

United Nations General Assembly | Sixth Committee

Protection of persons in the event of disasters

CLUSTER I

(Agenda item

The scope *ratione temporis* of the articles also deserves a systematic analysis. According to the commentaries from the ILC, the pre-disaster phase also falls within the scope of the draft articles. However, there should be further clarity on what comprises this scope of the draft articles.

For instance, it is clear that the obligation to prevent the risk of disasters, as set out in article 9, shall apply in the pre-disaster phase. However, there should be no duty to seek external assistance - as suggested in article 11 - to prepare for possible future disasters, nor any equivalent right to preemptive humanitarian assistance.

In article 3, the definition of affected State should be limited to a State that has jurisdiction over or controls a territory in which a disaster has already taken place. A State should not be considered affected by a disaster that has not yet happened. Consequently, rights and obligations such as those established in articles 11, 15 and 16 should not apply in the pre-disaster phase.

We could also consider including a definition of request in article 3, as the external assistance should be based not only on the consent of the affected State, but also on its request.

