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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE FOURTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Thursday, 26 March 1959, at 10.05 a.m.

President: Mr. LARSEN (Denmark)

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

raft convention on the reduction of future statelessness (A/CONF.9/L.1) (continued)

rticle 1 (A/CONF.9/L.2, L,4, L.5/Rev.1, L.6) (continued)

Mr. HUBERT (France) said that in its efforts to draw up a convention on he reduction of future statelessness the Conference must bear in mind the legitimate oncern of every State that all those to whom it granted nationality should be linked o it as loyal citizens.

His Government preferred the International Law Commission's draft convention on the reduction of future statelessness to its draft on the elimination of future statelessness (A/CONF.9/L.1) because it was not too rigid. Article 1 of the former draft, however, was not completely satisfactory, and his delegation had submitted an amendment (A/CONF.9/L.5/Rev.1). The solution suggested in the amendment was based on French law, under which a child born in France of foreign or stateless parents normally acquired French nationality at the age of twenty-one, provided that he had resided in France for the preceding five years. He could refuse French nationality only if he could prove that he had another nationality. He could acquire French nationality at the age of sixteen upon request, provided he had complied with the conditions of residence, and before that age upon such a request being made by his parents or guardians.

Mr. SIVAN (Israel) said that, in supporting paragraph 1 of the article, his delegation was fully aware that accession to a convention containing such a provision would entail in due course supplementing the existing legislation of Israel. It shared the preference for paragraph 1 of the representative of Italy, which was also a jus sanguinis state, and of the representative of the United Kingdom, because it believed that practical, moral and psychological importance attached to nationality not only in the case of adults but also in that of children and young people. Any purported solution that was not based on the attribution of nationality at birth could not possibly be compatible with the principle proclaimed in the Universal Declaration of Human Rights that everyone had the right to a nationality.

Moreover, as pointed out in paragraph 136 of the report of the International Law Commission on its fifth session (A/2456), the operation of article 1 would, for most practical purposes, be limited to persons born of stateless persons. That was an additional argument for the jus soli solution of that particular problem, which would prevent perpetuation of statelessness by descent - particularly since it

entailed no impairment of the operation of the jus sanguinis rule in its normal application in the States concerned to the children of their nationals, wherever born, and to non-nationals born in their territory if they acquired another nationality.

The alternative to paragraph 1, submitted by the Belgian delegation (A/CONF.9/L.2), and the Danish delegation's proposal (A/CONF.9/L.6), did not appear to provide a sufficiently comprehensive solution of the problem before the Conference.

Paragraphs 2 and 3 should be omitted, as in the draft convention on the elimination of future statelessness, because they introduced too many complications and uncertainties. The discrimination between father and mother did not commend itself to his delegation, because the Israel Women's Equal Rights Act was opposed to such discrimination.

If the Conference were unable to adopt paragraph 1 above, his delegation would prefer a solution more on the lines of the United Kingdom amendment (A/CONF.9/L.4), but it wished to defer consideration of that amendment until the appropriate stage of the debate.

Mr. CARASALES (Argentina) said that as the Argentine nationality law was based on jus soli his delegation had no difficulty in accepting paragraph 1 as drafted, but would prefer paragraphs 2 and 3 to be deleted. However, in order to meet the wishes of those countries whose laws were based on jus sanguinis, his delegation would not oppose the retention of paragraphs 2 and 3.

With regard to the amendments submitted, the Argentine delegation could accept those proposed by the United Kingdom delegation, but would have difficulty in accepting those of Denmark and Belgium. He shared the views expressed by the representatives of Italy and the United Kingdom at the previous meeting that it was of paramount importance that a child should have a nationality at birth. In that connexion, his delegation also supported article 15 of the Universal Declaration of Human Rights and wished to emphasize the psychological importance of a child acquiring a nationality at birth and of knowing that he would have the right to keep it when he reached his majority, provided he complied with certain conditions.

Mr. CALAMARI (Panama) said that, while agreeing with the general spirit of the Belgian amendment (A/CONF.9/L.2), his delegation considered that a child should have attained his majority or be at least eighteen years of age and be fully aware of his rights and duties as a citizen before he was granted the right to

acquire the nationality of the party in whose territory he had been born. An explanation of what was meant by "simplified procedure" should be written into the article. It might take the form of a request submitted to the competent authorities by the applicant, together with proof that he had become integrated into the life of the State concerned, knew its language and had some knowledge of its geography, history and political organization.

The rights of the State granting a person nationality must be safeguarded. The problems raised by article 1 might perhaps be solved if paragraph 1 provided that a person who would otherwise be stateless should acquire at birth the nationality of the State or territory in which he was born, provided his father or mother applied to the competent authorities within, say, sixty days of his birth.

While supporting the first part of the United Kingdom amendment (A/CONF.9/L.4), his delegation thought that the question of illegitimate persons should not be mentioned; in Panama no distinction was made in their case where nationality was concerned. Paragraph 3 (b) of the United Kingdom amendment should be amended to provide that the child should acquire the nationality of the parent who was not stateless or who had the nationality of one of the parties to the convention.

The Danish amendment (A/CONF.9/L.6) seemed logical, but proof should be required that the child had some ties with the country whose nationality he wished to take.

Mr. IRGENS (Norway) said that the Norwegian Government considered that there should be some ties between a stateless person and the country whose nationality he wished to acquire. That view was particularly well met by the Danish amendment (A/CONF.9/L.6), which his delegation supported, although it might entail some amendment of Norwegian law.

The idea that nationality, once granted to a person, might be withdrawn at a certain age was not acceptable.

Mr. MEHTA (India) said that the Indian citizenship laws enacted in 1955, which corresponded to the article, provided that every person born in India, except the child of an enemy alien born in a place then occupied by the enemy, should be a citizen of India by birth. On attaining full age, such a person could renounce Indian citizenship, provided that he was a citizen or national of another country. Under another provision, a person born outside India was regarded as a citizen of India by descent if his father was a citizen of India at the time of his birth. It would thus be seen that in most cases Indian citizenship laws had been so framed

that statelessness was avoided. The Indian delegation would therefore have no difficulty in accepting the article, either as it stood or consisting of paragraph 1 only.

Mr. TYABJI (Pakistan) said that his delegation could accept paragraph 1, since it did not conflict with the Pakistan Citizenship Act No. II of 1951, which was based on the principle of jus soli. There would be no objection to paragraphs 2 and 3 if other States wished to impose such restrictions.

He could not support the Belgian amendment, which detracted from the effectiveness of the article. The United Kingdom amendment was acceptable, but it was essential that the convention should be really effective.

Mr. SAFWAT (United Arab Republic), after observing that he had listened to the statements of the United Kingdom and Swiss representatives with special interest, said that in view of the United Arab Republic's problem of over-population his delegation could not accept paragraph 1 as drafted. It provided that a person who would otherwise be stateless should acquire at birth the nationality of the party in whose territory he was born, whereas under the United Arab Republic Nationality Act of 1958 in order to acquire nationality a stateless person must reside in the territory of the Republic from birth until the age of twenty-one and must fulfil certain other conditions. However, under the same Act a child born in the United Arab Republic of unknown parents automatically became a citizen of that country. One of the chief causes of statelessness had thus already been eliminated in the United Arab Republic.

Mr. WILLFORT (Austria) said that Austria was a country of asylum for refugees and its laws were based on the principle of jus sanguinis. Hence, for the reasons given by the representative of Switzerland at the second meeting, a convention based on jus soli could not be accepted by the Austrian Government.

Austria had proved by its actions that it sympathized with the cause of the refugees and the stateless. Since 1945, approximately 1.5 million refugees had either passed through Austria or received temporary asylum there and large numbers still remained in the country. Some 350,000 persons - about 5 per cent of the total population of the country - had been granted Austrian citizenship since 1945.

His delegation was prepared to consider the amendments submitted by the delegations of Denmark, Belgium and France, but it shared the hesitations expressed by certain other delegations regarding the setting up of a special agency and could not accept the idea of provisional citizenship, which it considered to be a

source of statelessness. Austrian legislation contained every possible provision to prevent statelessness and an Austrian citizen could not be deprived of his nationality. He would suggest that article 1 should recommend governments to avoid including in their legislation clauses on provisional citizenship.

Mrs. TAUCHE (Federal Republic of Germany) said that the situation in her country was similar to that of Austria. Her delegation could accept the Danish and French amendments but not article 1 as drafted by the International Law Commission.

Rev. Father de RIEDMATTEN (Holy See) said that he had not yet fully considered the various amendments submitted, but would urge that a text acceptable to the majority of States should be aimed at. The Danish amendment was logical. Was there any existing convention which would safeguard a stateless child who had not acquired a nationality at birth from suffering from the disadvantages of statelessness?

Mr. HERMENT (Belgium) said that such a child would be covered by the provisions of the 1954 Convention relating to the Status of Stateless Persons.

Replying to the representative of Panama, he said that the age of fifteen or sixteen had been suggested in the Belgian amendment because it was generally at that age that a child's future was planned.

With regard to the suggestion in the Belgian amendment that a simplified procedure should be followed, it might certainly include an application to the competent authorities. The conditions under which nationality would be granted should be determined by the State concerned. They might be included in the article together with the reasons for refusing to grant nationality. Such reasons should be few, however.

Mr. KUDO (Japan) said that although his country's nationality laws were based on jus sanguinis they did contain some elements of jus soli and his Government would be happy to subscribe to a convention which represented a combination of the two principles.

With regard to article 1, his delegation approved of the text of paragraph 1, but would suggest the deletion of paragraphs 2 and 3.

The PRESIDENT said that it was clear from the discussion that a compromise would have to be reached between the wishes of States anxious to preserve their existing nationality laws and the aspirations of those who adopted a more liberal attitude towards nationality. The revised amendment submitted by the French

delegation might well provide the basis for agreement and the Conference would wish to examine its effects and consequences very carefully.

Mr. CALAMARI (Panama) expressed his delegation's appreciation of the Belgian representative's readiness to include a more precise definition of the term "simplified procedure".

Mr. FAVRE (Switzerland) said that mention had been made of article 15 of the Universal Declaration of Human Rights, which provided that "everyone has a right to a nationality", and the inference had been drawn that the exercise of that fundamental human right must entail the application of jus soli. But that principle should be invoked against countries whose laws permitted the creation of cases of statelessness. Swiss nationality law had not created a single case of statelessness.

Some delegations had suggested that the most logical course would be to adopt paragraph 1 without paragraphs 2 and 3. It would indeed be logical for immigration countries, but it certainly would not be so for countries in Central Europe which had received a large number of refugees and required some more precise regulation of nationality questions.

It had also been said that it was essential to give a child a nationality at birth, to which he would reply that a nationality should not be imposed on those who did not want it. There were many refugees, in his own country and others, who did not want their children to take the nationality of the country in which they were born, and in such cases it was vital to ensure that the individual's wishes were respected. The United Kingdom amendment went some way towards doing so.

The Danish amendment introduced the idea of assimilation of a person into a new country and proposed the establishment of an objective criterion of residence for a certain period. That idea was unquestionably interesting, but by itself was probably inadequate for his own country, and the Panamanian representative's suggestion that there should be additional criteria such as knowledge of the language, customs and laws of the country concerned was welcome.

The discussion seemed to have reached a point where the jus soli countries were declaring that they themselves had no nationality problems and that all that was needed to solve the problem of statelessness was an amendment of existing law in the jus sanguinis countries. But how should the existing laws be altered? The proposals put forward by the French, United Kingdom, Belgian, Danish and Panamanian delegations were all valuable contributions to the Conference's work,

but each differed slightly from the other. Some effort must be made to iron out those differences so that the jus sanguinis countries could confront the jus soli countries with a single text representing the maximum concessions that the former could offer. He was not proposing that solution as an instrument of blackmail but as the only means of reaching agreement without delay.

Mr. HELLBERG (Sweden) said that his preference went to the Danish amendment. It would, if adopted, necessitate some changes in his country's laws, but the Swedish Parliament would probably be prepared to do so. The Norwegian representative's comments on the French proposals were well-founded and the revised French amendment might well form the basis for a compromise satisfactory to all. The French proposal to fix an age limit beyond which statelessness would not be tolerated represented great progress.

Mr. DE SOIGNIE (Spain) agreed that the revised French amendment would probably provide a satisfactory compromise between the reduction of future statelessness in general and preservation of continuity in the national laws of individual countries.

Mr. HERMENT (Belgium) said that his delegation would follow up the Swiss representative's proposal by suggesting that an informal meeting of jus sanguinis countries be held to draft a unified text with which they could then confront the jus soli countries.

The PRESIDENT endorsed that suggestion.

Mr. BACCHETTI (Italy) moved, under rule 18 of the rules of procedure, that the meeting be adjourned.

Mr. PRESIDENT put the motion to the vote.

The motion for adjournment was carried by 16 votes to 2, with 13 abstentions.

The meeting rose at 12.5 p.m.