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Item 82

Diplomatic Protection

Statement by

Mr. Mateus Kowalski

Assistant Legal Adviser

Ministry of Foreign Affairs of Portugal

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Mr. Chairman,

The International Law Commission completed a set of 19 draft articles on Diplomatic Protection in less than ten years since the topic was first identified as suitable for codification and progressive development. This proves that the topic was indeed ripe and adequate for codification and that it is a useful institute in contemporary international relations.

Portugal has already had the occasion to welcome this development as well as the recommendation by the Commission for the elaboration of a convention on the basis of the draft articles.

Mr. Chairman,

Diplomatic protection has an important function as a last resort device in the protection of human rights. There is a recognizable trend of giving greater autonomy and capacity to individuals and groups of individuals to assure the protection of their own rights. There is no doubt in our minds that in international social relations the self-emancipation of the individual is the path to be followed.

Nevertheless, it is also important to recognize that diplomatic protection conducted by a State remains an important remedy. John Dugard, one of the Special Rapporteurs for this topic, has made a strong and stiffer assertion on this issue by saying that 'diplomatic protection remains an important weapon in the arsenal of human rights protection'¹.

Mr. Chairman,

We note that Member States have different views as to the future of this topic, reflected in the written comments that Governments, including our own, submitted in 2010 and in 2013. Some of the written comments also point to the link between this topic and that of State Responsibility for Internationally Wrongful Acts.

¹ See A/CN.4/506, para. 32.

Mr. Chairman,

Portugal is in agreement with the draft articles in general and with their suitability for an international convention, regardless of the fact that during the debates of the Sixth Committee we voiced our disagreement with regard to certain aspects, in particular those concerning both the scope of the draft articles as well as their particular contents. Those and other issues could be discussed within the body preparing the convention.

Our hope is that soon, together with those on State Responsibility, these draft articles could form part of parallel conventions, since they traditionally go hand in hand, as recognized by International Law Commission itself. This would represent a major step for the consolidation of the Law on international responsibility.

Thank you, Mr. Chairman.