Document:-
A/CN.4/SR.159

Summary record of the 159th meeting

Topic:
Nationality including statelessness

Extract from the Yearbook of the International Law Commission:-
1952 , **vol. I**

58. Mr. LAUTERPACHT shared Mr. Córdova's apprehension as to the implications of rule (i) as it stood, since, whatever the intention of the special rapporteur, it could be construed to mean that no State which applied the *jus soli* might confer nationality on a person who obtained it *jure sanguinis*. He believed, however, that the difficulty was one of drafting, since there seemed to be general agreement on what the substance of the rule should be.

59. Mr. AMADO was unable to understand Mr. Córdova's doubts. The text of rule (i) seemed to him perfectly unambiguous and acceptable, because it meant that countries applying *jus sanguinis* would in future apply *jus soli* as a subsidiary principle. In Brazil *jus soli* already applied.

60. Mr. SCELLE stated that the French text of rule (i) must be re-worded in order to eliminate the expression "*acquiert*" which, because it meant obtaining something in place of something else, was inapposite.

61. Mr. Liang (Secretary to the Commission) said that there was some force in Mr. Lauterpacht's view. He believed that the wording of the Harvard Research draft convention on nationality was preferable.[2] That text read:

> "A State shall confer its nationality at birth upon a person born within its territory if such person does not acquire another nationality at birth".

62. Mr. el-KHOURI considered that, before going any further, the Commission ought to define what it meant by statelessness.

The meeting rose at 6.10 p.m.

[2] Harvard Law School, *Research in International Law, Nationality*. Supplement to *American Journal of International Law*, vol. 23 (1929).

159th MEETING

Tuesday, 8 July 1952, at 9.45 a.m.

CONTENTS

	Page
Nationality, including statelessness (item 6 of the agenda) (A/CN.4/50) (*continued*)	
Section VI of Annex III: Statelessness; points for discussion (*continued*)	
Point 2 (*continued*)	118
Point 3	122

Chairman: Mr. Ricardo J. ALFARO.

Rapporteur: Mr. Jean SPIROPOULOS

Present:

Members: Mr. Gilberto AMADO, Mr. Roberto CÓRDOVA, Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Manley O. HUDSON, Faris Bey el-KHOURI, Mr. F. I. KOZHEVNIKOV, Mr. H. LAUTERPACHT, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. J. M. YEPES, Mr. J. ZOUREK.

Secretariat: Mr. Ivan S. KERNO (Assistant Secretary-General in charge of the Legal Department), Mr. Yuen-li LIANG (Director of the Division for the Development and Codification of International Law, and Secretary to the Commission).

Nationality, including statelessness (item 6 of the agenda) (A/CN.4/50) (*continued*)

SECTION VI OF ANNEX III: STATELESSNESS; POINTS FOR DISCUSSION (*continued*)

Point 2 (continued)

1. The CHAIRMAN invited the Commission to continue its discussion of point 2 of the points for discussion in section VI of Annex III to the special rapporteur's report (A/CN.4/50), which read as follows:

> "2. The general adoption of the following rules would preclude future additions to the number of stateless persons.
>
> "(i) If no other nationality is acquired at birth, every person shall acquire at birth the nationality of the State in whose territory he is born. This would extend *pro tanto* the application of the *jus soli* rule in many countries.
>
> "(ii) No person shall lose his nationality unless such person acquires another nationality."

2. Mr. LAUTERPACHT recalled that it had been suggested that the difficulties of phraseology which had been pointed out in connexion with rule (i) in point 2 could be solved by adopting the wording of article 9 of the Harvard Draft Convention on Nationality which read:

> "A State shall confer its nationality at birth upon a person born within its territory if such person does not acquire another nationality at birth."

That wording was, however, open to the interpretation that a State could not confer its nationality at birth upon a person born within its territory if such person did acquire another nationality at birth. In his opinion, one of the ways of solving the difficulty would be to insert the following sentence after the first sentence of rule (i):

> "A State may confer its nationality at birth upon a person born within its territory even if such person acquires another nationality at birth."

3. Turning to the wider question whether the solution envisaged in rule (i) was desirable and practicable, which was one of the matters the Commission had to consider, he pointed out that taken in conjunction with rule (ii), it would afford a fairly complete solution to the question of statelessness, except for certain exceptional cases of minor importance. For example, it would not cover the case of foundlings unless it were presumed that foundlings were born in the country in which they were found; neither would it cover a category of cases which had been dealt with, albeit

inconclusively, in The Hague Convention of 1930, namely, those where, in connexion with release from nationality in anticipation of naturalisation, the expectation of acquiring another nationality was not fulfilled. By and large, however, adoption of those two rules would eventually result in the elimination of statelessness. What then were the obstacles to their adoption?

4. It had been argued that adoption of those rules would entail a change in the laws of those countries whose relevant legislation was based solely on the principle of *jus sanguinis*. However, the number of countries rigidly wedded to that principle was limited, and in many of them important exceptions had recently been made to the principle in question. For example, Greece and Italy had admitted the applicability of the principle of *jus soli* to persons born in their territory, if such persons did not acquire a nationality *jure sanguinis*. Moreover, the change in legislation which adoption of rules (i) and (ii) would entail for *jus sanguinis* States would not involve complete abandonment of that principle. Lastly, the number of persons to whom such States would have to grant nationality would, as he thought a factual study might bring out, be much more limited than might have been supposed from the discussions in the Commission. In the vast majority of cases the nationality of another State would be acquired *jure sanguinis*.

5. The practical obstacles were therefore limited by comparison with the goal. Moreover, it should be borne in mind that adoption of rules (i) and (ii) represented a means of eliminating statelessness. The other suggestions made by the special rapporteur were essentially palliatives, which left the root of the evil untouched. In his (Mr. Lauterpacht's) view, rules (i) and (ii) were desirable and practicable, provided allowance was made for certain cases such as those referred to by Mr. el-Khouri at the previous meeting. Such cases were, however, exceptional. States would not often find themselves obliged to admit to their territory a large number of refugees. If those refugees were to remain in the country for a short time only, the question under discussion would hardly arise; on the other hand, if their stay was to be lengthy, it could well be argued that it was to the interest of the State that they should be made citizens of the State concerned, and not confined to the status of an alien minority.

6. It might be asked why the *ius sanguinis* States should be required to make a concession, and not the *jus soli* States. The answer was that the universal adoption of *ius sanguinis* would not, if limited to descent from a father, provide a satisfactory solution, since parenthood was open to dispute, whereas place of birth was not.

7. He regretted that the Commission had not considered Mr. Kozhevnikov's proposal further, at least to the point of ascertaining whether he meant that the question of statelessness could never be the subject of an international convention for the reason that it came solely within the province of domestic jurisdiction, or merely that the question was not ripe enough for an international convention to be drafted at the present session. In his view the latter was a possible interpretation of Mr. Kozhevnikov's meaning, and to that extent he would endorse it.

8. The CHAIRMAN suggested that the important point made by Mr. Córdova at the preceding meeting could be met by using the following wording:

"Every person born in a State where nationality is not conferred *jure soli* and who does not acquire at birth another nationality *jure sanguinis* shall acquire at birth the nationality of the territory where he is born."

9. Mr. HUDSON said that he had not attempted to cast the two rules in point 2 in the form of articles for inclusion in a draft convention, as he had intended them merely as points for discussion. If they were to be included in a convention, he would suggest that they be worded as follows:

"(i) Without prejudice to the possibility of its wider application to *jus soli*, a State shall confer its nationality at birth on a person born in its territory unless such person acquires at birth the nationality of another States *jure sanguinis*. For this purpose a foundling shall be presumed to have been born in the territory of the State in which it is found, until the contrary is proved; and birth on a national vessel or aircraft shall be deemed to constitute birth in the national territory.

"(ii) A State may not deprive a person of its nationality, or permit a person to renounce its nationality, unless at the time such person possesses or acquires the nationality of another State."

10. Mr. KOZHEVNIKOV thought that Mr. el-Khouri had been right to raise the issue of what nationality was, seeing that Mr. Scelle had referred to the possibility of world citizenship. In his (Mr. Kozhevnikov's) view, there were three questions to be clarified, namely, what was nationality, who was to be regarded as the national of a given country, and what was meant by the concept of statelessness. He had already stated, in connexion with Mr. Scelle's remark regarding world citizenship,[1] his view that the concept of nationality was indissolubly linked with the concept of the State as a subject of international law.[2] In other words, nationality could be defined as a specific legal relationship between the individual and the State. From that link derived the dialectic relationship between the individual and the State in respect of mutual rights and duties.

11. In the Soviet Union there was a special law on nationality, which laid down a single nationality for the Union, so that every citizen of a member republic of the Union of Soviet Socialist Republics was a national of the Union as a whole. A precise answer to the question "Who is a national of the Union of Soviet Socialist Republics" was furnished by the law which provided that all persons who were subjects of the former Russian Empire on 7 November 1917 and had

[1] See summary record of the 157th meeting, para. 43.

[2] See summary record of the 158th meeting, para. 45.

not since lost Soviet nationality, together with all persons who had since acquired Soviet nationality in accordance with the law, were nationals of the Soviet Union. Under Soviet law, Soviet nationals could lose their nationality either by surrender or by deprivation.

12. Soviet law recognized and defined the concept of statelessness. It laid down that any person residing on Soviet territory who was not a Soviet national under the existing law, and who was unable to prove that he was a national of any other State, was regarded as stateless. Stateless persons did not enjoy the right to vote or the right of election but they did enjoy all other political rights recognized by the Soviet constitution, such as, for example, freedom of speech, freedom of assembly, etc.

13. It was in accordance with the spirit of Soviet legislation that the nationality of a child should be determined, in the first place, by its descent. Under Soviet law the nationality of a child under fourteen followed the nationality of its parents, in the event of both parents either becoming or ceasing to be Soviet nationals. The nationality of a child over fourteen could not be changed without its consent. In practice, if only one of the parents changed his or her nationality, the nationality of any child under fourteen was determined by agreement between the parents or, in default of such agreement, by the child's place of residence.

14. With regard to what had been said by Mr. Lauterpacht, he felt that his proposal had never been open to the first interpretation which Mr. Lauterpacht had placed upon it. He did not consider that international action with regard to statelessness should be indefinitely postponed; on the contrary, he had already indicated that co-operation, with the object of solving the problem, between States with widely differing systems of law was necessary. He had only wished to point out what appeared to him to be obvious facts, namely, that such action must be based on respect for the principle of national sovereignty and that questions of nationality and statelessness did primarily concern domestic jurisdiction. Moreover, the Commission had before it no adequate basis for a draft convention. It would be pointless to conclude a draft convention which would remain a dead letter, when it might become possible in due course to conclude a convention which would make a real and useful contribution to the universal solution of the problem. The present discussion, however, was a preliminary and general exchange of views, and he did not think that it would be appropriate for the Commission to take votes at that stage.

15. Mr. el-KHOURI asked what would be the position, under the legislation of the Soviet Union, of those persons who had proof that they were the nationals of another State but who were none the less not recognized by that State as its nationals. There were hundreds of thousands of persons in such a position, and the States in whose territories they found themselves at present could not be compelled to confer nationality on their children. Moreover, such persons might not wish their children to receive any nationality other than that of the State from which they had come and to which they wished eventually to return.

16. Mr. HSU said that, in the light of the remarks of Mr. el-Khouri, it might be advisable in certain circumstances to except persons born to stateless refugees from the application of rule (i) in point 2.

17. Mr. SANDSTRÖM agreed with Mr. Lauterpacht that there was a tendency to move in the direction foreshadowed in rules (i) and (ii) in point 2 in the special rapporteur's report, but pointed out that for many countries, including his own, that tendency was only a beginning. In Sweden, the obstacle to further progress along those lines was that Swedish legislators considered that some link was necessary between the individual and the State of which that individual was a national. In those circumstances he could not but endorse the special rapporteur's view that it was unlikely that rules (i) or (ii) would win universal or general acceptance. On the other hand, he would have no objection to their being stated as ideals: for such States as could not immediately go so far, the Commission could offer as an intermediate solution the principles contained in points 12-19.

18. Mr. CÓRDOVA said that the wording suggested by Mr. Lauterpacht met his difficulty better than the text suggested by Mr. Hudson or that suggested by the Chairman. The question, however, was one of drafting, which could be left to the Standing Drafting Committee. Substantively, the Commission appeared to be in agreement that the rules stated in point 2 in the special rapporteur's report represented the best solution.

19. After further discussion, Mr. SPIROPOULOS suggested that the reply to the question asked by Mr. el-Khouri was clearly that nationality must necessarily be determined by the laws of the State whose nationality was claimed. The Commission should distinguish between traditional cases of statelessness, arising from the conflict of nationality laws, and cases of statelessness among refugees resulting from political causes. As the two categories differed in respect of origin, so they might differ in respect of the treatment which should be applied to them. And if the second category was left aside, it seemed to him that adoption of rules (i) and (ii) in the special rapporteur's report would be feasible.

20. Mr. ZOUREK said that rules (i) and (ii), as amended by the Chairman or Mr. Lauterpacht, would constitute a reasonable basis for discussion, provided it was agreed that exception should be made in the case, for example, of persons born while their parents were only temporarily resident in a country. Such difficulties would persist so long as nationality was regarded as a mere formal link between State and individual, conferring only privileges but no duties. He wondered, therefore, whether the Commission should not restrict the scope of the rule by stipulating that it should apply, for example, only to persons one of whose parents had been domiciled in the country in question for a prescribed period.

21. He could not agree with the suggestion made by Mr. Scelle that the Commission should distinguish between nationality and citizenship, both because he disagreed with such a distinction in principle, and because the legislation of many countries, including all the people's democracies, did not reflect the difference.

22. With regard to the scope of the Commission's recommendations, he was in complete agreement with the special rapporteur that the Commission should limit its attention to statelessness in the strict, legal sense of the term, and should leave entirely apart the question of refugees.

23. Mr. KERNO (Assistant Secretary-General) pointed out that the Secretary-General had been faced with the same problem when undertaking his Study of Statelessness. In section IV of the introduction to *A Study of Statelessness* he had pointed out that the Economic and Social Council resolution which had entrusted him with the task of making a study of statelessness had mentioned the protection of "stateless persons", but had not referred at all to "refugees", and had gone on to state:

> "Clearly the fact that refugees are not mentioned does not mean that they must be excluded from the scope of the present study. In fact, a considerable majority of stateless persons are at present refugees... in view of the fact that the Council resolution deals only with statelessness, refugees will be included only in so far as they are stateless persons. ... It is evident, however, that if the study on the position of stateless persons must include refugees who are *de jure* or *de facto* stateless persons, it must also consider those stateless persons who are not refugees, even though this group is much less numerous than that of refugees who are stateless and even though its position is in certain respects more favourable than that of stateless refugees."[3]

In other words, the Secretary-General had recognized that there were two categories of stateless persons, in somewhat differing situations, from which it followed that two different solutions might have to be devised.

24. Mr. LAUTERPACHT considered that, although the discussion had brought the Commission nearer to finding a solution to the problem of statelessness, the time was hardly ripe for a formal vote, since it was doubtful whether agreement had been reached on the principal issues. If any vote had to be taken, he would suggest that that be done on a tentative basis.

25. It might be argued that the Commission had not progressed beyond acceptance of the proposition that if States were to adopt rules (i) and (ii) there would be no more additions to the number of stateless persons. It still remained to be decided whether, in the view of the Commission, statelessness should be eliminated through the application of rules (i) and (ii) embodied in an international convention. It was not enough to enunciate principles which were generally recognized to be desirable. If the Commission confined itself to such action it would have done no more than to repeat the principle proclaimed in Article 15 of the Universal Declaration of Human Rights. Furthermore, if the Commission were to draft a convention intended merely to reduce cases of statelessness, it was unlikely that it would differ appreciably from The Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws of 1930.

26. Mr. Sandström clearly attached great importance to the need for safeguarding the link between the individual and the State, and had referred in that connexion to the Swedish Law of 1950, which required persons born outside Sweden to reside in the country for a certain period before they reached 22 years of age, in order to qualify for Swedish nationality. He (Mr. Lauterpacht) agreed that the whole subject should be discussed, but pointed out that it was possible to exaggerate the conception of nationality as based on a "link". The link with a State created by the accident of a person's having been born in its territory was not substantially stronger than that acquired through one of the parents being a national of that State. In both cases the link was to some extent accidental.

27. Mr. KERNO (Assistant Secretary-General) said that the procedure of taking a provisional vote advocated by Mr. Lauterpacht was a good one, and had been followed at previous sessions in order to give special rapporteurs some indication of the views of the Commission and guidance for their further work.

28. The CHAIRMAN observed that at the present stage it might be possible to ascertain the sense of the Commission on the proposition that countries applying the *jus soli* rule should be free to confer nationality on persons born within that territory but who had acquired another nationality *jure sanguinis*. All the proposals before the Commission in effect amounted to that.

29. Mr. el-KHOURI regretted that he must emphasize that the States which were directly concerned with statelessness would never accept rule (i) under consideration. If the Commission's aim was to eliminate statelessness it was useless to devise rules which had no chance of being adopted by States.

30. Mr. FRANÇOIS suggested that the three texts before the Commission should be referred to the Standing Drafting Committee. He was personally in favour of that put forward by Mr. Hudson. He wished, however, to know what would be the meaning of the Commission taking a vote on those texts. Would an affirmative vote indicate approval of an ideal standard and of refraining from any proposals with less far-reaching aims? If so, he would be against such a procedure.

31. Mr. LAUTERPACHT suggested that it would be inappropriate for the Commission to vote at the present stage upon the three texts before it. He submitted the following proposal:

> "It is the sense of the Commission that a draft

[3] *A Study of Statelessness*, United Nations Publication, Sales No. 1949. XIV—2, p. 9.

convention on the elimination of statelessness should be prepared for the next session in the form of a report on the elimination of statelessness. In the view of the Commission, the report and the draft convention should be based on and conform to the principles generally formulated in paragraph 2 of section VI of annex III to the report of Mr. Hudson. The draft convention should be in the form of articles accompanied by exhaustive comment, discussion, and any relevant information".

32. Mr. KOZHEVNIKOV said he would deprecate the Commission's taking any definite decision at the present stage. It could go no further than a preliminary exchange of views, which would not in any sense be binding on the Commission but could be taken into account by the special rapporteur in presenting more specific recommendations for further examination at some future date.

33. Mr. ZOUREK supported the view of Mr. Kozhevnikov. It would be premature to take a vote on problems which had not yet been fully examined.

34. Mr. CÓRDOVA thought that members of the Commission were experienced enough to understand the nature of a provisional vote, the purpose of which was merely to give the special rapporteur some general directive to guide him in his work. If the Commission decided that the two rules in point 2 could form part of an international convention, the special rapporteur could proceed accordingly and prepare a draft, but he would be unable to do so until the Commission had expressed its view, however tentatively.

35. Mr. SANDSTRÖM said that a substantial majority of members would probably be in agreement with point 2 as a mere statement of fact. The Commission would be more sharply divided on point 3.

36. Mr. LIANG (Secretary to the Commission) said that four categories of States must be considered in connexion with rule (i): those whose laws were based solely on *jus sanguinis*; those whose laws were based solely on *jus soli*; those whose laws were based principally on *jus sanguinis* but also contained some provisions based on *jus soli*; and finally those whose laws were based principally on *jus soli* but also contained provisions based on *jus sanguinis*. Thus the effect of rule (i) would not be so far-reaching as was feared by certain members, though it would necessitate certain changes in the legislation of States in the first category. The rule would, on the other hand, be unnecessary for States where *jus soli* obtained. Furthermore, he thought that that rule might be better couched in the phraseology of article 9 of the Harvard Research draft.

37. Mr. LAUTERPACHT agreed with the Secretary that rule (i) was not so radical as it might at first sight appear to be, and a comment to that effect might well be made in the next report to be prepared by the special rapporteur.

38. Mr. SANDSTRÖM proposed that the Commission decide whether or not point 2 be put to the vote in order to ascertain whether the Commission agreed with it as a statement of fact.

39. Mr. YEPES considered that the Commission could not vote on rule (ii) without first discussing it.

40. Mr. LAUTERPACHT said there was some force in Mr. Yepes' argument, but certain members might already be prepared to vote in favour of rule (i) because the principle it enunciated was self-evident.

41. Mr. SPIROPOULOS re-affirmed the doubts he had expressed at the preceding meeting concerning the propriety of putting to the vote a statement of fact whose validity was hardly open to doubt.

The Commission decided by 9 votes to 1, with 3 abstentions, that point 2 should be put to the vote.

42. The CHAIRMAN put to the vote point 2 as a whole as a statement of fact.

Point 2 was approved by 10 votes to 2, with 1 abstention.

43. Mr. YEPES explained that he had abstained from voting because the Commission's decision provided no directive for the special rapporteur.

44. Mr. el-KHOURI explained that he had voted against point 2 because, while being in favour of rule (ii), he could not support rule (i).

45. Mr. AMADO explained that he had voted in favour of point 2 merely because as a whole, it stated a fact, and not because he was in favour of adopting the two rules therein contained for inclusion in any draft convention.

Point 3

46. The CHAIRMAN invited the Commission to discuss point 3 of the points for discussion presented by the special rapporteur (section VI, Annex III, A/CN.4/50) which read as follows:

"3. The universal, or general adoption of the rules stated in paragraph 2 seems to be improbable, even if the rules were thought to be desirable".

47. Mr. HUDSON said that it was now up to the Commission to decide whether the two rules contained in point 2 should be embodied in a draft convention. He personally would vote against such a procedure.

48. Mr. YEPES proposed that point 3 should not be discussed at all, since it merely contained an expression of the special rapporteur's views.

49. Mr. KERNO (Assistant Secretary-General) observed that point 3 posed two separate problems; that of the possibility of the adoption of the rules in point 2 and that of their desirability. It was for the Commission to express its views on both problems.

50. Mr. SPIROPOULOS observed that Mr. Yepes must have misunderstood the meaning of the vote taken on point 2, or he would never have made his proposal. The Commission had not yet decided whether or not

the two rules in point 2 should form the foundation for a draft convention. All it had done was to state its agreement with the argument that their universal adoption would preclude further additions to the number of stateless persons. Unless point 3 were replaced by something more positive the Commission would in effect have made no practical progress whatsoever.

51. Mr. AMADO fully endorsed Mr. Spiropoulos' remarks. It was essential for the Commission to go further than mere agreement with point 2, and to enter the realm of practical possibilities.

52. Mr. CÓRDOVA agreed with the Assistant Secretary-General that the Commission must decide whether it was desirable to apply the rules stated in point 2, since the question of the probability of their being adopted did not come within its purview. He accordingly suggested that point 3 be replaced by the positive assertion contained in Mr. Lauterpacht's proposal, that the Commission intended to formulate a draft convention on the basis of those rules.

53. Mr. YEPES proposed that point 3 be replaced by the following text:

> "It is desirable that the rules stated in paragraph 2 should be generally adopted and these rules should therefore be included in the report to be submitted to the Commission at its fifth session in 1953".

54. Mr. HSU said it would be most undesirable for the Commission to decide by only a narrow majority whether the two rules should be embodied in a draft convention. The possibility of separate conventions for the elimination and for the reduction of statelessness might therefore be considered.

The meeting rose at 1.5 p.m.

160th MEETING

Wednesday, 9 July 1952, at 9.45 a.m.

CONTENTS

	Page
Nationality, including statelessness (item 6 of the agenda) (A/CN.4/50) (*continued*)	
Section VI of Annex III: Statelessness; points for discussion (*continued*)	
Point 3 (*continued*) and point 2 (ii) (*resumed*) .	123

Chairman: Mr. Ricardo J. ALFARO.

Rapporteur: Mr. Jean SPIROPOULOS

Present:

Members: Mr. Gilberto AMADO, Mr. Roberto CÓRDOVA, Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Manley O. HUDSON, Faris Bey el-KHOURI, Mr. F. I. KOZHEVNIKOV, Mr. H. LAUTERPACHT, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. J. M. YEPES, Mr. J. ZOUREK.

Secretariat: Mr. Ivan S. KERNO (Assistant Secretary-General in charge of the Legal Department), Mr. Yuen-li LIANG (Director of the Division for the Development and Codification of International Law, and Secretary to the Commission).

Nationality, including statelessness (item 6 of the agenda) (A/CN.4/50) (*continued*)

SECTION VI OF ANNEX III: STATELESSNESS; POINTS FOR DISCUSSION (*continued*)

Point 3 (continued) *and point 2 (ii)* (resumed)

1. The CHAIRMAN invited the Commission to continue its discussion of point 3 of the points for discussion contained in section VI of Annex III to the special rapporteur's report on nationality, including statelessness (A/CN.4/50). Several proposals had been submitted to the Commission: first, a proposal by Mr. Lauterpacht calling for the preparation of a draft convention on the elimination of statelessness, in conformity with the rules contained in point 2;[1] secondly, a text submitted by Mr. Yepes, which urged the adoption of the rules contained in point 2;[2] and, thirdly, a proposal by Mr. Hudson that the Commission take a decision upon the following issue:

> "Does the Commission wish to request a special rapporteur to draft a convention including the rules set forth in paragraph 2 of section VI of annex III of Mr. Hudson's report?"

2. Mr. SANDSTRÖM proposed that the special rapporteur be requested to draw up a draft convention for the elimination of statelessness based on the rules contained in point 2 and one or more other draft conventions designed to reduce statelessness. Once the Commission had completed that task, it would then be for the competent organs of the United Nations to adopt whichever draft they might prefer.

3. Mr. HSU supported Mr. Sandström's proposal and thought that since it was broader than the other proposals before the Commission, it should be put to the vote first.

4. Mr. CÓRDOVA agreed with Mr. Hsu, particularly as the possibility of more than one convention had clearly been contemplated by the Economic and Social Council in its resolution 319 B III (XI).

5. Mr. FRANÇOIS could not support either the proposal of Mr. Yepes or that of Mr. Lauterpacht. Both were too rigid, in that they limited the Commission's work to the preparation of a draft convention based on the rules set forth in point 2. He could not agree with the view that, whenever the Commission felt a certain rule of law to be desirable, it need not consider whether its adoption by States was probable. The Commission had a dual task, the codification of international

---

[1] For text of proposal, see summary record of the 159th meeting, para. 31. For text of point 2, see *ibid.*, para. 1.

[2] *Ibid*, para. 53.