



Statement by
Mr. Mohammad Sadegh Talebizadeh Sardari,
Representative of the Islamic Republic of Iran
before the
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On Agenda item 79:
“Diplomatic Protection”
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Mr. Chairperson,

My delegation believes any legal regime on diplomatic protection must strike a proper balance among the rights of individuals, the rights and discretionary powers of concerned States as well as their national and international obligations. It is doubtful that the current articles on diplomatic protection can properly observe that balance.

In addition, a number of critical draft articles do not reflect customary international law rather represent the progressive development of international law leading us away from consensus. For instance, article 7 pertaining to “Multiple nationality and claim against a State of nationality” and article 8 concerning “Stateless persons and refugees” have been formulated on the basis of the case law of regional tribunals or *sui generis* tribunals, which hardly reflect existing customary international law. In its commentary to article 7, the International Law Commission explains why it used the word “predominant” in lieu of “dominant” or “effective” nationality to convey the element of relativity. However, it would be difficult to define a criterion for establishing the predominance of one nationality over another.



Thus, instead of proposing a normative solution, article 7 only increases the uncertainty and ambiguity around the topic.

Furthermore, **Mr. Chariperson**, the drafting articles function contrary to the Constitutions of countries which do not recognize dual nationality or the legal effects arising from the secondary nationality of their citizens. In those cases, the attempt to exercise diplomatic protection by one State in the territory of another State wherein the latter does not recognize dual nationality would create uncertainty and ambiguity about States' obligations, if it does not already create political arguments and difficulties in bilateral relations. Moreover, we are of the conviction that article 15 (b) and (d) are vague or hypothetical. Although the Commission has identified that the articles would not be concerned with the primary rules in its commentaries, the wording of some provisions suggest otherwise. For instance, each State should decide who its nationals are in accordance with its laws and regulations. In that context, the final phrase in article 4 pursuant to which the acquisition of nationality must not be inconsistent with international law, as well as the example cited in the commentary thereto, are not clear.

Bearing this in mind, my delegation, in line with its previous position, still believes more time is needed to consider the content of the draft articles and decide on its future.

I Thank you, Mr. Chairperson.