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## UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

UNITED NATIONS GENERAL ASSEMBLY, SIXTH COMMITTEE,  
SIXTY-NINTH SESSION, AGENDA ITEM 78,  
REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF  
ITS SIXTY-SIXTH SESSION: PART I (A69/10)  
CHAPTERS I-III (INTRODUCTORY PARTS), CHAPTER XIV (OTHER  
DECISIONS AND CONCLUSIONS OF THE COMMISSION), CHAPTER IV  
(EXPULSION OF ALIENS) AND CHAPTER V (PROTECTION OF PERSONS IN  
THE EVENT OF DISASTERS)

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Mr Chairman,

I would like to thank the Chairman of the Commission for his report to the Sixth Committee. The United Kingdom welcomes the report of the Commission's sixty-sixth session; and also thanks all members of the Commission for a successful year which has seen some good progress.

The United Kingdom also takes this opportunity to commend and thank the Codification Division of the Secretariat for their excellent work. That is not only for the support they provide to the Commission, but also in the assistance that they offer to States. The United Kingdom would also like to express its appreciation for the work of the Codification Division, and its Director, Mr George Korontzis, in their continuous updating and management of the Commission's website. It is an invaluable resource, facilitating engagement with the Commission's work and as a tool for research more widely.

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Mr Chairman,

Before concentrating on the topics concerning the expulsion of aliens and the protection of persons in the event of disasters, the United Kingdom would like to say a few words on the chapter regarding **Other decisions and conclusions of the Commission**. The United Kingdom is grateful to the Commission for its careful consideration of its programme of work. The United Kingdom notes that the Commission decided to include the topic **Crimes against humanity** in its programme of work and to appoint Mr. Sean Murphy as Special Rapporteur.

The United Kingdom thanks the Special Rapporteur and the Commission for setting out the syllabus for the topic of **crimes against humanity** in the paper annexed to last year's ILC report. The United Kingdom acknowledges that there is currently no general multilateral framework governing crimes against

humanity and that there may be benefit in investigating how an extradite or prosecute regime in respect of such crimes would operate.

The United Kingdom welcomes the careful consideration that the Special Rapporteur has given to the inter-relationship between the work on this topic and the Rome Statute, which already provides for the international prosecution of crimes against humanity. The United Kingdom believes that it is important that the work of the International Criminal Court in this area is not affected, whilst recognising that ICC prosecutions should be complementary to the exercise of national jurisdiction. The United Kingdom would not welcome the expansion of the scope of this investigation into issues such as civil jurisdiction and immunity.

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Mr Chairman,

Turning to the **Expulsion of aliens** topic, the United Kingdom thanks the Special Rapporteur and the Commission for the work carried out, and for taking account of the comments offered by States. The United Kingdom welcomes the Commission's acknowledgement that certain elements of the draft Articles reflect proposed progressive development of the law and not the law as it currently stands.

Whilst not exhaustive, the United Kingdom wishes to reiterate its concerns in respect of the following issues:

- Firstly, draft Article 10 on the prohibition of disguised expulsion: Illegal migrant activity represents a growing challenge and states must be able to respond credibly and flexibly. Using alternative enforcement methods to bring pressure to bear on those abusing immigration controls is key to tackling illegal migration. Draft Article 10 is too broadly crafted, and if adopted would potentially restrict legitimate alternative approaches to enforcement.

- Secondly, draft Article 14 on the obligation not to discriminate: The United Kingdom supports the objective of eliminating unlawful discrimination, but is concerned that the blanket approach adopted here would prevent states from responding legitimately to specific threats to the integrity of domestic borders and immigration systems.
- Thirdly, draft Article 19 on detention conditions of an alien subject to expulsion: This draft Article specifies that migrants should be detained separately from prisoners serving criminal sentences. Such a prohibition would hamper a state's effective management and control of illegal migrants who are a threat to the safety and well being of other detainees. Furthermore, the United Kingdom considers that the proposed prohibition on "detention of excessive duration" is unacceptably vague, particularly when compared with more specific obligations such as that in Article 5 of the European Convention on Human Rights.

In summary, the United Kingdom is increasingly seeing threats to its national security and activity to undermine the integrity of its borders. The United Kingdom must be able to and will take measures in domestic legislation to ensure that it is able to sufficiently protect its domestic population. More than ever, the international community has a mobile global population moving between states; states must be able to manage migration for their benefit and secure their borders against those who would seek to undermine effective immigration control. Migrants are expected to comply with the laws of host states. If they do not then the host state should be able to take appropriate, reasonable measures to promote compliance.

The United Kingdom's position has always been that the Commission should conclude its work on this topic and that it should be taken no further. The United Kingdom continues to believe that it is not an area suitable for a convention because the United Kingdom does not accept that the draft articles reflect customary international law and the United Kingdom does not agree with the content of those draft articles which claim to represent the progressive development of international law.

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Mr Chairman,

Turning to the topic **Protection of persons in the event of disasters**, the United Kingdom commends the Special Rapporteur for his persistence in systematically analysing the various strands of this topic. The United Kingdom is in broad agreement with the substance of the draft Articles and, in particular, would like to support draft Article 14(2) which provides that the consent of affected states to external humanitarian assistance should not be arbitrarily withheld. The United Kingdom notes that, in the context of armed conflict, such a refusal can amount to a breach of international humanitarian law. On the form of the eventual product of the Commission's work, the United Kingdom continues to be of the view that guidelines to inform good practice would be helpful for States, rather than a legally binding instrument.

Thank you, Mr Chairman.

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