

Document:-  
**A/CN.4/3027**

**Summary record of the 3027th meeting**

Topic:  
**Expulsion of aliens**

Extract from the Yearbook of the International Law Commission:-  
**2009, vol. I**

*Downloaded from the web site of the International Law Commission  
(<http://legal.un.org/ilc/>)*

24. As to the structure of AALCO, he said that the organization was made up of member States represented at intersessional meetings by governmental delegations which, at annual sessions, might be headed by ministers or attorneys general, thus ensuring a high level of representation. AALCO also maintained cooperative relations with various associations of international law, including the Indian Society of International Law and other bodies based in New Delhi such as the regional delegation of the ICRC, the Office of the United Nations High Commissioner for Refugees and other United Nations institutions. When the organization's financial situation improved, contacts would be developed with other international law associations, including CAHDI and the IAJC. With regard to the question by Mr. Fomba, he said that Cameroon had recently joined AALCO and other French-speaking countries would probably follow suit. Lastly, referring to the question about issues-oriented approaches to international law raised by Mr. Hmoud, he said that the idea would certainly be given consideration in years to come.

*The meeting rose at 10.45 a.m.*

### 3027th MEETING

*Friday, 24 July 2009, at 10.05 a.m.*

*Chairperson:* Mr. Ernest PETRIČ

*Present:* Mr. Al-Marri, Mr. Caffisch, Mr. Candioti, Mr. Dugard, Ms. Escarameia, Mr. Fomba, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. Kolodkin, Mr. McRae, Mr. Melescanu, Mr. Murase, Mr. Niehaus, Mr. Nolte, Mr. Ojo, Mr. Pellet, Mr. Perera, Mr. Saboia, Mr. Singh, Mr. Valencia-Ospina, Mr. Vargas Carreño, Mr. Vasciannie, Mr. Vázquez-Bermúdez, Mr. Wisnumurti, Sir Michael Wood, Ms. Xue.

#### **Expulsion of aliens (*continued*)\*** (A/CN.4/604, A/CN.4/606 and Add.1, sect. E, A/CN.4/611, A/CN.4/617, A/CN.4/618)

[Agenda item 6]

#### REPORT OF THE DRAFTING COMMITTEE

1. Mr. VÁZQUEZ-BERMÚDEZ (Chairperson of the Drafting Committee), presenting a short progress report on the topic "Expulsion of aliens", recalled that, in 2007, the Commission had referred draft articles 1 and 2—proposed by the Special Rapporteur in his second report<sup>268</sup> and subsequently revised in the light of debate at the plenary meeting<sup>269</sup>—and also draft articles 3 to 7 (contained in the third report<sup>270</sup>) to the Drafting Committee.

\* Resumed from the 3006th meeting.

<sup>268</sup> *Yearbook ... 2006*, vol. II (Part One), document A/CN.4/573.

<sup>269</sup> *Yearbook ... 2007*, vol. II (Part Two), p. 61, para. 188 and p. 68, para. 258.

<sup>270</sup> *Yearbook ... 2007*, vol. II (Part One), document A/CN.4/581.

2. At that time, the Drafting Committee had provisionally adopted draft articles 1 (Scope) and 2 (Use of terms), while recognizing the need to revisit certain questions at a later stage. In 2008, it had decided to add a new paragraph 2 to draft article 1<sup>271</sup> in order to exclude from the scope of the draft articles aliens whose departure from the territory of a State might be governed by special rules of international law, namely diplomats or consular or other officials of a foreign State and agents of an international organization. The Committee had also been able provisionally to adopt draft article 3 (Right of expulsion), which was largely based on the text proposed by the Special Rapporteur.

3. During the current session, the Drafting Committee had held eight meetings on the topic, from 6 to 8 and from 11 to 14 May 2009. As in previous years, it had decided that the draft articles provisionally adopted would remain in the Committee until more draft articles had been completed.

4. The Drafting Committee had considered draft articles 4 to 7. Thus far it had not been able to reach agreement on the text of draft article 4 (Non-expulsion by a State of its nationals), owing to divergent views among the members on whether exceptions to the prohibition of the expulsion of nationals should or could be envisaged. It had been able provisionally to adopt draft article 5 (Non-expulsion of refugees), draft article 6 (Non-expulsion of stateless persons) and draft article 7 (Prohibition of collective expulsions). Draft articles 5 and 6, as provisionally adopted by the Committee, were largely based on the relevant provisions of, respectively, the 1951 Convention relating to the Status of Refugees and the 1954 Convention relating to the Status of Stateless Persons. Paragraph 2 of draft article 5, however, extended protection to a refugee who, although unlawfully present in the territory of the receiving State, had applied for recognition of refugee status.

5. Draft article 7, as provisionally adopted by the Drafting Committee, was based on the text originally proposed by the Special Rapporteur. Paragraph 4, however, which dealt with collective expulsions in times of armed conflict, was partially based on a revised text proposed by the Special Rapporteur in the light of the plenary debate in 2007 in order to narrow the possible exceptions to the prohibition of collective expulsion in times of armed conflict. The Committee had decided provisionally to adopt the paragraph, while indicating in a footnote that it was subject to review with regard to how it related to international humanitarian law.

6. The CHAIRPERSON said he took it that the Commission wished to take note of the progress report.

*It was so decided.*

*The meeting rose at 10.15 a.m.*

<sup>271</sup> *Yearbook ... 2008*, vol. I, 2989th meeting, p. 252, para. 27.