

**United Nations Conference on the Elimination or Reduction of Future
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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE FOURTEENTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 10 April 1959, at 3 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LLING, 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.9/3.

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

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

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

Article 8 (A/CONF.9/L.11 and Corr.1, L.25, L.32, L.36, L.45, L.46) (resumed from
the twelfth meeting)

The CHAIRMAN said that, since all the amendments to article 8 of the draft convention, except the French amendment (A/CONF.9/L.14), related to paragraph 2 of the United Kingdom amendment (A/CONF.9/L.11 and Corr.1), that paragraph should be considered first.

He drew attention to paragraphs 1 and 2 of the Yugoslav amendment (A/CONF.9/L.46) and to paragraph 1 of the Canadian amendment (A/CONF.9/L.36).

Mr. JAY (Canada) said that, as he had stated at the twelfth meeting, his delegation would press its amendment to a vote only if the Yugoslav amendment were rejected.

Mr. LEVI (Yugoslavia), observing that paragraph 3 was dependent upon the adoption of paragraphs 1 and 2 of his delegation's amendment, stressed that the proposal was intended to ensure equal treatment of natural-born and naturalized persons.

The CHAIRMAN said that the Yugoslav representative would be given an opportunity to indicate the consequences of paragraphs 1 and 2 of his amendment if they were adopted.

Mr. CALAMARI (Panama) proposed that the words "in disregard of an express prohibition by the Party" in paragraph 2(a) and paragraph 2(b) (iii) of the United Kingdom amendment be replaced by the words "without the authorization of the Party". The provisions of the United Kingdom amendment would apply only to nationals already in the service of a foreign country since there could, in the nature of things, be no general prohibition preventing them from entering such service. An express prohibition would be required in each individual case. His delegation's amendment on the other hand would discourage nationals from entering foreign service since they would be aware of the consequences of such action; very few cases would be likely to occur. He had considered inserting in his amendment the word "previous" to qualify the word "authorization" but had decided not to do so because it seemed more liberal to give a person who had in ignorance entered the service of a foreign country an opportunity to apply for authorization ex post facto.

Mr. TYABJI (Pakistan) said the principle that a person could not, for valid reasons, be deprived of his nationality if statelessness would result was quite unacceptable to his delegation, especially because the exceptions listed in the United Kingdom amendment did not cover all the provisions of Pakistani nationality law. It was clear that no State would deprive a person of his nationality except for the gravest reasons. It was, therefore, a surprising consequence of the article that a person regarded as undesirable by one country should be given the right to acquire the nationality of another. The United Kingdom amendment provided for deprivation of nationality under certain conditions; the Pakistani delegation had proposed that a person might lose his nationality if while resident abroad he failed to register with a mission of the State of nationality within seven years, or if he had been sentenced to a term of imprisonment of one year. The difference between the points of view of the two delegations was consequently one of degree only, and it was hard to see why no concession had been made to his delegation's point of view.

His delegation's amendments, however innocuous, had been persistently opposed on the grounds that they were not in the interests of stateless persons. He would have found the position of other delegations, and in particular that of the United Kingdom, easier to understand if they had not made an exception in the case of criminals, the very case in which it was most necessary that a State should retain its responsibility. The effect of the United Kingdom amendment would be that the more notorious the criminal, the more readily he could be deprived of his nationality, and either become stateless or be foisted on some other country. Since exceptions were apparently admissible, it was difficult to understand why his delegation's amendment could not be accepted, for it would mean that a lesser criminal - one sentenced to only one year's imprisonment - could be deprived of his nationality. Pakistani legislation made no distinction between natural-born and naturalized nationals, so that his point respecting residence abroad would be met if the words "other than a natural-born national" were deleted from paragraph 2(b) of the United Kingdom amendment.

Mr. HARVEY (United Kingdom) said that his delegation would have preferred to exclude altogether the possibility of deprivation of nationality in the case of natural-born nationals. It had, however, respected the view of the International Law Commission, whose draft of article 8 allowed such

deprivation, though still holding that such deprivation should be regarded as an exception. Furthermore, it recognized that if the State could deprive a citizen of its nationality by reason of his voluntarily entering or continuing in the service of a foreign Power, then, a fortiori, the State should have the same right in the much graver cases of treason or disloyalty. Paragraph 2 of the Yugoslav amendment therefore was acceptable in principle, although the drafting might have to be revised.

Paragraph 1 of the Yugoslav amendment seeking to make no distinction between natural-born and naturalized nationals was not acceptable.

There was no objection in principle to the Panamanian oral amendment, but it was not to be preferred to the wording of paragraph 2(a) of the United Kingdom amendment, which followed the Commission's draft and, while empowering the State to deprive a person of its nationality, did not put the person in the position where he could lose his nationality almost without knowing it.

Mr. LEVI (Yugoslavia) said that he would agree to drafting changes in his delegation's amendment, provided that its principle was maintained.

Mr. BACCHETTI (Italy) said that his delegation was prepared - though somewhat reluctantly - to vote for paragraph 2(a) of the United Kingdom amendment.

The Panamanian amendment was unacceptable; the word "prohibition" was preferable to the word "authorization", since the former placed upon the State the responsibility for initiating action and more effectively safeguarded the rights of the individual.

Paragraph 2 of the Yugoslav amendment was also unacceptable because the terms treachery and disloyalty had no precise legal significance. In that matter the Committee should proceed with the utmost caution since a most important principle was involved. Paragraph 3 of the United Kingdom amendment did, it was true, provide for submission of the case to an independent body of a judicial character. But that provision would not become operative until after the person concerned had been deprived of his nationality. His delegation's view was that it should not be possible to deprive a person of his rights before his case had been tried by a judicial body. In that connexion the principle contained in the Netherlands amendment (A/CONF.9/L.32) might well be approved.

Mr. SCHMID (Austria) said that his country's nationality legislation recognized only one ground for deprivation of nationality, regardless of whether

statelessness resulted. Since it was similar to those provided for in paragraphs 2(a) and 2(b) (iii) of the United Kingdom amendment, he would vote for that amendment but could not accept the Yugoslav and Panamanian amendments thereto.

Mr. JAY (Canada) reiterated that his country's legislation did not provide for deprivation of nationality by way of penalty. Nevertheless he could support paragraph 2 of the Yugoslav amendment since the convention was bound to contain provisions differing from the municipal law of his own and other countries.

The United Kingdom argument that if the less serious grounds for deprivation contained in paragraph 2(a) of the United Kingdom amendment were admissible it was only logical to include more serious grounds as well was a sound one.

Mr. VIDAL (Brazil) said that he would vote for the United Kingdom amendment, but in view of the Panamanian representative's argument the words "in disregard of an express prohibition by the Party" might be deleted from its paragraph 2(a) so that the Parties would be free either to prohibit foreign service or to require its citizens to obtain permission for the purpose of entering or remaining in it.

Sir Claude COREA (Ceylon) agreed with the Yugoslav representative that a State should have the right to deprive disloyal citizens of their nationality whether they were natural-born or naturalized and would vote for the Yugoslav amendment.

There was a question whether the word "service" in paragraph 2(a) of the United Kingdom amendment should be understood to apply to military service only.

Mr. SCHMID (Austria) said that the provision for deprivation of nationality on the ground of service in a foreign country was a practical measure rather than a penalty. The case was rather similar to that of persons with dual nationality who could, in accordance with the legislation of most countries, be more rapidly deprived of their nationality than others.

He supported the proposal of the Brazilian delegation.

Mr. ABDEL MAGID (United Arab Republic) said that since there seemed to be general agreement that nationality had not only legal but also political implications he would support the Yugoslav amendment.

In his understanding the word "service" in paragraph 2(a) of the United Kingdom amendment meant service in general and not merely military service.

Service as a political adviser to a foreign Power might, for example, be a more serious offence than military service.

He would support the Panamanian representative's oral amendment, which seemed to show more liberality to the individual than the United Kingdom text.

Mr. JAY (Canada), referring to the Austrian representative's remarks, pointed out that the International Law Commission's draft provided for deprivation of nationality on grounds less serious than some of those mentioned during the discussion. It was only logical, if a person could be deprived of his nationality on less serious grounds, to make provision also for deprivation of nationality on more serious grounds.

Mr. CARSALES (Argentina) expressed the view that a provision empowering the State to deprive a citizen of its nationality on the ground of any kind of foreign service would be excessively harsh.

He would ask whether the words "express prohibition" in the United Kingdom amendment referred to a general or to an individual prohibition.

Mr. MIMOSO (Portugal) said that his delegation would support the first three paragraphs of the Yugoslav amendment. If they were rejected he would vote against paragraph 2(a) of the United Kingdom amendment.

Mr. RIPHAGEN (Netherlands) said that if paragraph 2 of the Yugoslav amendment were put to the vote, he would submit as an amendment thereto the text contained in his delegation's amendment.

Sir Claude COREA (Ceylon) observed that an important difference between the Yugoslav amendment and the Netherlands amendment to it was that the former did not require the person to have been convicted of treachery or disloyalty. Treachery and disloyalty were not legal terms and the Yugoslav amendment was preferable because the State had to be protected against treacherous and disloyal citizens whether convicted by a court or not.

Mr. HERMENT (Belgium) opined that the word "service" should be construed to mean civil as well as military service. The words "an express prohibition" would refer to a prohibition applied to a specific person.

His delegation would have preferred that there should be no provision in the convention for deprivation of nationality, which was a common cause of statelessness, but would not oppose its inclusion since it appeared to be considered essential by a number of delegations.

Mr. LIANG, Executive Secretary of the Conference, responding to a number of requests for information concerning the intentions of the International Law Commission in including the words "service" and "express prohibition" in its draft of article 8, said he could not find in the Commission's report on its fifth session (A/2456) any evidence concerning its intentions. In his personal view, however, service in general was meant in the first case and either a prohibition in the municipal law of the Party or a specific prohibition applying to an individual in the second.

Mr. ROOS (United Kingdom) observed that, although the words occurred in the United Kingdom amendment, his delegation could not undertake to provide a definitive interpretation of them since it had merely adopted them from the International Law Commission's draft. For his own part he agreed with previous speakers that "service" was not confined to military service. It was to be hoped that the carefully formulated text of the Commission would be acceptable.

The Panamanian amendment seemed to go further than the International Law Commission had intended.

His delegation would oppose the Netherlands proposal. He pointed out that paragraphs 2(a) and 2(b) of the United Kingdom amendment were subject to the provisions of paragraph 3 of that amendment.

Mr. BACCHETTI (Italy) subscribed to the view that the intention of the amendment was to cover both civil and military service. If the International Law Commission had wished to restrict the case to military service it would surely have done so.

Mr. LEVI (Yugoslavia) recalled that his delegation had, in a spirit of compromise, voted in favour of a number of articles which were not in accordance with Yugoslav law. His country had, however, bitter memories of wartime traitors and if his amendment were rejected the odds were against his being able to vote for the United Kingdom amendment.

Mr. CALAPARI (Panama) expressed support for the Brazilian proposal that the words "in disregard of an express prohibition by the Party" should be deleted from paragraph 2(a) of the United Kingdom amendment.

The Brazilian proposal that the words "in disregard of an express prohibition by the Party" be deleted from paragraph 2(a) of the United Kingdom amendment (A/CONF.9/L.11 and Corr.1) was rejected by 18 votes to 6, with 6 abstentions.

The Panamanian representative's proposal that the words "without the authorization of the Party" be substituted for the words "in disregard of an express prohibition by the Party" was rejected by 16 votes to 4, with 9 abstentions.

Paragraph 2(a) of the United Kingdom amendment was approved by 19 votes to 2, with 8 abstentions.

The CHAIRMAN said that he intended to treat the Netherlands representative's oral proposal regarding treachery and disloyalty as a proposal for the amendment of the United Kingdom text, and since that proposal was not so far removed from that text as paragraph 2 of the Yugoslav amendment he would put the latter to the vote first.

Mr. RIPPAGEN (Netherlands) said that his proposal was meant as an amendment to the Yugoslav amendment, but that he would have no objection to the procedure indicated by the Chairman.

The CHAIRMAN put to the vote paragraph 2 of the Yugoslav amendment (A/CONF.9/L.46).

Paragraph 2 of the Yugoslav amendment was rejected by 12 votes to 10, with 8 abstentions.

Mr. RIPPAGEN (Netherlands) said that in view of the rejection of paragraph 2 of the Yugoslav amendment he would withdraw his proposal.

Mr. JAY (Canada) said that he would have withdrawn paragraph 1 of his amendment (A/CONF.9/L.36) to paragraph 2(a) of the United Kingdom amendment if paragraph 2 of the Yugoslav amendment had not been rejected.

The words in his amendment "when not under a disability" were intended to cover cases of duress and mental disorder as well as minority.

Mr. ROSS (United Kingdom) asked whether the Canadian representative would not agree to the deletion of the words "when not under a disability", for if they were included in paragraph 2(a) they should be added to many other clauses in the draft convention.

Mr. JAY (Canada) agreed to the deletion of the words in question.

Mr. HERMENT (Belgium) said that if the Canadian amendment were accepted it would partly contradict the rest of paragraph 2(a), for under it a young man who, with the permission of the authorities of his country, joined the military forces of a foreign country and took an oath on doing so could be deprived of

his nationality, whereas under paragraph 2(a) of the United Kingdom amendment persons who entered the service of a foreign country could be deprived of their nationality only if they were forbidden to do so by the authorities of their country.

Mr. JAY (Canada) said that his delegation's amendment related to a far more serious matter than some of those covered by the part of the United Kingdom amendment as approved by the Committee. That text would make it permissible for a Party to deprive of its nationality even a labourer employed on the construction of a government building by a foreign State.

The CHAIRMAN, recalling the ruling he had made at the twelfth meeting regarding discussion of the question of renunciation of nationality, ruled that the Committee could not vote on the words in paragraph 1 of the Canadian amendment "or (2) of having made a declaration renouncing his nationality". He put paragraph 1 of that amendment (A/CONF.9/L.36), without those words and also without the words "when not under a disability", to the vote.

Paragraph 1 of the Canadian amendment, as amended, was approved by 8 votes to 7, with 15 abstentions.

Mr. BERTAN (Turkey) said that the Committee should discuss paragraph 2 of the amendment (A/CONF.9/L.25) submitted by his delegation as a substitute for paragraph 1 of the International Law Commission's text for article 8, since the contents of that paragraph were related to paragraph 2(a) of the United Kingdom amendment.

The CHAIRMAN said that the only part of the passage in the Turkish amendment relating to natural-born nationals which was not covered by paragraph 2(a) of the United Kingdom amendment was that reading "or if, being abroad, he is liable for military service and fails without good cause to report when officially called-up". He invited discussion on those words.

Rev. Father de RIEDMATTEN (Holy See) said that the inclusion of the words would tend to increase statelessness. He was opposed to it.

Mr. BERTAN (Turkey) said that he was proposing that the substance of those words be added to paragraph 2(a) of the United Kingdom text. His delegation had included them in its text because persons who were required by the authorities of their country to perform military service and who were living abroad could not be extradited from the foreign country of residence on the

ground that they were required to perform military service by the authorities of their country; and in many countries, including Turkey, no one who was not actually present in the country could be convicted. Only a very small number of people would be affected by the inclusion of the words.

The proposal to add the substance of the words in question to paragraph 2(a) of the United Kingdom amendment was rejected by 15 votes to 2, with 13 abstentions.

Paragraph 2(a) of the United Kingdom amendment, as amended, was approved by 10 votes to 4, with 16 abstentions.

The CHAIRMAN invited consideration of paragraph 2(b) of the United Kingdom amendment and on the amendments thereto.

Mr. FAVRE (Switzerland) said that clause (i) of paragraph 2(b) of the United Kingdom text would create great insecurity. It would enable parties to deprive persons of their nationality many years, even twenty or more, after it had been granted. The clause would tend to increase statelessness.

Mr. HERREMANT (Belgium) said that in general authorities looked on persons who had been deprived of a nationality with less benevolence than on people who had always been stateless.

Mr. LEVI (Yugoslavia) withdrew paragraph 3 of his delegation's amendment (A/CONF.9/L.46).

Sir Claude COREA (Ceylon) requested that his delegation's amendment (A/CONF.9/L.45) be treated as a proposal for an additional new sub-paragraph (c) so that it would apply to natural-born as well as to naturalized nationals.

The CHAIRMAN ruled that the Committee could not accede to the request of the representative of Ceylon as it had already disposed of the whole of that part of paragraph 2 which related to natural-born nationals.

The meeting rose at 6.20 p.m.