

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

Geneva, 1959 and New York, 1961

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Summary Records, 15th Plenary meeting

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR
REDUCTION OF FUTURE STATELESSNESS*

SUMMARY RECORD OF THE FIFTEENTH PLENARY MEETING

Held at Headquarters, New York,
on Tuesday, 15 August 1961, at 3.20 p.m.

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later,		
<u>President:</u>	Mr. RIPHAGEN	Netherlands
<u>Executive Secretary:</u>	Mr. LIANG	Director of the Codification Division, Office of Legal Affairs

* The records of the first part of the United Nations Conference on the Elimination or Reduction of Future Statelessness, held in Geneva from 24 March to 18 April 1959 were issued under the document symbols A/CONF.9/SR.1-14 and A/CONF.9/C.1/SR.1-20.

OPENING OF THE SECOND PART OF THE CONFERENCE BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

The ACTING PRESIDENT declared the second part of the United Nations Conference on the Elimination or Reduction of Future Statelessness open, and extended a welcome on behalf of the Secretary-General to the representatives who had come to continue the work begun at Geneva in March and April 1959. He said that the Secretary-General attached the highest importance to the work of the Conference. From the humanitarian standpoint, statelessness had to be eliminated so far as possible, for it deprived the individual of the dignity attaching to the status of citizen; from the legal standpoint, the problem was one which affected the domestic law of States, constitutional law and both public and private international law.

The Conference had a highly complex task before it, and should exercise caution in proposing any changes to the provisions adopted by the earlier meetings of the Conference in 1959. The main problem for the current part of the Conference was that of reconciling the legitimate aspirations of individuals with the no less legitimate concern of States to strengthen order within the international community.

The agenda, the rules of procedure and the organization of work of the second part of the Conference were the same as for the first part, but there were slight changes in the representation of States. Although the 1959 Conference had adopted no Convention, it had done important work, the results of which could be seen in document A/CONF.9/12. The articles already adopted testified to the spirit of concession and goodwill which participants in that Conference had shown.

In his opinion, the examination of article 8, concerning deprivation of nationality, should be given priority. The text of that article had occasioned complicated discussions in 1959 and in the end no decision had been taken, so Governments had been asked for their observations on the question of deprivation of nationality; those observations were contained in documents A/CONF.9/10 and Add.1, 2 and 3. Those new documents should clarify the problem and facilitate the task of the Conference, which none the less should not lose sight of the fact

(The Acting President)

that its main goal was to reduce cases of statelessness. If the Conference were unable to agree on any of the texts proposed for article 8 in 1959, it could adopt a text and leave it open for States to enter reservations, but on condition that such reservations were of limited scope. Article 8 should not be assigned undue importance, for it had to be borne in mind that the Convention, even if it contained no provisions on that particular point, would still be of very great value from both the humanitarian and the legal standpoints. Moreover, the article in question concerned only one cause of statelessness and could apply only to a relatively limited number of cases.

He concluded by expressing the hope that the participants in the Conference would show a spirit of co-operation and would succeed in adopting a Convention.

ELECTION OF THE PRESIDENT

The ACTING PRESIDENT, recalling that the President and Vice-Presidents of the Geneva Conference would not be taking part in the work of the second part of the Conference, invited representatives to submit nominations for the office of President of the Conference.

Mr. McILQUHAM-SCHMIDT (Denmark) proposed the candidature of Mr. Riphagen (Netherlands).

Mr. Riphagen (Netherlands) was elected President.

The PRESIDENT thanked the Conference for the honour which it had just conferred on him, and expressed the hope that the Conference would complete the difficult task which was awaiting it.

ELECTION OF THE VICE-PRESIDENTS

The PRESIDENT invited representatives to submit nominations for the offices of Vice-Presidents.

Mr. QUINTERO (Panama) proposed the candidature of Mr. Amado (Brazil).

Mr. ROSS (United Kingdom) proposed the candidature of Mr. Malalasekera (Ceylon).

Mr. Amado (Brazil) and Mr. Malalasekera (Ceylon) were elected Vice-Presidents of the Conference.

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Mr. AMADO (Brazil), Vice-President, thanked members of the Conference for the confidence which they had placed in him and assured them that they would have his full co-operation.

Mr. MALALASEKERA (Ceylon), Vice-President, said that he was very touched by the honour which the Conference had done to his country and himself by electing him Vice-President, and assured members of his complete impartiality.

ORGANIZATION OF WORK OF THE CONFERENCE

The PRESIDENT expressed the view that, since it was a question of completing a task begun in 1959, it would be well to resume the work at the point where it had been interrupted at Geneva - in other words, to continue the examination of article 8 of the Convention, which had been adopted by the Committee of the Whole but not by the Conference. He asked delegations having any proposals or amendments to submit to give them to the Executive Secretary of the Conference as soon as possible.

Mr. JAY (Canada) asked to which text such amendments would apply. He recalled that both texts proposed at Geneva for article 8 had been much debated, and he thought that if another impasse was to be avoided it would be preferable to try to present entirely new proposals which would better reflect the general consensus.

The PRESIDENT, summing up the situation as he saw it, said that the Conference had before it the text of article 8 as adopted by the Committee of the Whole, certain amendments to that text which the Conference had adopted, and a motion to reconsider the question. Thus, representatives could either submit amendments to the text of the Committee of the Whole or, as the Canadian representative had proposed, introduce entirely new proposals more in keeping with the general view. The discussion of the article would certainly show in what it would be possible to reach a compromise solution.

Mr. FAVRE (Switzerland) supported the Canadian representative's suggestion. The Geneva Conference had become deadlocked over article 8, for, after the adoption of the amendment of the Federal Republic of Germany to the text of the Committee of the Whole, it had finally been proposed that that amendment be reconsidered, since differences of opinion had still seemed too substantial. As the discussion thus remained open, the best course would seem

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(Mr. Favre, Switzerland)

to be to invite delegations to submit new written proposals. Once those proposals had been examined by the Conference, a working group could be set up to draft a single text harmonizing the different trends reflected in the proposals.

Mr. AMADO (Brazil), Vice-President, thought that the method suggested by the Canadian and Swiss representatives was very sensible. There had, indeed, been many abstentions in the decisions taken at Geneva on article 8. Such abstentions were of course quite understandable, for even where a State was anxious to combat the scourge of statelessness it could not lightly take decisions which threatened to conflict with its domestic legislation. In such cases, however, the solution was not to abstain but to look for an area of agreement. The Conference should therefore attempt to work out a compromise text. There was in fact no reason to be pessimistic, for, as the representative of the Secretary-General had pointed out, great progress had been made during the first part of the Conference. Thus countries applying the principle of jus sanguinis had come closer to the position of those practising jus soli, and the latter countries had agreed to extend the principle of jus domicilii to a degree that could not have been hoped for before the 1959 Conference. It was therefore not unreasonable to believe that delegations would in the same manner reach agreement on article 8.

Mr. MAURTUA (Peru) said that the debate should rest on a legal basis and act as a new point of departure for the elaboration of the Convention. The text worked out at Geneva had not been approved because the principles proposed had not merited adoption by the Conference. It was therefore necessary to return to the original basis of discussion, which was article 8 of the draft prepared by the International Law Commission.

Rev. Father de RIEDMATTEN (Holy See) shared the view of the Peruvian representative. The reason why there had been so many abstentions at the Geneva Conference was that members had had to pronounce on hastily presented texts and on oral amendments on which it had been impossible to reach agreement.

It was important, in his view, that delegations should submit their proposals and amendments in writing, so that the debate might proceed in an orderly fashion

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(Rev. Father de Riedmatten, Holy See)

and that a working group, if set up, might have a solid basis for discussion. In that way the abstentions which had frustrated the Geneva Conference could be avoided.

The PRESIDENT recalled that the Geneva Conference had taken as the basis for its discussion article 8 of the draft prepared by the International Law Commission, which appeared on page 13 of document A/CONF.9/L.12. As no other text had been adopted, that of the International Law Commission remained the basic document. The Conference also had before it the amendment to article 8 submitted jointly by Canada and the United Kingdom (A/CONF.9/L.76), which had not been put to the vote.

Mr. MAURTUA (Peru) wished to inquire, since some representatives had not been at the Geneva Conference, whether the text which was to serve as the basis for the discussion of article 8 would be open to general substantive debate.

He furthermore considered that the joint Canadian and United Kingdom amendment should be subjected to fresh examination.

The PRESIDENT said that each delegation would have an opportunity to state its view on all the questions covered by article 8, whether in respect of the draft prepared by the International Law Commission or of the joint amendment to the article. The Conference still had both texts before it; they remained valid because article 8 had been left in abeyance.

Mr. STAVROPOULOS (Legal Counsel) said he was not certain that article 8 of the draft prepared by the International Law Commission was still before the Conference, for the Committee of the Whole had not accepted it. The Conference had before it the draft adopted by the Committee of the Whole (A/CONF.9/L.40/Add.3), as amended by Brazil, the Netherlands and Italy. As to the amendment of the Federal Republic of Germany, a motion to reconsider it had been adopted at Geneva. The Conference also had before it the amendment submitted jointly by Canada and the United Kingdom. From the procedural point of view, the International Law Commission's draft article 8 no longer existed. Delegations could of course, if they wished, reintroduce the substance of that article as their own proposal, but the amendments they proposed should be in respect of the text adopted by the Committee of the Whole, as amended, and of the text of the joint amendment.

The PRESIDENT suggested that, in order to facilitate the proceedings, proposals should be submitted in the form of complete texts of article 8.

The meeting rose at 4.25 p.m.