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UNITED NATIONS CONFERENCE ON THE ELIMINATION
OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE TWENTY-SECOND PLENARY MEETING

Held at Headquarters, New York,
on Thursday, 24 August 1961, at 3.20 p.m..

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<u>President:</u>	Mr. RIPBAGEN	Netherlands
<u>Secretariat:</u>	Mr. STAVROPOULOS	Legal Counsel, Representative of the Secretary-General
	Mr. LIANG	Executive Secretary of the Conference

EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS
(A/CONF.9/10 and Add.1 to 3, A/CONF.9/11, A/CONF.9/12; A/CONF.9/L.81, L.86 and L.87)
(continued)

Article 8 of the Draft Convention (continued)

Mr. WALKER (Pakistan) said that in his country a citizen could be deprived of his nationality; but the power to do so had rarely been exercised. In any event, such deprivation was a very minor cause of statelessness. His delegation favoured a broad rather than a narrow text for article 8 of the Convention, which article it considered, moreover, to be of less importance than articles 1 and 4. It would be unfortunate if a number of countries felt unable to accede to the Convention because of objections to article 8.

The text proposed in document A/CONF.9/L.86, while it did not go all the way to meet the existing provisions of his own country's legislation, was broad in nature and represented a reasonable compromise. His delegation, though it could not commit his Government to the terms of the draft, was accordingly prepared to support it as a compromise, given a clear understanding on the following point.

His country's nationality laws contained an unusual provision, which he believed had a counterpart in the legislation of India. On the establishment of the two countries mass migrations had taken place, and in both of them immigrants from the other had been automatically granted full citizenship. Such persons now had to fulfil a few formalities, but it was evident that a person migrating from Pakistan to India ceased to owe allegiance to Pakistan and ceased to be a citizen of Pakistan. Pakistan law therefore provided for loss of Pakistan citizenship in such a case. Thanks to the liberality of the laws of both countries no hardship was involved, and no case of statelessness had yet arisen as the result of such transfers. Furthermore, a person who had been deprived of Pakistan nationality on settling in India could, if he returned to Pakistan, resume Pakistan citizenship by obtaining a permit to do so. His Government wished to safeguard its position with regard to that arrangement, and his delegation interpreted the provisions of paragraph 3 (b) of the proposed draft article as fully covering the provisions of Pakistan law in regard to deprivation of nationality on the ground of migration to India.

In his country the power of deprivation was exercised in accordance with procedures established by law, all cases being referred to a committee of inquiry which, he believed, met the terms of paragraph 5 of the draft article.

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(Mr. Walke, Pakistan)

His delegation could not support the Yugoslav amendment contained in document A/CONF.9/L.87. Being more restrictive, it would make the article less acceptable to other delegations, thus discouraging accessions to the Convention.

Mr. FAVRE (Switzerland) said that for the reasons he had given at the previous meeting, he wished to propose the deletion of paragraph 4 from the text of the draft article.

Mr. PEREZ RUIZ (Spain), explaining the policy underlying his country's nationality laws, said that legislation recently adopted had reduced the number of grounds for deprivation. While he could not commit his Government definitely with regard to the new text of article 8, his delegation nevertheless had some comments to make on its various paragraphs.

Paragraph 1 was strongly endorsed by his Government. His delegation felt that exceptions should be kept to a minimum; it would therefore prefer the deletion of paragraph 2 (a), but would not object to its retention if that was the desire of other delegations. It could agree to the exceptions provided for in paragraph 3, although they were not all provided for in Spanish legislation. It could agree also to the deletion of paragraph 4, since the idea it contained was implicit in paragraph 3. Paragraph 5 was acceptable to his delegation.

He did not favour the Yugoslav amendments (A/CONF.9/L.87) as they did not appear acceptable to some delegations.

Mr. YINGLING (United States of America) said that, further to the comments he had made at the previous meeting, his delegation now wished formally to propose three amendments to paragraph 5 of the text in document A/CONF.9/L.86: first, the deletion, in the second line, of the words "a procedure established by"; second, the insertion in the third line of the words "its national the right to" between the words "provide for" and the words "a fair hearing"; third, the deletion of the word "completely" in the same line.

Mr. FAVRE (Switzerland), supported by Mr. HARVEY (United Kingdom), urged the Yugoslav delegation not to press its first amendment (A/CONF.9/L.87, paragraph 1), calling for the deletion of paragraph 2 (a), as the latter had been included in the article by the Working Group in order to cover the case of States whose legislation did not provide for automatic deprivation of nationality.

Mr. ILIC (Yugoslavia) said that in the view of his delegation the sub-paragraph was superfluous. The Yugoslav delegation therefore maintained its first amendment.

The PRESIDENT invited the Conference to vote on the first three Yugoslav amendments (A/CONF.9/L.87, paragraphs 1 to 3).

The first Yugoslav amendment was rejected by 16 votes to 3, with 9 abstentions.

The second Yugoslav amendment was rejected by 12 votes to 1, with 16 abstentions.

The third Yugoslav amendment was rejected by 16 votes to 1, with 13 abstentions.

Mr. JAY (Canada) said that his delegation had voted against the first three Yugoslav amendments because it hoped for the adoption of a text acceptable to the greatest possible number of States, including countries not present at the Conference, and because it was confident that the points with which the Yugoslav delegation was concerned were adequately covered by the text given in document A/CONF.9/L.86.

Mr. FAVRE (Switzerland) appealed to the Yugoslav delegation to confine its fourth amendment (A/CONF.9/L.87, paragraph 4) to the deletion of the word "completely" and the words "and impartial".

Mr. ILIC (Yugoslavia) agreed to make those changes in his delegation's fourth amendment.

The PRESIDENT suggested that the United States representative's oral amendment to paragraph 5, being further removed from the original text than the Yugoslav amendment, should be voted upon before the latter.

Mr. SIVAN (Israel) said that with the exception of the addition proposed by the United States delegation, the changes proposed in paragraph 5 were of a drafting nature. He suggested that they should be referred to the Drafting Committee before the Conference took action on the paragraph.

Following a procedural discussion in which Mr. FAVRE (Switzerland), Mr. JAY (Canada) and Mr. WALKE (Pakistan) took part, the PRESIDENT suggested that the order of voting should be the following: (1) the amendment proposed by the United States, to delete, in the second line, the words "a procedure established by"; (2) the further United States amendment proposing that, in the third line, the words "its national the right to" should be inserted after the words "shall provide for"; (3) the amendment, common to the United States and Yugoslav delegations, that the word "completely" in the third line should be deleted; (4) the amendment, proposed by Yugoslavia, that in the fourth line the words "and impartial" should be deleted.

Mrs. BERNARDINO CAPPÀ (Dominican Republic) asked for a separate vote on paragraph 5 in the final voting.

The PRESIDENT invited the Conference to vote on the first amendment.
The first amendment was adopted by 9 votes to 8, with 13 abstentions.

The PRESIDENT invited the Conference to vote on the second amendment.

Mr. FAVRE (Switzerland) objected to the words "its national", since the State might argue that the individual concerned was no longer a national and could therefore not take his case to a court.

Mr. YINGLING (United States of America) said that under United States law no one was denied recourse to the courts to contest the deprivation of his nationality. However, he agreed to alter his amendment to read: "the person concerned the right to".

Rev. Father de RIEDMATTEN (Holy See) commented that the new wording proposed was in line with the French text as it already stood.

The PRESIDENT put the second amendment to the vote.
The second amendment was adopted by 8 votes to 1, with 20 abstentions.

The PRESIDENT then invited the Conference to vote on the third amendment, which related only to the English text.

The third amendment was adopted by 12 votes to 2, with 15 abstentions.

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Mr. HARVEY (United Kingdom) said he wished to explain his vote on the last three amendments. The text of paragraph 5 as it appeared in document A/CONF.9/L.86 was based on wording which had been discussed at length at Geneva, where care had been taken to see that the text in the different languages corresponded. It had become clear at Geneva that certain phrases were of particular significance to the particular countries, and he was therefore reluctant to agree to changes without being convinced that they were generally acceptable. It was for that reason that he had voted against the amendments, and not because he specifically disagreed with them.

Mr. SIVAN (Israel) said that he had voted against two amendments and abstained on one for reasons similar to those given by the United Kingdom delegate.

The PRESIDENT invited the Conference to vote on the fourth amendment.
The fourth amendment was adopted by 9 votes to 5, with 16 abstentions.

Mr. JAY (Canada) said that in abstaining on each vote, his delegation had had the same considerations in mind as those put forward by the United Kingdom representative. He did not consider that any of the changes made greatly affected the content or purport of the article.

Mr. VAN SASSE VAN YSSELT (Netherlands) suggested that, in the third line of the French text of paragraph 5, the word "et" should be deleted.

The PRESIDENT invited the Conference to vote on paragraph 5 as amended.
Paragraph 5 as amended was adopted by 27 votes to none, with 3 abstentions.

The PRESIDENT invited comments on the Swiss oral amendment, to delete paragraph 4 of the Working Group's draft of article 8.

Mr. MAURTUA (Peru) recalled his statement at the preceding meeting concerning the interpretation of paragraph 4 given by the representative of Canada. In a spirit of understanding, and having in mind the purposes of the Conference, his delegation interpreted the words "not less favourable" as meaning that States would be able in the future to enact legislation similar to that mentioned in paragraph 3, and he would accordingly vote against the deletion of paragraph 4.

Mr. JAY (Canada) asked that the record should make it quite clear, whether paragraph 4 was retained or deleted, that the intention of the paragraph was to permit States to deal with their citizenship laws as they thought fit, subject only to the restriction that they could not increase their powers vis-à-vis the individual beyond those specified at the time of signature, ratification or accession. If the paragraph was deleted, it should be made clear that most delegations, including his own, took the view that States would have exactly the same right, whether or not paragraph 4 was included in article 8.

Mr. FAHRE (Switzerland) said that the purpose of the Conference was to draw up an international convention establishing the rights and obligations of States. Paragraph 4 established neither rights nor obligations, but was a mere statement of principle; as such, it was redundant, except perhaps in the preamble, and might create confusion. His delegation would have voted in favour of the International Law Commission's draft article 8, which would have given States the greatest freedom of action in doing away with statelessness - the purpose of the Convention.

Mr. HARVEY (United Kingdom) said that the United Kingdom understood the intention of paragraph 4 as being to make it clear that nothing in paragraph 3 should prevent States from restricting their grounds for deprivation of nationality. However, that could be implied from the terms of the Convention as a whole; paragraph 4 was therefore unnecessary, and his delegation would agree to its deletion on the understanding that it would in fact make no difference to the meaning of the Convention.

The proposal to delete paragraph 4 of the draft prepared by the Working Group was adopted by 12 votes to none, with 18 abstentions.

The PRESIDENT invited the Conference to vote on the text of article 8 as a whole, as prepared by the Working Group and as amended at the present meeting.

Mr. ILIC (Yugoslavia) requested separate votes on paragraphs 2 (a), 3 (a) (i), the words "that the person has taken an oath, or made a formal declaration, of allegiance to another State" in paragraph 3 (b), and paragraph 3 (b) as a whole.

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Mr. JUSUF (Indonesia) supported the Yugoslav proposal, since his delegation would vote against paragraph 2 (a) but in favour of paragraph 2 (b).

Mr. HEIMSOETH (Federal Republic of Germany), opposing the Yugoslav proposal, recalled that at the preceding meeting he had described the Working Group's draft as a fair compromise to which his delegation could agree. That would no longer be so if parts of the text were deleted, making it less acceptable to the community of States as a whole.

Mr. HARVEY (United Kingdom) also opposed the Yugoslav proposal. His delegation regarded the draft article as a single balanced whole, which should be voted on as a whole. Speaking on a point of order, he suggested that a separate vote on paragraph 2 (a) would be a repetition of the vote already taken on the Yugoslav amendment in document A/CONF.9/L.87, paragraph 1, and, as such, would be contrary to proper procedure.

The PRESIDENT said that in voting on the Yugoslav proposal, delegations could express their views concerning the proper procedure.

Mr. ILIC (Yugoslavia) remarked that the United Kingdom representative's comments referred only to paragraph 2 (a); he had different reasons for requesting a separate vote on the other paragraphs.

The Yugoslav proposal was rejected by 17 votes to 3, with 10 abstentions.

The text of article 8 as a whole, as prepared by the Working Group and as amended at the current meeting, was adopted by 23 votes to none, with 7 abstentions.

The PRESIDENT, replying to a question by Mr. JAY (Canada), said that the article adopted by the Conference would be referred to the Drafting Committee, which would take into account the various observations concerning drafting made in plenary.

First report of the Drafting Committee of the Conference (A/CONF.9/L.81)

The PRESIDENT put to the vote the text of the final provision recommended by the Drafting Committee.

The text was adopted by 28 votes to none, with 2 abstentions.

The PRESIDENT invited comments on the text of article 12 recommended by the Drafting Committee.

Mr. JAY (Canada) said that the use of the words "shall be ratified" in paragraph 3 appeared rather strange; a wording such as "open to ratification" would better reflect realities.

The PRESIDENT said that he understood from the Secretariat that the wording was by no means unusual; the Convention would be open for signature and once it had been signed, the words "shall be ratified" were appropriate.

Mr. MAURTUA (Peru) said he wished to point out once again that paragraph 2 represented a departure from customary procedure and from the wording generally used in similar Conventions. A better formula would be that adopted in the case of the Convention on the declaration of death of missing persons dated 6 April 1950, article 13 of which provided that the Convention should be open for accession on behalf of Members of the United Nations, non-member States which were parties to the Statute of the International Court of Justice and any other non-member State to which an invitation had been addressed. The present convention should be open for signature also on behalf of non-member States which are members of specialized agencies.

Mr. JAY (Canada) speaking on a point of order, said that if the conference pursued the line suggested by the representative of Peru, it would be reopening discussion of the substance of an article which had already been approved at the first part of the Conference. According to the strict sense of the rules of procedure there was no way in which any delegation could reopen discussion of the substance of the article.

The PRESIDENT said that the article had been referred to the Drafting Committee for purely technical changes, relating to wording which was no longer appropriate two years after the adoption of the article. Discussion of the substance of the article could not be reopened, and the Conference would vote only on the changes made by the Drafting Committee.

The text of article 12 recommended by the Drafting Committee was adopted by 24 votes to none, with 4 abstentions.

The meeting rose at 5.10 p.m.