

INTERNATIONAL LAW COMMISSION
Sixtieth session
Geneva, 5 May - 6 June 2008 and
7 July – 8 August 2008

DRAFTING COMMITTEE

Progress report on the topic "Expulsion of Aliens"

Mr. Chairman,

I will give you a short progress report on the topic "Expulsion of Aliens".

It will be recalled that last year the Commission had referred first draft articles 1 and 2 (proposed by the Special Rapporteur in his second report) and then draft articles 3-7 (contained in the Special Rapporteur's third report) to the Drafting Committee. Last year the Drafting Committee had worked out provisionally draft article 1 on "Scope" and draft article 2 "Use of terms".

Discussions had begun but were not conclusive on a new draft article which sought to exclude from the application of the draft articles those aliens whose departure from the territory of a State may be governed by special rules of international law. Also, last year the Drafting Committee had begun discussion on draft article 3 "Right of Expulsion".

This year the Drafting Committee had 2 meetings on the topic on 16 and 17 July 2008. Following last year's practice, the Drafting Committee decided that draft articles provisionally worked out so far would remain in the Drafting Committee until the Committee completed its work on a few more draft articles. I would like to thank the Special Rapporteur, Mr. Maurice Kamto, for his cooperation and guidance to the Committee. I also want to thank the members of the Drafting Committee for their active participation and contributions.

Mr. Chairman,

I will give now a brief report on the work accomplished in the Drafting Committee this year.

First, the Drafting Committee was able to work out provisionally one more article, article 3 "Right of Expulsion". The Committee had before it two alternative texts proposed by the Special Rapporteur, the first one composed of two paragraphs while the second being more concise. The Committee opted for the concise version and the article as adopted does not differ substantively from the version proposed by the Special Rapporteur.

Secondly, the Drafting Committee considered the new article to which I referred earlier dealing with the possible exclusion from the application of draft articles of those aliens whose departure from the territory of a State may be governed by special rules of international law. Last year, discussion on this new article had given rise to three alternative texts. The Drafting Committee decided to agree provisionally on one of these texts which excluded from the scope of the draft articles diplomats or consular or other officials of a foreign State. In the course of the discussion the Committee decided that agents of an international organization should also be included in that category and it adopted the text with that amendment. The Committee also decided to place this new text as a second paragraph of draft article 1 ("Scope") already adopted instead of creating a new separate article.

Thirdly, the Committee started discussing draft article 5 on non-expulsion of refugees. This is a draft article which raises complex questions as it indirectly refers to the 1951 Refugee Convention. A fruitful debate took place in the Drafting Committee on the possible relationship of the article with the Convention (and its protocol) but it was inconclusive due to lack of time. It was agreed that the Special Rapporteur would present a new version of the text which would take account of the various points raised during the discussion.

This completes my progress report.

Thank you, Mr. Chairman.