

Document:-
A/CN.4/3091

Summary record of the 3091st meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
2011, vol. I

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

of the Commission would again take up the guidelines, to be accompanied then by the commentaries, and adopt them paragraph by paragraph.

Organization of the work of the session (*continued*)

[Agenda item 1]

36. Mr. MELESCANU (Chairperson of the Drafting Committee) read out the names of the members of the Commission who were to participate in the Drafting Committee on expulsion of aliens: Mr. Comissário Afonso, Ms. Escobar Hernández, Mr. Fomba, Mr. Galicki, Mr. Hmoud, Mr. McRae, Mr. Saboia, Mr. Singh, Mr. Valencia-Ospina, Mr. Vargas Carreño, Mr. Vasciannie, Mr. Vázquez-Bermúdez, Mr. Wisnumurti, Sir Michael Wood and Mr. Perera, Rapporteur (*ex officio*).

The meeting rose at 10.45 a.m.

3091st MEETING

Tuesday, 24 May 2011, at 10.05 a.m.

Chairperson: Ms. Marie G. JACOBSSON

Present: Mr. Caffisch, Mr. Candiotti, Mr. Comissário Afonso, Mr. Dugard, Ms. Escobar Hernández, Mr. Fomba, Mr. Gaja, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Mr. Kamto, Mr. McRae, Mr. Melescanu, Mr. Murase, Mr. Niehaus, Mr. Nolte, Mr. Perera, Mr. Saboia, Mr. Singh, Mr. Valencia-Ospina, Mr. Vargas Carreño, Mr. Vasciannie, Mr. Vázquez-Bermúdez, Mr. Wisnumurti, Sir Michael Wood.

Expulsion of aliens¹⁰⁹ (A/CN.4/638, sect. B, A/CN.4/642¹¹⁰)

[Agenda item 5]

SIXTH REPORT OF THE SPECIAL RAPPORTEUR¹¹¹

1. The CHAIRPERSON invited the Commission to resume its consideration of the topic “Expulsion of aliens” and drew attention to document A/CN.4/628 and Add.1,¹¹² containing comments and information received from Governments.

2. Mr. KAMTO (Special Rapporteur), introducing the second addendum to his sixth report on expulsion of aliens, said that it contained the last of the draft articles

¹⁰⁹ For the history of the study of the topic by the Commission, see *Yearbook ... 2011*, vol. II (Part Two), chap. VIII, sect. A, paras. 204–210.

¹¹⁰ Reproduced in *Yearbook ... 2011*, vol. II (Part One).

¹¹¹ At its sixty-second session, the Commission began the study of the sixth report of the Special Rapporteur by chapters I to IV, section C; it continued at the current session with the study of chapters IV, section D, to VIII, reproduced in the second addendum to the sixth report (*Yearbook ... 2010*, vol. II (Part One), document A/CN.4/625 and Add.1–2).

¹¹² Reproduced in *Yearbook ... 2010*, vol. II (Part One).

that he intended to submit to the Commission. The second addendum was a continuation of the first and comprised chapters IV [chap. III],¹¹³ section D, to VIII [chap. VII]. Some of the issues covered in those chapters had already been touched on during the discussion of the first addendum.¹¹⁴ At that time, concerns had been expressed about the basis in international law of the rules being proposed and the study of State practice. It was to be hoped that the text now before the Commission would allay those concerns.

3. The first issue discussed in the second addendum was the implementation of an expulsion decision, which could be done voluntarily or forcibly. When forcible implementation took place, the question of the conditions for the return of the expelled person to the State of destination arose. The international conventions on civil aviation provided for a number of auxiliary measures to ensure orderly return, the obligation to respect the fundamental rights of the expellee during the return journey being of paramount importance. In paragraphs 405 [para. 3] to 415 [para. 13] of section D of chapter IV [chap. III] of his sixth report, he had endeavoured to demonstrate that proposition by reference to the Twenty Guidelines on Forced Return adopted by the Committee of Ministers of the Council of Europe in May 2005,¹¹⁵ Annex 9 to the Convention on International Civil Aviation of 7 December 1944¹¹⁶ and the 1963 Convention on offences and certain other acts committed on board aircraft. In the light of his analysis of those texts and of a number of legal writings, he was proposing in paragraph 416 [para. 14] of section D of chapter IV [chap. III] of his report draft article D1, entitled “Return to the receiving State of the alien being expelled”, which read:

“1. The expelling State shall encourage the alien being expelled to comply with the expulsion decision voluntarily.

“2. In cases of forcible implementation of an expulsion decision, the expelling State shall take the necessary measures to ensure, as far as possible, the orderly transportation to the receiving State of the alien being expelled, in accordance with the rules of international law, in particular those relating to air travel.

“3. In all cases, the expelling State shall give the alien being expelled appropriate notice to prepare for his/her departure, unless there is reason to believe that the alien in question could abscond during such a period.”

¹¹³ The numbers in brackets refer to the numbering used in the mimeographed version of the second addendum to the sixth report of the Special Rapporteur (A/CN.4/625/Add.2), available from the Commission’s website. The chapters, paragraphs and footnotes were renumbered for publication in *Yearbook ... 2010*, vol. II (Part One).

¹¹⁴ See *Yearbook ... 2010*, vol. II (Part Two), chap. V, paras. 135–183.

¹¹⁵ Document CM(2005)40 final, of 9 May 2005. See also the Ad hoc Committee of Experts on Legal Aspects of Territorial Asylum, Refugees and Stateless Persons, Comments on the Twenty Guidelines on Forced Return (925th meeting), document CM(2005)40-Add.

¹¹⁶ International Civil Aviation Organization, *Annex 9 to the Convention on International Civil Aviation, Facilitation*, 12th ed., July 2005. The twelfth edition of Annex 9 contains important changes, including the reinforcement of travel document security and the fight against illegal migration (available from www.icao.int/safety/airnavigation/NationalityMarks/annexes_booklet_en.pdf).

4. The reference in paragraph 2 to the rules for air travel was essentially illustrative and did not rule out the possibility of taking similar measures if the expellee had to be returned by other means of transport.

5. Chapter V [chap. IV] of the sixth report dealt with an expellee's right to an effective review of the expulsion decision, a subject touched on briefly in the first addendum in the context of procedural guarantees. While that chapter did not culminate in the formulation of a draft article, it did confirm the basis for draft article C1, which had been proposed at the previous session.¹¹⁷

6. Having looked at international and domestic law to see if it offered any basis for appeals against expulsion decisions, he had found that the right of appeal was firmly grounded in both legal orders. He had then considered the impact of judicial review on expulsion decisions in terms of the time frame for reviewing an appeal and the suspensive effect of remedies. Lastly, he had explored such remedies against a judicial expulsion decision as were provided by national legislation and the case law of the European Court of Human Rights, which had been analysed by the Secretariat in its 2006 memorandum.¹¹⁸

7. Chapter VI [chap. V] was devoted to relations between the expelling State and the transit and receiving States. Those relations were governed by two principles: the freedom of a State to receive or deny entry to the expelled alien and the freedom of the expellee to determine his or her State of destination. The first principle, which had been recognized ever since the *Ben Tillett* case of 1898, was limited by a person's right to return to his or her country. That limitation had first been set forth in 1892 in a resolution of the Institute of International Law¹¹⁹ and had since become clearly established in contemporary treaty law.

8. Similarly, the expellee's freedom to choose his or her State of destination was not absolute; it was tempered by the possibility that the expelling State might select the State of destination in place of the expellee if that person believed that he or she might be tortured or subjected to inhuman and degrading treatment in his or her own country but was unable to find another State of destination. Although there was no universal general practice in that area, European practice as embodied in both treaty and case law, for example in the decision of the European Court of Human Rights in *T. I. v. the United Kingdom*, offered a useful basis for formulating a rule on the subject. Some national laws gave aliens a separate right of appeal against the choice of the State of destination in the event of expulsion *stricto sensu*, but not of *refoulement*.

9. It was in determining which State was capable of receiving an expelled alien that the notion of a "safe country" had emerged. Since the notion was confined to

European practice and that practice was still varied, it was too early for it to be embodied in a general rule.

10. Six possible States of destination had been identified, more from legal writings than from State practice: a State of nationality, a State of passport issuance, a State of residence, a State of embarkation, a State party to a treaty which assumed the obligation to receive aliens who were nationals of other States parties and a consenting State. The requirement of consent was rooted in the principles of State sovereignty and the political independence of States.

11. Chapter VI [chap. V], section D, examined the situation with regard to the expulsion of an alien to a State that had no duty to admit the alien. A State's consent to the admission of an expelled alien had to be obtained, the point at issue being whether, if a State withheld its consent, the expulsion of an alien to that State constituted an internationally wrongful act incurring the responsibility of the expelling State. Opinions had been divided on that point.

12. There was, however, one unchallengeable rule of international law: each State had the sovereign power to set the conditions of entry to and presence in its territory. For that reason, forcing a State to admit an alien against its will would constitute an infringement of its sovereignty and political independence. All those considerations had prompted him to propose draft article E1, entitled "State of destination of expelled aliens", which read:

"1. An alien subject to expulsion shall be expelled to his or her State of nationality.

"2. Where the State of nationality has not been identified, or the alien subject to expulsion is at risk of torture or inhuman and degrading treatment in that State, he or she shall be expelled to the State of residence, the passport-issuing State, the State of embarkation, or to any other State willing to accept him or her, whether as a result of a treaty obligation or at the request of the expelling State or, where appropriate, of the alien in question.

"3. An alien may not be expelled to a State that has not consented to admit him or her into its territory or that refuses to do so, unless the State in question is the alien's State of nationality."

13. Chapter VI [chap. V], section E, was devoted to relations with the State of transit. While priority was normally given to direct return to the State of destination, it was frequently necessary for illegal residents to use the ports or airports of certain States to make connections with sailings or flights to the State of destination. It might be useful to provide a legal framework for that type of procedure, in either bilateral agreements or a multilateral legal instrument; however, the elaboration of such a text would go beyond the scope of the current topic.

14. On the other hand, it must be expressly affirmed that the rules on protecting the human rights of aliens in the expelling State applied *mutatis mutandis* in the transit State. That was more a reflection of a logical rule than the codification of a rule deriving from established practice. To that end, he proposed draft article F1, entitled

¹¹⁷ *Yearbook ... 2010*, vol. II (Part Two), p. 162, para. 145, footnote 1294.

¹¹⁸ Document A/CN.4/565 and Corr.1, mimeographed; available from the Commission's website (documents of the fifty-eighth session).

¹¹⁹ "Règles internationales sur l'admission et l'expulsion des étrangers proposées par l'Institut de droit international et adoptées par lui à Genève, le 9 septembre 1892", *Annuaire de l'Institut de droit international*, vol. XII (1892-1894), p. 218 (available from the Institute's website at www.idi-ii.org/).

“Protecting the human rights of aliens subject to expulsion in the transit State”, which read:

“The applicable rules that apply in the expelling State to protection of the human rights of aliens subject to expulsion shall apply *mutatis mutandis* in the transit State.”

The term “*mutatis mutandis*” was more apposite than the word “also” that appeared in the text of draft article F1 contained in paragraph 520 [para. 118].

15. The third part of the report examined the legal consequences of expulsion from the standpoint of the rights of expelled aliens and the responsibility of the expelling State as a result of unlawful expulsion. When considering the rights of expelled aliens, he had sought first to identify rules on the protection of the property rights and similar interests of expelled aliens, and then to consider whether an unlawfully expelled alien was entitled to the right of return to the expelling State if the expulsion decision was annulled.

16. One aspect of the protection of the property rights and similar interests of expelled aliens was the prohibition of expulsion for the purpose of confiscating the expelled alien’s assets. The aim of that prohibition was to end certain practices that had emerged, mainly in Europe, before and after the Second World War, when the principal victims had been the German minorities in some central European countries. Those cases had been dealt with by the Convention on the Settlement of Matters Arising out of the War and the Occupation, between the Federal Republic of Germany, France, the United Kingdom and the United States, signed at Bonn on 26 May 1952, and subsequent declarations of the German Government, including that of Chancellor Schröder in 2000.¹²⁰ Other instances of confiscatory expulsions were the *Nottebohm* case, the expulsion of Asians from Uganda under the regime of Idi Amin¹²¹ and the expulsion of British nationals from Egypt.¹²² The lawfulness of those expulsions had been disputed because valid grounds for them were lacking and they took place in violation of property rights.

17. There was support for the protection of the property rights of expelled aliens in a number of international instruments that guaranteed the right to property and spelled out the rule that no one could be arbitrarily deprived of his or her property. Among international instruments, mention could be made of article 17, paragraph 2, of the Universal Declaration of Human Rights¹²³ and article 22, paragraphs 6 and 9, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; at the regional level, article 14 of the African Charter on Human and Peoples’ Rights, article 21 of the American Convention on Human Rights: “Pact of San José, Costa Rica” and article 1 of Protocol [No. 1] to the Convention for the Protection of Human Rights and Fundamental Freedoms could be cited. There was also

¹²⁰ “Rede von Bundeskanzler Gerhard Schröder anlässlich des 50. Jahrestages der Charta der deutschen Heimatvertriebenen am ‘Tag der Heimat’”, 3 September 2000.

¹²¹ See G. S. Goodwin-Gill, *International Law and the Movement of Persons between States*, Oxford, Clarendon Press, 1978, pp. 212–216.

¹²² *Ibid.*, p. 216.

¹²³ General Assembly resolution 217 A (III) of 10 December 1948.

support in international case law for the protection of the property rights of aliens who had been expelled: for example, the decision handed down in *Hollander* and the much more recent ruling of the Iran–United States Claims Tribunal in *Rankin v. the Islamic Republic of Iran*.

18. In general, the expulsion of aliens involving illegal confiscation, destruction or expropriation, and summary expulsion by which individuals were compelled to abandon their property to pillage or sell it for far less than its real value, had been deemed by international arbitral commissions to call for compensation. The ICJ had just recently upheld the obligation to protect the property rights of an expelled alien in its judgment of 30 November 2010 in the case concerning *Ahmadou Sadio Diallo*. The literature was unanimously favourable to protection of the property rights of expelled aliens. As far back as 1892, the Institute of International Law had adopted a resolution containing a provision to that effect.¹²⁴ Some national legislation discussed in the memorandum by the Secretariat protected the property and economic interests of aliens in the event of expulsion,¹²⁵ and other laws made it obligatory for a State to pay compensation for property it acquired as a result of an alien’s expulsion. Several authorities supported the view that even if the State sequestered the property of an alien expelled, it could retain only the equivalent of any debt owed by the alien and had to return the remainder to the alien. On that point, he would refrain from citing the conclusions of the Eritrea–Ethiopia Claims Commission on the property rights of aliens expelled during armed conflict, believing as he did that they must be examined in the light of *jus in bello*, something that did not fall within the ambit of the current study.

19. The foregoing left no doubt that the expelling State’s obligation to protect the property of expelled aliens and to guarantee their access to said property was established in international law. Hence his proposal of draft article G1, entitled “Protecting the property of aliens facing expulsion”, which read:

“1. The expulsion of an alien for the purpose of confiscating his or her assets is prohibited.

“2. The expelling State shall protect the property of any alien facing expulsion, shall allow the alien [to the extent possible] to dispose freely of the said property, even from abroad, and shall return it to the alien at his or her request or that of his or her heirs or beneficiaries.”

20. The bracketed text in paragraph 2 was not based on case law but seemed a reasonable way of covering cases where the return of property was impossible.

21. Turning to the second aspect of the rights of expelled aliens, namely the right of return in the case of unlawful expulsion, he said it was supported principally in article 22, paragraph 5, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Inter-American Commission on Human Rights had recognized that right in a case involving the arbitrary expulsion of a foreign

¹²⁴ See footnote 119 above.

¹²⁵ See footnote 118 above.

priest by the Government of Guatemala (*Case 7378 (Guatemala)*). It had recommended, *inter alia*, that the Government should permit the priest to return to its territory and reside there if he so desired.

22. National practice on such matters varied. Article L524-4 of the French Code on the Entry and Stay of Aliens and on the Right of Asylum provided for the right of return, subject to some restrictions. Germany, in its response to the Commission's request for information on the right of return of unlawfully expelled aliens, had indicated that the right of return was "only conceivable if the expulsion decision is not yet final and absolute, and it emerged during principal proceedings conducted abroad that the expulsion was unlawful".¹²⁶ While indicating in its own reply that its national legislation contained no specific provisions on the issue, the Netherlands had stated that a right of return would exist in the event that a lawful resident had been unlawfully expelled. The right of return of an unlawfully expelled alien was clearly recognized in Romanian legal practice. Malaysian practice, on the other hand, appeared to require unlawfully expelled aliens to submit to the ordinary immigration procedures established by legislation.

23. In the absence of any established international practice or consistent case law, the right of return could hardly be deemed to be a rule of customary law. State practice seemed to vary widely, although most of the States that had replied to the Commission's request for information recognized the right of return in the event of unlawful expulsion, albeit with some procedural conditions or restrictions *ratione personae*.

24. Still, it would be contrary to the very logic of the right of expulsion to accept that an alien expelled on the basis of erroneous facts or mistaken grounds as established by the competent courts of the expelling State or an international court did not have the right to re-enter the expelling State on the basis of a court ruling annulling the disputed decision. To do so would deprive the court ruling of a major legal effect and confer legitimacy on the arbitrary nature of the expulsion decision. That was why, on the basis of the trends just outlined, he believed that the Commission might formulate a rule on the right of return of an alien unlawfully expelled as part of the progressive development of international law. He was therefore proposing draft article H1, entitled "Right of return to the expelling State", which read:

"An alien expelled on mistaken grounds or in violation of law or international law shall have the right of return to the expelling State on the basis of the annulment of the expulsion decision, save where his or her return constitutes a threat to public order or public security."

25. Chapter VIII [chap. VII], which was the final chapter of his sixth report, concerned the responsibility of the expelling State as a result of an unlawful expulsion. Clearly, a State which expelled an alien in breach of the rules of international law was committing an internationally wrongful act and consequently incurred international

responsibility. That responsibility could be established following legal proceedings initiated by the State whose national was expelled, in the context of diplomatic protection, or following proceedings before a special human rights court to which the expellee had direct or indirect access. It was a rule of customary international law that had always been reaffirmed by international courts.

26. The expulsion of aliens had yielded plentiful and consistent international case law. He cited a number of cases in connection with the expellee's right to diplomatic protection; proof of unlawful expulsion; reparation for injury caused by unlawful expulsion; forms of indemnifiable damage; and satisfaction. That whole body of well-established international law on the international responsibility of the expelling State for unlawful expulsion had just been reconfirmed by the ICJ in the case concerning *Ahmadou Sadio Diallo*.

27. His own research on the Inter-American Court of Human Rights had uncovered a new form of damages, called "particular damages for the interruption of the life plan", that could be mentioned in the commentary to draft article I1. The points he had made were not a precursor to new codification work on responsibility of States in the context of expulsion of aliens. Draft article I1 on the responsibility of States in cases of unlawful expulsion, together with draft article J1 on diplomatic protection, simply referred to the well-established legal regimes in those two fields and were in no way intended to call them into question.

28. Draft article I1 was entitled "The responsibility of States in cases of unlawful expulsion" and read:

"The legal consequences of an unlawful [illegal] expulsion are governed by the general regime of the responsibility of States for internationally wrongful acts."

29. Draft article J1 was entitled "Diplomatic protection" and read:

"The expelled alien's State of nationality may exercise its diplomatic protection on behalf of the alien in question."

30. At the previous session, following the consideration of his sixth report, he had revised the text of draft article 8,¹²⁷ but it had not been referred to the Drafting Committee, the Commission having been of the view that more time was needed to discuss it in plenary. He hoped that the Commission could take it up at the current session and make a decision on it.

31. With the second addendum to his sixth report, he had now submitted the entire set of draft articles on expulsion of aliens. During the second part of the session, he would provide a seventh report (A/CN.4/642), for information purposes only, on relevant recent developments both at the national level and in the work of the ICJ. No new draft articles were proposed in the new report, but the existing ones had been restructured and renumbered, and the Commission would be invited to give its opinion on the text.

¹²⁶ *Yearbook ... 2010*, vol. II (Part One), document A/CN.4/628 and Add.1.

¹²⁷ *Yearbook ... 2010*, vol. II (Part Two), p. 165, para. 176, footnote 1299.

**Tribute to the memory of Ms. Paula Escarameia,
former member of the Commission (concluded)***

32. The CHAIRPERSON announced that the memorial seminar for Ms. Escarameia would be held on Tuesday, 12 July 2011, at 5 p.m., at the Graduate Institute of International and Development Studies of Geneva.

The meeting rose at 11 a.m.

3092nd MEETING

Wednesday, 25 May 2011, at 10.05 a.m.

Chairperson: Ms. Marie G. JACOBSSON
(Vice-Chairperson)

Later: Mr. Maurice KAMTO (Chairperson)

Present: Mr. Cafilisch, Mr. Candiotti, Mr. Comissário Afonso, Mr. Dugard, Ms. Escobar Hernández, Mr. Fomba, Mr. Gaja, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Mr. McRae, Mr. Melescanu, Mr. Murase, Mr. Niehaus, Mr. Nolte, Mr. Perera, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Valencia-Ospina, Mr. Vargas Carreño, Mr. Vasciannie, Mr. Vázquez-Bermúdez, Mr. Wisnumurti, Sir Michael Wood.

**Expulsion of aliens (continued)
(A/CN.4/638, sect. B, A/CN.4/642)**

[Agenda item 5]

SIXTH REPORT OF THE SPECIAL RAPPORTEUR¹²⁸ (continued)

Ms. Jacobsson (Vice-Chairperson) took the Chair.

1. The CHAIRPERSON invited the members of the Commission to continue their consideration of the sixth report on expulsion of aliens and drew their attention to an issue that had not been discussed at the previous session for lack of time. It would be recalled that in 2010 the Special Rapporteur had presented a revised version of draft article 8 entitled "Expulsion in connection with extradition", which was reproduced in footnote 1299 of the report of the Commission on the work of its sixty-second session.¹²⁹ The revised draft article aimed to take into account comments made on the initial version as presented by the Special Rapporteur in his sixth report.¹³⁰ Since the Commission had not been able to discuss the revised version at its

previous session, members were invited to address it in their statements at the current session.

2. Mr. FOMBA expressed appreciation to the Special Rapporteur for the second addendum to his sixth report on expulsion of aliens and for his oral introduction. By and large, he was in agreement with the underlying arguments in the report and with the consequences which the Special Rapporteur derived from them for the purpose of codification and progressive development. In paragraph 403 [para. 1],¹³¹ the terms of the debate were well defined with regard to the question of the implementation of expulsion decisions. Paragraph 404 [para. 2] placed emphasis on voluntary departure, its dual advantage being that it permitted greater respect for human dignity while being easier to manage administratively. As to the appropriate period for voluntary departure, he wondered whether the proposal by the Commission of the European Communities¹³² of a maximum of four weeks, unless there was a risk that the person concerned might abscond, was always suitable.

3. It emerged clearly in paragraph 405 [para. 3] that forcible expulsion was the logical consequence of a refusal of voluntary departure, and the Special Rapporteur rightly noted that a return was not always thwarted solely by the refusal of the expelled alien to leave. In paragraph 406 [para. 4], it was essential to ensure that when the State of return was not the State of origin, expulsion was not to a country where there was a real risk to the person's life. With regard to expulsions effected by air, the 1944 Convention on International Civil Aviation contained important legal provisions which, if applied correctly and systematically, would ensure best conditions for the return of expelled persons. As to the definition of the phrase "potentially disruptive passengers" in paragraph 411 [para. 9], it might be asked whether the reference to expelled persons was always relevant from a theoretical and practical viewpoint. In paragraph 412 [para. 10], the reference to cases of ill-treatment suffered by some aliens showed the seriousness of the problems which could arise in practice. With regard to paragraph 413 [para. 11], he said that guidelines for good conduct in the field of expulsion were a good idea, but the difficulty was in their actual application together with a suitable and effective mechanism for monitoring and sanctions. On paragraph 416 [para. 14], he agreed with the Special Rapporteur's conclusion that it was not necessary to draw up a specific draft article on the protection of human rights during the transport stage of the deportation process, even in the name of progressive development, since that was already covered by the general obligation set out in draft articles 8 and 9.

4. Turning to the draft articles themselves, he noted that draft article D1 (Return to the receiving State of the alien being expelled) was a draft text of a general nature relating to the conditions for the return to the receiving State of the

* Resumed from the 3081st meeting.

¹²⁸ At its sixty-second session, the Commission began the study of the sixth report of the Special Rapporteur by chapters I to IV, section C; it continued with the study of chapters IV, section D, to VIII, reproduced in the second addendum to the sixth report (*Yearbook ... 2010*, vol. II (Part One), document A/CN.4/625 and Add.1-2).

¹²⁹ *Yearbook ... 2010*, vol. II (Part Two), p. 165, para. 176.

¹³⁰ *Yearbook ... 2010*, vol. II (Part One), document A/CN.4/625 and Add.1-2, p. 153, para. 72; also reproduced in *ibid.*, vol. II (Part Two), p. 160, para. 138, footnote 1286.

¹³¹ The numbers in brackets refer to the numbering used in the mimeographed version of the second addendum to the sixth report of the Special Rapporteur (A/CN.4/625/Add.2), available from the Commission's website. The chapters, paragraphs and footnotes were renumbered for publication in *Yearbook ... 2010*, vol. II (Part One).

¹³² Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals, presented by the Commission of the European Communities, document COM(2005) 391 final, of 1 September 2005, article 6.