

Document:-
A/CN.4/3133

Summary record of the 3133rd meeting

Topic:
Organization of the work of the session

Extract from the Yearbook of the International Law Commission:-
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The Commission decided to include the topic "Formation and evidence of customary international law" in the current programme of work and to appoint Sir Michael Wood as Special Rapporteur for the topic.

83. Mr. NIEHAUS (Chairperson of the Planning Group) announced that the Planning Group would be composed of the following members: Mr. Comissário Afonso, Mr. El-Murtadi Suleiman Gouider, Ms. Escobar Hernández, Mr. Forteau, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. Kittichaisaree, Mr. McRae, Mr. Murase, Mr. Murphy, Mr. Nolte, Mr. Park, Mr. Peter, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Tladi, Mr. Valencia-Ospina, Mr. Wisnumurti, Sir Michael Wood and Mr. Šturma (Rapporteur, *ex officio*).

The meeting rose at 12.20 p.m.

3133rd MEETING

Friday, 25 May 2012, at 10 a.m.

Chairperson: Mr. Lucius CAFLISCH

Present: Mr. El-Murtadi Suleiman Gouider, Ms. Escobar Hernández, Mr. Forteau, Mr. Hassouna, Ms. Jacobsson, Mr. Kamto, Mr. Kittichaisaree, Mr. McRae, Mr. Murphy, Mr. Niehaus, Mr. Nolte, Mr. Park, Mr. Peter, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Tladi, Mr. Valencia-Ospina, Mr. Wako, Mr. Wisnumurti, Sir Michael Wood.

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

[Agenda item 1]

The CHAIRPERSON said that the Bureau had adopted the programme of work for the following week, which had just been distributed to members. If he heard no objection, he would take it that the Commission approved it. He also wished to draw the attention of members to the provisional programme of work for the second part of the session, stressing that it should be taken to be purely provisional in nature.

The meeting rose at 10.05 a.m.

3134th MEETING

Tuesday, 29 May 2012, at 10.10 a.m.

Chairperson: Mr. Lucius CAFLISCH

Present: Mr. Comissário Afonso, Mr. El-Murtadi Suleiman Gouider, Ms. Escobar Hernández, Mr. Forteau, Mr. Gevorgian, Mr. Hassouna, Mr. Hmoud,

Ms. Jacobsson, Mr. Kamto, Mr. Kittichaisaree, Mr. Laraba, Mr. McRae, Mr. Murase, Mr. Murphy, Mr. Niehaus, Mr. Nolte, Mr. Park, Mr. Peter, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Šturma, Mr. Tladi, Mr. Valencia-Ospina, Mr. Wako, Mr. Wisnumurti, Sir Michael Wood.

Expulsion of aliens (*continued*) (A/CN.4/650 and Add.1, sect. B, A/CN.4/651, A/CN.4/L.797)

[Agenda item 2]

REPORT OF THE DRAFTING COMMITTEE

1. Mr. HMOUD (Chairperson of the Drafting Committee) introduced the titles and texts of draft articles 1 to 32, which constituted the entire set of draft articles on the expulsion of aliens, provisionally adopted on first reading by the Drafting Committee, as contained in document A/CN.4/L.797, which read as follows:

PART ONE

GENERAL PROVISIONS

Draft article 1. Scope

1. The present draft articles apply to the expulsion by a State of aliens who are lawfully or unlawfully present in its territory.
2. The present draft articles do not apply to aliens enjoying privileges and immunities under international law.

Draft article 2. Use of terms

For the purposes of the present draft articles:

(a) "expulsion" means a formal act, or conduct consisting of an action or omission, attributable to a State, by which an alien is compelled to leave the territory of that State; it does not include extradition to another State, surrender to an international criminal court or tribunal, or the non-admission of an alien, other than a refugee, to a State;

(b) "alien" means an individual who does not have the nationality of the State in whose territory that individual is present.

Draft article 3. Right of expulsion

A State has the right to expel an alien from its territory. Expulsion shall be in accordance with the present draft articles and other applicable rules of international law, in particular those relating to human rights.

Draft article 4. Requirement for conformity with law

An alien may be expelled only in pursuance of a decision reached in accordance with law.

Draft article 5. Grounds for expulsion

1. Any expulsion decision shall state the ground on which it is based.
2. A State may only expel an alien on a ground that is provided for by law, including, in particular, national security and public order.
3. The ground for expulsion shall be assessed in good faith and reasonably, taking into account the gravity of the facts and in the light of all of the circumstances, including the conduct of the alien in question and, where relevant, the current nature of the threat to which the facts give rise.
4. A State shall not expel an alien on a ground that is contrary to international law.

* Resumed from the 3131st meeting.