

ARTICLES ON NATIONALITY OF NATURAL PERSONS IN RELATION TO THE SUCCESSION OF STATES

At the forty-eighth session of the General Assembly, in 1993, following the recommendation of its Sixth Committee (A/48/612), the Assembly adopted resolution 48/31 of 9 December 1993, by which, having considered the report of the International Law Commission on the work of its forty-fifth session (A/48/10), it endorsed, *inter alia*, the decision of the Commission to include in its agenda the topic “State succession and its impact on the nationality of natural and legal persons”, on the understanding that the final form to be given to the work on the topic would be decided after a preliminary study was presented to the General Assembly.

At its forty-sixth session, in 1994, the International Law Commission appointed Mr. Václav Mikulka as Special Rapporteur for the topic. At the forty-ninth session of the General Assembly, following the recommendation of its Sixth Committee (A/49/738), the Assembly adopted resolution 49/51 of 9 December 1994 by which, having considered the report of the International Law Commission on the work of its forty-sixth session (A/49/10), the Assembly again endorsed the decision of the Commission to undertake work on the topic in accordance with the terms of resolution 48/31. By resolution 49/51, the General Assembly also requested the Secretary-General to invite Governments to submit relevant materials to the Commission, including national legislation, decisions of national tribunals and diplomatic and official correspondence relevant to the topic.

At its forty-seventh and forty-eighth sessions, in 1995 and 1996, respectively, the International Law Commission considered the first and second reports submitted by the Special Rapporteur (A/CN.4/467; A/CN.4/474 and Corr.1-2). At these sessions, the Commission also convened a Working Group entrusted with the mandate to identify issues arising out of the topic, categorize those issues which were closely related thereto, give guidance to the Commission as to which issues could be most profitably pursued given contemporary concerns, and present the Commission with a calendar of actions to be undertaken. At the fiftieth session of the General Assembly, in 1995, following the recommendation of its Sixth Committee (A/50/638), the Assembly adopted resolution 50/45 of 11 December 1995 by which, having considered the report of the International Law Commission on the work of its forty-seventh session (A/50/10), it took note of the beginning of the work on the topic and invited the Commission to continue its work on the matter along the lines indicated in the report. By the same resolution, the General Assembly requested the Secretary-General to again invite Governments to submit materials relevant to the topic.

At its forty-eighth session, the International Law Commission, in accordance with the conclusions of the Working Group, recommended to the General Assembly that it take note of the preliminary study of the topic and that it request the Commission to undertake the substantive study of the topic entitled “Nationality in relation to the succession of States”, on the understanding that, *inter alia*: (a) consideration of the question of the nationality of natural persons would be separated from that of the nationality of legal persons and that priority would be given to the former; (b) without prejudicing a final decision, the result of the work on the question of the nationality of natural persons should take the form of a declaration of the General Assembly consisting of articles with commentaries; and (c) the decision on how to proceed with respect to the question of the nationality of legal persons would be taken upon completion of the work on the nationality of natural persons and in the light of the comments that the General Assembly may invite States to submit to it on the practical problems raised by a succession of States in the field of legal persons (Report of the Working Group,

A/CN.4/L.507; Oral report by the Chairman of the Working Group, Report of the International Law Commission, A/51/10).

At the fifty-first session of the General Assembly, in 1996, following the recommendation of its Sixth Committee (A/51/626), the Assembly adopted resolution 51/160 of 16 December 1996, by which, having considered the report of the International Law Commission on the work of its forty-eighth session (A/51/10 and Corr.1), it took note of the completion of the preliminary study of the topic and requested the Commission to undertake the substantive study of the topic on the basis of the modalities provided for in its report.

At its forty-ninth session, in 1997, the Commission proceeded to examine the third report submitted by the Special Rapporteur (A/CN.4/480 and Add.1). The Commission adopted on first reading a draft preamble and a set of twenty-seven draft articles on the nationality of natural persons in relation to the succession of States, with commentaries, and decided to transmit them, through the Secretary-General, to Governments for comments and observations. At its fifty-second session, in 1997, following the recommendation of its Sixth Committee (A/52/648), the General Assembly adopted resolution 52/156 of 15 December 1997 by which, having considered the report of the International Law Commission on the work of its forty-ninth session (A/52/10), it drew the attention of Governments to the importance for the Commission of having their views on the draft articles, and urged them to submit their comments and observations in writing.

At its fifty-first session, in 1999, the Commission had before it a compilation of information provided by Governments (A/CN.4/493 and Corr.1) and a memorandum by the Secretariat containing an overview of the comments and observations of Governments, made either orally in the Sixth Committee or in writing. (A/CN.4/497). The Commission decided to re-establish the Working Group to review the text of the draft articles adopted on first reading, taking into account comments and observations received by Governments. On the basis of the report of the Chairman of the Working Group (A/CN.4/L.572), the Commission referred the draft preamble and a set of twenty-six draft articles to the Drafting Committee. Having considered the report of the Drafting Committee, the Commission adopted the final draft articles on nationality of natural persons in relation to the succession of States, with commentaries. At the same session, the Commission decided to recommend that the General Assembly adopt the draft articles in the form of a declaration (Report of the International Law Commission, A/54/10).

At the fifty-fourth session of the General Assembly, in 1999, following the recommendation of its Sixth Committee (A/54/610), the Assembly adopted resolution 54/112 of 9 December 1999 by which, having considered the report of the International Law Commission on the work of its fifty-first session (A/54/10), it decided to include in the provisional agenda of its fifty-fifth session, in 2000, an item entitled "Nationality of natural persons in relation to the succession of States", with a view to the consideration of the draft articles and their adoption as a declaration. By the same resolution, the General Assembly also invited Governments to submit comments and observations on the question of a convention on nationality of natural persons in relation to the succession of States, with a view to the Assembly considering the elaboration of such a convention at a future session.

At the fifty-fifth session of the General Assembly, in 2000, the Assembly, on the recommendation of its Sixth Committee (A/55/610), adopted resolution 55/153 of 12 December 2000, by which the Assembly took note of the articles, which were annexed to the resolution, invited Governments to take into account, as appropriate, the provisions contained in the articles in dealing with issues of nationality of natural

persons in relation to the succession of States and recommended that all efforts be made for the wide dissemination of the text of the articles. It also decided to include in the provisional agenda of its fifty-ninth session, in 2004, an item entitled “Nationality of natural persons in relation to the succession of States”.

At its fifty-ninth session, in 2004, the General Assembly, on the recommendation of its Sixth Committee (A/59/504), adopted resolution 59/34 of 2 December 2004, by which it reiterated its invitation to Governments to take into account, as appropriate, the provisions of the articles in dealing with issues of nationality of natural persons in relation to the succession of States. It encouraged the elaboration, at the regional or subregional level, of legal instruments regulating questions of nationality of natural persons in relation to the succession of States, with a view, in particular, to preventing the occurrence of statelessness as a result of a succession of States, and invited Governments to submit comments concerning the advisability of elaborating a legal instrument on the question of nationality of natural persons in relation to the succession of States, including the avoidance of statelessness as a result of a succession of States. The Assembly further decided to include the item in the provisional agenda of its sixty-third session.

At its sixty-third session, in 2008, the General Assembly, on the recommendation of its Sixth Committee (A/63/436), adopted resolution 63/118 of 11 December 2008, which reiterated the requests and invitations contained in resolution 59/34.

At its sixty-sixth session, in 2011, the General Assembly, on the recommendation of its Sixth Committee (A/66/469), adopted resolution 66/92 of 9 December 2011. The Assembly reiterated its invitation to Governments to take into account, as appropriate, the provisions of the articles contained in the annex to resolution 55/153, in dealing with issues of nationality of natural persons in relation to the succession of States. The Assembly once again encouraged States to consider, as appropriate, at the regional or subregional levels, the elaboration of legal instruments regulating questions of nationality of natural persons in relation to the succession of States, with a view, in particular, to preventing the occurrence of statelessness as a result of a succession of States. The Assembly emphasized the value of the articles in providing guidance to the States dealing with issues of nationality of natural persons in relation to the succession of States, in particular concerning the avoidance of statelessness, and it decided that, upon the request of any State, it will revert to the question of nationality of natural persons in relation to the succession of States at an appropriate time, in the light of the development of State practice in those matters.