

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

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UNITED NATIONS CONFERENCE ON THE ELIMINATION
OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE TWENTY-FOURTH PLENARY MEETING

Held at Headquarters, New York,
on Friday, 25 August 1961, at 3.20 p.m.

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<u>President:</u>	Mr. RIPHAGEN	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.90) (continued)

Mr. LIANG (Executive Secretary) drew attention to errors in the footnotes to the English and Spanish texts of document A/CONF.9/L.90. In the English text, the footnote to article 8 should read: "Adopted subject to review by the Drafting Committee", while in the English and Spanish texts the footnote to new article (Territorial Application clause) and to new article (Settlement of Disputes clause) should read "Adopted subject to a right of reservation" and "Sujeto a reserva" respectively.

Draft resolutions adopted by the Committee of the Whole (A/CONF.9/12, paragraph 27) (continued)

The PRESIDENT invited comments on the Belgian draft resolution regarding de facto statelessness.

Mr. HARVEY (United Kingdom), recalling the doubts he had expressed at the preceding meeting concerning the appropriateness of the terms of the draft resolution, nevertheless emphasized the United Kingdom's sympathy for those unfortunate persons who were without an effective nationality. His delegation would vote in favour of the draft resolution, on the understanding that it constituted a general exhortation to States to do what they could to assist de facto stateless persons.

Rev. Father de RIEDMATTEN (Holy See) said that, for reasons similar to those stated by the United Kingdom, his delegation would vote in favour of the draft resolution. He appealed to all delegations to make a great effort to support the resolution so that the results of the Conference might not be too disappointing to de facto stateless persons.

Mr. LUTEM (Turkey) said that, after hearing the representative of the High Commissioner for Refugees, he would vote in favour of the draft resolution.

Mr. YINGLING (United States of America) repeated his view, expressed at the preceding meeting, that the use of such terms as "de jure" and "de facto" was unfortunate, since they had no definite meaning in the present context. There was nothing in the Convention to prevent a State from conferring its

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(Mr. Yingling, United States)

nationality on persons already possessing another nationality, since the Convention would deal, not with double nationality, but with statelessness. His delegation's first impulse had been to vote against the draft resolution but, as an expression of sympathy for refugees, it would vote in favour, on the understanding that the record would show the reasons which might otherwise have led it to cast a negative vote or to abstain.

Mr. SIVAN (Israel) agreed that there was no clear definition to indicate whether a person enjoyed the protection of a Government; but there were references in international jurisprudence, and perhaps in conventional international legislation, to persons not having a nationality de facto as well as de jure. Even if delegations had some doubts regarding the wording of the draft resolution, especially where the question of the protection of a Government was concerned, he thought that it should be adopted, particularly since it was in the form of a resolution and was not a provision of the Convention. His delegation would vote in favour of the draft resolution.

Mr. WEIDINGER (Austria) said that he would not recall what his country, without having any legal obligation, had done for refugees. Nevertheless, on the basis of his country's experience he must associate himself with the objections raised by the United Kingdom representative at the preceding meeting. His delegation's instructions were to vote against the draft resolution but, having in mind the praiseworthy motives of Belgium, it would, instead, abstain.

The PRESIDENT put to the vote the Canadian oral amendment to delete the words "not enjoying the protection of a Government".

The amendment was adopted by 7 votes to 2, with 15 abstentions.

The draft resolution, as amended, was adopted by 17 votes to 1, with 8 abstentions.

Mr. YINGLING (United States of America) explained that, although he had said that he would vote in favour of the draft resolution, he had abstained because the deletion of the words explaining the meaning of the term "de facto" had rendered the draft resolution meaningless.

The PRESIDENT invited comments on the Danish draft resolution regarding the interpretation of the terms "naturalization" and "naturalized persons".

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Mr. HARVEY (United Kingdom) pointed out that, in the form which the Convention had finally assumed, references to naturalization and naturalized persons appeared only in article 7, paragraphs 2 and 4. The reference in paragraph 2 to "naturalization in a foreign country" appeared, in the context, to refer to naturalization both in Contracting States and in other States, whereas the draft resolution defined naturalization only in Contracting States. Apart from the inappropriateness of the drafting in relation to article 7, paragraph 2, the terms of that paragraph were such that they dispensed with the need for the definition provided in the draft resolution. Article 7, paragraph 4, referred only to a naturalized person and did not include the word "naturalization". In the interests of clarity, the draft resolution should refer solely to paragraph 4, and references to naturalization should be deleted including the second part of the draft resolution which stated expressly what was implied in the first part. He proposed an amendment whereby the draft resolution would read as follows:

"The Conference

"Resolves that for the purposes of paragraph 4 of article 7 of the Convention the term 'naturalized person' shall be interpreted as referring only to a person who has acquired nationality upon an application which the Contracting State may in its discretion refuse."

Mr. YINGLING (United States of America) said that his delegation would vote against the resolution because, in its view, definitions such as that which the resolution contained should, if needed, appear in the text of the Convention.

Mr. HUBERT (France) drew attention to the fact that, in the French text of article 7, paragraph 4, the word "naturalisation" did appear while the term "individu naturalisé" did not.

The United Kingdom amendment was adopted by 11 votes to 1, with 13 abstentions

The draft resolution, as amended, was adopted by 12 votes to 2, with 13 abstentions.

Draft resolutions submitted but not discussed (A/CONF.9/12, paragraph 29)
(continued)

Mr. IRGENS (Norway) proposed that the Conference should adopt the resolution reproduced in paragraph 29 of document A/CONF.9/12, which his delegation had submitted at Geneva. It had not proved possible to incorporate its substance

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(Mr. Irgens, Norway)

in the Convention itself, but its adoption in the form of a resolution would contribute to the reduction of statelessness.

The draft resolution proposed by Norway was adopted by 23 votes to none, with 5 abstentions.

Mr. YINGLING (United States of America) said that his delegation had voted in favour of the resolution, not only because it approved its substance, but also because, in this instance, the subject-matter was appropriate for a resolution.

Mr. JUSUF (Indonesia) said that his delegation had abstained, as it did not see in what way the resolution could be implemented. The practice in his country was to assume that all citizens were aware of the law.

Mr. MAURTUA (Peru) endorsed the United States representative's remarks concerning the undesirability of adopting numerous interpretative resolutions which, he presumed, would be incorporated in the final act. Some delegations prepared to sign the Convention might be reluctant to sign a final act incorporating resolutions which did not meet with their approval.

The PRESIDENT pointed out that the final act would be merely a record of what had transpired at the Conference, and that its signature would not mean endorsement of any particular resolution.

Mr. SIVAN (Israel) proposed the adoption of the draft resolution submitted by his delegation at Geneva (A/CONF.9/12, paragraph 29). The term "convicted" to which it referred appeared in the Convention in article 1, paragraph 2 (c), and in article 4, paragraph 2 (c).

It had been felt at Geneva that, while the meaning of the term "convicted", in Anglo-Saxon law, was perfectly clear in English, some doubts might arise regarding its meaning in other languages. The intention was to avoid the possibility of the term being interpreted as referring to a preliminary and not to a final process of law.

Mr. YINGLING (United States of America) said that his delegation would vote against the draft resolution, because it doubted the need for it and felt that any definitions which were required should be in the Convention itself.

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Mr. JAY (Canada) said that his delegation had no objection to the draft resolution and fully sympathized with its intent. However, he recalled that in the discussion of article 8 considerable difficulty had arisen over the use of the term "convicted" and the definition of an independent and impartial body. The Conference had thus far tried to avoid those difficulties, and it appeared undesirable to raise them again by adopting the draft resolution.

Mr. LUTEM (Turkey) said that the Conference appeared to be adopting resolutions on what might well prove to be matters of substance which were more properly the subject of the Convention.

The draft resolution proposed by Israel was adopted by 12 votes to 4, with 12 abstentions.

Statement by the Canadian delegation

Mr. JAY (Canada), referring to the provision in article 7, paragraph 4, regarding declarations by naturalized persons of their intention to retain nationality, said that Canadian legislation required only that persons resident outside the country should be asked the question "Do you intend to return to Canada?" That question was considered fairer than the question "Do you intend to retain Canadian nationality?" since, by replying in the affirmative to the former question, the individual concerned did not have to commit himself to the extent of handing in his passport, as he would have to do if he replied in the affirmative to the latter question.

Although that practice did not conform to the letter of article 7, paragraph 4, his Government regarded it as coming within the article's provisions, since it was more favourable to the individual concerned. His delegation wished to place that interpretation on record and trusted that it would be generally accepted.

The meeting rose at 4.10 p.m.