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STATEMENT
BY THE REPRESENTATIVE OF THE RUSSIAN FEDERATION
MRS. M.V. ZABOLOTSKAYA
IN THE SIXTH COMMITTEE OF THE 69th SESSION
OF THE UN GENERAL ASSEMBLY ON THE AGENDA ITEM:
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(Topics: **Expulsion of aliens and Protection**)

Now I would like to make some comments on the draft Articles, adopted by the Commission during the previous session on the topics of 'Expulsion of aliens' and 'Protection of persons in the event of disasters'. These two topics are related to important issues of protection of citizens who found themselves in a particularly vulnerable situation facing the expulsion from the country or in a situation of natural disasters, and ensuing rights and obligations of states. We are convinced that these two topics deserve the closest attention of the VI Committee.

Let me thank the Special Rapporteur, Mr. Maurice Camto, for having developed this complex topic of practical importance. The Russian Federation is reviewing with interest the set of 31 draft Articles with comments thereon endorsed by the Commission.

First of all, we would like to note that the Commission has managed to drastically improve the draft Articles in light of the comments by states as compared to the draft adopted in the first reading in 2012.

This relates in particular to draft Article 1, 'Scope of application'. Thus, the Russian Federation has several times pointed out at the need to distinguish between the rules applicable to foreigners who are legally or illegally staying on the territory of a state. We welcome in this connection that it is noted in the commentary to Article 1 that all the rules formulated in the draft are not equally applicable to different categories of foreigners and in particular that a number of rules is not applicable to foreigners illegally staying in the territory of a state or to foreigners whose status is regulated by special regimes.

We believe it is appropriate that this language does not prejudice the issue of the legitimacy of

right by the need to implement it in accordance with the

great practical importance of drafting the international rules to protect persons affected by the disaster.

Before I turn to comments on the substance of the draft, I would like to note as in the previous years that the final output of the Commission on this topic, as we see it, should be the guideline principles rather than the draft Articles. The draft Articles have been elaborated by the Commission on the topics which are in line with the advanced practice of states, but we are not sure that a legally binding document could be formulated. We do not see, however, such a possibility in this particular case.

These rules formulated by the Commission represent in our view the guidelines that could provide directions for cooperation between states with a view to prevention and mitigation of natural disaster impact.

We believe that the format of Guidelines is more appropriate also because the rules elaborated by the Commission should help the disaster affected states and the population as well instead of putting on them str

The purpose of Article 6 is not quite clear to us where a general definition is given of the right of persons affected by the disaster, and respect for their human rights. Neither the Article nor the comments to do mention the issues that are essential to this topic: can any rights be limited due to an emergency situation and if yes then what are these rights and under what circumstances they could be interesting to learn in this context the practice of the Committee on Human Rights, international judicial institutions and national courts. It is obvious that in the situation of large scale calamities certain human rights cannot be implemented fully for objective reasons and the focal issue is the balance between the protection of these rights and a real impact of the disaster. As it seems, more attention should be given to this issue during the second reading of the draft and its relevant provisions should be specified.

At the same time we assure that the draft Articles would gain from adding to them, along with the principles of protection of dignity and the rights of affected individuals, also the principle that in that or another form points at the need to protect the interests of the affected community as a whole, its values, the way of life, etc. This is particularly important in view of the damage that can be brought as a result of disaster to publicly important facilities whose reconstruction can hardly be associated with the rights of any individual but which in the final analysis are required for normal implementation of the rights and interests of all inhabitants in that area.

We support the provisions of Article 7 which points at the need to comply with humanitarian principles during the response to a disaster, such as humanity, neutrality and impartiality. We regard these 3 principles as fundamental for providing humanitarian assistance. We believe, however, that this Article could be supplemented by the provision on the observance of the fundamental principle of non interference in the domestic affairs of a state by other states and international organizations that participate in the provision of assistance to the victims of disaster, since such assistance by definition should be of non-political nature.

indicate that it is not related to the above mentioned Article on the obligation to cooperate.

In our view, it would be important to note in this Article that the forms of assistance offered to the affected state should be based on its request rather than the affected state knows better what forms of assistance it needs.

Article 11 on the obligation to reduce the risk of disasters is yet another example of the progressive development of law in this draft. We believe this rule

Article 12 ³7KH UROH RI DIIHFWHG VWDWH' DOV questions. We believe that the formula stating that ³The affected state in its sovereignty must ensure the protection of persons and provision of assistance event RI GLVDOVWHU\ DUO\ H[SODLQ WKH PHDQLQJ R SURWHFWLQJ cannot be demanded to ensure protection from disasters and it ZRXOG EH PRUH DSSURSULDWH WR UHTXLUH ³W SURYLGH DVVLVWDQFH'

The obligation to reduce the risk of disaster has been already reflected in Article 11.

We are not clear either about the purpose of the phrase on the ³FDLQ UROH DIIHFWHG VWDWH LQ GLUHFWLQJ FRQ, which may imply that this responsibility may be transferred to any other party without the consent of the state in question. It would be more appropriate to use in this Article the IRUPXOD RI ³UHVSRQVLELOLPHWHUHQGLQJWKHDOHQHFWHG actions.

We still do not see any grounds for stipulating the obligation of the affected state to ask for assistance in draft Article 13. Such an approach raises a number of legal issues. It is not clear who will be authorized to determine whether the disaster has happened and whether the affected state complies with the obligation to ask for

assistance and whether the disaster has gone beyond the national capabilities of the affected state. Moreover, the imposition of a strict legal obligation implies that in case of non-compliance the state will bear international legal responsibility which in turn generates additional questions and problems.

We believe that this should not be such a problem if we redrafted the format of these Articles and formulated a relevant provision as a recommendation.

In our view, the draft follows a not quite clear logic of the Article that implies that the entire process of providing assistance is launched not by the request of the affected state but the right of other actors to offer such assistance. This Article, therefore, deals with the consent rather than a request of a state, which, in our view, is hardly appropriate.

We believe that Article 15 on the termination of external assistance should include the key phrase contained in paragraph 2 of the Commentary to this Article:

When the affected state accepts the offer of assistance, it shall maintain
R Y H U W K H G X U D W L R Q R I L W V S U R Y L V L R Q '

In conclusion, let me once again thank the Commission and Special Rapporteurs on the topics under consideration for their work and the achieved results.

Thank you, Mr. Chairman.