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

Geneva, 1959 and New York, 1961

Document:-
**A/CONF.9/SR.13**

## Summary Records, 13th Plenary meeting

UNITED NATIONS

GENERAL ASSEMBLY

Distr.
GENERAL

A/CONF.9/SR.13
24 April 1961

Original: ENGLISH

UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

# SUMMARY RECORD OF THE THIRTEENTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Friday, 17 April 1959, at 3.10 p.m.

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| President: | Mr. LARSEN (Denmark) |
| later: | Mr. CALIARI (Panama) |
| Executive Secretary: | Mr. LIANG |

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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.

GE.61-4516

61-11754

(13 p.)

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

Draft convention on the reduction of future statelessness (A/CONF.9/L.40 and Add.1 to 6)

Article 8 (A/CONF.9/L.72)

The PRESIDENT invited the Conference to continue its consideration of article 8, paragraph 2 (A/CONF.9/L.40/Add.3) and the amendment thereto submitted by the Brazilian delegation (A/CONF.9/L.72).

Mr. VIDAL (Brazil) said that the sole purpose of his delegation's amendment to paragraph 2 and the consequential amendment to paragraph 3 (A/CONF.9/L.72) was to avoid the use of the word "reservation" in any of the substantive articles of the convention. All delegations were agreed that to admit reservations to substantive articles destroyed the integrity of and weakened the convention.

Since the idea of reservations to article 8 had emanated from the delegation of the Holy See, he asked that delegation whether the Brazilian amendment was acceptable.

Msgr FERROFINO (Holy See) said that the Brazilian amendment was completely acceptable to his delegation.

The PRESIDENT, speaking as representative of Denmark, suggested that, to eliminate all possibility of doubt, the words "notwithstanding that he would thereby be rendered stateless" be added at the end of the Brazilian amendment to paragraph 2.

Mr. HARVEY (United Kingdom) suggested that the words "any or all of" be added between the words "specify that" and the words "the following" in the Brazilian amendment to paragraph 2.

Mr. VIDAL (Brazil) agreed to the addition of the words suggested by the Danish and United Kingdom representatives.

With those additional words the Brazilian amendment to paragraph 2 and the consequential amendment to paragraph 3 (A/CONF.9/L.72) were adopted by 16 votes to 3, with 10 abstentions.

Mr. BACCHETTI (Italy) and Mr. LEVI (Yugoslavia) expressed the view that the deletion of all reference to "reservations" in article 8 might have the effect of reopening the discussion of the question of reservations to article 8 under article 13.

The PRESIDENT then put to the vote separately each sub-paragraph of paragraph 2, as amended.

Paragraph 2(a)(i) was adopted by 10 votes to 1, with 14 abstentions.

Paragraph 2(a)(ii) was adopted by 13 votes to 3, with 12 abstentions.

In connexion with paragraph 2(b)(i), Mr. JAY (Canada) wished to place on record that he understood the term "false representation or fraud" to include the concealment or withholding of material information.

Paragraph 2(b)(i) was adopted by 11 votes to none, with 14 abstentions.

In regard to paragraph 2(b)(ii), Mr. SIVAN (Israel) asked for a separate vote on the words "having been convicted of a treasonable or disloyal act" and on the words "or, in the case of a person accused of such an act who is in a foreign country, failing to return for trial".

The words "having been convicted of a treasonable or disloyal act" were adopted by 17 votes to 1, with 14 abstentions.

Mr. SIVAN (Israel) wished it to be understood that in his delegation's interpretation the word "convicted" meant convicted by final judgement. The word "conviction" might have different meanings in different systems of law but, in Anglo-Saxon law, a conviction was valid only until quashed.

Sir Claude COREA (Ceylon) took the view that the addition of the words "by final judgement" was unnecessary. The word "conviction" was normally taken to mean "conviction after allowing for appeal".

Mr. WEIS (Office of the United Nations High Commissioner for Refugees), speaking at the invitation of the President, pointed out that the word "convicted" was also used in articles 1 and 4 of the draft convention. Would the Israel representative's interpretation of the word apply in those cases too?

The PRESIDENT suggested that the representative of Israel might prepare for inclusion in the Final Act of the Conference a statement to the effect that, wherever the word "convicted" appeared in the convention, it meant "convicted by final judgement".

It was so agreed.[1/]

The second part of paragraph 2(b)(ii), ("or in the case of a person accused of such an act who is in a foreign country, failing to return for trial") was adopted by 11 votes to 3, with 18 abstentions.

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1/ cf draft resolution embodying this interpretation submitted by delegation of Israel (A/CONF.9/L.75).

Paragraph 2(b)(iii) was adopted by 14 votes to none, with 16 abstentions.

Paragraph 2(b)(iv) was adopted by 8 votes to 2, with 20 abstentions.

Mr. BACCHETTI (Italy) suggested that the final words of paragraph 2(b)(v) "or he has no effective connexion with that State", be deleted. In any case, he asked for a separate vote on those words.

His reasons for objecting to those words were, firstly, that the naturalized person was adequately protected by the time limit on residence abroad prescribed in the first part of the sub-paragraph, and secondly that the words "effective connexion" were too vague to be included in a legal document. If the contracting party were permitted to decide what constituted an effective connexion, it would have unlimited discretion to deprive naturalized persons of their nationality on the grounds of residence abroad for an excessive period.

Mr. de la FUENTE (Peru) said he could not accept the time limit of seven years for residence abroad. Under Peruvian law, a naturalized person might be deprived of his nationality after residence abroad for a consecutive period of two years, unless he could prove that the residence abroad was due to circumstances beyond his control.

Mr. SIVAN (Israel) disagreed with the Italian representative. Some States insisted that naturalized persons residing abroad should register with the foreign missions of the country whose nationality they had acquired by naturalizati others did not. The reference to the "effective connexion" was intended to apply to persons having acquired by naturalization the nationality of countries which did not give their nationals an opportunity to declare their wish to retain their nationality by periodic registration.

He would point out to the Italian representative that the concept of "effective connexion" was well known in international law, and should not give rise to difficulties of interpretation. In his delegation's view, "effective connexion" might mean the retention of a home or the ownership of property by the naturalized person in the country of his nationality, or possibly the fact that the naturalized person had close relations still living there.

He hoped that the words "or he has no effective connexion with that State" would be retained in the text finally approved by the Conference, for they would give persons residing abroad for a consecutive period of more than seven years an opportunity to retain their nationality, even if they were not required to register periodically.

The PRESIDENT then put to the vote paragraph 2(b)(v), without the words "or he has no effective connexion with that State".

Paragraph 2(b)(v), without those words, was adopted by 12 votes to 1, with 17 abstentions.

The PRESIDENT then put to the vote the question whether the words "or he has no effective connexion with that State" be included in the provision.

That question was decided in the negative by 14 votes to 4, with 11 abstentions.

The PRESIDENT announced that the representative of the Federal Republic of Germany had just submitted an amendment proposing that article 8, paragraph 2, be replaced by the following paragraph:

> "2. Notwithstanding paragraph 1 of this article, at the time of signature, ratification or accession, any Contracting State may specify any or all of the grounds admitted by the existing legislation for depriving a person of his nationality which will be maintained".

Mr. PAULY (Federal Republic of Germany) said that the amendment was somewhat similar to that which his delegation had introduced at the previous meeting and which had then failed of adoption. The amendment he was now submitting was made necessary by the adoption of the Brazilian amendment to article 8, paragraph 2 (A/CONF.9/L.72).

The PRESIDENT said he took it that the "existing legislation" referred to in the amendment meant the legislation existing at the time of the adoption of the convention and not at the time of its signature, ratification or accession. If so, then the new amendment was in fact different to that submitted by the Federal Republic of Germany at the previous meeting. On that assumption, he ruled that the amendment could be introduced without a two-thirds majority vote.

Mr. PAULY (Federal Republic of Germany) said that the President's interpretation was correct.

Sir Claude COREA (Ceylon) agreed that the amendment of the Federal Republic of Germany was made necessary by the adoption of the Brazilian amendment.

Mr. HERMENT (Belgium) said that he could not support the amendment.

Mr. ROSS (United Kingdom) said that the amendment was substantially identical with one which had been discussed at the previous meeting.

The PRESIDENT, speaking as representative of Denmark, pointed out that if the amendment of the Federal Republic of Germany was adopted it would lead to inequality between States. The Danish delegation would therefore vote against it.

Mr. BACCHETTI (Italy) said that his delegation would vote against the amendment since it upset the balance of the convention, and might induce certain States to change their nationality legislation in a way which would be less favourable to the individual.

Mr. LEVI (Yugoslavia) said that he could not agree with the Danish representative, and considered that the amendment submitted by the Federal Republic of Germany would make the convention more balanced. He would therefore vote for it.

Mr. de la FUENTE (Peru) also supported the amendment and moved the closure of the debate.

The motion was carried by 23 votes to none, with 4 abstentions.

The PRESIDENT put the amendment submitted by the Federal Republic of Germany to the vote.

At the request of the representative of Peru, a vote was taken by roll-call.

Portugal, having been drawn by lot by the President, was called upon to vote first.

In favour: Portugal, Spain, Turkey, Yugoslavia, Argentina, Canada, Ceylon, Dominican Republic, Federal Republic of Germany, Holy See, India, Indonesia, Iraq, Pakistan, Panama, Peru.

Against: Switzerland, Belgium, Denmark, France, Israel, Italy, Japan, Liechtenstein, Luxembourg, Netherlands, Norway.

Abstaining: Sweden, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, Austria, Brazil, Chile, China.

The amendment was adopted by 16 votes to 11, with 7 abstentions.

The PRESIDENT said that the Conference had adopted an amendment which would permit States which had a "nationality deprivation" clause in their legislation to maintain such a clause even though it created statelessness. The amendment might also compel other States to impose a system which was not in conformity with their existing law governing the acquisition of nationality. In the circumstances it would be impossible for him to continue to act as President of the Conference. He therefore called on the First Vice-President to take the chair.

Mr. Calamari (Panama), First Vice-President took the chair.

The PRESIDENT said that the meeting would be suspended in order that he might request Mr. Larsen (Denmark) to resume his functions as President of the Conference. He felt that all considered that he had presided over the meetings in an excellent manner and with sincerity and sympathy.

Mr. FAVRE (Switzerland) said that on the resumption of the meeting the Conference should consider whether the vote on the amendment submitted by the Federal Republic of Germany was final, since in his opinion its submission had required a two-thirds majority.

Mr. LARSEN (Denmark) said that the Danish delegation did not challenge the ruling of the Chair that a two-thirds majority had not been necessary for the purpose of the submission of the amendment in question.

Mr. HERMENT (Belgium) and Mr. ABDEL MAGID (United Arab Republic) shared the Danish representative's view.

Mr. BACCHETTI (Italy) said that the convention would have little meaning if all States were left free to deprive their nationals of nationality when they saw fit. The Italian Government would not be able to accede to such a convention.

The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m., Mr. Calamari (Panama) in the Chair.

Mr. ROSS (United Kingdom) said he believed that if the amendment submitted by the delegation of the Federal Republic of Germany were put to the vote again, a number of delegations would vote differently. As a first step, the Conference should have an opportunity of expressing its mind again on that important issue. He therefore moved formally, under rule 23 of the rules of procedure, that discussion of the amendment in question be reopened.

Mr. JAY (Canada) said that though the amendment submitted by the delegation of the Federal Republic of Germany had come as a surprise to his delegation, he had been compelled by the instructions of his Government to vote in favour of it. He realized that the adoption of the amendment as drafted weakened to some extent the convention as an instrument for the reduction of statelessness. At that juncture, he thought that the only course which might result in the adoption of an effective convention would be to adjourn the debate

on article 8 until the fourteenth meeting and to establish forthwith an informal committee to draft a new text of paragraph 2 which would not do violence to the sense of the convention to the same extent as the amendment submitted by the delegation of the Federal Republic of Germany, and which would at the same time meet the legitimate demands of a larger number of States. He moved the adjournment of the discussion on article 8.

Sir Claude COREA (Ceylon) opposed the United Kingdom representative's motion for a reopening of discussion of the amendment submitted by the Federal Republic of Germany. When the amendment had been submitted, the President had ruled that it constituted a new proposal and not a request for the reconsideration of the proposal which the delegation of the Federal Republic of Germany had submitted at the twelfth meeting: and the Conference in its turn had adopted the amendment by the normal procedure of a majority vote. He could not see any grounds whatsoever for reopening discussion of the amendment.

Mr. LEVI (Yugoslavia) also opposed the United Kingdom motion, though he welcomed the suggestion of the Canadian representative for the establishment of a small committee to draft a more generally acceptable text for paragraph 2. His delegation was always prepared for compromise, but not compromise attained under pressure.

Mr. JAY (Canada) pointed out that he had moved the adjournment of the discussion on article 8, and he believed that under rule 19 of the rules of procedure, read in conjunction with rule 16, his motion took precedence over that of the United Kingdom.

Mr. ROSS (United Kingdom) opposed the Canadian motion for the adjournment of the debate on article 8. Discussion of paragraph 2 of the article had shown that, while some countries wished to maintain their existing laws on the deprivation of nationality, others wished to circumscribe, or restrict, future action of States in that respect. He doubted if any discussions by an informal committee would result in compromise. He merely asked that a further vote be taken on the Conference's decision to adopt the amendment submitted by the Federal Republic of Germany, and that the Conference should then proceed with its business. Some delegations took the view that it would not be worth while to continue the Conference's work if the amendment submitted by the Federal Republic

of Germany was irrevocably adopted. His delegation, on the other hand, did not regard article 8 as one of the essential articles of the convention, and was quite prepared to proceed with the discussion of the remaining articles.

Mr. HERMENT (Belgium), opposing the Canadian motion, said that even if a compromise text were to be drafted by an informal committee by the next meeting, opinions would then undoubtedly be divided again in the plenary.

Mr. RIPHAGEN (Netherlands) and Mr. de la FUENTE (Peru) supported the Canadian motion, considering that no possibility of a compromise should be overlooked.

The Canadian motion for the adjournment of the debate on article 8 until the fourteenth meeting was adopted by 15 votes to 12, with 3 abstentions.

The PRESIDENT then asked the Conference whether it wished to establish forthwith an informal committee to prepare a more generally acceptable text of paragraph 2 for consideration at the fourteenth meeting.

Sir Claude COREA (Ceylon) argued that the immediate establishment of an informal committee was excluded by the rules of procedure. Consideration of a new text for paragraph 2 by an informal committee would in effect amount to reconsideration of the amendment submitted by the Federal Republic of Germany and adopted by the Conference. The United Kingdom delegation had moved that discussion on that amendment be reopened but, since the Canadian motion for the adjournment of the debate on article 8 had been carried, the United Kingdom motion could not be voted upon until the fourteenth meeting.

Mr. LARSEN (Denmark) proposed the inclusion in the convention of a new article providing that "a Contracting State may at the time of signature, ratification or accession make a reservation to the effect that the provisions of article 1 to 4 shall only apply if these provisions are already contained in its national law at the date when the convention is signed".

Mr. RIPHAGEN (Netherlands) suggested that the Conference proceed to consideration of article 9.

Mr. LAVRE (Switzerland) thought that, for the moment, the Conference had lost the atmosphere of serenity and detachment which it needed for the consideration of the remaining articles of the convention. He could not believe, for instance, that the Danish representative's proposal was made with serious intent.

He therefore urged the adoption of the Canadian suggestion for the establishment of an informal committee to discuss ways and means of escaping from the present impasse.

After further discussion Mr. CARASALES (Argentina) proposed formally that the Conference should adjourn for a short while and should, on the resumption, proceed to consider article 9 and other provisions of the draft convention which still remained to be discussed.

The proposal was adopted by 23 votes to none, with 6 abstentions.

The meeting was suspended at 5.40 p.m. and resumed at 6 p.m.

Article 9 (A/CONF.9/L.40/Add.2)

Mr. SCOTT (Canada) pointed out that the word "Party" should be replaced by "Contracting State".

With that change, article 9 was adopted by 29 votes to 1, with 3 abstentions.

Article 6 (A/CONF.9/L.40/Add.2, L.34 and L.69)

Mr. ROSS (United Kingdom), introducing his delegation's amendment to article 6 (A/CONF.9/L.69), said that it was a formal amendment, to make it clear that article 6 applied both to automatic loss and to deprivation of nationality of the person concerned.

Mr. SIVAN (Israel) submitted the Israel delegation's amendment to article 6 which he had proposed earlier in Committee (A/CONF.9/L.34).

He considered that it was excessive to extend the benefit of article 6 to children who had themselves ceased to be normally resident of the country concerned. Where the parents had ceased to be nationals and the children had ceased to be normally resident in the territory of the contracting State, the latter should not be debarred from depriving such children of its nationality.

Mr. ROSS (United Kingdom), replying to a question by Mr. de SOIGNIE (Spain), said that the effect of article 6, as modified by the United Kingdom amendment, would be that if a person was deprived of his nationality because he had obtained it by fraud and if, as a consequence of that deprivation, his son would, under the law of the country concerned, lose his nationality also, that law would have to be amended to provide that, if the son had no other nationality, he would not lose his nationality. If the child's nationality had been obtained by fraud, he would be liable to separate deprivation proceedings under article 8.

Mr. LEVI (Yugoslavia) recalled that it had been suggested at an earlier meeting that article 6 should become article 8, and no decision had yet been taken on that suggestion. If article 6 did become article 8, he could not support the United Kingdom amendment. However, if article 6 was placed after article 9 then the Yugoslav delegation would be able to support that amendment.

The United Kingdom amendment was adopted by 16 votes to 1, with 12 abstentions.

The amendment proposed by the delegation of Israel was rejected by 15 votes to 4, with 12 abstentions.

Article 6, as amended, was adopted by 23 votes to none with 9 abstentions.

New article (Saving clause) (A/CONF.9/L.40/Add.2) (resumed from the eleventh meeting and concluded)

Mr. LEVI (Yugoslavia) said that, since the new article was bound up with article 8, it should be dealt with after article 8 had been discussed.

Mr. LARSEN (Denmark), supported by Mr. TSAO (China) argued that some provision such as was embodied in the new article was needed, irrespective of the fate of article 8. It would therefore be better to discuss it at once, and to consider later at what point in the convention it should be inserted.

Mr. LEVI (Yugoslavia) asked for clarification as to the effect of the new article on the right of a contracting State to make reservations.

Mr. LARSEN (Denmark) said that the right to make reservations would not be impaired. The essential purpose of the new article was to ensure that ratification of the convention would not prevent a contracting State from applying subsequent national legislation more conducive to the reduction of statelessness than the terms of the convention itself.

The new article (A/CONF.9/L.40/Add.2) was adopted by 27 votes to none, with 4 abstentions, subject to drafting changes.

New paragraph to be added to article 15 (A/CONF.9/L.71)[2/]

Mr. BUSHE-FOX (United Kingdom) said that the new clause was a desirable addition to the convention, since it provided some machinery by which a non-metropolitan territory to which the convention had become applicable could, on attaining independence in nationality matters, withdraw from it.

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2/ Article 15 as contained in document A/CONF.9/L.40 was adopted at the tenth plenary meeting, subject to drafting changes.

Mr. RIPHAGEN (Netherlands), comparing the proposed new paragraph with the territorial application clause as adopted at the eleventh meeting (A/CONF.9/L.70/Add.10) proposed that the words "if such consent is required by the constitutional laws or practices of the Contracting State or of the non-metropolitan territory" be inserted after the words "with the consent of the territory concerned".

Mr. ABDEL MAGID (United Arab Republic) said he had no serious objection to the Netherlands proposal, though since article 15 was consecutive upon the territorial application clause, the new text was acceptable as it stood.

Mr. CARASALES (Argentina) pointed out that, under the territorial clause as adopted, contracting States ratifying the convention would automatically extend its scope to non-metropolitan countries for whose international relations they were responsible. The Netherlands proposal would make it possible for a State to exclude a non-metropolitan territory from the scope of the convention. He would therefore vote against it.

Mr. LARSEN (Denmark) suggested that the words "paragraph 2 of" should be inserted in the first line of the paragraph under discussion, after the words "with the provisions of". As the text stood, it would apply both to self-governing and to non-self-governing territories - which was surely not the intention.

Sir Claude COREA (Ceylon) pointed out that the new paragraph was not concerned with the provisions of the territorial application clause already adopted, but endeavoured to rectify an apparent omission with a view to safeguarding non-metropolitan territories. He questioned the advisability of restricting the scope of the new provision by adding the words suggested by the Danish representative.

Mr. BUSHE-FOX (United Kingdom) agreed with the remarks of the representative of Ceylon concerning the limiting effect of the words "paragraph 2 of".

Mr. CARASALES (Argentina) formally proposed the addition of the words "paragraph 2 of", subject to withdrawal of his proposal if the Netherlands amendment were not adopted.

Mr. ROSS (United Kingdom) said that two types of non-metropolitan territories were envisaged in the territorial application article. Paragraph 2 dealt with territories already competent to enact their own nationality legislation and gave them the possibility of not acceding to the convention. The new paragraph would provide similar safeguards in the case of other territories governed by paragraph 1 which at any future time became competent to enact their own legislation. It would also provide for subsequent denunciation in both types of cases. The proposed restriction in the wording was therefore not desirable. For similar reasons, he deprecated the Netherlands amendment.

Sir Claude COREA (Ceylon) said that in the light of the United Kingdom representative's explanation he was now convinced that the addition of the words "paragraph 2 of" might be detrimental to countries in the process of constitutional development.

Mr. RIPHAGEN (Netherlands) withdrew his proposal.

The PRESIDENT called for a vote on the new paragraph (A/CONF.9/L.71), on the assumption that the Argentine amendment had been withdrawn along with that of the Netherlands.

The new paragraph (A/CONF.9/L.71) was adopted by 15 votes to none, with 14 abstentions.

The meeting rose at 7 p.m.