

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

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Memorandum Concerning the Method of Work and Procedures of the Conference

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR
REDUCTION OF FUTURE STATELESSNESS

Memorandum Concerning the Method of Work and
Procedures of the Conference

by

The Secretariat of the United Nations

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I. Introduction

1. By resolution 896 (IX) of 4 December 1954 on the Elimination or reduction of future statelessness, the General Assembly, inter alia, and considering that the International Law Commission had submitted revised drafts of the Convention on the Elimination of Future Statelessness and the Convention on the Reduction of Future Statelessness,^{1/} expressed in paragraph 2 "its desire that an international conference of plenipotentiaries be convened to conclude a convention for the reduction or elimination of future statelessness as soon as twenty States (had) communicated to the Secretary-General their willingness to co-operate in such a conference".^{2/} Paragraph 3 of that same resolution requested the Secretary-General

"(a) To communicate, together with the present resolution, the revised draft Conventions to Member States and to each non-member State which is or hereafter becomes a member of one or more of the specialized agencies of the United Nations or which is or hereafter becomes a Party to the Statute of the International Court of Justice;

"(b) To fix the exact time and place for the conference, to issue invitations to those States to which the revised draft Conventions have been communicated and to take all other measures for the convening of the conference and for its operation in case the condition stated in paragraph 2 above is met;

....."

2. The Secretary-General communicated the texts of these draft Conventions to the States referred to in paragraph 3 (a), principally by letters dated 8 and 10 February 1955 but also by subsequent letters to newly-admitted Member States as and when they were admitted. In the same letters the Secretary-General requested the States to inform him whether or not they intended to participate in the Conference envisaged by the resolution.

3. By a further letter dated 11 August 1958 the Secretary-General informed those States that the condition contained in paragraph 2 of the resolution

^{1/} Official Records of the General Assembly, Ninth Session, Supplement No. 9 (A/2693), chapter II.

^{2/} Ibid., Supplement No. 21 (A/2890), pp. 49-50.

had been fulfilled and that, accordingly, he had decided to convene the United Nations Conference on the Elimination or Reduction of Future Statelessness at the European Office of the United Nations, Geneva, between 24 March and 17 April 1959.

4. In pursuance of the request in paragraph 3 (b) of the resolution, to "take all other measures for the convening of the Conference and for its operation...", the Secretary-General, inter alia, has prepared the present memorandum concerning the method of work and procedures of the Conference. The provisional agenda and the provisional rules of procedure, to which this memorandum refers, are circulated as separate documents of the Conference (A/CONF.9/1 and A/CONF.9/2).

II. Provisional Agenda

5. The provisional agenda of the Conference is largely self-explanatory. Two of the items, namely, item 7 on the "Examination of the question of the elimination or reduction of future statelessness" and item 8 on the "Adoption of convention(s) or other instruments and of the Final Act of the Conference", cover the substantive part of the work of the Conference and stem from operative paragraph 2 of resolution 896 (IX).

III. Provisional Rules of Procedure

6. The provisional rules of procedure of the Conference are, in general, those now accepted as standard for international conferences convened under the auspices of the United Nations and similar in scope and size to the present Conference.^{3/} It may, however, be of interest to draw attention to certain aspects of the work envisaged for the present Conference and to those parts of the rules which will govern them.

^{3/} For examples of similar rules see those of the United Nations Conference on Declaration of Death of Missing Persons, 1950 (A/CONF.1/3); United Nations Conference on the Status of Refugees and Stateless Persons, 1951 (A/CONF.2/3/Rev.1); Fourth United Nations Technical Assistance Conference, 1953 (A/CONF.5/1); United Nations Conference on the Status of Stateless Persons, 1954 (E/CONF.17/2); the International Technical Conference on the Conservation of the Living Resources of the Sea, 1955 (A/CONF.10/4/Rev.1); United Nations Conference on Maintenance Obligations, 1956 (E/CONF.21/2); United Nations Conference on a Supplementary Convention on the Abolition of Slavery, etc., 1956 (E/CONF.24/2).

(a) Basic proposals

7. First, it would be desirable for the Conference to decide, at an early stage, what will constitute the basic proposals before it. In view of the consideranda set out in resolution 896 (IX), it is suggested that the Conference should take the articles contained in one or other of the two draft Conventions prepared by the International Law Commission as the basic proposals before the Conference. It was the view of the Commission that the General Assembly "could consider the question whether preference should be given to the draft Convention on the Elimination of Future Statelessness or to the draft Convention on the Reduction of Future Statelessness".^{4/} Although, in resolution 896 (IX), the General Assembly did not express such a preference, paragraph 2 of the resolution envisaged the purpose of a conference as being to conclude a convention for the reduction or elimination of future statelessness....". It becomes clear, therefore, that it has always been anticipated that the Conference would have to choose between the two drafts and, indeed, the very nature of the two drafts suggests that any given State could only accept one or other of the two drafts. It is suggested, therefore, that the Conference should decide, at an early stage, which of the two draft Conventions it would take as the basis for its work. This decision would have as its sole purpose the promotion of an orderly and constructive method of work, for it would be extremely difficult to treat the two Conventions simultaneously and as proposals of equal standing. The decision would not necessarily imply a choice between the two draft Conventions which would irrevocably determine the pattern and purpose of any convention to be eventually adopted by the Conference. Subsequent discussion and study by the Conference of the basic proposals and of amendments introduced to those proposals, whether of the character of the articles of the draft Convention not chosen as the basic proposals or of a completely different character, would alone determine the content of a convention acceptable to the Conference. The choice of one draft Convention would most certainly not exclude the fullest consideration by the Conference of the merits of the other.

^{4/} Official Records of the General Assembly, Ninth Session, Supplement No. 9 (A/2693), chapter II, para. 14.

8. In practice, the procedure would be as follows. In the event of the draft Convention on the Elimination of Future Statelessness being preferred, the articles of that Convention would constitute the basic proposals before the Conference. Hence, States wishing to limit or alter the obligations envisaged in these articles could do so by introducing amendments to add additional paragraphs or phrases on the lines of the additional paragraphs or phrases in the corresponding articles of the draft Convention on the Reduction of Future Statelessness, or by introducing amendments of a quite distinct character such as, for example, those envisaged in the Danish Memorandum^{5/} as amendments to the initial articles of the drafts.

9. On the other hand, if the Conference were to prefer the articles of the draft Convention on the Reduction of Future Statelessness as the basic proposals, then States wishing to adopt more stringent obligations could introduce amendment to delete phrases or paragraphs from the articles of that Convention so as to bring the articles more into line with the corresponding articles of the draft Convention on the Elimination of Future Statelessness. Of course, the possibility of States introducing amendments which would even further limit the obligations envisaged in the draft Convention on the Reduction of Future Statelessness cannot be ignored. There would thus exist both amendments which would limit the obligations, and amendments which would add to them. In this event there may be a possible disadvantage in choosing the Convention on the Reduction of Future Statelessness as the basic proposal since, for the purpose of determining the order of voting under rule 30, it might be difficult to decide which amendments were "furthest removed in substance" from the basic proposal.

10. Whichever of the two draft Conventions is preferred, all motions which would seek to add to, delete from or revise the basic proposals would be treated as amendments under rule 30 of the provisional rules of procedure for the purpose of voting. This would not mean that proposals stricto sensu could not be

^{5/} Transmitted by the Secretary-General to all States invited to the Conference in August 1955 (English text) and in October 1957 (French text). Both texts have also been transmitted to the newly-admitted Member States. The memorandum will also be issued as a Conference document (A/CONF.9/4).

submitted by delegations. For example, a proposal that the Conference should recommend that the General Assembly or some other body should undertake further studies or action would be a proposal stricto sensu, for it would not affect the text of the basic proposals before the Conference.

(b) Work in Plenary or Committees of the Whole

11. Second, and assuming the basis of the work of the Conference has been decided upon, the Conference will have to determine by what method it might most profitably proceed with its work.

12. The Conference has, perhaps, two alternatives before it. It could proceed itself with the substantive work of considering and voting upon proposals and amendments in plenary, either with or without a general debate as a preliminary to the discussion of the articles seriatim.

13. As an alternative, the Conference could decide to establish one or more committees of the whole to undertake the substantive work involving the detailed consideration of the proposals and amendments before the Conference. This alternative must necessarily depend upon some division of the work being practicable. A division between the preamble and articles 1-4 inclusive on the one hand, and articles 5-10 inclusive on the other might be possible. This division would correspond roughly to a division between those articles dealing with acquisition of nationality and those dealing with loss of nationality. Article 11 might also be dealt with separately, for, as distinct from the substantive rules contained in the Conventions, this article deals with the machinery for the application and interpretation of those rules. However, whilst one view may be that division of the work of the Conference in this way would not hinder the development of a complete set of draft articles for adoption by the Conference in one or more instruments, another possible view is that the obligations envisaged represent so integral a whole that division is impractical; it will be for the Conference to decide between the two views.

14. In this connexion it will be observed that, since the facilities available to the Conference will permit only one fully-serviced meeting in the morning and one in the afternoon (see para. 20 below), there will be no advantage in dividing the work between committees if the same representatives are sent to

each committee. The system would possibly have the disadvantage of forcing the same representatives to deal with one part of the draft Convention in the morning and a different part in the afternoon, and thus prove more inconvenient than a continued concentration upon one particular part. The relative merit of one or other procedure can best be determined by the participating States in the light of the size and composition of their delegations.

15. For these reasons the provisional rules of procedure do not provide for a specific number of committees. Rule 37 simply gives to the Conference a general power to set up committees, sub-committees and working groups. Under this rule the Conference may, of course, establish a drafting committee. Such a committee should not normally deal with the substance of drafts provisionally adopted. The task of a drafting committee would, however, include preparing the Final Act of the Conference, and it might also render valuable assistance in drafting the preambular and final clauses of any convention or other instrument that might be adopted. At the same time, experience has shown that certain of the final clauses now customary in many international conventions raise matters of substance which should not be left to a drafting committee without guidance from the body dealing with the substance of the draft, for example, the question of whether reservations are to be permitted, and if so to which articles of the convention, or the question of whether or not a denunciation clause should be inserted.

16. Although the method of work envisaged above does not anticipate more than one convention emanating from the Conference, as, indeed, the International Law Commission or the General Assembly did not, it should not be thought impossible that a group of States might wish, in a separate protocol or convention, to accept a series of obligations more stringent than those adopted by the majority. If such a group of States were willing to accept more stringent obligations, the Conference might establish a committee comprising those States to draft a separate protocol or convention. The outcome might well be that, assuming the Conference were to adopt a "reduction" convention, this group of States could undertake more stringent obligations inter se by means of a separate protocol or convention on the lines of the draft Convention on the Elimination of Future Statelessness.

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17. In order to decide upon such questions as are raised in the previous ten paragraphs, it is suggested that the Conference, in considering item 6 of its agenda, "Organization of Work", should limit itself to the discussion necessary to determine (a) which of the two draft Conventions to adopt as the basis of its work, (b) what division of that work can practicably be made and, thus, (c) what committees, if any, are necessary in order to carry it out.

(c) General debate

18. Third, it will be for the Conference to decide whether or not a general debate, as such, could not be dispensed with and the view of delegations expressed in connexion with the discussion of the actual proposals and amendments before the Conference. There will doubtless be a fairly general discussion over the question of which of the two draft Conventions should be preferred as the basis of the work of the Conference, and such discussion might serve the same purpose as a general debate. In any event, it is suggested that, if a general debate is deemed necessary, it should not continue beyond the first week of the Conference.

(d) Voting procedure

19. Lastly, mention may be made of the voting procedure. Under rule 26, decisions of the Conference shall be made by a majority of the representatives present and voting; and, under rule 39, the same will apply to decisions of committees.^{6/} However, in committees, as in the plenary Conference, a decision to reconsider a proposal or amendment shall, under rule 23, require a two-thirds majority of representatives present and voting.^{7/}

^{6/} A simple majority rule was adopted by the following conferences: United Nations Conference on Freedom of Information, 1948; United Nations Conference on Declaration of Death of Missing Persons, 1950; United Nations Conference on Status of Refugees and Stateless Persons, 1951; United Nations Conference on Status of Stateless Persons, 1954; International Conference on Conservation of Living Resources of the Sea, 1955; United Nations Conference on Maintenance Obligations, 1956; United Nations Conference on a Supplementary Convention on the Abolition of Slavery, 1956.

^{7/} As in rules 83 and 124 of the rules of procedure of the General Assembly (A/3660).

IV. Working Schedule of the Conference

20. The facilities available to the Conference will permit one fully-serviced meeting to be held in the morning and one in the afternoon, Monday through Friday. Working hours will be from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m. However, although these must be regarded as the normal rules, they will be sufficiently flexible to allow for variation when the work of the Conference demands it.
