

**United States Statement**  
**64th UN General Assembly Sixth Committee – Agenda Item 81**  
**Report of the International Law Commission on the Work of its 61st Session**  
**Protection of Persons (Chapter VII), Shared Natural Resources (Chapter VIII)**

Mr. Chairman, once again, I would like to thank the Chairman of the Commission, Mr. Ernest Petric for his introduction of the Commission's report. I would also like to thank the Special Rapporteurs for their important contributions to the Commission's study of these important topics. As noted in my earlier remarks on the Commission's report, the United States thanks the International Law Commission for its significant contributions to the progressive development and codification of international law and commends the Commission on the quality of the report on its most recent work. I appreciate the opportunity to comment on the topics that are currently before the Committee.

**Protection of Persons**

Regarding the topic of Protection of Persons in the Event of Disasters, the United States commends the Commission for its progress in this important topic, including the promulgation of initial draft articles 1 through 5, and congratulates the special rapporteur, Mr. Eduardo Valencia-Ospina, for his diligent stewardship of this topic.

We believe that the current draft articles make important progress in a number of areas. In the past, we have expressed reservations regarding adopting a rights-based approach for this endeavor. We continue to think that the Commission should focus its efforts on providing practical guidance to countries in need of, and providing, disaster relief. As the UN Secretariat has noted, this project could “elaborat[e] a set of provisions which would serve as a legal framework for the conduct of international disaster relief activities ... thereby creating a legal ‘space’ in which such disaster relief could take place on a secure footing.” Among other goals, the output of the Commission could provide guidance for the myriad agreements that are entered into by relief providers and affected states. We thus welcome that the current draft article 2 emphasizes meeting the “essential needs” of persons affected by disasters.

In particular, we would encourage the Special Rapporteur to consider, in his ongoing work, the possible ways in which core humanitarian principles—neutrality, impartiality and independence—can be given shape in the context of disaster relief by the present project.

At the same time, the current draft articles raise a number of questions that merit additional consideration. While we are pleased that there is agreement that this project should not apply to situations of armed conflict, we believe that the current formulation of Article 4 needs further consideration to ensure that it draws the right line between situations in which the draft articles would—and would not—apply. We would welcome the views of the Special Rapporteur on the option of delineating the applicability of draft article 4 based on “cases of armed conflict.”

Finally, the United States strongly supports international cooperation and collaboration in providing disaster relief. We realize that draft article 5 awaits the elaboration of further articles

to provide additional content. In preparing for that work, we would welcome the Special Rapporteur's views on whether the duty to cooperate set forth in draft article 5 should have an identified goal, and whether further work is necessary to define facts that would trigger the duty to cooperate on the part of States.

### **Shared Natural Resources**

In the area of shared natural resources, the United States congratulates the former special rapporteur, Mr. Chusei Yamada, for his excellent stewardship of this topic during his tenure, and we wish him the best following his resignation from the Commission.

We note that the Commission has endorsed a process for obtaining and reviewing information to help decide whether to address transboundary oil and gas resources. As part of this process, the Commission plans to re-circulate a questionnaire asking States about their practice regarding transboundary oil and gas deposits, and seeking views about whether there are oil and gas issues that can usefully be addressed by the Commission. The United States has been constructively engaged in this discussion and submitted a response to the questionnaire when it was previously circulated.

As we stated in our response to the questionnaire and elsewhere, we ultimately do not support inclusion of oil and gas issues in the Commission's consideration of shared natural resources. State practice in the area of transboundary oil and gas resources is divergent, essentially bilateral, and relatively sparse. Also, the subject matter is highly technical, and specific resource conditions vary widely. Given the political and economic stakes in oil and gas resources, states are well aware of the issues surrounding oil and gas and therefore are not in as much need of instruction or encouragement by the Commission in dealing with such resources.

Thus, we believe that it would not be a productive exercise for the Commission to try to extrapolate customary international law, common principles, or best practices from the divergent and sparse state practice in this area.

Thank you, Mr. Chairman.