



THE REPUBLIC OF KOREA

PERMANENT MISSION TO THE UNITED NATIONS

335 East 45th Street, New York, N.Y. 10017
Tel (212) 439-4000, Fax (212) 986-1083

Statement by H.E. Ambassador Kyung-hoon SUL

Deputy Permanent Representative

Sixth Committee of the General Assembly

Agenda 79: Report of the International Law Commission on the work of its sixty-fourth session (Part 1)

1 November 2012

New York

<Check against Delivery>

Thank you, Mr. Chairman,

Introductory Section

1. At the outset, on behalf of my delegation, please allow me to congratulate you on your assumption of the chairmanship of the 6th Committee. I am confident that, under your able leadership, we will have constructive discussion in this session. My delegation also commends the Secretariat for the excellent preparations of the meeting.
2. My delegation congratulates the ILC on its achievements over the past 64 years. Without a doubt, daily conduct of international relations today is impossible without referring to basic international legal instruments drafted and developed by the Commission, such as the conventions on diplomatic and consular relations, the law of treaties, and the law of the sea. In this regard, I would like to express my appreciation to the ILC members, as well as the Special Rapporteurs, for their valuable works.
3. The Commission has eight topics in its current programme. This year, two topics have been added in the Commission's programme of work, namely the "*Provisional Application of Treaties*" and the "*Formation and Evidence of Customary International Law*." Considering

8. In addition, we will submit our official comments on the draft articles to the Secretary-General by 1st January 2014, as decided at the 64th ILC session. We will continue to join the deliberations on this topic.

Protection of Persons in the Event of Disasters (Chapter V)

Mr. Chairman,

9. With regards to the "*Protection of Persons in the Event of Disasters*," let me first convey my deep appreciation to Special Rapporteur Mr. Valencia-Ospina and to the Commission for their excellent work on this subject. My delegation recognizes that this subject deserves intense discussion in light of the increasing frequency and intensity of natural disasters.
10. At this stage, my delegation would like to make a brief comment on Articles 13 and 14 respectively related to the "*Condition on the provision of external assistance*," and the "*Facilitation of the provision of external assistance*." While these two articles are important from a practical point of view, the effective implementation of Articles 13 and 14 may not be ensured when a small State is victimized by an extraordinary catastrophe, and its system to cope with natural disasters is shut down. To avoid such an unfortunate situation, every State should prepare its domestic measures and legislation with emphasis on prevention before disasters occur.
11. Finally, my delegation is looking forward to the publication of the 6th Report of the Special Rapporteur on Disaster Risk Reduction, which would address the issues of the prevention and mitigation of disasters. I believe that the report is particularly important in terms of its framework for the three stages of "*Protecting Persons in the Event of Disasters*"--namely, prevention, reaction, and restoration.

Conclusion

12. In concluding, Mr. Chairman, let me reiterate that we are ready for an active exchange of views on these topics in this session.

Thank you for your attention.

/END/

the necessity of the provisional application of treaties and the role of customary international law in regulating the international community, my delegation believes that it is timely to discuss these two topics.

Expulsion of Aliens (Chapter IV)

Mr. Chairman,

4. In regards to the topic "*Expulsion of Aliens*," my delegation welcomes the adoption of the first reading of the relevant draft articles and would like to express our appreciation to the Special Rapporteur, Mr. Maurice Kamto, and the other ILC members for their work on the draft articles, which have been better revised and re-organized, compared to the last version.
5. From these articles, we can infer that the Commission has made great efforts to balance the State's right of expulsion with the human rights of aliens. For example, Article H1 in the previous version of the draft articles, "*Right of Return to the Expelling State*" was the subject of controversy because it did not distinguish the alien's lawful presence from his/her unlawful presence in the expelling State. We believe that limiting the scope of the application of Article 29 to "an alien lawfully present in the territory of a State" was a proper modification, reflecting the previous concerns of Member States.
6. With regard to the protection of the assets of aliens, we would like to point out that diplomatic protection is closely connected to the nationality of the protected. For instance, a local corporation established by an expelled alien may not be provided with diplomatic protection by the State of nationality of the alien because it has been established according to the domestic law of the expelling State. We believe that further efforts to elaborate on the related articles such as Articles 11, 12, 30 and 32 would be helpful in protecting the property of expelled aliens.
7. We also have concerns about Article 23. According to the article, a State that does not apply the death penalty shall not expel an alien to a State where the life of that alien would be threatened with the death penalty, and a State that does not apply the death penalty includes States which abolished the death penalty in practice while retaining capital punishment. This extended concept in this article may unnecessarily restrict the State's rights of expulsion.