



STATEMENT BY MR. ARJUN CHARAN SETHI, MEMBER OF PARLIAMENT AND MEMBER OF THE INDIAN DELEGATION, ON AGENDA ITEM 72 – NATIONALITY OF NATURAL PERSONS IN RELATION TO THE SUCCESSION OF STATES AT THE SIXTH COMMITTEE OF THE 63<sup>RD</sup> SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY ON OCTOBER 21, 2008



Mr. Chairman,

We commend the International Law Commission for

preparing the Draft articles on "Nationality of natural persons in relation to the succession of States" which were presented to the U.N.

General Assembly in 1999. This was done in response to the problems of nationality arising from State succession. The Draft Articles emphasize that the legitimate interests of States and individuals in nationality rights, as guaranteed by the Universal Declaration of Human Rights of 1948, are governed by national law within limits set by international law.

To recall briefly, Article 1 provides that every person has a right to a nationality. "Succession" is defined as the replacement of one state by another in the responsibility for the international relations of that territory.

Article 3 provides an important clarification on the scope of the Draft Articles limiting it to only those cases of succession of states that have occurred in conformity with international law and the United Nations Charter. Accordingly, occupation of territory by use of force or separation of territories involving the rights of third States without their consent is outside the scope of these Draft Articles.

The presumption of nationality of the successor state in the territory of which persons have their habitual residence, noted in Article 5, plays an important role in the scheme of the Draft Articles. Article 11 provides the right of option to choose between the predecessor and the Successor State. However it is expected that the option should be exercised within a limited time

prescribed by the State concerned. Article 10 states the obvious principle of loss of nationality on voluntary acquisition of the nationality of another State. In this regard the Draft Articles tread a delicate path and do not endorse or denounce the right of States to grant or recognize dual or multiple nationalities.

Part II of the Draft Articles addresses various scenarios involving different categories of succession of States, including transfer of territory. The provisions in this part are generally satisfactory in explaining the implications of the general principles and adapting them to each of the categories of succession mentioned therein.

Mr. Chairman,

The draft Articles proposed by the International Law Commission can play a useful role in guiding States in establishing suitable national legislation on nationality. While they indicate several important principles, their status is essentially one of guidelines. Accordingly they honor the primacy of domestic law as long as the principles of non-discrimination, right of nationality and right of option are duly recognized as required by international law.

We endorse the recommendation of the International Law Commission that these Draft Articles be adopted in the form of a Declaration by the General Assembly. This would allow the

States the necessary flexibility in applying the principles contained therein.

Thank You

[BACK TO TABLE OF CONTENTS](#)