



AUSTRALIA



Australian Mission to the United Nations

E-mail australia@un.int

150 East 42nd Street, New York NY 10017-6112 Ph 212 351 6600 Fax 212 351 6610 www.australiaunsc.gov.au

UNITED NATIONS GENERAL ASSEMBLY SIXTH COMMITTEE:
Diplomatic protection (agenda item 7.9)
3 November 2022

Statement by Australia, Canada and New Zealand

Thank you [Madam/Mr] Chair,

I have the honour to speak today on behalf of Canada and New Zealand as well as my own country, Australia.

CANZ has welcomed the adoption by the International Law Commission of the Draft Articles on Diplomatic Protection and commentaries thereto.

It is a pleasure to see the Commission's work on diplomatic protection.

CANZ recognises the important role diplomatic protection plays as a valuable tool for States to protect rights of their nationals from violations of international law, including to provide protection when violations of human rights are committed against their nationals.

CANZ considers the Draft Articles on Diplomatic Protection to be closely bound to the Articles on the Responsibility of States for Internationally Wrongful Acts.

In the absence of a clear consensus on the elaboration of a convention on the basis of the Articles on State Responsibility, CANZ considers it premature to commence negotiations on a convention based on the Draft Articles on Diplomatic Protection.

CANZ considers that certain aspects of the Draft Articles on Diplomatic Protection go beyond our understanding of customary international law relating to diplomatic protection. There is unlikely to be international consensus on whether those aspects should be made the subject of a convention.

To the extent that the Draft Articles articulate important aspects of customary international law, we consider the Draft Articles to provide useful guidance to States and international bodies and are valuable in their current form.

At the same time, CANZ is also concerned that there is unlikely to be international consensus as to certain aspects of the current draft articles, engaging in the process of negotiating a convention at this time risks undermining the influence and value of the draft articles, by opening up debate on the entire set of draft articles.

[Madam/Mr] Chair,

CANZ members continue to see the value of the Draft Articles as valuable in clarifying and developing customary international law on diplomatic protection.

We view the Draft Articles as serving a useful purpose in informing and assisting to settle State practice in this important area of law.

Thank you.