

**United Nations Conference on the Elimination or Reduction of Future
Statelessness**

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE TWELFTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 9 April 1959, at 3 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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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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(9 p.)

QUESTION OF THE SIGNATURE OF THE FINAL ACT OF THE CONFERENCE

The CHAIRMAN said that the Final Act of the Conference could be signed either by the President, the Vice-Presidents and the Executive Secretary, or by them and all heads of delegations as well. If the discussion were not completed until 17 April, the Final Act would not be ready for signature until 20 or 21 April.

Mr. TSAO (China) said that since some heads of delegations were leaving Geneva before 20 April, it would be better to make arrangements for the Final Act to be signed only by the President, Vice-Presidents and Executive Secretary.

Mr. ROSS (United Kingdom) agreed with the representative of China.

It was agreed that the Secretariat should proceed on the assumption that the Final Act would be signed only by the President, the Vice-Presidents and the Executive Secretary unless it could be prepared for signature on 17 April

EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (resumed from the eleventh meeting)
Draft convention on the reduction of future statelessness (A/CONF.9/L.1) (resumed from the eleventh meeting)

Title

The CHAIRMAN suggested that the Committee should agree on "Convention on the Reduction of Statelessness" as the title of the convention.

It was so agreed.

Article 8 (A/CONF.9/L.11 and Corr.1, L.14, L.25, L.32, L.36) and article 1, paragraph 3 (A/CONF.9/L.19) (resumed from the eleventh meeting)

Mr. JAY (Canada) said that there were several possible ways in which the nationality laws could protect the State and at the same time safeguard the interests of the citizen. Although the laws of some countries contained no provisions concerning the deprivation of nationality, those of most countries did contain such provisions. He was in favour of drafting article 8 in such general terms that it would be possible for parties to protect themselves against abuse of their nationality laws in many different ways.

If the International Law Commission's text for article 8 (A/CONF.9/L.1) were adopted, a party would be able to deprive persons of its nationality so as to render them stateless only on the ground mentioned in article 7 or on the ground that they voluntarily entered or continued in the service of a foreign country in disregard of an express prohibition. In his opinion, if the Conference were prepared to accept that relatively unimportant ground, which his country did not need, a party should be free to deprive persons of its nationality, even if that

rendered them stateless, on other more serious grounds as well and for that reason he preferred the United Kingdom delegation's text (A/CONF.9/L.11 and Corr.1) to the draft text or even to that of the Turkish delegation (A/CONF.9/L.25) as a basic text for article 8.

He proposed that the Committee should take the United Kingdom text as the basis for its discussion on article 8.

The United Kingdom text contained little that was not already embodied in Canadian legislation. Precisely because the acquisition of Canadian citizenship had been made easy, in self-protection Canada needed provisions under which persons could be deprived of its citizenship. A person could not be deprived of Canadian citizenship by way of penalty but could be deprived of it on the ground of having obtained it by fraud and on three other grounds, of which one was failure of a naturalized Canadian citizen to return to Canada when required to do so in order to answer a charge of treachery; that case was adequately covered by the United Kingdom text. The other two grounds were set out in his delegation's amendment (A/CONF.9/L.36) to the United Kingdom text.

The CHAIRMAN ruled, in connexion with the Canadian amendment, that remarks concerning the renunciation of nationality were out of order since in approving the text of article 7 the Committee had disposed of the provisions relating to renunciation of nationality.

Mr. JAY (Canada) said that that article related only to renunciation of nationality which resulted automatically in loss of nationality.

The CHAIRMAN maintained his ruling.

Mr. JAY (Canada) said that under Canadian law a person could not be deprived of Canadian citizenship on the ground of having been sentenced to imprisonment. He was therefore opposed to the Netherlands amendment (A/CONF.9/L.32) although it was preferable to the French amendment (A/CONF.9/L.14, paragraph 1)

His delegation had submitted its amendment primarily in order to make its views clear. As he had indicated, article 8 should be drafted in general terms. He would suggest that the Drafting Committee prepare a text which would cover the whole of the substance of the United Kingdom text, his delegation's amendment thereto and some of the other reasonable suggestions made by other delegations without mentioning all the details of the United Kingdom's text and his delegation's amendment. If such a text was not submitted, he might press for his delegation's amendment to be put to the vote.

Mr. LEVI (Yugoslavia) said that he would be unable to vote for the International Law Commission's text for article 8.

Mr. HERMENT (Belgium) requested that paragraph 3 of his delegation's amendment to article 1 (A/CONF.9/L.19) be considered before any further discussion on article 8.

In reply to a question by Mr. HARVEY (United Kingdom), he said he wished the text in that paragraph to be treated as an amendment to article 1 and not to article 8 because he wished parties to be able to refuse, on the grounds mentioned in the text, to grant their nationality to persons to whom the text adopted by the Committee for article 1 applied. If his text were not added to article 1 and the grounds mentioned in it were added to those for deprivation of nationality mentioned in article 8, parties would be constrained to grant their nationality to persons to whom his text applied only to deprive them of it immediately afterwards.

The amendment to his text suggested by the French representative at the preceding meeting was acceptable.

Mr. FAVRE (Switzerland) said that the differences of view regarding the texts of the Belgian and French delegations were due to the differences between the systems followed in the various countries. His delegation could have voted for the International Law Commission's text for article 8 of the draft convention on the elimination of future statelessness, but it was prepared to agree to the inclusion in the article of a number of additional clauses such as those proposed by the delegations of the United Kingdom and Canada - even though their inclusion might create some cases of statelessness - because it realized that States whose nationality was comparatively easy to acquire should have the power to deprive of their nationality unworthy persons to whom they had granted it. A citizen of Switzerland could not be deprived of Swiss nationality, but the Swiss authorities exercised great caution in granting it. The substance of the text of the Belgian and French delegations should be embodied in article 1 to protect countries such as Switzerland and the substance of the additional clauses proposed by the delegations of the United Kingdom and Canada should be included in article 8 to protect countries which followed a different system from that applied in Switzerland.

Mr. RIPHAGEN (Netherlands) said that the words in paragraph 3 of the Belgian amendment to article 1 as amended by the French representative, "having shown himself to be obviously unworthy" and "an activity detrimental to national security", were somewhat vague. The Committee should not accept as proof of

treachery or disloyalty or of "activity detrimental to national security" anything less than a decision of a court of law. That was why his delegation had submitted its amendment (A/CONF.9/L.32) to the United Kingdom text. He hoped that in the light of his remarks the delegations of Belgium and France would agree to revise their amendments.

Mr. HERMENT (Belgium) said that in his country only serious crimes were punishable by imprisonment "for a term of not less than five years".

Mr. HUBERT (France) withdrew paragraph 1 of his delegation's amendment (A/CONF.9/L.14) to the United Kingdom text for article 8.

Mrs. TAUCHE (Federal Republic of Germany) asked whether the Belgian text for addition to article 1 would enable a party to refuse its nationality to a person to whom the existing text for that article applied and who had committed a crime for which he would be sentenced to imprisonment for five years or more, but had not actually been sentenced to imprisonment at the time he made a declaration of the kind mentioned in the article.

Mr. BACCHETTI (Italy) said that he still entertained the misgivings regarding the Belgian delegation's text which he had expressed at the Committee's fifth meeting. The Netherlands representative's remarks regarding the question of proof were pertinent; the words "having shown himself to be obviously unworthy" were not sufficiently explicit.

Mr. CARASALES (Argentina) said that the text which the Committee had approved for article 1 was well-balanced and formed a harmonious whole. The addition of the Belgian delegation's text was not acceptable for it would result in an increase in the number of cases in which jus sanguinis parties might refuse to grant their nationality to persons, and unless an appropriate clause was added to paragraph 4 of article 1 it would result in jus soli parties having to grant their nationality to persons who had committed crimes and had not been able to obtain the nationality of a jus sanguinis party.

Mr. HERMENT (Belgium) said that, clearly, his delegation's text would only enable parties to refuse to grant their nationality to persons who had committed crimes if such persons had actually been sentenced to imprisonment for five years or more; in practice, however, parties would surely be able to suspend the decision concerning the grant of nationality to persons charged with crimes punishable by imprisonment for five years or more until sentence had been passed.

It was untrue to say that the text adopted by the Committee for article 1 was harmonious for it would constrain jus sanguinis parties to grant their nationality even to persons who had shown themselves to be obviously unworthy of it.

Sir Claude COREA (Ceylon) said that he was fully in favour of embodying in article 1 the substance of the texts of the Belgian and French delegations. The wording however should be made more precise before it was put to the vote. The representative of Switzerland had explained the position very well.

Mr. ROSS (United Kingdom) asked whether the French representative intended the text he had suggested to cover more than the two types of act specifically mentioned in that text. If not, the formula of the Netherlands delegation for article 8 might be used for article 1 as well.

Mr. BACCHETTI (Italy) said that a distinction should be drawn between ordinary criminals and hot-headed youths who might be sentenced on political grounds but subsequently become worthy citizens. He therefore requested that the passages in the revised Belgian text which referred to offences against State security and to imprisonment for a criminal should be put to the vote separately.

The CHAIRMAN said that he would put to the vote first the revised Belgian text as a whole, then in paragraph 2 the passage dealing with offences against national security and finally in the same paragraph the passage restricting its application to persons sentenced for a criminal act to imprisonment for not less than five years.

Mr. HERMENT (Belgium) said that he must make it clear that he could not agree with the United Kingdom representative that the grounds for refusing an application for nationality and the grounds for depriving a person of his nationality should necessarily be identical.

In answer to a question from Mr. ROSS (United Kingdom), he said that the Belgian amendment meant that a person could be refused nationality on grounds of unworthiness other than those expressly mentioned.

Mr. HUBERT (France), agreeing with the Belgian representative's explanation, emphasized that, although the two cases mentioned specifically in the amendment were those his delegation thought most important and most likely to occur, the French Government would consider itself entitled to refuse to grant French nationality on other grounds of unworthiness as well.

After some procedural discussion, the CHAIRMAN put to the vote the Belgian amendment (A/CONF.9/L.1) as a whole, as orally amended by the French delegation.

The Belgian amendment as a whole and as orally amended was rejected by 12 votes to 11, with 8 abstentions.

The CHAIRMAN put to the vote the passage in paragraph 3 of the amendment, as orally amended, relating to activities prejudicial to national security.

That part of paragraph 3 of the amendment was approved by 16 votes to 4, with 8 abstentions.

The CHAIRMAN put to the vote the passage in paragraph 3 of the amendment, as orally amended, relating to persons sentenced for a criminal act to imprisonment for a term of not less than five years.

That part of paragraph 3 of the amendment was approved by 13 votes to 6, with 8 abstentions.

The CHAIRMAN said the text would be referred to the Drafting Committee.

After Mr. RIPHAGEN (Netherlands), Mr. BACCHETTI (Italy) and Mr. VIDAL (Brazil) had stated that they were obliged to reserve their position on article 1, as amended, the CHAIRMAN, speaking as the representative of Denmark, said that although he too wished to reserve the position of his delegation, he hoped that the efforts of the Conference to aid stateless persons would not be frustrated for the sake of a very few persons with criminal tendencies.

Mr. LEVI (Yugoslavia) said that with regard to article 3 of the draft convention he would confine his remarks to the United Kingdom amendment (A/CONF.9/L.11 and Corr.1). The distinction made in paragraph 2 of that amendment between natural-born nationals and others was unacceptable to his delegation. There were even stronger reasons for insisting on the loyalty of the former category of nationals. He therefore proposed that paragraph 2 (a) of the United Kingdom amendment should be redrafted to read:

"in the case of a natural-born national, on the ground of

- (i) voluntarily entering or continuing in the service of a foreign country in disregard of an express prohibition by the Party, or
- (ii) treachery or disloyalty:".

Mr. BERTAN (Turkey) said that his delegation withdrew sections (ii) and (iii) of the third paragraph of its amendment (A/CONF.9/L.25) since their provisions had been approved by the Committee.

His delegation's amendment differed from paragraph 1 of the United Kingdom amendment in restricting its provisions to nationals resident in the country. A country should not have the right to rid itself of undesirable persons by denationalizing and subsequently expelling them. Paragraph 2 of the Turkish amendment went beyond that of the United Kingdom in providing for deprivation of nationality in the case of a person who being abroad failed without good cause to report when officially called up for military service. That provision was essential in the case of countries with compulsory military service.

Mr. JAY (Canada) recalled that he had proposed that the United Kingdom amendment (A/CONF.9/L.11 and Corr.1) should be adopted as the basis for discussion of article 8.

Mr. VIDAL (Brazil) supported the Canadian proposal.

The Canadian proposal was adopted.

The CHAIRMAN pointed out that the Turkish amendment could be regarded as applying to the United Kingdom amendment.

Mr. MILEOSO (Portugal) said that the possession of a nationality was not only a human right but also a juridical reality with political implications. A State had the right to lay down conditions governing the grant of its nationality, and that right must in some cases prevail over the rights of individuals. The Portuguese National Assembly had recently enacted new nationality legislation which was inspired throughout by the desire to reduce statelessness to the minimum. The draft convention would be generally acceptable to his Government, which based its legislation on jus soli. His delegation could not however accept article 8 even with the United Kingdom amendment because the reservations it contained were not sufficiently rigorous. It was not clear why they did not cover the case of a person who had been but no longer was in the service of a foreign country, or why a person guilty of treachery should be deprived of his nationality only if he were not a natural-born national. The Yugoslav representative was right in holding that there was no reason why a State should be more generous towards a natural-born national than to a naturalized citizen. There was no such distinction in the Turkish amendment.

Portuguese nationality legislation provided for deprivation of nationality even if statelessness resulted in the case of persons who accepted public office in a foreign State or who performed their military service in a foreign State and in the case of persons convicted of offences against national security. In addition, a person might be debarred from acquiring Portuguese nationality if he had committed a serious crime. His delegation would be unable to accept any parts of the draft convention which conflicted with those provisions of Portuguese law, but he could support paragraph 2 of the French amendment (A/CONF.9/L.14), which was in keeping with Portuguese legislation.

The CHAIRMAN, in reply to a question by Mr. SIVAN (Israel), suggested that the United Kingdom amendment be discussed clause by clause.

Mr. JAY (Canada) said that he would ask for a vote on his delegation's amendment (A/CONF.9/L.36) only if the Yugoslav oral amendment to the United Kingdom amendment were rejected.

After some procedural discussion, Mr. ROSS (United Kingdom) moved the closure of the debate on his delegation's amendment as a whole.

Mr. TYABJI (Pakistan), supported by Mr. SUBARDJO (Indonesia), opposed the motion of closure on the grounds that delegations should have the opportunity of expressing their views on the amendment as a whole.

The United Kingdom motion was carried by 14 votes to 10, with 8 abstentions.

The CHAIRMAN invited debate on paragraph 1 of the United Kingdom amendment. Speaking as the representative of Denmark, he asked whether it was the intention of the Turkish delegation that paragraph 3 of the Turkish amendment should apply only to nationals not resident in the country. Did paragraph 1 of the amendment mean that nationals not resident in the country could be deprived of their nationality without the State being required to indicate that the deprivation was based on the grounds mentioned in paragraph 2?

Mr. BERTAN (Turkey) said that paragraph 3 of his delegation's amendment was independent of paragraph 1 and applied both to resident and non-resident nationals. The object of paragraph 1 was to exclude the possibility of loss of nationality in the case of citizens resident in the country. The paragraph did not mean that the State could at will deprive non-residents of their nationality. Paragraph 2 set forth the only circumstances in which such deprivation could occur.