



Monday, 4 October 1954,
at 3.15 p.m.

New York

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Chairman: Mr. Francisco V. GARCIA AMADOR
(Cuba).

AGENDA ITEM 49

Report of the International Law Commission on the work of its sixth session (except chapter III) (A/2693)

At the invitation of the Chairman, Mr. Sandström, Chairman of the International Law Commission, took a seat at the Committee table.

1. The CHAIRMAN invited Mr. Sandström, Chairman of the International Law Commission, to introduce the Commission's report (A/2693).
2. Mr. SANDSTRÖM (Chairman of the International Law Commission) said that the International Law Commission had accomplished a normal volume of work at its sixth session and that it had concerned itself particularly with subjects referred to it by the General Assembly and other organs of the United Nations.
3. He was prepared, should the need arise, to give any information additional to that contained in the Commission's report that might facilitate the debate.
4. The CHAIRMAN recalled that at its preceding meeting the Committee had decided to consider chapter II of the report first and to discuss chapter III at a later time. No decision had been taken with regard to the consideration of chapters IV and V, which contained no recommendations for action by the General Assembly.
5. Sir Gerald FITZMAURICE (United Kingdom), speaking on a point of order, thought that the Sixth Committee had decided to take up as its first item the whole of the Commission's report, with the sole exception of chapter III. That decision was recorded in the Sixth Committee's agenda (A/C.6/L.328).
6. In any event, he proposed that, after it had completed its discussion of chapter II, the Committee should proceed to discuss chapters IV and V.
7. Mr. CHAUMONT (France), Mr. NISOT (Belgium), Mr. TARAZI (Syria), Mr. MAURTUA (Peru) and Mr. HEDGE (India) supported the proposal.
8. Mr. MOROZOV (Union of Soviet Socialist Republics) was also in favour of the suggested procedure,

but he pointed out that, inasmuch as chapters IV and V contained no recommendations, the Committee should refrain from taking substantive decisions concerning them.

The United Kingdom proposal was adopted.

Chapter II: Nationality, including statelessness

GENERAL DEBATE

9. The CHAIRMAN invited the Committee to consider chapter II of the report of the International Law Commission (A/2693).
10. After reviewing the background of the subject, he pointed out that, as would be seen from paragraphs 36 and 39 of the report, parts two and three of chapter II did not call for any action by the Committee; part one, on the other hand, contained two draft conventions, one on the elimination and the other on the reduction of future statelessness, and it was for the Committee to decide which should be given preference.
11. He noted that a United Nations Conference on the Status of Stateless Persons that had met at Headquarters from 13 to 23 September 1954 had adopted a Convention Relating to the Status of Stateless Persons, dealing with present cases of statelessness.
12. Mr. GEBARA (Lebanon) said that a number of governments, including his own, had, in accordance with the Commission's request, submitted their comments on the two draft conventions concerning future statelessness. He wondered whether the silence of other governments meant that they accepted the drafts.
13. Mr. PRATT DE MARIA (Uruguay) replied that the commitments involved were so important that they must be accepted expressly. Silence could not be taken to signify approval.
14. Sir Gerald FITZMAURICE (United Kingdom) pointed out that the two subjects of statelessness and refugees, though closely related, were, at least theoretically, distinct. In certain circumstances, perhaps even with resulting hardship to the individual concerned, a refugee might not have been deprived of the nationality of the country that he had left. On the other hand, a person who lost his nationality by mere operation of law, as, for example, upon marriage to a foreign national, might become stateless without being a political refugee. Regardless, however, of the manner in which it arose, statelessness always entailed a degree of hardship to the individual concerned. That was especially true in a world in which insistence on national sovereignty was so prominent a feature.
15. Before the First World War, cases of statelessness had been comparatively infrequent. Moreover, in the conditions prevailing at that time, with passports a rarity and travel virtually unrestricted, many of the

practical inconveniences of statelessness did not arise. But two great wars had transformed statelessness into a grievous burden and tragedy and had thereby created a problem of the first magnitude. Consequently, any effort directed to reducing and, if possible, eliminating, the problem of statelessness, deserved every encouragement.

16. The draft conventions before the Committee were the result of a joint initiative of the International Law Commission and of the Economic and Social Council. The Commission, at its very first session, in 1949, had selected the subject of "Nationality, including statelessness", as a topic for codification.¹ In 1950, the Economic and Social Council by its resolution 319 B (XI), section III, had urged the Commission to give priority to the preparation of draft conventions on the subject. At its fifth session, held in 1953, the Commission had produced draft texts (A/2456, chapter IV) on which certain governments had since communicated their comments (A/2693, annex).

17. The United Kingdom Government welcomed the principle of the draft conventions, both on humanitarian grounds and because the text represented a commendable effort on the part of the International Law Commission to produce practical proposals on a difficult subject. Inevitably, however, any international convention for reducing or eliminating statelessness would call for certain changes in national law and practice. The attitude of the United Kingdom would depend not only on the actual provisions of such a convention, but also upon its probable chances of securing general acceptance. The United Kingdom could not contemplate amendments to its nationality law merely for the sake of principles that might not be internationally applied.

¹ See *Official Records of the General Assembly, Fourth Session, Supplement No. 10*, para. 16.

If, on the other hand, conventions were to emerge that appeared possible of practical application and likely to meet with general approval, the United Kingdom would certainly examine the possibilities of introducing the necessary legislative amendments.

18. In general, the United Kingdom Government preferred the convention on the elimination of future statelessness to the convention on the reduction of future statelessness, because the former seemed directed towards the more desirable objective. Both texts, however, were broadly acceptable, though certain points would undoubtedly require amendment.

19. The International Law Commission had also proposed in chapter II, part two, certain draft articles relating to present statelessness. Although those articles were expressly stated to be only suggestions, he feared that they largely represented a waste of effort. The Conference of Plenipotentiaries held in New York in September 1954, to determine the readiness of States to give to stateless persons the benefits accorded to refugees under the Convention Relating to the Status of Refugees had resulted in a convention that granted to stateless persons a status somewhat less favourable than that accorded to refugees. That convention was doubtless a statement of the maximum concessions that States were prepared to make at the moment. In many instances it accorded stateless persons the same treatment as aliens generally, and only in certain instances did it guarantee equal treatment for stateless persons and nationals. The States signatory to that convention were not likely to respond to an immediate call for greater generosity.

20. He reserved his delegation's right to comment later on the articles suggested by the International Law Commission.

The meeting rose at 4.35 p.m.