

ALGERIA



الجزائر

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بعثة الجزائر الدائمة
لدى الأمم المتحدة
نيويورك

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Statement by:

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Before the 6th Committee

On agenda item 78

« Report of the International Law Commission

on the work of its sixty sixth session»

Part I (Chapter IV)

“Expulsion of aliens”

New York – October 28 2014

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Mr. Chairman,

At the outset, allow me to thank the Chairman of the International Law Commission of Law, Mr. Kirill Gevorgian for his presentation of the work of the 66th session of the ILC. My delegation wishes also to express its appreciation to the Chairman of the 65th session of the Commission, Mr. Bernd H. Niehaus for his efforts and skilled manner in conducting the work of the ILC.

My comments will focus, in this first part of our deliberation, on the chapter IV of the report of the Commission entitled “expulsion of aliens”.

In this regard, my delegation would like, first of all, to express its appreciation to the Special Rapporteur, Mr. Maurice Kamto, for his tireless efforts since his first appointment in this capacity in 2004. We extend our appreciation to all the Commission’s members.

Mr. Chairman,

My delegation attaches great importance to the topic included under the chapter four in ILC report on the work of its 66th session.

We take note of the report of the Drafting Committee contained in document A/CN.4/L.832 submitted to the Member States consideration under the chapter IV of ILC report that contains 31 draft articles together with the related commentaries concerning the topic entitled “expulsion of aliens”.

Mr. Chairman,

While we commend the International Law Commission for its valuable work in preparing the set of draft articles under this topic, my delegation would like to rise its concern and also express its disagreement with the wording and the content of draft article 22, in particular its second paragraph.

First: I want to recall, with regard to the expulsion of aliens, the uncontested principle under the international law that a State is not required to receive expelled aliens in its territory unless it is incontestably proved that they hold the nationality of that State.

Second: Unless they have agreed otherwise under specific bilateral or multilateral agreements, States are not obliged and cannot be forced, under the actual international standards and practice, to accept in their territories the expelled aliens, if they are not citizens of these States.

Third: With regard of paragraph 2 of draft article 22, which addresses the situation where it has not been possible to identify either the State of nationality or any other State that has the obligation to receive the alien under international law, we want to recall that the last part of the paragraph, *which reads: "...that alien may be expelled to any State where he or she has a right of entry or stay or, where applicable, to the State from where he or she has entered the expelling State"*, was a subject of intense debate inside the Commission and among States and it has never been generally accepted and has never been a subject of a clear and overwhelming consensus.

Fourth: By the same token, my delegation have to stress that this addition have no legal evidence or basis under the international customary law or international law and can not be detected or recognized as a new development or a progress in the international practice in this field.

Fifth: Furthermore, we may recall that, as it was reported in the commentaries of its last report (A/CN.4/651- A/67/10), the Commission was divided on the issue of whether certain States, such as a State of embarkation, would have an obligation to receive the alien under international law and the view was expressed that the State of embarkation has no legal obligation to receive the expelled alien.

Sixth and last: My delegation would like to recall that the act of expulsion must be in conformity with the law and have to be exercised within the frame work of law. As it is well established in international law, the duty of the expelling State is to indicate the grounds for the act expulsion and the act ordering expulsion must be reasoned in fact and in law.

Mr. Chairman,

In conclusion, my delegation would like to state, once again, that the wording and the content of this paragraph does not constitute a general agreement or commonly accepted practice and does not reflect the state of international law.

I thank you.