

Unofficial translation

this list is of illustrative nature and should not be exclusive. This Article can hardly be regarded as one creating legal obligations. It is more of a descriptive nature.

We believe it would be important to note in this Article that the forms of assistance offered to the affected State should be based on its request. Who if not the affected State knows better what forms of assistance it requires?

As to Article 5 *ter* on cooperation for disaster risk reduction it should in our view become a part of Article 5 on duty to cooperate. In this connection we would like to make a general comment regarding an obligation to cooperate formulated in Articles 5 and 5 *ter*. There is a general obligation of States "in accordance with the present draft articles" to cooperate among themselves, and with the United Nations and other competent international organizations, including NGOs. We do not see grounds to state that such an obligation has been established in the contemporary international law. In our view the affected State has the right to choose from whom it will receive assistance from and with whom it will cooperate in reducing the risk of disasters and their consequences. This follows from the principle of sovereign equality of states.

Article 14 on the whole does not raise objections. We would like to propose however to make the taking of domestic measures to facilitate assistance such as privileges and immunities or tax exemption conditional on the phrase "where applicable". These privileges would not necessarily be appropriate in all cases.

In Article 15 on termination of external assistance we propose to include a key phrase contained in paragraph 2 of the Commentary to that Article:

"When an affected State accepts an offer of assistance, it retains control over the duration for which that assistance will be provided".

Article 16 on the duty to reduce the risk of disasters is another example of progressive development of Law. We believe that the parallels with international human rights law drawn in paragraph 4 of the Commentary or analogies with international environmental law are not quite appropriate in this context. It seems that in practical terms each State is willing to reduce the risk of disasters but not every state has the capacity to take such measures. Therefore, we believe that this rule should also be formulated in the form of a recommendation and include a qualifier phrase "within their capacity".

In conclusion we would like to once again recommend to the Commission to reexamine the form of the final product that will be submitted to states on this topic.

Let me turn now to the topic of **Provisional application of treaties**. This topic seems to be as never relevant. We believe that during its examination the Commission should in all cases follow a cautious, balanced and pragmatic approach and proceed from the understanding that Article 25 of the 1969 Vienna Convention on the Law of treaties is the departing point in any analysis of the concept of provisional application of international treaties.

While considering this topic it is important to

practice of states may consist not only of positive acts but also of refraining from acts by the way of "non-declaration" of protests against

