

JOINT EXPLANATION OF POSITION
77TH SESSION
SIXTH COMMITTEE OF THE GENERAL ASSEMBLY
AGENDA ITEM No. 79
Diplomatic Protection
New York, November 18th, 2022

Mr Chair,

Concerning the agenda item at hand, I have the honor to deliver this explanation of position on behalf of the delegations of **Brazil, El Salvador, Mexico, Portugal** and my own country, **Colombia**.

Even though 16 years have passed since the International Law Commission concluded its work on the topic and recommended the elaboration of a convention based on the draft articles, the Sixth Committee's engagement with the subject has remained limited. This is particularly alarming due to the subject's uncontroversial relevance. After all, this Assembly has acknowledged the "major importance of the topic" in all its resolutions on diplomatic protection since its 61st Session.

At the 77th Session, our delegations sought to engage constructively to revitalize this agenda item and deliver an action-oriented resolution that could set us on the path to making a reasoned decision on what action to take regarding the draft articles. Informal consultations focused primarily on the Sixth Committee's working methods on this subject.

While we are glad to have a text that contributes to advancing the topic, we would have preferred it to reflect more accurately the fruitful discussions held at this Session. In the spirit of flexibility, however, we have decided to accept OP2 and OP3 as adopted. On this point, however, I wish to make two main clarifications on our position on the resolution.

1. First, in OP2, we underscore that the terms "or any other appropriate action" include discussing at the 80th Session whether to reestablish the working group on diplomatic protection, which was foreseen by all resolutions on the topic since the 62nd Session, except for resolution 74/188. While we would have preferred an explicit clarification to that effect, we note that, during informal consultations,

several delegations endorsed the understanding that the words “appropriate action” encompasses this procedural option. Accordingly, in light of this mandate and in furtherance of the constructive dialogue started this year, we expect delegations to address the possible reconstitution of the working group in their statements at the 80th Session.

2. Second, as to OP3, we emphasize that the verb “continue” therein accurately accounts for the ongoing substantive dialogue on diplomatic protection. Delegations have already been commenting on the draft articles substantively in their plenary statements. By acknowledging and fostering the contribution of inter-sessional exchanges on substance, OP3 is a helpful compliment. However, it does not preclude the necessary discussion on the re-establishment of the working group or other procedural options conducive to the Committee taking an informed decision on this topic.

Finally, we underscore the connection between the discussions on how to move this topic forward and those under the agenda item “Revitalization of the Work of the General Assembly” related to the improvement of working methods. In particular, we disapprove of the excessive utilization of technical rollovers for diplomatic protection, we are wary of inconsistent treatment of the products and recommendations of the ILC and we understand that we are supposed to engage with the ILC recommendations, not just keep the conversation open with no action in sight.

In that spirit, we reaffirm our understanding that the resolution we have just adopted gives us the mandate to advance discussions on diplomatic protection in earnest. Going forward, we call upon all delegations to make concrete proposals and engage seriously with the topic.

Finally, we would like to express our appreciation and gratitude to the facilitator for all his efforts to help move discussions on this issue forward.

Thank you.