

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

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**Summary Records, 19<sup>th</sup> meeting of the Committee of the Whole**

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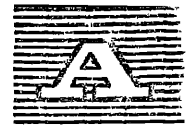
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UNITED NATIONS CONFERENCE ON THE  
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE NINETEENTH MEETING

held at the Palais des Nations, Geneva,  
on Tuesday, 14 April 1959, at 3.10 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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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 13 (A/CONF.9/L.51) (continued)

Mr. TYABJI (Pakistan) said that his delegation's amendments (A/CONF.9/L.22, L.17 and L.23) to articles 5, 7 and 9 of the draft convention had shown his Government's difficulties with regard to the International Law Commission's text. Although Pakistan would be happy to accede to the convention if its difficulties were taken into account it could not do so if reservations were not permitted. He was convinced that States would not shelter behind reservations and decline to make their laws conform with the provisions of the convention; and only a few States would be able to accede to the convention without reservations.

The United Kingdom representative had pointed out that the fundamental articles of the convention were articles 1 and 4 and no delegation had expressed its desire to make a reservation on those articles. The delegation of Pakistan had received the impression that the convention was being shaped to suit conditions prevailing in Europe and appreciated the United Kingdom delegation's sympathetic attitude towards the difficulties of other delegations.

Mrs. TAUCHE (Federal Republic of Germany), referring to the Yugoslav amendment (A/CONF.9/L.51), emphasized that article 8 was as important as article 1; both were the results of compromises reached by the Committee.

Mr. LEVI (Yugoslavia), recalling the statement that he had made at the eighteenth meeting, said that his delegation would accept the oral amendments to paragraph 3 of its amendment, and agree to the retention of paragraph 3 of article 8, provided the Yugoslav amendment to article 13 was approved. His delegation would propose a new article 7 and a new article 8 in plenary meeting.

Mr. CARSALES (Argentina) recalled that at the eighteenth meeting he had proposed the deletion of article 13, and had reserved his right, if that proposal were not adopted, to submit an oral amendment to the Yugoslav amendment.

Mr. HERMENT (Belgium) said that paragraph 1 of the Yugoslav amendment was meaningless since article 8 implied that reservations might be made.

Sir Claude COREA (Ceylon) asked for a separate vote on each paragraph of the Yugoslav amendment. Would reservations be possible if the Argentine proposal were adopted?

The CHAIRMAN said that if the convention made no mention of reservations Contracting States could make reservations only if all their co-signatories agreed to such action.

Mr. LIANG, Executive Secretary of the Conference, recalling the statement he had made at the eighteenth meeting, said that if no article of the convention prohibited reservations then a Contracting State would be free to make them. The practice which had been followed by the League of Nations and adopted by the United Nations was that reservations had to be accepted by all the Contracting States. The Organization of American States followed another practice.

Mr. LEVI (Yugoslavia) pointed out that if article 13 were deleted, as the Argentine representative had proposed, it would be possible to make reservations only on the list contained in article 8.

Mr. TYABJI (Pakistan), referring to the statement of the Executive Secretary of the Conference, presumed that if article 13 were deleted any State could make reservations, although such reservations might or might not be binding on their co-signatories.

Mr. SIVAN (Israel) said that the Committee should show caution and not depart from the International Law Commission's draft of article 13. He had not been impressed by the arguments adduced at the preceding meeting, since despite the importance of articles 7 and 8 they were not as sacrosanct as the articles relating to the attribution of nationality, namely articles 1 and 4.

It would be hardly possible to include an exhaustive list in article 8; he therefore suggested that serious consideration be given to the adoption of the Yugoslav amendment, which his delegation would support. It would also support any proposal for the inclusion of a reference to article 11 in the Yugoslav amendment.

The CHAIRMAN, speaking as the representative of Denmark, said that his Government would be unable to sign a convention if it were possible for the signatories to make a variety of reservations even though they might apply only to articles 7 and 8. The sole case in which his Government reserved its right to deprive a national of his nationality was that of a Danish national born abroad who failed to return to Denmark and to maintain his ties with that country.

The Scandinavian countries considered that the convention on the reduction of future statelessness should be a binding agreement and could not agree to its being made so flexible.

Mr. HERMENT (Belgium) supported the Danish representative's view.

Sir Claude COREA (Ceylon) observed that his delegation might be able to consider the Yugoslav amendment favourably if the Yugoslav delegation were willing to include certain articles on which other countries might wish to make reservations.

Mr. LEVI (Yugoslavia) said that although his delegation could not agree to include an extensive list of articles in paragraph 1 of its amendment it would include a reference to article 11 concerning the proposed agency.

Mr. JAY (Canada) suggested that the Committee should decide in principle forthwith whether reservations should be permitted on articles 7 and 8. If they were permitted, so far as article 8 was concerned they should apply only to the list it contained. A drafting group should then be appointed consisting of the representatives of Belgium, France, the Netherlands, Switzerland and Yugoslavia - and possibly Turkey - to study articles 7 and 8. The Committee should then decide whether reservations should be permitted on article 11.

Mr. BACCHETTI (Italy) said that he understood the difficulties which article 13 raised for the Yugoslav delegation, but the amendment submitted by that delegation would not make the convention more acceptable. After deciding whether reservations were to be permitted the Committee should vote on article 13.

Mr. FAVRE (Switzerland) said that his country could not be a member of a working group called upon to introduce provisions that might lead to more statelessness. He recalled that during the discussion of article 1 a suggestion had been made that it should be left to the discretion of a State to decide whether or not it would grant its nationality to a person born in its territory who would otherwise be stateless at birth. The Swiss delegation had opposed that idea, urging that the conditions governing the acquisition of nationality be stipulated in the convention. Once Switzerland granted its nationality to a person, it was never withdrawn. It would be far better for the convention to be accepted by a small number of States than to become a meaningless document because it opened the door to statelessness instead of eliminating or reducing it.

Mr. BUSHE-FOX (United Kingdom) asked that the oral amendment his delegation had made to the Yugoslav amendment at the previous meeting be referred to the Drafting Committee.

The CHAIRMAN acceded to that request and suggested that further discussion on article 13 be postponed.

It was so agreed.

Preamble

The CHAIRMAN called for comments on the preamble in the International Law Commission's draft (A/CONF.9/L.1).

Mr. LEVI (Yugoslavia) suggested the deletion of the phrase "so far as its total elimination is not possible" in the last paragraph.

Mr. ROSS (United Kingdom) endorsed that suggestion, and further proposed that the fifth paragraph of the preamble should be drafted in a less pretentious manner, e.g. "Whereas the possession of a nationality is a condition of ....".

Mr. LIANG, Executive Secretary of the Conference, said that the fifth paragraph was based upon a rather persuasive commentary in paragraph 130 of the report of the International Law Commission covering the work of its fifth session (A/2456).

Mr. JAY (Canada) agreed with the suggestions of the Yugoslav and United Kingdom representatives. He could not support the wording of the third paragraph of the preamble and wondered whether it was right for the Conference to say that statelessness often resulted in suffering and hardship shocking to conscience. He suggested that the third and fifth paragraphs should be combined and redrafted to read: "Whereas statelessness frequently prevents the enjoyment by the individual of certain rights recognized by international law, and results in suffering and hardship offensive to the dignity of man."

Mrs. TAUCHE (Federal Republic of Germany) thought that the preamble should merely say "Whereas it is desirable to reduce statelessness."

The CHAIRMAN, referring to the first paragraph, pointed out that the convention, as drafted by the Committee, did not give everyone the right to a nationality. He considered that the Economic and Social Council should not be mentioned in the preamble.

Mr. HUBERT (France) said that the preamble might have been acceptable if the Conference had drafted a convention on the elimination of future statelessness, but in existing circumstances it was too lengthy and pompous.

Mr. BEN-MEIR (Israel) suggested that the General Assembly resolution under which the Conference had been convened should be cited in the preamble. He pointed out that a preamble often threw light on the contents of a convention and suggested that at least the wording of the fifth paragraph should be retained.

The CHAIRMAN, speaking as the representative of Denmark, suggested that the preamble should be amended to read: "The High Contracting Parties, acting in pursuance of resolution 896 (IX) adopted by the General Assembly on 4 December 1954, and considering it desirable to reduce statelessness by international agreement, have agreed as follows."

The amendment was approved by 28 votes to none, with 1 abstention.

Effect of the convention: Report of the Working Group (A/CONF.9/L.30) (resumed from the eighteenth meeting)

The CHAIRMAN announced that the Drafting Committee had referred back to the Committee, for consideration, paragraph 2 of the draft article prepared by the Working Group on the effect of the convention (A/CONF.9/L.30)

Mr. ROSS (United Kingdom) said that his delegation wished to ask the Committee's authority for a change in the text of paragraph 2 of the draft article. Under the article as drafted, it would appear possible for any person born before the entry into force of the convention, whatever his age, to apply under article 1, paragraph 1 for nationality, and on being refused on the ground of being over the age limit, to apply for nationality under article 1, paragraph 3 to the country of one of his parents, and, under the existing wording of paragraph 2 of the draft article, that country would have no discretion to refuse his application on grounds of age. His delegation therefore wished to insert in paragraph 2 of the draft article a provision to the effect that the application of article 1, paragraph 3, was restricted to persons who had not passed the maximum age required by national legislation under article 1, paragraph 2 for the granting of nationality. Other delegations had thought that an amendment to that effect would be unnecessary but his delegation wished to eliminate all possibility of doubt.

Mr. HERMENT (Belgium) considered that the amendment proposed by the United Kingdom delegation was one of substance rather than of form. The United Kingdom representative wished to prevent one group of those who might acquire nationality under article 1, paragraph 3, from doing so.

Mrs. TAUCHE (Federal Republic of Germany) expressed the view that the United Kingdom amendment was one of form only. Paragraph 1 of the draft article prepared by the Working Group spoke of "persons who were born before the date on which the Convention enters into force and who have not passed the maximum age required by national legislation". The balance of the article would be maintained if the phrase "who have not passed the maximum age" were introduced into paragraph 2 as well.

Mr. RIPHAGEN (Netherlands) observed that according to article 1, paragraph 4, the grant of nationality under paragraph 1 was conditional upon the application being lodged before the applicant reached an age fixed by the contracting State. If the age limit were stipulated in article 1, paragraph 4, why did the United Kingdom representative wish to re-introduce it in paragraph 2 of the draft article?

Mr. ROSS (United Kingdom) replied that the provision in article 1, paragraph 4, to which the Netherlands representative had referred, was optional.

Mr. JAY (Canada) said that persons applying for nationality under article 1, paragraph 1(b) had an unassailable right to nationality provided they applied before reaching the age limit fixed by the contracting State concerned. After they had reached the age limit, States should have the right to refuse their applications. It was impossible to accept the principle of the transfer of responsibility for stateless persons from countries granting nationality under article 1, paragraph 1(b) to those granting it under article 1, paragraph 3. He therefore agreed with the United Kingdom representative.

Mr. HERMENT (Belgium) asked if it was really justifiable to refuse nationality to a man of, say, 50. Persons of that age might well have children, who would benefit if nationality were conferred.

Mr. ROSS (United Kingdom) proposed that the text of paragraph 2 of the draft article be amended to read: "The provisions of paragraph 3 of article 1 of this Convention shall apply to persons born before, as well as to persons born after, its entry into force, with the exception of persons unable to acquire the nationality of the Contracting State in whose territory they were born on the grounds that, at the time the Convention came into force for that State, they had passed the age limit for lodging their application."

Mr. HERMENT (Belgium) urged the Committee to approve paragraph 2 of the draft article unamended.

The CHAIRMAN put to the vote the United Kingdom oral amendment to paragraph 2 of the draft article prepared by the Working Group on the effect of the Convention (A/CONF.9/L.30).

The United Kingdom oral amendment was rejected by 11 votes to 8, with 11 abstentions.



Draft resolutions for inclusion in the Final Act of the Conference

Belgium: draft resolution (A/CONF.9/L.48)

Mr. HERMENT (Belgium) said that the draft resolution proposed by his delegation for inclusion in the Final Act of the Conference was intended to draw the attention of States parties to the Convention to the case of persons who were not de jure stateless, but who no longer enjoyed the protection of the country whose nationality they nominally possessed. The Convention on the Status of Stateless Persons contained a reference to such persons in the Final Act.

Mrs. TAUCHE (Federal Republic of Germany) drew the Committee's attention to article 34 of the 1951 Convention relating to the Status of Refugees, in which contracting States were asked "as far as possible to facilitate the assimilation and naturalization of refugees". The Belgian draft resolution was, in substance, a repetition of that article, and it would be unwise for the Committee to adopt it.

Mr. HERMENT (Belgium) replied that not all States represented on the Committee were signatories of the 1951 Convention.

The CHAIRMAN, speaking as the representative of Denmark, said that he saw no reason why one group of persons should not enjoy benefits which legally belonged to another group.

On the other hand it was doubtful whether the group of persons who were stateless de facto could really be assimilated to the group of young persons applying for nationality, mostly before the age of twenty-three, with whom the Convention was mainly concerned. Persons who were stateless de facto should certainly be assisted in the acquisition of an effective nationality, but it was not easy to see how they could be treated as stateless persons de jure under the terms of the Convention.

Mr. HERMENT (Belgium) gave the example of a Belgian woman marrying a refugee who was stateless de facto. In such cases, the husband was regarded as stateless de jure, in order to allow the wife to retain her Belgian nationality.

The CHAIRMAN observed that the purpose of the Convention was to enable stateless persons to acquire a nationality and not to prevent others from losing one.

Mr. ABDEL MAGID (United Arab Republic) insisted that there was an essential legal difference between the status of a person who was stateless de facto and that of a person who was stateless de jure. He did not see how the one could be assimilated to the other.

Mr. HERMENT (Belgium) said that the resolution was intended to assist the large number of refugees who did not know exactly what their status was in their country of origin. It was not a legal draft but a recommendation.

Mr. JAY (Canada) said that he would not oppose the inclusion of the Belgian draft resolution in the Final Act of the Conference but could not support it since he did not understand what stateless persons de facto were if they were not refugees.

Mr. RIPHAGEN (Netherlands) said that he was personally in sympathy with the sentiment expressed in the Belgian draft resolution, but would abstain from voting on it, as it was outside the scope of his instructions.

Mr. LIANG, Executive Secretary of the Conference, thought that it might be of assistance to the Committee if he repeated the definition of stateless persons de facto given on page 9 of the United Nations Study of Statelessness (E/1112). Stateless persons were there described as "persons who, having left the country of which they were nationals, no longer enjoy the protection and assistance of their national authorities, either because these authorities refuse to grant them assistance and protection, or because they themselves renounce the assistance and protection of the countries of which they are nationals".

Mr. KANAKARATNE (Ceylon) observed that several delegations had expressed their sympathy with the Belgian draft resolution but said that they could not vote for it. It would be unfortunate if a resolution in those terms were placed before the Conference and rejected; the Belgian representative might perhaps be prepared to withdraw it.

The CHAIRMAN said that the Conference was concerned with what might be described as negative conflicts of national law resulting in cases of statelessness. Statelessness de facto did not arise from any conflict of national laws, but in most cases from a decision by the person concerned that he no longer wished to seek the assistance of the country whose nationality he possessed.

From the legal point of view, he could not understand how persons in the de facto group could be treated as though they belonged to the de jure group.

Mr. HERMENT (Belgium) said that he fully understood the legal implications of his delegation's draft resolution. The resolution was, however, a humanitarian rather than a legal document. Since he had been in Geneva, he had received many requests that the Conference should not overlook the problem of refugees and must decline to withdraw the proposal.

The CHAIRMAN put to the vote the Belgian draft resolution for inclusion in the Final Act of the Conference (A/CONF.9/L.48).

The Belgian draft resolution was adopted by 8 votes to 1, with 20 abstentions.

Denmark: draft resolution (A/CONF.9/L.52)

The CHAIRMAN, speaking as the representative of Denmark and introducing his delegation's draft resolution for inclusion in the Final Act of the Conference, pointed out that at certain points in the convention a distinction was made between natural-born nationals and naturalized persons. The word "naturalized" was ambiguous, however, and there were technical differences between the methods adopted by different States in granting naturalization. The purpose of the Danish draft resolution was to ensure that where distinctions had been made in the text of the convention, they should be based on substantive differences in the status of the person concerned and not on differences of a technical nature between the procedure of different States.

Mr. SIVAN (Israel), while supporting the principle of the Danish draft resolution, said that the text called for two drafting changes.

First, it was by no means certain that all ways of acquiring nationality other than by naturalization had been covered; and secondly the distinction between applications which legally could have been refused and those which legally could not have been refused was not clear. Even applications under article 1, paragraph 1(b), could be legally refused if the conditions stipulated in paragraph 2 were not fulfilled.

Mr. BERTAN (Turkey) observed that under Turkish law the Turkish Government was obliged to confer nationality on immigrants after a certain period of residence, without the possibility of refusal. Any definition of "naturalization" included in the Final Act of the Conference might prove to be at variance with the national laws of Contracting Parties and would tend to increase the number of reservations entered.

Mr. HARVEY (United Kingdom), referring to the statement by the representative of Israel, thought that it should be quite clear what was meant by persons other than naturalized persons. The reference to persons other than naturalized persons in article 7 was intended to cover natural-born nationals and those acquiring their nationality under the terms of the convention. The reference in article 8, paragraph 2(b) to persons other than natural-born nationals covered naturalized persons and persons acquiring their nationality under the terms of the convention.

Mr. HILBE (Lichtenstein) said that the unity of the family would be protected if women acquiring nationality by marriage were regarded, for the purpose of articles 7 and 8, as natural-born nationals.

Mr. JAY (Canada) said that the United Kingdom representative had clearly distinguished between three types of national, the natural-born national, the person acquiring his nationality under the terms of the convention and the naturalized persons.

It was still not clear, however, what interpretation should be placed on nationality acquired under article 1, paragraph 3. He would therefore suggest an amendment to the Danish draft resolution to the effect that the word "only" be deleted from the third line and that the following words be added at the end of the fourth line "(notwithstanding the preceding sentence, persons who have acquired their nationality under article 1, paragraph 3 of the Convention may be considered to be naturalized persons)".

Mr. TSAO (China) regretted that his delegation could not support the Danish draft resolution. Different countries had different methods of conferring nationality, and there was substance in the Turkish representative's point that any attempt to produce a universally applicable definition of naturalization would tend to increase the number of reservations made.

The CHAIRMAN, speaking as the representative of Denmark, agreed that, under the terms of his delegation's draft resolution, acquisition of nationality under article 1, paragraph 3, might be regarded as naturalization. What was important was not the term applied to the method by which nationality was conferred, but whether or not the application could legally have been refused.

The meeting rose at 6 p.m.