United Nations Conference on the Elimination or Reduction of Future Statelessness

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Summary Records, 1st meeting of the Committee of the Whole

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE FIRST MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 1 April 1959, at 4.30 p.m.

Acting Chairman, later Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

CONTENTS:

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations attending the Conference was issued as document A/CONF.9/9.

A list of documents pertaining to the Conference was issued as document A/CONF.9/L.79.

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ELECTION OF CHAIRMAN AND VICE-CHAIRMEN

The ACTING CHAIRMAN called for nominations for the offices of Chairman and Vice-Chairmen of the Committee of the Whole Conference.

Mr. ROSS (United Kingdom) proposed Mr. Larsen (Denmark), Acting Chairman, for the office of Chairman.

Rev. Father de RIEDMATTEN (Holy See) and Sir Claude COREA (Ceylon) seconded that proposal.

Mr. Larsen (Denmark) was unanimously elected Chairman

Mr. SCHMID (Austria) proposed Mr. Kawasaki (Japan) and Mr. Calamari (Panama) as Vice Chairmen of the Committee.

Mr. Kawasaki (Japan) and Mr. Calamari (Panama) were unanimously elected Vice-Chairmen.

EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda)

Draft convention on the reduction of future statelessness (A/CONF.9/L.1)

The CHAIRMAN invited the Committee to discuss articles 6 and 7 of the draft convention on the reduction of future statelessness.

Article 6

Mr. SIVAN (Israel) pointed out that under the law of Israel a child would in certain circumstances automatically lose his nationality if his parent lost his nationality by renouncing it. Similarly, if a parent were deprived of his nationality after due judicial process, the court would also have the power to deprive the child of his nationality. The position, which he understood to be the same under the law of other countries, should be given careful consideration by the Committee.

While anxious to adhere to the principle enunciated in article 6, his delegation thought it should be provided that a child would retain his nationality only if he remained in the country of his nationality. If article 6 were amended along those lines it would be acceptable to the Israel delegation. He would submit an amendment at a later stage.

Mr. IRGENS (Norway) said that the position in Norway was similar to that in Israel. A Norwegian citizen born abroad who did not maintain normal relationships with his country lost his nationality at twenty-two years of age. The Norwegian delegation could not, therefore, accept article 6 as drafted.

Mr. JAY (Canada), stating that his delegation could accept article 6 a. it stood, expressed the hope that any amendment submitted would remain as close as possible to the principle enunciated in the International Law Commission's text.

Mr. BACCHETTI (Italy), Mr. RIPHAGEN (Netherlands) and Mr. TSAO (China) said that their delegations could accept article 6 as drafted.

Mrs. TAUCHE (Federal Republic of Germany) suggested that, if article 7. paragraph 3 were amended to include all nationals of a country and not only natural-born nationals, the problem raised by article 6 might be solved.

Mr. ROSS (United Kingdom), referring to the statements of the representatives of Israel and Norway, expressed the hope that representatives we not attending the Conference in such a spirit that they would not agree with any thing that conflicted with the laws of their countries, but were prepared to recommend their Governments to make certain changes in their laws in order to reduce statelessness.

With regard to article 6, the representatives of Israel and Norway might, c reconsideration, consider that their Governments could make a concession and consequently submit an amendment to article 1 at a later stage in the debate. In his view, article 6 related to loss of nationality by operation of the law an not to the case of deprivation by decision of the executive or judicial authorities. If his interpretation were correct, it might have some bearing on the position of countries- such as Israel and on the form which any amendment submitted by the delegation of Israel would take.

Sir Claude COREA (Ceylon), referring to the point raised by the representative of Israel, said that his delegation was in favour of article 6 as a whole, but asked whether it was intended that the spouse and children of a person who renounced his nationality voluntarily should be forced to retain thei previous nationality.

The CHAIRMAN said that article 6 should follow articles 7, 8 and 9 and suggested that its discussion be postponed until after consideration of those articles.

It was so agreed.

Article 7, paragraph 1

Sir Claude COREA (Ceylon) said that his delegation found it difficult to accept paragraph 1, since it conflicted with the law of Ceylon, which provided that if a person renounced his nationality that act should be registered and he should no longer be considered a citizen of Ceylon.

Rev. Father de RIEDMATTEN (Holy See) said that his delegation would hesitate to approve a provision such as paragraph 1, which might permit of forced repatriation.

Mr. TSAO (China) pointed out that nationality carried with it responsibilities and obligations as well as rights and privileges. By merely renouncing his nationality, a person might evade some of his responsibilities, such as military service. Paragraph 1, as drafted, would protect the country whose nationality such a person wished to renounce.

Mr. JAY (Canada) said that under Canadian law mere renunciation of nationality did not result in its loss unless another nationality were acquired. There was however a provision that the Governor in Council, on a report from a responsible Minister, could deprive a citizen of his nationality. While the question of possible statelessness would be given full consideration before such a decision was taken, it would not be an overriding factor.

If the Conference recognized the distinction between loss of nationality by mere renunciation and loss by a subsequent act of the executive, his delegation would be able to accept article 7 as drafted. If, however, the Conference did not recognize that distinction, his delegation would have to consider very careful its position with regard to paragraph 1.

Mr. ABDEL MAGID (United Arab Republic) asked whether the Executive Secretary could explain paragraph 1, since his delegation had some doubts about its meaning.

Mr. LIANG, Executive Secretary of the Conference, said that he would consult the records of the International Law Commission and give a full reply to the representative of the United Arab Republic at a later meeting. His own opinion was that the International Law Commission had not intended to enunciate in paragraph 1 the principle that an individual should be debarred from renouncing his nationality. Article 7 as drafted would protect an individual who declared

his intention of renouncing his nationality vis-à-vis the State of which he was a national and such a declaration would not automatically lead to the loss of his nationality until his purpose of changing his nationality was fulfilled. Paragraph 1 did not attempt to resolve the controversy regarding the freedom of expatriation.

Like the representative of France, he had attended the Hague Conference for the Codification of International Law of 1930 and had been struck by the solemn declaration of one of the participating States to the effect that expatriation was a natural right and that a provision in any convention conflicting with that principle would not be accepted by that State.

The commentary to article 6 in the report of the International Law Commission on its fifth session (A/2456) did not deal in detail with the question of the right of an individual to expatriate himself. Article 6 of the Hague Convention on Certain Questions relating to the Conflict of Nationality Laws referred to the question of renunciation of nationality, but only in connexion with the possibility of renunciation of nationality by a person possessing two nationalities acquired without any voluntary act on his part. Chapter II, article 7, of the Hague Convention provided that the issuance of an expatriation permit should not entail loss of the nationality of the State which issued it unless the person to whom it was issued possessed another nationality or unless and until he acquired another nationality.

The CHAIRMAN, speaking as the representative of Denmark, said that his Government was prepared to amend its laws if such amendment were called for by any of the provisions of the convention adopted by the Conference.

In the past, certain countries had encouraged their nationals to renounce their nationality when they went to reside abroad. If a provision such as paragraph 1 were not included in the convention, the number of stateless persons might increase and the State of residence referred to in article 1 might be obliged to grant nationality to such persons.

Certain delegations were understandably reluctant to impose upon anyone the duty to remain a national of a country whose Government he could not support, but such a person would probably become a refugee in his country of residence and would then enjoy the privileges and benefits of the Convention on the Status of Refugees.

Although a person might have serious reasons for wishing to sever all ties with the country of which he was a national, it would be difficult to distinguish between permissible and impermissible renunciation. Paragraph 1 could be accepted by all countries where normal political conditions prevailed and should remain as drafted.

Sir Claude COREA (Ceylon) expressed doubt whether a country which accepted the voluntary renunciation of citizenship by one of its nationals would be considered as one where abnormal political conditions prevailed. A person of full age and sound mind should be allowed voluntarily to renounce his nationality. Under the law of Ceylon, a voluntary renunciation was first considered by a Minister and if approved was registered. If an attempt were made to prevent such a voluntary renunciation being made it might be said that the Government of Ceylon was preventing one of its citizens from using his own discretion.

Ceylon was prepared to amend its legislation provided that the provisions of the convention were reasonable, but his delegation could not accept paragraph 1 unless it were amended to indicate that in order to be valid a declaration of renunciation of nationality must be made by an individual of full age and sound mind and must be a voluntary act.

The CHAIRMAN, speaking as the representative of Denmark, agreed that individuals who wished for legitimate reasons to renounce their nationality and sever all political links with their country should be allowed to do so. On the other hand, those who had no legitimate reasons for so doing but merely wished to change their nationality in order to avoid taxation or for similar reasons should not be allowed to renounce it. The obligations of countries with a large number of alien residents would be increased if such persons were permitted to renounce their nationality without acquiring another and so become stateless. The result might be a general tightening of immigration laws.

In considering paragraph 1, representatives should also bear in mind the provisions of article 1 and the obligations it imposed on the host country.

Mr. ROSS (United Kingdom) agreed that it was difficult to discover from the records of the International Law Commission exactly what the Commission's intentions had been in including the paragraph under discussion. His delegation

was in favour of retaining the paragraph however since it represented a considerable advance on the corresponding provision in the Hague Convention of 1930. While that Convention provided that "a person possessing two nationalities acquired without any voluntary act on his part may renounce one of them with the authorization of the State whose nationality he desires to surrender", the International Law Commission had proposed that renunciation of nationality should be impermissible "unless the person renouncing it has or acquires another nationality."

There were, in his view, three reasons why an individual should not be permitted to renounce his nationality and become stateless. First, a person renouncing his nationality for reasons of spite or temporary dissatisfaction might later have cause to regret his decision. Secondly, the children of a person who had renounced his nationality might regret his decision to become stateless. Thirdly, as the Chairman had pointed out, renunciation of nationality created many problems in connexion with the administration of aliens.

As evidence that his Government supported the principle of paragraph 1, he would point out that for the past ten years under English law no citizen of his country could renounce British nationality unless he already possessed another nationality.

Mr. JAY (Canada) took the view that the intention of paragraph 1 was to prevent statelessness and to ensure that no one could deprive himself of nationality by hasty, unconsidered action. If the provision were to be automatic in operation so that unilateral action by an individual could not in any circumstances cause him to lose his nationality until he had had time to consider what he was doing, his delegation would accept it. It was essential both to protect people from themselves and to protect countries from being saddled for ever with those who desired no nationality.

Mr. BACCHETTI (Italy) said that his delegation strongly favoured retaining paragraph 1 since it appeared to represent an admirable compromise between the interests of the individual and those of the State.

It was generally held that the rights of the individual should at all costs be protected and on that basis it might be argued that a person wishing to renounce his nationality should be permitted to do so. But persons wishing to

renounce their nationality for reasons such as those given by the United Kingdom representative were the exception rather than the rule and it would be preferable to offer protection to the normal person rather than licence to the exceptional one.

The article also safeguarded the interests of States, first because it recognized that nationality entailed certain obligations which should not be renounced by unilateral action and, secondly, because it would relieve States of the responsibility of harbouring persons who did not wish to possess any nationality.

The meeting rose at 6.05 p.m.