that further consideration would be given to all written amendments and proposals that were on the table, together with all other written and oral proposals, in future discussions, including on outstanding issues. Attention had also been drawn to the informal non-paper prepared by the former coordinator on a possible way to overcome differences on the outstanding issues relating to the draft comprehensive convention and comments had been invited thereon.

16. Delegations had reiterated their commitment to the negotiation and successful conclusion of a comprehensive convention. While reaffirming long-standing positions and preferences for proposals they had made, several delegations had expressed their continued interest in remaining engaged in the efforts of the working group to reach a solution on the outstanding issues. Some delegations had called for specific outstanding issues to be resolved, including the need to have a clear definition of terrorism. Some delegations had noted the need to ensure that such a definition should distinguish terrorism from the right of peoples fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right to self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, while other delegations had observed that any definition that was not based on clear principles or that seemed to justify terrorism was unacceptable. While some delegations had expressed support for the convening of a high-level conference as a way of helping to resolving the outstanding issues, other delegations had noted that such a conference should be convened once there was agreement on the draft comprehensive convention. The new coordinator of the outstanding issues relating to the draft comprehensive convention, Mr. Kanu of Sierra Leone, who had been appointed in 2019, had indicated that, while the COVID-19 pandemic had prevented him from commencing work on the outstanding issues during the intersessional period, he would be reaching out to delegations in due course to invite their views on how to make progress and to emphasize his intention to be inclusive and transparent. He hoped to establish a group of “Friends of the Coordinator” to assist in making progress towards a consensus.

17. During the informal consultations held on 6 November 2020, the working group had considered the question of convening a high-level conference under

the auspices of the United Nations to formulate a joint organized response to terrorism. The sponsor delegation of Egypt had reiterated its position on the continued relevance of its proposal. While some delegations had reiterated their support for the convening of a high-level conference, either at the Head of State or the permanent representative level, others had indicated that, without first achieving consensus on the draft comprehensive convention, it would be premature to hold a high-level conference.

18. As Chair of the working group, he welcomed the continued commitment expressed by delegations and encouraged them to work together with the coordinator of the outstanding issues relating to the draft comprehensive convention during the intersessional period.

19. **The Chair** said she took it that the Committee wished to take note of the report of the Chair of the working group on measures to eliminate international terrorism.

20. *It was so decided.*

Agenda item 77: Criminal accountability of United Nations officials and experts on mission (continued)

Oral report of the Chair of the working group on the criminal accountability of United Nations officials and experts on mission

21. **Mr. Molefe** (South Africa), Chair of the working group, recalling that, pursuant to General Assembly resolution [74/181](#), the Committee had decided at its 1st meeting, held on 6 October 2020, to establish a working group, open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency, with a view to continuing the consideration of the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations ([A/60/980](#)), in particular its legal aspects, taking into account the views of Member States and also noting the inputs by the Secretariat, said that the working group had had before it the report of the Group of Legal Experts, the two reports of the Secretary-General on criminal accountability of United Nations officials and experts on mission issued in 2020 ([A/75/217](#) and [A/75/228](#)) and the previous reports of the Secretary-General on the item ([A/63/260](#), [A/63/260/Add.1](#), [A/63/331](#), [A/64/183](#), [A/64/183/Add.1](#), [A/65/185](#), [A/66/174](#), [A/66/174/Add.1](#), [A/67/213](#), [A/68/173](#), [A/69/210](#), [A/70/208](#), [A/71/167](#), [A/72/121](#), [A/72/126](#), [A/72/205](#), [A/73/128](#), [A/73/129](#), [A/73/155](#), [A/74/142](#) and [A/74/145](#)), together with a web-based update of the

information on national provisions, the note by the Secretariat on criminal accountability of United Nations officials and experts on mission (A/62/329) and General Assembly resolution 74/181.

22. Pursuant to paragraph 16 of resolution 74/181, representatives of the Secretariat from the Office of Human Resources and the Conduct and Discipline Service of the Department of Management Strategy, Policy and Compliance, the Ethics Office, the Office of Internal Oversight Services, the Office of the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse, the Victims' Rights Advocate and the Office of Legal Affairs had given a briefing for delegations on 14 October 2020, during which they had set out the respective roles and responsibilities of their units in addressing the item under examination, and had provided updates on relevant policies and procedures, as well as information on other developments.

23. The working group had held one virtual meeting on 21 October 2020, convened against the backdrop of the plenary debate at the 4th and 5th meetings of the Committee, held on 12 and 14 October 2020. It had adopted its work programme and had agreed to conduct its discussions in the framework of informal consultations. The working group had held an exchange of views regarding three questions: first, whether (and, if so, when) the criminal accountability of United Nations officials and experts on mission should be addressed in a convention; second, which substantive issues should be addressed in a convention; and, third, whether there were any matters that should be included in the annual General Assembly resolution to further enhance the mechanisms of accountability initially developed in resolutions 62/63 and 63/119. Delegations had remained divided on the first question. Some had reiterated their position that it was premature to commence such negotiations, that the emphasis should instead be placed on the consideration of substantive issues and that States should focus on updating their relevant criminal laws and procedures to address the criminal accountability of United Nations officials and experts on mission who were their nationals. Others had expressed the view that the criminal accountability of United Nations officials and experts on mission would be best addressed comprehensively in a General Assembly resolution, rather than in a convention subject to ratification by Member States. However, other delegations had expressed more readiness to begin working towards the elaboration of a convention. It had been highlighted that jurisdictional gaps existed and that a convention could contribute to closing those gaps by harmonizing national legislation. It had also been

pointed out that the question of a convention should be discussed during the intersessional period. It was clear from the discussions how seriously delegations took the issue in question. As Chair of the working group, he remained available to work with delegations to ensure that there was no impunity for criminal activity committed by United Nations officials and experts on mission.

24. **The Chair** said she took it that the Committee wished to take note of the report of the Chair of the working group on criminal accountability of United Nations officials and experts on mission.

25. *It was so decided.*

Agenda item 88: Responsibility of international organizations (A/75/80 and A/75/282)

26. **Mr. Khng** (Singapore) said that his delegation did not support the elaboration of a convention on the basis of the articles on the responsibility of international organizations. It remained unconvinced that the articles reflected a consensus view of the law. The two reports of the Secretary-General issued in 2020 did not suggest that there had been any material change in the overall view on the question of the form that might be given to the articles since the Committee's previous consideration of the topic. They also did not show that the articles had been cited by courts and tribunals as reflecting customary international law. Moreover, it would not be appropriate to elaborate a convention on the basis of the articles when consensus had yet to be reached on the elaboration of a convention based on the similar articles on responsibility of States for internationally wrongful acts. Given the lack of significant developments on the question of the form that might be given to the articles, his delegation remained of the view that it was not necessary to include the item on the provisional agenda of a future session of the General Assembly.

27. **Mr. Simcock** (United States of America) said that it was not appropriate to take further action on the articles on the responsibility of international organizations, given the limited development of the law in that area since the last time the Committee had considered the topic. Many of the rules contained in the articles fell into the category of progressive development rather than codification of the law. They did not reflect current law to the same degree as the corresponding provisions on State responsibility did. In that regard, it was likely that some of the principles set out in the articles, such as those concerning countermeasures and self-defence, did not apply generally to international organizations in the same way

as they applied to States. For those reasons and in view of the significant differences of opinion remaining as to which principles should govern and how they should operate, his delegation continued to believe that the articles should not be transformed into a convention.

28. **Ms. Flores Soto** (El Salvador) said that it had been established in Salvadoran case law that, regardless of the terminology used to describe them, agreements between States, or between States and international organizations, created international legal ties that gave rise to obligations for the contracting parties and authorized them to act in accordance with what had been agreed. It was thus recognized that international organizations could be subject to obligations in respect of other subjects of international law. Furthermore, it had been stated in domestic case law that international organizations and their agents enjoyed a series of privileges designed to ensure the independence necessary for the exercise of their functions or, in other words, the attainment of the objectives set out or implicit in their rules. Taking into account that case law, El Salvador reiterated the importance of the principle of responsibility in international law. By that principle, every act attributable to a State or an international organization that constituted a breach of an obligation in force for the same was an internationally wrongful act and entailed international responsibility. Therefore, as in the case of States, when an international organization interacted with other subjects of international law, it must also be required to incur certain consequences as a result of its acts.

29. The articles on the responsibility of international organizations constituted an important exercise in progressive development. However, since several of the articles were based on limited practice, the authority of those provisions would depend on their reception by those to whom they were addressed. In that regard, her delegation acknowledged that although the articles adequately reflected the principle of responsibility in international law, the adoption of a binding instrument on the subject still posed difficulties owing to the scarcity of practice regarding its application to international organizations and the lack of clarity on how national and international courts and tribunals had taken account of the articles in their decisions. In light of the above, the Committee should keep the item on its agenda, with a view to monitoring the consolidation of practice and then deciding at a later date whether the articles were ripe for uniform application.

30. **Ms. Kebe** (Sierra Leone), acknowledging the importance of the principle of responsibility in international law, according to which acts that constituted a breach of an obligation in force for a State

or an international organization and that could be attributed to the same were considered to be internationally wrongful acts and as such entailed international responsibility, said that, as with States, when an international organization interacted with other subjects of international law, it must therefore be required to incur certain consequences as a result of its acts.

31. While her delegation agreed that the articles on the responsibility of international organizations mainly reflected progressive development, it noted that under Article 13, paragraph 1 (a), of the Charter of the United Nations, the mandate of the General Assembly was not limited to codification. Where consensus could be reached, the Commission, and indeed the Assembly, should not be restricted to traditional topics but could also consider topics that reflected new developments in international law and pressing concerns of the international community as a whole. Her delegation had followed with interest the debate on whether the time was ripe for the elaboration of a convention on the basis of the articles. It looked forward to continuing that discussion at future sessions and was of the opinion that the item should remain on the Committee's agenda.

32. **Ms. Batshon** (Israel) said that her delegation's position had not changed since the Committee had previously considered the topic at the seventy-second session of the General Assembly. The articles on the responsibility of international organizations raised serious concerns that required careful consideration before any further action was taken. The decisions of international courts and tribunals could serve only as a subsidiary means for the identification of customary international law; moreover, the decisions cited in the report of the Secretary-General (A/75/80) did not reflect established customary international law. Her delegation also agreed with other States and international organizations that many of the articles remained controversial and unsupported by sufficient State practice. Thus, it maintained its position that the time was not ripe to elaborate a convention and the General Assembly should take no further action with respect to the articles at present.

33. **Mr. Elgharib** (Egypt) said that the topic had elicited a wide range of views on account of its complexity, the paucity of State practice and the issues arising from the difference in legal status between States and international organizations. Several of the articles required more extensive discussion among States and a more thorough consideration of State practice. Moreover, the obligation of an international organization responsible for an internationally wrongful act to pay compensation for the damage caused thereby

should be clearly distinguished from the responsibility of its members, something that was not sufficiently recognized in the articles. His delegation looked forward to further deliberations with a view to reaching consensus on the best way forward.

34. **Mr. Amaral Alves De Carvalho** (Portugal) said that his delegation reiterated its suggestion that future reports of the Secretary-General concerning judicial practice in the area of the responsibility of international organizations should include relevant dissenting opinions. Notwithstanding his delegation's firm conviction that the General Assembly would have to consider the adoption of a convention based on the articles at some point, it did not seem reasonable to convene a diplomatic conference for that purpose in the absence of further developments regarding the articles on State responsibility. For the time being, the General Assembly should again take note of the articles in a resolution. It should keep the topic on its agenda, for consideration at the session immediately following its next consideration of the agenda item on State responsibility. Member States and the Assembly had a duty to contribute towards the stability and strengthening of both sets of articles. Collective inaction by States would only exacerbate fragmentation in jurisprudence, which might represent a backward step in the codification and progressive development of the law on international responsibility.

35. **Mr. Skachkov** (Russian Federation) said that the responsibility of an international organization for internationally wrongful acts was part and parcel of its legal personality. Given the growing importance and powers accorded to international organizations, and their increasing influence over States, private persons and the international community as a whole, the remaining gap in international law regarding the responsibility of international organizations was unacceptable; such organizations were capable of causing greater harm than individual States. National and international courts and tribunals, which were regularly called on to rule on such matters, already cited the articles in their decisions, treating them as an authoritative source of law. It would be more appropriate, however, if such decisions were made based on rules that had the approval of States.

36. The articles set out the legal consequences of internationally wrongful acts, provided guidance on the attribution of responsibility in cases where both the international organization and a State were implicated in the commission of such an act, and specified the circumstances that precluded the wrongfulness of an act of an international organization not in conformity with an international obligation of that organization.

Although some provisions still needed to be refined, the topic was ripe for codification and work should begin on a new international agreement based on the articles.

37. **Ms. Guardia González** (Cuba), underscoring the importance of the topic under consideration, said that the articles reflected the considerable effort made to regulate the legal regime of international organizations in a uniform manner, and in particular to define such organizations. In her delegation's view, the Vienna Convention on the Law of Treaties should serve as a guide for any legal definition on the topic.

38. The concept of "injury" was an essential element in the definition of an internationally wrongful act of an international organization, because it established the obligation to make reparation, to cease the violation and to offer guarantees of non-repetition. Another important concept was that of necessity (article 25), which should be defined as "essential interest". The article concerning collective countermeasures should be reworded to include a reference to the collective security system envisaged in the Charter of the United Nations. A mechanism for the settlement of disputes relating to the interpretation of responsibility would provide a guarantee of peaceful dispute settlement, which was essential for the developing countries that were often the victims when conflicts were resolved by the use of force.

39. Her delegation supported the negotiation of a clear and legally binding treaty based on the articles. A duly negotiated instrument on that topic could contribute to legal certainty and thus strengthen compliance with international law and the rule of law.

40. **Ms. Jiménez Alegría** (Mexico) said that international organizations, as subjects of international law capable of concluding international treaties, assuming obligations and benefiting from privileges, performed actions that could result in the commission of internationally wrongful acts. For that reason, the adoption of the articles on the responsibility of international organizations represented a major step forward in the development of a legal framework regulating internationally wrongful acts, including in relation to attribution and possible reparation for the affected parties. Given the leading role of international organizations in the current global context, in which the major problems faced by humankind, including the COVID-19 pandemic, could be addressed only from a multilateral perspective, it was necessary that they, like States, should know the legal framework within which they could perform their functions and the legal consequences of their actions, so that they could avoid committing wrongful acts that entailed responsibility.

The articles were important not only with respect to cases brought before national and international courts and tribunals but also for the discussion of related matters in other political forums. Although the articles already served as doctrine, and some elements thereof reflected customary rules, they should be adopted as an international convention in order to establish greater legal certainty.

41. With regard to the decisions in which the articles had been cited, as described in the report of the Secretary-General (A/75/80), her delegation noted a number of similarities between the various cases in terms of the elements of the internationally wrongful act, the attribution of conduct to the international organization, excess of authority or contravention of instructions, reparation for injury, and the nature of *lex specialis*. The Committee should examine those issues in a working document that would serve as a starting point for dialogue in future sessions. The issues on which there was disagreement, such as the conditions under which an internationally wrongful act could be attributed to an organization and the responsibility of a State in connection with the organization's conduct, should also be included, and consideration should be given to the mechanisms that could be established to ensure that persons affected by an internationally wrongful act caused by an international organization could have access to reparation. The preparation of such a working document would help to bring Member States' divergent positions closer together and allow substantive progress to be made, leaving behind the dichotomies that had hindered the Committee's work to date. The case law and practice deriving from the response to issues such as the current COVID-19 pandemic, climate change and migration would be significant for those discussions. Her delegation therefore recommended that the Committee keep the item on its agenda and encouraged States to share relevant domestic practice.

42. **Mr. Nasimfar** (Islamic Republic of Iran) said that international organizations had an important role to play in a world in which problems were increasingly becoming global. It was therefore imperative to establish a set of rules to determine the responsibility of those organizations. The articles were generally appropriate and should serve to guide the practice of States and international organizations. However, his delegation questioned whether the articles concerning self-defence, subsidiary or joint responsibility, necessity and countermeasures should be applied directly to international organizations.

43. In situations where an organization failed to comply with an obligation to respect a relevant principle

of international law, including cases in which an internationally wrongful act caused damage for which the organization was unable to provide redress to the injured State, the brunt of the responsibility should be borne by the members of the organization, taking into account their respective roles in the decision-making processes and their stances on relevant issues. Such situations might be covered by article 60 (Coercion of an international organization by a State).

44. The time was ripe to establish the rules on the responsibility of international organizations in the form of a binding treaty. A properly elaborated convention could contribute to legal certainty and improved application of the rules, thereby promoting compliance with international law. His delegation therefore supported the negotiation of a legally binding instrument on the basis of the articles.

45. **Ms. Townsend** (United Kingdom) said that the articles on the responsibility of international organizations should remain in their current form. Given that the limited availability of pertinent practice moved several of the articles into the area of progressive development rather than codification, it was unlikely that negotiations would result in the adoption of a convention. Furthermore, parallels with the articles on responsibility of States for internationally wrongful acts should be treated with caution, as a particular article on State responsibility might be considered to reflect customary international law while the corresponding article in the text on international organizations did not. There were also few examples of the articles on the responsibility of international organizations being applied in practice. International organizations were very varied, and their practice was often based on their own constitutional instruments rather than their acceptance of the general principles set out in the articles.

46. **Mr. Othman** (Malaysia) said that, while the articles on the responsibility of international organizations had been referred to in four cases decided by international courts, tribunals and other bodies in the period from 1 January 2017 to 31 December 2019, those references had not firmly established that the articles in question reflected existing international law governing the responsibility of international organizations for their internationally wrongful acts. The Secretary-General should continuously update the compilation of decisions of international courts and tribunals that referred to the articles, for the purpose of furthering the progressive development of international law and assisting Member States in their assessment of the best way forward. Furthermore, the comments and information received from Governments and international organizations had

demonstrated the absence of any significant change since the seventy-second session of the General Assembly in the general views of Member States regarding the question of the form that might be given to the articles.

47. Given the dearth of relevant practice, and the ambiguity surrounding the application of some articles – namely those relating to the use of the term “rules of the organization”, self-defence, countermeasures, necessity and reparation for injury – to international organizations that differed greatly in terms of their nature, purpose, composition and functions, his delegation was of the view that the articles reflected progressive development rather than the codification of international law. A legally binding instrument in the form of a convention should not be drafted until practice was clearly defined and broad support could be expected from the international community. That time had not yet come and the articles should at present be considered as guidelines.

48. **Ms. Martin** (Australia) said that the significant global health threat posed by the COVID-19 pandemic had served as a reminder of the importance of multilateral cooperation, including through international organizations, which were essential mechanisms facilitating the ability of the international community to address complex shared challenges. While international organizations were established and governed by States, they differed from them in key respects and the rules of responsibility applicable to States could not necessarily be directly transposed or applied to international organizations.

49. There remained significant differences of opinion among States on the principles that should govern the responsibility of international organizations. The Secretary-General’s recent compilation of comments and information received from Governments and international organizations, together with previous submissions and statements, pointed to a general lack of support for the elaboration of a convention at present. Moreover, a number of States and international organizations considered many of the articles to be controversial and unsupported by practice and took the view that the negotiation of a convention based on the articles would be premature. While no consensus existed to begin discussing the elaboration of a convention, it would, however, be useful for States and international organizations to continue to receive updated compilations of decisions of international courts, tribunals and other bodies, in order to examine how the articles were applied in practice.

Agenda item 89: Protection of persons in the event of disasters (A/75/214)

50. **Ms. Fielding** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that, given the increasing frequency of natural and human-made disasters, the protection of persons in the event of disasters was a highly topical area of international law. The draft articles constituted a framework for disaster risk reduction that covered the duty of the affected State to ensure protection, as well as the role of external assistance. They also reflected human rights obligations and the principles of human dignity, humanity, neutrality and independence. In that regard, the Nordic countries wished to recall the importance of gender equality and the integration of a gender perspective in humanitarian assistance, through the recognition that women, men, girls and boys might have different needs and be exposed to different vulnerabilities.

51. Bearing in mind that draft article 9 (Reduction of the risk of disasters) referred to the duty of States to take appropriate measures to prevent, mitigate, and prepare for disasters, the Commission’s work on the topic might contribute to the attainment of Sustainable Development Goal 13, especially target 13.1 on strengthening resilience and adaptive capacity to climate-related hazards and natural disasters in all countries.

52. The Nordic countries recognized the importance of further strengthening international cooperation, disaster relief and the humanitarian assistance system, especially in light of the additional challenges posed by the COVID-19 pandemic, and were open to discussing the advantages and disadvantages of elaborating an international convention on the basis of the draft articles.

53. **Ms. Tan** (Singapore) said that the protection of persons in the event of disasters was an important issue for her region and the world. Singapore stood in solidarity with its neighbours that had been affected by such disasters and would endeavour to respond when called upon to do so. Her delegation appreciated the efforts to reflect the diversity of State practice, including that of the States members of the Association of Southeast Asian Nations (ASEAN), as reflected in the ASEAN Agreement on Disaster Management and Emergency Response, in the draft articles. Examples of such practice included draft article 12, paragraph 2, which provided that potential assisting actors should expeditiously give due consideration to a request for assistance and reply to the affected State, and draft article 13, paragraph 1, which stipulated that the provision of external assistance required the consent of

the affected State. Those draft articles had informed the contributions of Singapore in support of disaster-affected countries in the region.

54. The draft articles represented an important contribution in the field of international law governing disaster response and could serve as a useful guide for States and other actors engaged in disaster relief. Given their broad scope, further clarification would be helpful on how they would interact with other existing legal frameworks. Her delegation, noting the divergence of views on future action, looked forward to further discussions on whether a convention should be elaborated on the basis of the draft articles.

55. **Mr. Uddin** (Bangladesh) said that, owing to its geographical location and the impact of climate change, Bangladesh was a highly disaster-prone country. Nonetheless, thanks to its bold and pragmatic policy instruments and well-established institutional structures, and guided by its National Plan for Disaster Management 2016–2020, which was based on the Sendai Framework for Disaster Risk Reduction 2015–2030, it had made significant progress in the area of disaster preparedness. It had established thousands of cyclone shelters and flood shelters across the country, and had approximately 56,000 volunteers available to facilitate preparation prior to cyclones. A highly effective early warning system, a community-based response and multi-stakeholder involvement had, for example, significantly reduced the impact of Cyclone Amphan, which had recently hit the coastal areas of Bangladesh.

56. With natural disasters increasing in frequency around the world and devastating the lives of almost two billion people a year, it was important to have a globally accepted legal protection regime. The elaboration of an international convention based on the draft articles would be an important step in that direction. Such an instrument should facilitate an effective and timely response to disasters, strengthen disaster risk reduction efforts, promote the rights and dignity of affected persons and address their need for assistance. It could also contribute to the achievement of Sustainable Development Goal 13, which called for the strengthening of resilience and adaptive capacity to climate-related hazards and natural disasters.

57. While the draft articles largely covered the essential elements of cooperation in the protection of persons in the event of disasters, there was still scope for improvement. In particular, attention should be given to the needs of the most vulnerable groups, including children, women and persons with disabilities, and protection should be provided not only before and

during a disaster but also afterwards, as people continued to face challenges such as the loss of their homes. The convention should also provide a clearer definition of the term “disaster”, since natural and human-made disasters were subject to completely different legal regimes.

58. The Committee should build on the Commission’s existing work on the topic and make continued efforts to address the outstanding issues. His delegation would remain constructively engaged in the process with a view to achieving a productive outcome.

59. **Ms. Ponce** (Philippines) said that, as one of the world’s most disaster-prone countries, the Philippines reaffirmed its support for the draft articles, in particular their emphasis on human dignity, human rights, especially the right to life, and humanitarian principles. It was her delegation’s understanding that the draft articles applied with flexibility to both natural and human-made disasters outside the realm of international humanitarian law, without discrimination on the basis of nationality or legal status, since they were focused on both the needs and rights of victims. Her delegation strongly supported the inclusion of a gender perspective.

60. Her delegation endorsed draft article 9 (Reduction of the risk of disasters). The Philippines had laws on disaster risk reduction, management and response, in accordance with its commitments under the Sendai Framework and the related ASEAN instruments. However, it had not yet enacted a comprehensive law on the protection of persons during disasters; that would be facilitated by the existence of a multilateral instrument on the issue.

61. Draft article 10, which articulated the fundamental principle that the affected State had the primary role in the direction, control, coordination and supervision of disaster relief assistance, should be read in conjunction with draft article 11 (Duty of the affected State to seek external assistance) and draft article 13 (Consent of the affected State to external assistance). The duty to seek external assistance should not be interpreted as compelling a State to seek such assistance if it determined that a disaster did not manifestly exceed its national response capacity; each State should have discretion to decide whether to seek such assistance in a manner consistent with its own best interests and territorial sovereignty. The articles in question were necessary because they reflected the recognition that a disaster could exceed the affected State’s capacity to respond. An affected State without adequate resources could and would seek assistance from other States, the United Nations, international non-governmental organizations and the private sector. However, when

assistance was requested, the affected State, prior to giving its consent to allow entry, must receive a guarantee that such assistance would not be used as a pretext for interference in its internal affairs. Creating a qualified consent regime for the affected State, to be exercised in good faith, balanced the right of State sovereignty with the sovereign State's obligation to protect human life and human rights during disasters.

62. Her delegation also supported draft article 16, in which the duty of the affected State to guarantee the protection of relief personnel, equipment and goods and not to cause harm to them was recognized. That duty should be read in conjunction with draft article 14 (Conditions on the provision of external assistance), and also should not entail the creation of unreasonable and disproportionate hurdles for the already compromised ability of the affected State to provide security and protection both to its own people and to relief personnel and their accompanying equipment and goods. That said, it was stressed in draft article 15 (Facilitation of external assistance) that such limitations should not prevent relief personnel from assisting disaster victims. Under Philippine law, it was a crime for either State or non-State actors to profit from an already fragile disaster zone.

63. The draft articles represented the progressive development of international law governing disaster response. It was important to learn the lessons of the COVID-19 pandemic regarding the need for a prevention-focused, forward-looking and multilateral approach to disaster risk reduction. In that regard, the Committee should consider the elaboration of a binding legal instrument on the basis of the Commission's work. Such an instrument would help to clarify the State practice reflected in many of the draft articles.

64. **Ms. González López** (El Salvador), emphasizing the importance of the topic, said that the damage recently caused by Storm Eta in Central America served as a reminder that inclusion- and resilience-focused disaster prevention, mitigation, reduction and response contributed significantly to sustainable development and ensured respect for human dignity as a core principle of international human rights law. El Salvador was highly vulnerable to the increasing and recurrent effects of phenomena associated with climate change and climate variability, and accorded the utmost importance to effective risk management, civil protection, early warning systems and work to rebuild its damaged social fabric. The current COVID-19 pandemic was compounding the devastating effects of disasters to overwhelm the national resources and capacity of many countries, forcing them to declare states of national emergency and public disaster, so that

the needs of affected populations could be met through the solidarity and support of the international community. Based on forecasts by the Intergovernmental Panel on Climate Change, the intensity and frequency of climate-related phenomena such as droughts and floods would continue to grow, making it more likely that various countries, including her own, would in the future experience large-scale disasters requiring them to turn to the international community for assistance in meeting the needs of those affected, including the most vulnerable.

65. In that regard, her delegation supported the adoption of an international legally binding instrument on the protection of persons in the event of disasters. It was important that such an instrument should incorporate a human rights approach and place particular emphasis on the role of the affected State in ensuring the protection of persons in its territory or in a territory under its jurisdiction or control. Her Government considered it essential to elaborate a convention on the basis of the draft articles, since it would be declaratory of existing practices among States and would therefore help clarify and systematize those practices, as well as ensure the practical application of the fundamental value of solidarity in international relations. That would result in more nimble international cooperation, enable the provision of appropriate and dignified humanitarian assistance to those affected by a disaster, and strengthen disaster risk reduction and management efforts at every stage, without prejudice to the bilateral and multilateral instruments on the matter to which States were already parties.

66. With regard to draft article 8 (Forms of cooperation in the response to disasters), her delegation proposed that, taking into consideration the situation arising from the COVID-19 pandemic, reference should be made to the exchange of good practices or relevant information, and to humanitarian assistance in the form of essential medicines for affected persons. Other specific comments on draft articles 1, 3 and 8 could be found in her written statement available in the eStatements section of the *Journal of the United Nations*.

67. **Mr. Rittener** (Switzerland) said that the draft articles were highly relevant and could potentially facilitate international cooperation. They reflected existing rights and obligations and also included innovative provisions concerning the importance of upholding humanitarian principles and taking into account the needs of particularly vulnerable persons when responding to disasters.

68. However, further discussion on the scope of application of the draft articles was needed to avoid potential overlaps or normative conflicts with other international rules. In particular, it was a matter of concern that the definition of the term “disaster” in draft article 3 did not expressly exclude armed conflicts, thereby giving rise to overlap with international humanitarian law. The attempt made in draft article 18, and the commentary thereto, to clarify the relationship between the two sets of norms in the event of armed conflict was not, in his delegation’s view, entirely successful. The overlap in their scope of application, and the lack of clarity regarding their relationship, could undermine the integrity of international humanitarian law and compromise the ability of impartial humanitarian organizations to carry out their activities when disasters occurred in armed conflicts. For example, draft article 10, paragraph 2, and draft article 14 gave States much tighter control over humanitarian activities than was provided under international humanitarian law. His delegation therefore favoured the exclusion of armed conflicts from the scope of application of the draft articles. It was also important to ensure that the draft articles were consistent with the World Health Organization International Health Regulations, and to avoid any overlap with other instruments, including the Sendai Framework, and with the mandate of such human rights entities as the Office of the United Nations High Commissioner for Human Rights.

69. **Ms. Kebe** (Sierra Leone) said that, as the world continued to face a growing number of disasters, the intensity and impact of which were matters of concern, the COVID-19 pandemic had exposed major gaps in the rules-based international order. At such times of crisis, the United Nations was expected to show leadership in fulfilling the purposes set out in its Charter, in particular, that of achieving international cooperation in solving international problems of an economic, social, cultural or humanitarian character. The question before the Committee was essentially whether to take a decision on the Commission’s recommendation that a convention be elaborated on the basis of the draft articles. While the Committee’s inertia to date perhaps reflected the hesitancy of the General Assembly to take action on recommendations relating to hard law, it should now demonstrate the necessary will to take action. In that regard, it should draw inspiration from the unanimous adoption of General Assembly resolution [74/270](#) entitled “Global solidarity to fight the coronavirus disease 2019 (COVID-19)”.

70. Her delegation welcomed the draft articles and noted with appreciation their emphasis on human rights

and human dignity. It saw merit in pursuing the Commission’s recommendation regarding the elaboration of a convention, on the understanding that responses to disasters must be embedded in the principles of sovereign independence, neutrality, impartiality and humanity and that States could further strengthen the text to build broad consensus and universality. The Commission had not restricted itself to traditional topics but had also considered those that reflected “new developments in international law and pressing concerns of the international community as a whole”, and it was now up to the General Assembly to act in order to address the lacuna in facilitating international cooperation to protect persons in the event of disasters.

71. **Mr. Elsadig Ali Sayed Ahmed** (Sudan) said that the need for international cooperation in the protection of persons in the event of disasters was underlined in numerous international instruments, including the Sendai Framework. Such cooperation should not be interpreted as diminishing the primary role of the affected State as set forth in paragraph 2 of draft article 10 (Role of the affected State). The forms that cooperation might take would necessarily depend upon a range of factors, including, inter alia, the nature of the disaster, the needs of the affected persons and the capacities of the affected State and other assisting actors involved. Cooperation was not a unilateral act, but rather one that involved the collaborative behaviour of multiple parties. The draft article was therefore not intended to be a list of activities in which an assisting State might engage, but rather areas in which harmonization of efforts through consultation on the part of both the affected State and other assisting actors might be appropriate. Recognition of the commitment to reduce the risk of disasters was shown by the States’ incorporation of disaster risk reduction measures into their national policies and legal frameworks. His Government, for instance, had proactively included such measures in its Constitution and in federal and state law.

72. With regard to draft article 14 (Conditions on the provision of external assistance), the reference to national law emphasized the authority of domestic laws in the particular affected area. It did not, however, imply the prior existence of national law addressing the specific conditions imposed by an affected State in the event of a disaster. Although there was no requirement of specific national legislation before conditions could be fixed, they must be in accordance with whatever relevant domestic legislation was in existence in the affected State. The affected State and the assisting actor must both comply with the applicable rules of national

law of the affected State, and the assisting actor must comply with such laws at all times throughout the duration of assistance.

73. Since the International Law Commission had taken up consideration of the topic, the Sudan had supported its decision to opt for codification and progressive development of the law in that area. Effective risk management, civil protection, early warning systems and repairing the social fabric damaged by natural phenomena were of crucial importance to his delegation, which supported the adoption of an international legal instrument that took a human rights approach and placed particular emphasis on the role of the affected State in ensuring the protection of persons and the provision of disaster relief assistance in its territory, or in a territory under its jurisdiction or control.

74. **Mr. Elgharib** (Egypt) said that the current situation showed how important it was to enhance international cooperation in preventing and managing all phases of natural and human-made disasters, so as to prevent their occurrence, mitigate their short- and long-term impact and protect those affected by them. Member States had for years been voluntarily cooperating to provide humanitarian relief in response to natural disasters worldwide. A pandemic, such as the current COVID-19 pandemic, could be qualified as a disaster, as defined in the draft articles on the protection of persons in the event of disasters, as well as having the effect of exacerbating the impact of disasters.

75. The development of an international legal framework to facilitate an adequate and effective response to disasters, and reduction of the risk thereof, was a positive step towards the codification and development of international law. Such a framework should reflect the fact that the main responsibility for disaster response lay with the affected State and that any external assistance in that regard should be provided upon request or with the consent of the affected State, with full respect for the principle of State sovereignty.

76. More emphasis should be placed on human-made disasters, particularly in the context of risk reduction, bearing in mind that the impacts of such disasters could be more severe than those of natural disasters. It was incumbent on all Member States to ensure that they took all appropriate measures to anticipate, prevent and mitigate human-made disasters, including in relation to the transboundary impacts of megaprojects. Such measures would inevitably involve close cooperation and joint action in governing megaprojects from the planning phase onward, including by developing

preventive measures to avoid and mitigate the consequences of any shortcomings.

77. It was his delegation's understanding that more consultations were needed between Member States to build the necessary consensus before any decision was taken on the next steps regarding the draft articles under discussion.

78. **Mr. Lim** (Brunei Darussalam) said that, while his country was fortunate enough not to have experienced any extreme impacts as a result of natural disasters, as a small country it was highly vulnerable to such disasters and had therefore given importance to disaster mitigation so as to ensure that it remained safe and resilient. Under its Disaster Management Order, 2006, his Government had set up a National Disaster Council to implement its disaster management response, and had also established the National Disaster Management Centre as the lead government agency for responding to disasters. The 2006 Order covered various aspects of disaster management, including measures to mitigate, prevent, respond to and recover from disasters. As part of its disaster response at the national level, his Government ensured that disaster victims received welfare assistance, such as the provision of food rations, basic necessities, temporary shelter, financial assistance, counselling and free health care.

79. As a State member of ASEAN, Brunei Darussalam had signed the ASEAN Agreement on Disaster Management and Emergency Response and remained committed to other ASEAN disaster response and management policies. It had been involved in a number of regional mobilization operations, facilitating humanitarian assistance and relief both bilaterally and through the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management.

80. The draft articles on the protection of persons in the event of disasters would make an increasingly important contribution to the field of international law governing and strengthening disaster response. His delegation remained committed to engaging in the Committee's future discussions on whether a convention based on the draft articles should be elaborated.

81. **Mr. Amaral Alves De Carvalho** (Portugal) said that the issue of respect for and protection of the human dignity and human rights of persons affected by disasters was highly relevant. The draft articles made an important contribution to the progressive development of international law, reflecting the Commission's human-rights-based approach and striking a balance between the imperatives of protecting human rights and facilitating international cooperation, on the one hand, and upholding the fundamental principle of State

sovereignty and the primary role of the State affected by a disaster in providing disaster relief assistance, on the other. For those reasons, his delegation had always maintained that they should become a legally binding international instrument. If there was general consensus among States, the draft articles could be submitted to a working group for further analysis as to whether they could serve as the basis for a convention.

82. The broad definition of a disaster contained in draft article 3 emphasized that it was the consequences of an event, rather than its characterization, that rendered it a disaster. It was therefore his delegation's understanding that the current COVID-19 pandemic could fall within that definition. The Committee's consideration of the agenda item during that pandemic provided a fitting opportunity to reflect on the elements for an effective response to the needs of persons affected by a pandemic, and in particular the advantages of cooperation by States, both among themselves and with other relevant international actors.

83. **Mr. Ashley** (Jamaica), said that his delegation, noting the lack of a universal treaty in the fragmented area of disaster law, saw merit in the development of a well-crafted instrument in that area. It recognized, however, that the draft articles were not intended to cover all the related issues but rather to facilitate the adequate and effective response to disasters, and reduction of the risk of disasters, so as to meet the essential needs of the persons concerned, with full respect for their rights. It was with that purpose in mind that his Government had established the Office of Disaster Preparedness and Emergency Management, which was mandated to identify disaster threats and risks throughout the country and meet the needs of disaster victims. At the international level, its disaster management and emergency response activities were guided by the Sendai Framework, and at the regional level it operated within the framework of the Caribbean Disaster Emergency Management Agency.

84. His delegation noted with concern the frequency and severity of natural disasters and the growing impact of climate change on vulnerable States. Like other small island developing States, Jamaica was particularly vulnerable to floods and hurricanes at certain times of the year, and also faced a high risk of earthquakes. Given the catastrophic impact of natural disasters, the international community must continue to address the legal issues that would facilitate the capacity of States to provide mutual assistance in responding to the essential needs of affected persons, especially when a disaster exceeded the national response capacity of the affected State.

85. It was imperative that any comprehensive legal approach to international disasters should reflect the importance of respecting and protecting the inherent dignity and human rights of persons affected by disasters. In that regard, his delegation noted with appreciation the attempt to strike a balance in the draft articles between the provision of humanitarian assistance and respect for State sovereignty, as reflected in draft article 10.

86. Jamaica was committed to working with its regional partners and the international community as a whole to develop and implement measures to mitigate the risk and impact of disasters and to facilitate an adequate and effective response to disasters. His delegation was in favour of pursuing the development of a formal international arrangement that would comprehensively address some of the main issues related to natural disasters.

87. **Mr. Skachkov** (Russian Federation) said that his delegation was grateful to the International Law Commission for its work on the protection of persons in the event of disasters, but that the draft articles on the topic did not constitute codification or progressive development of international law in that area. The reports of the Secretary-General ([A/73/229](#) and [A/75/214](#)) showed that there was no agreement among States on the subject.

88. Some aspects still needed to be addressed in greater detail, including terminological consistency, the relationship between regional and bilateral assistance mechanisms, the scope of the responsibilities of assisting States and other assisting actors, and potential conflicts with international humanitarian law. The formulation of the draft articles would need to undergo extensive review if there was a possibility that international organizations might become parties to a future convention. The draft articles also did not strike a balance between the rights and duties of the affected State. There were no provisions that safeguarded the sovereignty of the affected State, such as a requirement for assisting actors to commit to non-interference in the internal affairs of the affected State and for relief personnel to comply with its domestic law. It would therefore be premature to consider the adoption of a legally binding instrument at the current time.

89. **Ms. Ishibashi** (Japan) said that the agenda item before the Committee was of particular significance for Japan, a disaster-affected State that had learned lessons from past disasters such as the great east Japan earthquake in 2011 and the great Hanshin-Awaji earthquake in 1995. Japan had also contributed as an assisting State, providing emergency humanitarian aid

and technical support to build resilience and actively promoting international cooperation in that area. Protecting people from disasters was a key concern for all countries, particularly as climate change increased the number and severity of many disasters. Disaster risk reduction was also an important element of the Sustainable Development Goals.

90. Proactive measures must be taken to reduce the risk of disasters and minimize the damage they caused, as mentioned in draft article 9. Japan supported the principles of adopting a broader and more people-centred preventive approach and “Building Back Better”, as described in the Sendai Framework. It had also promoted international cooperation in the field of disaster risk reduction under the Sendai Cooperation Initiative for Disaster Risk. The current COVID-19 pandemic had raised new challenges in relation to disaster reduction efforts, such as the question of how to maintain social distancing in evacuation centres. Preparedness for situations in which a natural disaster and a public health emergency occurred simultaneously should therefore continue to be improved.

91. The draft articles should provide a pragmatic legal framework that was effective for both disaster-affected States and assisting States and could be applied to real-life international cooperation efforts. In their current form, the draft articles struck a good balance between the roles of affected and assisting States, as well as between humanitarian requirements and national sovereignty. However, they could be further enriched by the inclusion of inputs from a broader range of countries and experts. Her delegation looked forward to continued discussions to that end.

92. **Mr. Milano** (Italy) said that, by providing a comprehensive set of legal rules pertaining to the protection of human dignity and fundamental human rights in the event of disasters and regulating international cooperation in disaster response operations, the draft articles constituted a solid basis for the elaboration of a universal convention filling an important legal gap. Bearing in mind that Article 13, paragraph 1 (a), of the Charter of the United Nations clearly entrusted the General Assembly with the task of encouraging the progressive development of international law and its codification, it was his delegation’s view that the Assembly and the Committee were the appropriate forums to make progress towards the elaboration of such an instrument, working in synergy with the International Law Commission.

93. The COVID-19 pandemic had revealed the systemic risks faced by societies in dealing with unexpected events with disastrous consequences, while

the consequences of climate change, including sea-level rise and extreme weather patterns and events, had also highlighted the vulnerability of populations and economies to disastrous events. As described in the report of the Secretary-General on the implementation of the Sendai Framework for Disaster Risk Reduction 2015–2030 (A/75/226), economic losses owing to disasters continued to increase. Whereas important soft law and United Nations policy instruments for international cooperation on disaster response and prevention, including the Sendai Framework, had been adopted, the conclusion of a legally binding instrument would provide legal certainty for recipient States and assisting actors, hence improving planning and practical arrangements in the preparation for disasters and facilitating disaster response operations. It was for Member States to shape such an instrument.

94. The draft articles struck a good balance between the codification of existing customary international law, for example in draft article 13 on the consent of the affected State, and the progressive development of international disaster law, for instance with regard to disaster prevention in draft article 9. They were firmly grounded on established principles of contemporary international law, such as the principles of international cooperation, humanity and the protection of fundamental human rights, while also codifying the sovereign right of affected States to direct and place conditions on external assistance.

95. However, it would be advisable to exclude economic and political crises and armed conflicts from the scope of application of a future convention, while draft article 18 should be formulated more precisely in order to avoid overlap with international humanitarian law when disasters occurred in the context of an armed conflict. A future convention would benefit from a set of additional operating rules on the provision of relief assistance and from the establishment of a standing mechanism to enable the parties to develop technical protocols and practical tools to facilitate the work of stakeholders and relief actors on the ground. Those and other proposals to refine the draft articles should be considered in a State-driven process aimed at elaborating a universal legally binding instrument. In view of the restrictions on the Committee’s working methods at the current session, his delegation supported a deferral of the agenda item to the seventy-sixth session, as the best way forward in the interests of substantive engagement among States and progress on the Commission’s recommendation.

96. **Ms. Guardia González** (Cuba) said that her delegation reaffirmed its support for the Commission’s efforts to improve the protection of persons affected by

disasters. It had submitted written comments on various issues regarding the elaboration of a convention based on the draft articles, though their final wording should continue to be discussed by Governments to ensure that a text enjoying broad consensus was adopted.

97. The primary responsibility for ensuring the protection of persons and providing disaster relief and assistance in its territory lay with the affected State. If a disaster exceeded that State's national response capacity, it had the right to request or accept bilateral or international assistance. At the same time, offers of international assistance should not be subject to any conditions, no pressure should be brought to bear on the affected State, and no such assistance should be provided by elements that undermined the sovereignty of the affected State.

98. Disaster risk reduction measures should, among other actions, include the conduct of risk assessments, the collection and dissemination of risk and past loss information, compliance with technical standards in investment to foster increased resilience by reducing prospective vulnerabilities, and the introduction of climate change adaptation and mitigation measures with an emphasis on areas such as safe water, food security and health.

99. The International Law Commission could not be considered, in itself, as a type of legislative body responsible for establishing rules of international law. Its merit lay in documenting those issues in relation to which States had elaborated important international legal norms, and in proposing topics in respect of which States might wish to consider elaborating such norms. The draft articles in question were not an exercise in the codification of customary international law, but rather reflected progressive development. In that regard, her delegation stood ready to work together with all other Member States to achieve a consensus-based convention.

100. **Ms. Wattanasophorn** (Thailand) said that her delegation supported the Commission's recommendation that a convention be elaborated on the basis of the draft articles and looked forward to actively participating in further discussions on that very important issue. A well-defined legal framework for timely and effective provision of relief and rehabilitation was necessary in order to provide a basis for cooperation among States. Her delegation appreciated the effort that had been made in the draft articles to achieve a balance between the core principles of national sovereignty and non-intervention, on the one hand, and the need to strengthen cooperation among States, on the other.

101. The current definition of the term "disaster" in draft article 3, which seemed to focus on the results of an event or a series of events, might leave room for uncertainty as to whether an epidemic or pandemic could also be considered as a disaster. In light of the current COVID-19 pandemic, which was resulting in widespread loss of life and seriously disrupting the functioning of society, the Committee should discuss the possibility of including epidemics and pandemics within that definition. Moreover, the draft articles did not currently contain an obligation to notify other States in the event of a disaster. In her delegation's view, such an obligation should be included, given that the effective and timely sharing of information and technical resources could serve to mitigate the widespread impact of disasters. In view of the need for greater cooperation among States, her delegation proposed that a forum for the exchange of best practices among States be established and that a set of guidelines or standards of procedures for responding to disasters be drafted to provide guidance to States.

102. **Ms. Ruhama** (Malaysia), recalling her delegation's past comments on the agenda item, said that the draft articles addressed an increasingly relevant area of public international law and served as useful guidance for States engaged in disaster relief and humanitarian assistance. However, the legal underpinnings of disaster risk reduction and response efforts were already provided by the existing body of international law and treaties, including the ASEAN Agreement on Disaster Management and Emergency Response, complemented by domestic legislation, and by policy decisions and directives that more properly fell within the sovereign competence of States. The Commission's work would therefore be most valuable where it assisted States to understand and implement their existing obligations, while those elements of the draft articles that sought to develop, or to create new, duties or obligations would at present be more appropriately pursued as best practice principles or guidelines.

103. **Ms. Abu-ali** (Saudi Arabia) said that the COVID-19 pandemic underscored the need for international cooperation to prevent or respond to disasters. Saudi Arabia had taken immediate measures to combat the pandemic and had convened an extraordinary summit of the Group of Twenty, which had been held on 26 March 2020. The Group had committed a total of some \$11 trillion to coordinate the response to the pandemic, shore up the economy and provide financial and capacity-building support for developing countries. The United Nations had a fundamental role to play in garnering international

cooperation to combat the pandemic in accordance with international disaster reduction principles, including those enshrined in the Sendai Framework.

104. Her Government was committed to its role as a provider of humanitarian assistance. Since its establishment in 2015, the King Salman Humanitarian Aid and Relief Centre had worked with United Nations entities and with reputable international and local non-profit organizations to help the victims of disasters.

105. It was important to develop a legal framework to harmonize international humanitarian action and foster cooperation in the area of human rights and international humanitarian law, in a manner consistent with national laws and the principle of State sovereignty.

The meeting rose at 12.55 p.m.