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## **S T A T E M E N T**

**By the Representative of the Russian Federation at the  
VI Committee of the 67<sup>th</sup> session of the General Assembly  
on Agenda item  
“Report of the International Law Commission on the work of its 64<sup>th</sup>  
session”(topics: “Expulsion of aliens”, “Protection of persons in the  
event of disasters”)**

Mr. Chairman,

Allow me to thank the Chairman of the International Law Commission for presenting the report on the work of the Commission at its 64<sup>th</sup> session.

The Russian Federation has always followed the work of the Commission with great attention and interest. It is hard to underestimate the contribution over many years of work made by the Commission to codification and progressive development of international Law.

I shall now turn to the topics scheduled for today.

The topic of “**Expulsion of aliens**”.

We have studied with interest the set of 32 draft articles on the expulsion of aliens together with the relevant comments adopted in the first reading by the Commission. We believe that as a good basis and orientation for the future work of ILC on these draft articles we can use the opinion provided in the decision by the International Court of Justice on Sadio Diallo case (Guinea vs Congo) of 30 November, 2010. This decision in particular touched upon several aspects of extradition of aliens procedure as well as analyzed legal guaranties at the disposal of the expelled person.

In terms of general approach to the topic, we have doubts regarding the intention to envisage in the draft articles that the legal regime contained therein applies equally to aliens staying on the territory of the respective state both legally and illegally. From our prospective the legal nature of their stay differs, correspondingly the expulsion regime shall also be different.

Further, we would like to briefly comment on some elements in the compendium of draft articles adopted by the Commission.

The Russian Federation maintains certain doubts regarding the language of draft article 12. The very idea in its basis to prohibit the expulsion of the aliens in order to confiscate their property is justified and deserves support. However, it should be noted that the assessment of goals and intentions of states can turn out to be quite uneasy task in practice. We believe also that one cannot preclude situations when the totality of acts committed by a person in a relevant state will entail under the legislation of

that state both the expulsion and confiscation as independent sanctions. Albeit, the non-application of the provisions of legislation regarding confiscation only on the grounds that a person also is subject to expulsion, would hardly be justified. In such a case the aliens would find themselves in a more privileged situation as compared to the citizens of a relevant state where confiscation would apply for the same type of acts.

We welcome the new language of paragraph 1 of the draft article 21 stating that the expelling state shall take necessary measures to assist a voluntary departure of an alien subject to expulsion. We find useful both the modification of the provisions of the draft article and a separate mention in the comments that these provisions should not be interpreted as authorizing the expelling state to exert unjustified pressure on the alien. It seems that such an approach would allow us to eliminate certain ambiguity related to the fact that the previous version of the draft mentioned the encouragement of voluntary departure.

We note with satisfaction that the current version of paragraph 2 of draft article 21 does not include the reference to the norms of international law related to air travel. Such a reference is redundant.

We will await with great interest further discussion on the draft articles in the Commission.

I shall now turn to the topic “**Protection of persons in the event of disasters**”.

We have carefully studied the fifth report on this topic.

We believe that due to the growing number and scope of natural disasters that endanger hundreds of thousands of human lives and bring

enormous material losses to the states the urgency of efforts undertaken by the Commission during its work on this topic can hardly be overestimated. The Russian Federation is interested in continuing the work of the Commission on this exclusively important topic which should be logically completed by the adoption of the guidelines.

The central and key problem for the topic under consideration is the issue of equitable balance between the state sovereignty on the one hand and the need to provide adequate assistance to victims, on the other. The search for and legal codification of such a balance is an uneasy task before the Commission. It is essential for the Commission in this case to follow cautious approach and to be guided by the existing norms of the international law. Taking into account the complexity of this subject the establishment of new rights and obligations not supported by the international practice would hardly be appropriate.

Further, I would like to deal in detail with some draft articles.

We believe it is undesirable to establish an obligation of the affected state to request assistance under draft article 10. Raising such an issue creates a number of legal problems. It is not clear who will be authorized to determine whether the calamity actually takes place and whether the affected state complies with an obligation to request assistance and whether the natural disaster has reached the level outside national capabilities of the affected state. Besides, the establishment of a strict legal obligation implies that in case of non-compliance a state will bear an in international legal obligation which in its turn creates additional questions and problems.

We believe that draft article 10 should stipulate a moral and political obligation rather than a legal obligation of an affected state to request assistance and not to reject deliberately the external assistance.

We support the view of the Special Rapporteur that the existing international law, common law or practice do not envisage a legal obligation of states to provide assistance at the request of the affected state.

As to an obligation to offer assistance it would be at least premature to state that currently it does exist at the universal level. The offer of assistance should be considered as a clear moral obligation.

We support the general idea of draft article A. However, we share the view that the obligation to cooperate in this draft is not defined sufficiently and as such it requires additional drafting. We would like to underline in particular the need to fully exclude the possibility to interpret draft article A as a legal obligation to provide assistance.

Draft article 13 also requires additional drafting. On the one hand, it provides an important idea that the affected state can in light of its sovereignty establish conditions for the provision of assistance. On the other hand, it seems that the draft article is stated in rather abridged way. This leaves a wide freedom of interpretation for the affected state in formulating the conditions for such assistance and creates the risk that the references to the norms of international and national law can be made in bad faith with the only purpose to prevent the provision of assistance. Draft article 13 should be formulated in practical key by using fully the proposals of the Special Rapporteur in section V of the report.

Draft article 14 first of all raises doubts concerning the language it contains that allows us to consider consultations between the affected state and the assisting entities as a legal obligation. Such an approach seems a little bit strange.

In conclusion, we would like to note that in light of high practical significance of this topic the Commission should also study the possibility of recording other elements in the draft articles. For instance they could touch upon the practical modalities of disaster relief cooperation for access of rescuers to the territory of the affected state, simplified custom formalities for imported special equipment, freedom of movement, and, potentially, privileges and immunities for rescue workers.

Mr. Chairman,

Additionally, we would like to briefly comment the proposal to transfer certain part of the ILC sessions to New York.

At this moment we do not understand how this measure can improve the work of the Commission or its cooperation with the VI Committee of the General Assembly. The existing regular mode of communication between the members of the Commission and of the VI Committee in the framework of the sessions of the General Assembly is adequate. At the same time, taking into account the specific character of the work of ILC, we believe that Geneva is an ideal venue for an efficient analytical work of the Commission. Moreover, it is hard to believe that this measure will not have budgetary implications.

Thank you, Mr. Chairman.