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CONFERENCE ON
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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE FIRST MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 1 April 1959, at 4.30 p.m.

Acting Chairman, later Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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.

GE.61-4243

61-11756

(8 p.)

ELECTION OF CHAIRMAN AND VICE-CHAIRMEN

The ACTING CHAIRMAN called for nominations for the offices of Chairman and Vice-Chairmen of the Committee of the Whole Conference.

Mr. ROSS (United Kingdom) proposed Mr. Larsen (Denmark), Acting Chairman, for the office of Chairman.

Rev. Father de RIEDMATTEN (Holy See) and Sir Claude COREA (Ceylon) seconded that proposal.

Mr. Larsen (Denmark) was unanimously elected Chairman

Mr. SCHMID (Austria) proposed Mr. Kawasaki (Japan) and Mr. Calamari (Panama) as Vice Chairmen of the Committee.

Mr. Kawasaki (Japan) and Mr. Calamari (Panama) were unanimously elected Vice-Chairmen.

EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda)

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

The CHAIRMAN invited the Committee to discuss articles 6 and 7 of the draft convention on the reduction of future statelessness.

Article 6

Mr. SIVAN (Israel) pointed out that under the law of Israel a child would in certain circumstances automatically lose his nationality if his parent lost his nationality by renouncing it. Similarly, if a parent were deprived of his nationality after due judicial process, the court would also have the power to deprive the child of his nationality. The position, which he understood to be the same under the law of other countries, should be given careful consideration by the Committee.

While anxious to adhere to the principle enunciated in article 6, his delegation thought it should be provided that a child would retain his nationality only if he remained in the country of his nationality. If article 6 were amended along those lines it would be acceptable to the Israel delegation. He would submit an amendment at a later stage.

Mr. IRGENS (Norway) said that the position in Norway was similar to that in Israel. A Norwegian citizen born abroad who did not maintain normal relationships with his country lost his nationality at twenty-two years of age. The Norwegian delegation could not, therefore, accept article 6 as drafted.

Mr. JAY (Canada), stating that his delegation could accept article 6 a. it stood, expressed the hope that any amendment submitted would remain as close as possible to the principle enunciated in the International Law Commission's text.

Mr. BACCHETTI (Italy), Mr. RIPHAGEN (Netherlands) and Mr. TSAO (China) said that their delegations could accept article 6 as drafted.

Mrs. TAUCHE (Federal Republic of Germany) suggested that, if article 7. paragraph 3 were amended to include all nationals of a country and not only natural-born nationals, the problem raised by article 6 might be solved.

Mr. ROSS (United Kingdom), referring to the statements of the representatives of Israel and Norway, expressed the hope that representatives we not attending the Conference in such a spirit that they would not agree with any thing that conflicted with the laws of their countries, but were prepared to recommend their Governments to make certain changes in their laws in order to reduce statelessness.

With regard to article 6, the representatives of Israel and Norway might, c reconsideration, consider that their Governments could make a concession and consequently submit an amendment to article 1 at a later stage in the debate. In his view, article 6 related to loss of nationality by operation of the law an· not to the case of deprivation by decision of the executive or judicial authorities. If his interpretation were correct, it might have some bearing on the position of countries- such as Israel and on the form which any amendment submitted by the delegation of Israel would take.

Sir Claude COREA (Ceylon), referring to the point raised by the representative of Israel, said that his delegation was in favour of article 6 as a whole, but asked whether it was intended that the spouse and children of a person who renounced his nationality voluntarily should be forced to retain thei previous nationality.

The CHAIRMAN said that article 6 should follow articles 7, 8 and 9 and suggested that its discussion be postponed until after consideration of those articles.

It was so agreed.

Article 7, paragraph 1

Sir Claude COREA (Ceylon) said that his delegation found it difficult to accept paragraph 1, since it conflicted with the law of Ceylon, which provided that if a person renounced his nationality that act should be registered and he should no longer be considered a citizen of Ceylon.

Rev. Father de RIEDMATTEN (Holy See) said that his delegation would hesitate to approve a provision such as paragraph 1, which might permit of forced repatriation.

Mr. TSAO (China) pointed out that nationality carried with it responsibilities and obligations as well as rights and privileges. By merely renouncing his nationality, a person might evade some of his responsibilities, such as military service. Paragraph 1, as drafted, would protect the country whose nationality such a person wished to renounce.

Mr. JAY (Canada) said that under Canadian law mere renunciation of nationality did not result in its loss unless another nationality were acquired. There was however a provision that the Governor in Council, on a report from a responsible Minister, could deprive a citizen of his nationality. While the question of possible statelessness would be given full consideration before such a decision was taken, it would not be an overriding factor.

If the Conference recognized the distinction between loss of nationality by mere renunciation and loss by a subsequent act of the executive, his delegation would be able to accept article 7 as drafted. If, however, the Conference did not recognize that distinction, his delegation would have to consider very careful its position with regard to paragraph 1.

Mr. ABDEL MAGID (United Arab Republic) asked whether the Executive Secretary could explain paragraph 1, since his delegation had some doubts about its meaning.

Mr. LIANG, Executive Secretary of the Conference, said that he would consult the records of the International Law Commission and give a full reply to the representative of the United Arab Republic at a later meeting. His own opinion was that the International Law Commission had not intended to enunciate in paragraph 1 the principle that an individual should be debarred from renouncing his nationality. Article 7 as drafted would protect an individual who declared

his intention of renouncing his nationality vis-à-vis the State of which he was a national and such a declaration would not automatically lead to the loss of his nationality until his purpose of changing his nationality was fulfilled. Paragraph 1 did not attempt to resolve the controversy regarding the freedom of expatriation.

Like the representative of France, he had attended the Hague Conference for the Codification of International Law of 1930 and had been struck by the solemn declaration of one of the participating States to the effect that expatriation was a natural right and that a provision in any convention conflicting with that principle would not be accepted by that State.

The commentary to article 6 in the report of the International Law Commission on its fifth session (A/2456) did not deal in detail with the question of the right of an individual to expatriate himself. Article 6 of the Hague Convention on Certain Questions relating to the Conflict of Nationality Laws referred to the question of renunciation of nationality, but only in connexion with the possibility of renunciation of nationality by a person possessing two nationalities acquired without any voluntary act on his part. Chapter II, article 7, of the Hague Convention provided that the issuance of an expatriation permit should not entail loss of the nationality of the State which issued it unless the person to whom it was issued possessed another nationality or unless and until he acquired another nationality.

The CHAIRMAN, speaking as the representative of Denmark, said that his Government was prepared to amend its laws if such amendment were called for by any of the provisions of the convention adopted by the Conference.

In the past, certain countries had encouraged their nationals to renounce their nationality when they went to reside abroad. If a provision such as paragraph 1 were not included in the convention, the number of stateless persons might increase and the State of residence referred to in article 1 might be obliged to grant nationality to such persons.

Certain delegations were understandably reluctant to impose upon anyone the duty to remain a national of a country whose Government he could not support, but such a person would probably become a refugee in his country of residence and would then enjoy the privileges and benefits of the Convention on the Status of Refugees.

Although a person might have serious reasons for wishing to sever all ties with the country of which he was a national, it would be difficult to distinguish between permissible and impermissible renunciation. Paragraph 1 could be accepted by all countries where normal political conditions prevailed and should remain as drafted.

Sir Claude COREA (Ceylon) expressed doubt whether a country which accepted the voluntary renunciation of citizenship by one of its nationals would be considered as one where abnormal political conditions prevailed. A person of full age and sound mind should be allowed voluntarily to renounce his nationality. Under the law of Ceylon, a voluntary renunciation was first considered by a Minister and if approved was registered. If an attempt were made to prevent such a voluntary renunciation being made it might be said that the Government of Ceylon was preventing one of its citizens from using his own discretion.

Ceylon was prepared to amend its legislation provided that the provisions of the convention were reasonable, but his delegation could not accept paragraph 1 unless it were amended to indicate that in order to be valid a declaration of renunciation of nationality must be made by an individual of full age and sound mind and must be a voluntary act.

The CHAIRMAN, speaking as the representative of Denmark, agreed that individuals who wished for legitimate reasons to renounce their nationality and sever all political links with their country should be allowed to do so. On the other hand, those who had no legitimate reasons for so doing but merely wished to change their nationality in order to avoid taxation or for similar reasons should not be allowed to renounce it. The obligations of countries with a large number of alien residents would be increased if such persons were permitted to renounce their nationality without acquiring another and so become stateless. The result might be a general tightening of immigration laws.

In considering paragraph 1, representatives should also bear in mind the provisions of article 1 and the obligations it imposed on the host country.

Mr. ROSS (United Kingdom) agreed that it was difficult to discover from the records of the International Law Commission exactly what the Commission's intentions had been in including the paragraph under discussion. His delegation

was in favour of retaining the paragraph however since it represented a considerable advance on the corresponding provision in the Hague Convention of 1930. While that Convention provided that "a person possessing two nationalities acquired without any voluntary act on his part may renounce one of them with the authorization of the State whose nationality he desires to surrender", the International Law Commission had proposed that renunciation of nationality should be impermissible "unless the person renouncing it has or acquires another nationality."

There were, in his view, three reasons why an individual should not be permitted to renounce his nationality and become stateless. First, a person renouncing his nationality for reasons of spite or temporary dissatisfaction might later have cause to regret his decision. Secondly, the children of a person who had renounced his nationality might regret his decision to become stateless. Thirdly, as the Chairman had pointed out, renunciation of nationality created many problems in connexion with the administration of aliens.

As evidence that his Government supported the principle of paragraph 1, he would point out that for the past ten years under English law no citizen of his country could renounce British nationality unless he already possessed another nationality.

Mr. JAY (Canada) took the view that the intention of paragraph 1 was to prevent statelessness and to ensure that no one could deprive himself of nationality by hasty, unconsidered action. If the provision were to be automatic in operation so that unilateral action by an individual could not in any circumstances cause him to lose his nationality until he had had time to consider what he was doing, his delegation would accept it. It was essential both to protect people from themselves and to protect countries from being saddled for ever with those who desired no nationality.

Mr. BACCHETTI (Italy) said that his delegation strongly favoured retaining paragraph 1 since it appeared to represent an admirable compromise between the interests of the individual and those of the State.

It was generally held that the rights of the individual should at all costs be protected and on that basis it might be argued that a person wishing to renounce his nationality should be permitted to do so. But persons wishing to

renounce their nationality for reasons such as those given by the United Kingdom representative were the exception rather than the rule and it would be preferable to offer protection to the normal person rather than licence to the exceptional one.

The article also safeguarded the interests of States, first because it recognized that nationality entailed certain obligations which should not be renounced by unilateral action and, secondly, because it would relieve States of the responsibility of harbouring persons who did not wish to possess any nationality.

The meeting rose at 6.05 p.m.

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE SECOND MEETING

held at the Palais des Nations, Geneva,
on Thursday, 2 April 1959, at 10 a.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

CONTENTS:

Examination of the question of the elimination or reduction of future statelessness (item 7 of the Conference agenda) (continued)

Draft convention on the reduction of future statelessness (continued)

Article 7 (continued)

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

Draft convention on the reduction of future statelessness (A/CONF.9/L.1) (continued)
Article 7 (continued)

Mr. CALAMARI (Panama) said that all delegations appeared to be in agreement about the objectives of the Conference; they differed only on the choice of means. If, however, in their desire to avoid creating cases of statelessness, they denied to an individual the fundamental human right to choose the nationality which he believed to be in his own best interests, that would be a decision of the gravest import for human liberty.

It was arguable that statelessness was prejudicial not only to the individual but also to the State and that an individual's decision to choose statelessness could be compared in its effects to suicide, which was sometimes considered to deny to society the contribution of one of its constituent elements. The reference in the preamble of the draft convention to the friction between States produced by statelessness might also be interpreted as placing upon States an obligation to eliminate statelessness and to give them the right to subordinate the liberty of the individual to that overriding purpose. The possibility that an individual who renounced his nationality might be actuated by caprice, thoughtlessness or ignorance of the consequences would lend further support to that view.

On the other hand, it was dangerous to lay down a rule which made the interests of the State prevail over those of the individual, even for the best of motives, for such a rule might lend itself to undesirable extensions.

Although article 7, paragraph 1 of the draft convention denied the right to the express renunciation of nationality, article 7, paragraph 3, and article 8, paragraph 1, provided for tacit renunciation. It was, therefore, clear that, in spite of its desire to reduce statelessness, the International Law Commission had been prepared to allow statelessness to occur in certain specific cases by virtue of the deliberate choice of the individual. There was consequently a certain contradiction between the liberality of those two provisions and the rigidity of article 7, paragraph 1.

His delegation had at that stage no solution to offer to the difficulty he had expounded but would welcome proposals by other delegations.

Mr. BERTAN (Turkey) said that since paragraphs 1 and 2 were concerned with the abandonment of nationality, whereas paragraph 3 related to the loss of nationality, the latter paragraph should be transferred to article 8.

Nationality, as the vinculum between the individual and the State, should be consonant with the political and social activities of the person concerned. As far as the rights of the individual were concerned, it was essential that he should be able to change his nationality if his interests so demanded, but since he was also a constituent element of a State it had a countervailing right to make the renunciation of its citizenship dependent on the fulfilment of certain conditions. It would be wrong to allow an individual a unilateral right to renounce his nationality. Turkish law laid down certain conditions governing the renunciation of Turkish nationality and further legislative measures were envisaged by his Government. His delegation was therefore in favour of the retention of paragraphs 1 and 2 as drafted.

Mr. HERMENT (Belgium) said that the right of the individual to decide his national status should be qualified by the condition that any change in that status must not operate to the prejudice of a State. An individual might well wish to renounce his nationality in order to obtain another, but it was hard to imagine that anyone of sound mind would deliberately aspire to become stateless. Although his Government was in favour of adopting paragraph 1, he recognized the difficulty arising from the fact that some countries - India, for example - did not allow a person to acquire their nationality if he already possessed another nationality.

Mr. LEVI (Yugoslavia) stated that the law of his country allowed certain categories of person to renounce Yugoslav nationality on condition that they had already acquired another nationality. His delegation accordingly supported paragraphs 1 and 2 as drafted.

Mr. TYABJI (Pakistan) said that the nationality laws of his country provided for voluntary renunciation of Pakistan nationality. He was opposed to paragraph 1 because it imposed a condition which was contrary to the basic rights of individuals.

The CHAIRMAN, speaking as the representative of Denmark, said that the Belgian representative had drawn attention to the dilemma of an individual who

was unable either to renounce his original nationality because he had not yet acquired another nationality, or to acquire a new nationality because he still retained his old one. The difficulty had probably been foreseen by the authors of paragraph 1, who had purposely included in that paragraph the words "or acquires". Their intention might be brought out more clearly if the word "unless" were replaced by the word "before". Under Danish law, Danish nationality could be renounced on condition that another nationality was acquired within a stipulated period.

Mr. VIDAL (Brazil) suggested that the difference of opinion between delegations arose from the fact that the law of some countries provided for renunciation of nationality whereas that of others, including his own, did not. One way to reconcile those differences would be to insert at the beginning of paragraph 1 the words "In those countries where renunciation of nationality is recognized by municipal law".

Mr. MEHTA (India), commenting on the Belgian representative's reference to India, explained that an Indian citizen possessing a second nationality could renounce his Indian citizenship except in certain circumstances, such as in time of war, and one who voluntarily acquired the nationality of another country ceased to be an Indian citizen upon such acquisition.

With regard to paragraph 3, Indian law required naturalized persons to register annually, failing which they might be deprived of citizenship if the Government considered such a course to be in the public interest.

In his view, those provisions provided adequate safeguards against statelessness.

Mr. HERMENT (Belgium) observed that he had spoken not of the renunciation but of the acquisition of Indian nationality.

Mr. FAVRE (Switzerland) said that all the rights of the individual were subject to certain limitations as the insistence in the preamble of the draft convention upon the interest of international society in the question of reducing statelessness clearly showed. In the case under discussion, the right of the individual must yield to his obligation not to prejudice the international order. The Swiss delegation favoured the adoption of paragraph 1, which would avoid the creation of statelessness. If a clause permitting the creation of statelessness

by renunciation of nationality were eventually adopted by the Conference his country would not avail itself of that clause.

Mr. CARASALES (Argentina) said that the law of his country, like that of Brazil, did not provide for the renunciation of nationality. He supported the suggestion of the Brazilian representative.

Mr. HARVEY (United Kingdom) said that he appreciated the position of the Brazilian and Argentine delegations. It might be necessary to introduce some general provision into the convention to take account of the special difficulties of Argentina, Brazil and other countries which incorporated international conventions in their municipal law. At the previous meeting the United Kingdom representative had made a full statement of his reasons for endorsing the principle contained in paragraph 1 and in that connexion his delegation would support the amendment suggested by the Danish representative.

The importance of the principle of individual liberty was not in question, but the Conference should not discuss human rights as such. Incidentally, article 15 of the Universal Declaration of Human Rights stated that no one should be denied the right to change his nationality but said nothing about the right to abandon a nationality and become stateless.

The persuasive arguments to the contrary did not shake his belief that in paragraph 1 the rights of the individual should be subject to limitations consistent with the declared aim of the Conference.

Sir Claude COREA (Ceylon) took the view that paragraph 1 constituted a violation of fundamental human liberties. It was clear from the Conference's decision not to adopt the draft convention on the elimination of statelessness as a basis of discussion that it recognized that statelessness was bound to subsist to some extent. Indeed, the combined effect of article 8, paragraph 1, and article 7, paragraph 3, might be to render a person stateless in certain circumstances, and the United Kingdom amendment to article 8 (A/CONF.9/L.11) might produce a similar consequence. Since the complete elimination of statelessness was not considered an attainable objective it was surely better to admit the possibility of the creation of further cases of statelessness than to violate a fundamental principle of human liberty. He fully subscribed to the principles enshrined in article 15 of the Declaration of Human Rights, but that

article should not be interpreted as giving any authority to article 7, paragraph 1, of the draft convention, for the Declaration neither asserted nor denied the right to renounce nationality. Although some individuals might decide on caprice or impulse to abandon their nationality the suspension of a final decision by the authorities of the country concerned was an adequate safeguard against ill-considered action on the part of the individual. No person of sound mind would persist in his desire to become stateless unless for very grave reasons, for nationality conferred not only obligations but also valuable rights. From the point of view of the State also it was therefore appropriate that an individual's decision to renounce his citizenship should be accompanied by the withdrawal of the rights attaching to citizenship.

Mr. TSAO (China) said that, if paragraph 1 were amended in the manner suggested by the Brazilian delegation, his Government would be able to accept the paragraph, which would then represent a happy compromise. His country's nationality law likewise did not provide for renunciation of its nationality, although it provided for loss of that nationality by reasons of marriage and recognition of the child or by virtue of permission given by the authorities.

Mr. ABDEL MAGID (United Arab Republic) said that he understood that in only four countries did the nationality law make provision for loss of nationality by virtue of voluntary renunciation and without any specific action by the authorities and without making it contingent on the acquisition of another nationality.

It was laid down in his country's nationality law that none of its nationals should acquire the nationality of another country without the permission of the Ministry of Internal Affairs. Any national of the United Arab Republic who acquired the nationality of another country without such permission continued to be treated by the authorities of his country as a national for the purposes of military service obligations and taxation. If a person lost the nationality of the United Arab Republic with the permission of the authorities that person's wife also lost that nationality if she acquired a different nationality, and in that way the nationality law of the United Arab Republic avoided the statelessness of such persons in both cases.

Mrs. TAUCHE (Federal Republic of Germany) said that paragraph 1 would not oblige any State to extend its nationality law so as to cover the concept of renunciation of its nationality; the paragraph would apply only to parties whose nationality law covered that concept.

Mr. JAY (Canada) said that, while he agreed with the principle of paragraph 1, it would be wrong to assume that in no case would a person prefer statelessness to the nationality of a State of which he did not approve. Statelessness was deplorable, but it was not more deplorable than the position of certain persons who possessed a nationality. In many cases, unfortunately, it was the lesser of two evils. The discussion however had shown that many delegations did not share the views regarding the paragraph that he had expressed at the previous meeting. He would propose the insertion of the words "of itself" after the word "Renunciation". An act of renunciation by an individual should never result in statelessness if the authorities of the individuals country did not take specific action in respect of that act. He would hope that, with that less categorical wording, the paragraph would be acceptable to a large number of States.

The CHAIRMAN observed that all delegations would probably agree that the paragraph should be amended so as to allay the fear of certain countries whose municipal law was amended ipso facto by accession to an international instrument that the paragraph would introduce the principle of renunciation into their laws regarding nationality. The paragraph should begin with some such words as "If a law of a Contracting State provides for renunciation of its nationality ...". Although important, it was only a question of drafting.

The spirit of the previous speaker's proposal was commendable but the Canadian representative might consider wording his amendment differently.

Sir Claude COREA (Ceylon) proposed that paragraph 1 should be amended to read: "... renouncing it has acquired or is able to prove that he is about to acquire another nationality". If so amended, the paragraph might be acceptable to his Government.

Mr. HERMENT (Belgium) said that the amendment proposed by the representative of Ceylon would be acceptable to the Belgian delegation.

Mr. ABDEL MAGID (United Arab Republic) asked whether the Canadian representative thought that the addition of the words he had proposed would make it impossible for an act of renunciation to result automatically in statelessness.

Mr. JAY (Canada) said that his wording might be improved in the drafting stage. The convention should contain no provision which would prevent national authorities from recognizing a renunciation of nationality if they thought it right to do so even though that might result in some statelessness. The Canadian authorities exercised the discretionary power he was advocating with great caution in cases where there was a possibility of a person becoming stateless.

Mr. SIVAN (Israel) said that he had been impressed both by the arguments for the substance of the paragraph and by those against it. He had always been of the opinion that the paragraph could never result in loss of nationality in consequence of an act of renunciation by an individual without action by the authorities concerned in respect of that act. The addition of the two words which the Canadian representative had proposed would not add anything of substance; it might however be argued that they would make it possible for individuals to become stateless as a result of an act of renunciation by them without the authorities taking any action specifically in respect of that act, because if the condition indicated in the clause beginning with the word "unless" were fulfilled that would be something in addition to the act of renunciation. He proposed the insertion, instead of the words proposed by the Canadian representative, of the words "to the extent and under the conditions prescribed in national law".

Mr. JAY (Canada) said that the wording proposed by the Israel representative did not cover his point.

Mr. TSAO (China) questioned whether the wording proposed by the Canadian representative would serve its intended purpose. He was not strongly opposed to the amendment proposed by the representative of Ceylon, but its adequacy was questionable, for there would doubtless be cases of persons wishing to acquire a new nationality, sometimes while they were travelling outside the country of which they were nationals on a passport of that country in order to escape various obligations, such as that to appear in court or compulsory military service.

Mr. JAY (Canada) said that Canada's laws regarding nationality gave the Canadian authorities discretionary power to prevent any Canadian citizen from becoming stateless, with the object either of protecting him against his own folly or of protecting the State against wrongful intentions such as those alluded to by the representative of China.

The CHAIRMAN said that the Committee was not required to deal with the problem of persons attempting to escape their obligations towards the State of which they were nationals by means of taking steps with a view to changing their nationality. The national laws of each country should settle the question whether its nationals could avoid obligations, such as military service, by means of renouncing the nationality of that country.

Rev. Father de RIEDMATTEN (Holy See) suggested that the Ceylonese representative's amendment might relate, more appropriately, to paragraph 2 of the article, in which case paragraph 1 could be deleted.

Sir Claude COREA (Ceylon) said that, if the substance of his amendment were included in paragraph 2, paragraph 1 might well be deleted. There was nothing in paragraph 2 to which he objected.

As to the situations mentioned by the representative of China, his amendment was concerned with the possibility of an act of renunciation resulting in a loss of nationality; it was not concerned with attempts by persons to avoid obligations towards the State of nationality.

Mr. LEVI (Yugoslavia) said that he would have difficulty in supporting the wording proposed by the representative of Ceylon and would propose as an alternative the following clause: "... unless the person renouncing it has acquired, or is able to prove that he is about to be granted, another nationality".

Mr. LIANG, Executive Secretary of the Conference, said that, after the discussion on article 7 at the previous meeting, he had consulted the records of the International Law Commission. The only passage relating to the article that was of interest to the Conference occurred in the summary record of the Commission's 245th meeting (A/CN.4/SR.245, page 9, statement by Mr. Cordova). The article 6 referred to in that passage corresponded to article 7 under discussion.

The Convention on Certain Questions relating to the Conflict of Nationality adopted by the Hague Conference for the Codification of International Law in 1930

did not contain a provision concerning renunciation of nationality, similar in scope and in effect to article 7, paragraph 1, of the draft of the International Law Commission. It did contain an article (article 6) regarding the renunciation of nationality, but that article had to do with a person possessing two nationalities acquired without any voluntary act on his part. Such a person might renounce one of them with the authorization of State whose nationality he wished to surrender. Apart from that, in normal cases the renunciation of a nationality by an individual arose only when he applied for naturalization in another State. The State of which he was a national might require that he should apply first for an expatriation permit in order that he might renounce his nationality. Paragraph 2 of article 7 contained all the necessary provisions of a practical character governing normal cases, while paragraph 1 enunciated only a general principle. There was much force therefore in the suggestion of the representative of the Holy See that paragraph 1 be deleted since the application of that principle in normal cases was already contained in paragraph 2.

Mr. HERMENT (Belgium) did not agree that paragraph 1 might be deleted because paragraph 2 would be sufficient. The two paragraphs dealt with completely different matters. Paragraph 2 dealt with cases in which two States were involved, whereas paragraph 1 dealt with cases in which only one State, the State of nationality, might be involved.

Mr. JAY (Canada) suggested that the Committee should establish a working group to consider the wording of article 7, paragraph 1.

After further discussion, the CHAIRMAN suggested that a working group, consisting of the representatives of Belgium, Canada, Ceylon, the Holy See and Israel and having the right to co-opt other representatives, should be established to draft a joint amendment to article 7, paragraph 1.

It was so agreed.

The meeting rose at 12.50 p.m.

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE THIRD MEETING

held at the Palais des Nations, Geneva
on Thursday, 2 April 1959, at 3.20 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

CONTENTS:

Examination of the question of the elimination or reduction of future statelessness (item 7 of the Conference agenda) (continued)

Draft convention on the reduction of future statelessness (continued)

Article 1

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda)(A/CONF.9/L.1, L.4, L.7 and Corr.1, L.8, L.10/Rev.1, L.15) (continued)

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

Article 1

The CHAIRMAN drew attention to the revised joint amendment to article 1 of the draft convention submitted by the delegations of Denmark, France, Netherlands, Switzerland and the United Kingdom (A/CONF.9/L.10/Rev.1) in which a revision should be made. The sponsors had agreed that the word "conditional" in the second line of paragraph 2 should be replaced by the words "subject to one or more of the following conditions."

Mr. ROSS (United Kingdom), said that the joint amendment did not go as far as his delegation would have wished. However, since its own amendment to article 1 (A/CONF.9/L.4) was unlikely to meet with general acceptance and since it appeared that a large number of States would be able to ratify a convention containing the joint amendment the United Kingdom delegation would support it and withdraw its own amendment.

If the joint amendment to article 1 were accepted, article 4 would have to be redrafted and the United Kingdom amendment to that article (A/CONF.9/L.4) would not be moved. His delegation would probably submit a revised draft amendment to article 4.

Representatives who were looking at the joint amendment for the first time might find it rather complicated, but on examination it would be seen that the complications were due to an attempt to meet the widely different points of view of the various countries represented at the Conference and that the text contained a large number of alternatives, some of which would suit one country and some another.

Acceptance of the new draft article 1 should not result in a larger number of persons remaining stateless. While some might fail to obtain a nationality under paragraphs 1 and 2, it must be remembered that the restrictive conditions of paragraph 2 were optional. It was highly probable that by no means every State would impose a residence condition of ten years and although not all stateless persons would obtain a nationality at birth, they would have the right to a nationality during their minority. The residence condition in paragraph 4 was

much less onerous than that in paragraph 2 and had been included in order to provide a last chance of obtaining a nationality during a person's early years.

The general effect of the amendment as compared with the International Law Commission's text would be to shift the burden to some extent on to the jus soli countries, but in his view the additional burden would not be very great.

The new draft had the great merits of being likely to be generally acceptable to the Conference and to reduce considerably the number of stateless persons in the world.

Mr. HERMENT (Belgium) paid a tribute to the sponsors of the joint amendment for the work they had done in preparing the draft before the Committee. Its wording however could be improved and the use of the present tense in the French version would lead to a misunderstanding. The words in paragraph 2(b) "make the application by himself" presumably meant that the application would be made by an individual who had reached his majority; in Belgium minors could apply for nationality only through their parents or guardians.

Referring to the right of States to refus to grant nationality to persons who had acted in such a way as to endanger national security, it was his understanding that an appropriate provision would be discussed under article 8; he would later suggest an amendment to article 1 providing for such a refusal.

Sir Claude COREA (Ceylon), after thanking the sponsors of the joint amendment, said that the revision to paragraph 2 suggested by the Chairman did not improve the original text. The whole of paragraph 2 was based on the idea that a declaration had been lodged; once that had been done the provisions of paragraphs 2(b) and (c) would have to be considered. It would be illogical for the three sub-paragraphs to be separated. A State might well apply all three conditions, but if it wished to apply only one of them it could do so.

With regard to paragraph 1 (b), it was regrettable that the words "in accordance with their national law..." contained in the Swiss amendment (A/CONF.9/L.8) had been omitted from the joint amendment. He had explained at the third plenary meeting of the Conference that one of the greatest difficulties faced by his delegation in connexion with the International Law Commission's text of article 1 and certain amendments thereto was that they contemplated a declaration by an individual irrespective of whether the State had any interest in such a declaration. It would be preferable for the article to include a provision to the effect that nationality would be conferred in accordance with the national law of a contracting party.

The Swiss delegation's amendment had made some attempt to meet the difficulties of countries in the same position as Ceylon, but the joint amendment did not do so since it provided only for a declaration by an individual and made no reference to national law. The acquisition of nationality could not be made a unilateral act and his delegation would be unable to accept paragraph 1 (b) as drafted. It had therefore submitted amendments to paragraphs 1 (b) and 2 (A/CONF.9/L.15), the amendment to the latter being to replace the word "declaration" by the word "application".

Mr. IRGENS (Norway) said that he would support a text which could be accepted by the majority of delegations and which did not conflict too greatly with the principles of Norwegian law governing nationality. This could accept the joint amendment although it would call for certain changes in Norwegian law.

Mr. JAY (Canada) said that his delegation, too, could accept the joint amendment. The representative of Ceylon had read the text as meaning that the declaration required would have no relationship to national law. That was not his interpretation of it. Paragraph 1 (b) provided that nationality should be granted "upon a declaration being lodged with the appropriate authority". Whether it was called "a declaration" or an "application", the document must be lodged in the manner required by the appropriate authority. The freedom of Governments to deny such an application was circumscribed by conditions laid down in paragraph 2 and it was those conditions which Governments were asked to accept. The Canadian delegation would have preferred such conditions not to appear in the convention, but would go as far as possible towards agreeing on a text which would take account of the difficulties of certain States.

With regard to paragraph 4, under Canadian law a person was allowed to lodge a declaration up to the age of twenty-four.

The five delegations sponsoring the joint amendment deserved the Committee's thanks, and it was to be hoped that the text they had submitted would be adopted unanimously.

Mr. FAVRE (Switzerland) said that the joint amendment was a compromise between *jus soli* and *jus sanguinis* States, not a compromise between the *jus soli* and *jus sanguinis* principles.

Referring to the statement of the representative of Ceylon, he said that the new text was an improvement on the Swiss amendment. He added that, in the context, "declaration" was coterminous with "application". Paragraph 1 of the joint amendment accepted the principle that a

person had the right to obtain the nationality of the State in whose territory he was born if he would otherwise be stateless, but in order to do so he would have to fulfil certain conditions. His delegation was unable to accept the Ceylonese amendment which would have the effect of giving the State absolute discretion in the matter of the grant of nationality to stateless persons. The conditions governing the admission of such persons to citizenship should be stipulated in the convention.

Mr. LEVI (Yugoslavia) asked what was meant by the phrase "by operation of law" in paragraph 1 (a). His delegation was ready to accept the joint amendment and would withdraw its own amendment to article 1 (A/CONF.9/L.7 and Corr.1).

Mrs. TAUCHE (Federal Republic of Germany) said there was an important difference between the Swiss amendment and the joint amendment; the words "upon any person who .... did not acquire a nationality at birth or subsequently", which were included in the former, were omitted from the latter. That phrase was important and should be inserted in paragraph 2 of the joint amendment.

Mr. HARVEY (United Kingdom) agreed with earlier speakers that there was a lack of elegance in the text of the joint amendment, which perhaps, rather than the substance of the amendment, made it difficult for other delegations to accept.

The representative of Ceylon appeared to have difficulty in accepting paragraph 2 (c) because the residence qualification it contained seemed to preclude the necessity of a declaration. That was not the intention of the sponsors of the amendment. They had intended paragraph 1 (b), which called for a declaration, to be read before paragraph 2, which mentioned additional conditions such as age and residence. Stipulation of the condition of residence did not in any sense make the declaration unnecessary and in fact paragraph 2 (c) did contain a reference to the declaration.

The representative of Ceylon had also raised objections to the use of the word "declaration" and appeared to prefer the phrase used in the Swiss amendment namely "application made in accordance with their national law". In his view, there was little difference between the substance of the Swiss amendment and that of the joint amendment. It would still be possible for a State to comply with the terms of article 1, as amended by the joint proposal, even if it prescribed a special form of declaration. Indeed, most States would probably insist on a special form of declaration.

There was a doubt whether the delegation of Ceylon fully understood the implications of its amendment. It would be tantamount to adding an additional sub-paragraph providing that over and above age and residence a State could impose any conditions it wished, however liberal or illiberal they might be. His delegation would strongly oppose such an amendment and he would hope that the representative of Ceylon would not press his proposal.

With regard to the Canadian representative's comment on paragraph 4 of the joint amendment, the sponsors of the amendment had no intention of preventing a State from allowing applications for nationality before the age of twenty-three.

There was nothing to prevent a State from being more generous than had been contemplated.

The Yugoslav representative had asked what was meant by the phrase "by operation of law" in the final sentence of paragraph 1. Those words, both in line 3 of the paragraph and in line 7, meant simply "without the person concerned taking any specific action himself".

The representative of the Federal Republic of Germany, had raised the question of persons who had not been born stateless, but might still qualify for nationality under article 1. It was certainly possible that a person, having acquired a nationality at birth, and having later lost it, could acquire another nationality under article 1; but that was a very remote possibility already, and when the convention had been signed it should be even more unlikely. The more refinements that were introduced into the draft the more difficult it would be for the ordinary person to understand.

Mr. LEVI (Yugoslavia), while thanking the United Kingdom representative for his explanation of the phrase "by operation of the law", said that he still did not understand why it occurred both in sub-paragraph (a) of paragraph 1 and in the last sentence of the paragraph, which referred to parties applying the system under (b).

The CHAIRMAN explained that, in sub-paragraph (a) of paragraph 1, the phrase "by operation of the law" referred to the operation of jus soli. The use of the same phrase in the last sentence of paragraph 1 was intended to allow States to confer nationality automatically on persons who by a certain age had not made any declaration or voluntary application.

With regard to the words "declaration" and "application", "application" implied asking for something which could be refused. It was the intention of the sponsors of the joint amendment that if the conditions mentioned therein were fulfilled nationality could not be refused.

Mr. LEVI (Yugoslavia) suggested that in view of the Chairman's explanation of the phrase "by operation of law" it might be advisable to replace the words "applying the system under (b)" by the words "not applying the system under (a)".

Mr. ROSS (United Kingdom) did not think that anything would be gained by that amendment. Parties who signed the convention would either accept system (a) or system (b). Since the provision in question was an addition to system (b), it would be better to retain the existing words.

Sir Claude COREA (Ceylon) said that the Chairman's explanation of the word "declaration" confirmed his worst fears. If the word "application" had been used, parties to the convention would still have been able to refuse nationality, but it seemed that the sponsors of the joint amendment wished to exclude the right of refusal; if that were so, his delegation would strongly oppose it.

He could not avoid the conclusion that, in submitting their amendment, the five jus sanguinis countries had capitulated to the jus soli countries, for the conditions for acquisition of nationality, as set out in the amendment, were merely birth, age and residence, together with a declaration which had no significance at all since it was a unilateral act by the person desiring nationality, which the State could not refuse to grant. If the Committee were to adopt the amendment it would be reverting to the position of the Conference when considering the original draft of article 1 by the International Law Commission. If the word "application" were substituted for the word "declaration" the position would be quite different and some substantial progress would have been made.

The Canadian representative had spoken of the declaration being linked with the national law of the country concerned. That presumably meant that the declaration should comply with certain conditions. If so, why did not the joint amendment contain a specific statement to that effect, as did the Swiss amendment?

The United Kingdom representative's interpretation of the amendment submitted by Ceylon did not in the least surprise him. His delegation could not agree that a person should have the right to acquire nationality on conditions of birth, age and residence alone. The right of the State to decide what other conditions should be imposed must be safeguarded.

Mr. JAY (Canada) said that so far both the jus sanguinis and the jus soli countries had been prepared to make concessions. The delegation of Ceylon however seemed to have arrested that progress. The position of Ceylon was, briefly, that the jus soli countries could, if they wished, proceed with the reduction of statelessness, but other countries had no intention of increasing their contribution to its reduction. If such an attitude were to command general approval the discussions which had already taken place would be stultified. It was to be hoped that the representative of Ceylon would in the end be prepared to make the same concessions as other jus sanguinis countries.

The CHAIRMAN asked the representative of Ceylon to bear in mind the recommendation contained in paragraph 12 of the report of the International Law Commission on its sixth session (A/2693) that, "if Governments adopted the principle of the elimination, or at least the reduction, of statelessness in the future, they should be prepared to introduce the necessary amendments in their legislation".

If the Committee adopted a text which made the conferring of nationality under certain conditions permissive rather than obligatory, it would not have gone any further than the provisions of the 1954 Convention relating to the Status of Stateless Persons, article 32 of which called upon contracting parties to "facilitate the assimilation and naturalization of stateless persons".

Mr. TSAO (China) agreed, after the Chairman's explanation, that there was a substantial difference between the meanings of the words "declaration" and "application", and fully supported the proposal of the representative of Ceylon that the word "application" be substituted for the word "declaration" wherever the latter occurred in the joint amendment.

Sir Claude COREA (Ceylon) said that his Government was not unwilling to alter its laws on nationality. The laws of Ceylon had been amended many times to bring them into line with Conventions that it had ratified, but his delegation was not prepared to subscribe to a convention which rejected the principle that each State should have the right to decide whether to confer or to refuse nationality. Without that principle, States would lose all control over the composition of their peoples and their sovereignty would be impaired.

He could not lend his support to a text for article 1 which not only spoke of a declaration, without right of refusal, but also began with the words "A Party shall grant its nationality ..."

Mr. HARVEY (United Kingdom) opined that it was unimportant whether the word "declaration" or the word "application" were used in the amendment. In other contexts "application" was often used when the person or authority applied to had no right of refusal.

Mr. ROSS (United Kingdom) suggested that the representative of Ceylon might be prepared to reconsider his attitude to the joint amendment if the first words "A Party shall grant its nationality ..." were replaced by some such words as "A person born in the territory of a Party shall be entitled to its nationality ..."

Sir Claude COREA (Ceylon) said that he would gladly consider any drafting changes to the joint amendment but would not accept them if they ran counter to the principles for which his delegation stood.

Mr. HERMENT (Belgium) observed that the representative of Ceylon wished to reserve for his Government the right to decide whether to accept or refuse an application for nationality. Paragraph 2 of the joint amendment indicated some grounds on which nationality could be refused. The representative of Ceylon clearly believed that there should be other grounds, and it was for him to state what he thought they should be.

The meeting rose at 5.40 p.m.

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE FOURTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 3 April 1959, at 10 a.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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Examination of the question of the elimination or reduction of future statelessness (item 7 of the Conference agenda) (continued)

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

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

Article 1 (A/CONF.9/L.10/Rev.1, L.15, L.18) (continued)

The CHAIRMAN suggested that representatives who could not accept certain amendments to article 1 of the draft convention (A/CONF.9/L.1) should merely reserve their position in regard to the article instead of proposing amendments to it. That would make the Committee's task easier and the Governments of those representatives might perhaps later find themselves able to accept whatever text was ultimately adopted.

Mr. HELLBERG (Sweden) welcomed the joint amendment by Denmark, France, Netherlands, Switzerland and the United Kingdom (A/CONF.9/L.10/Rev.1), because if it did not represent a marriage of the principles of jus soli and jus sanguinis at least it provided for their peaceful co-existence, and should help to reduce statelessness. Since in his country's laws regarding nationality, which were very liberal, the clause corresponding to sub-paragraph 2 (c) of the joint amendment was rather more stringent than the sub-paragraph, he must reserve his position in regard to the article; he had, however, already written to the appropriate Swedish authorities asking whether it would be possible to bring his country's laws regarding nationality into line with the sub-paragraph and he hoped to receive a definite answer before the end of the Conference.

Mr. TYABJI (Pakistan), recalling that at the previous meeting there had been much discussion on the word "declaration" as used in the joint amendment and that several representatives had said it was immaterial to them if the word "application" were used instead of "declaration", expressed a marked preference for the word "application" because it was more suited to the practice in Pakistan.

The CHAIRMAN said that the question of which of the two words should be used had since been the subject of informal discussion and the Chinese representative had agreed that it should be left to a drafting committee to settle the point. He himself thought that, if the word "application" were used, some such clause as "any such application may not be refused except on the grounds set out in the Convention itself" should be added.

Mr. TYABJI (Pakistan) said that he would welcome the views on that point of the representative of Ceylon.

Mr. BACCHETTI (Italy) said that paragraph 1 of the joint amendment, if standing alone, would be acceptable but that he was opposed to the other paragraphs which qualified paragraph 1 because of their very restrictive nature. Paragraph 2 laid down that the national law of a party might make the acquisition of its nationality in accordance with sub-paragraph 1(b) conditional on the declaration being lodged after the person had attained an age not exceeding eighteen years, whereas the Belgian delegation had proposed an age of fifteen or sixteen years. The inclusion of the word "normally" before the word "resident" in sub-paragraph 2(c) made that sub-paragraph more restrictive than the corresponding clause in the International Law Commission's text because it might be argued that a person was not normally resident in a country unless he had a dwelling there and was actually in the country at least once every six or twelve months. If the text of the joint amendment were adopted instead of the draft text, the period during which persons to whom it applied might automatically acquire a nationality by means of a declaration would be reduced to the years when they were eighteen to twenty-one.

It was not entirely clear at what ages the various paragraphs of the amendment would be applicable, and more particularly paragraph 3, which he supposed had been introduced as a concession by the jus soli countries. Nor was it clear what party was intended in the phrase "the national law of the Party" in the last sentence of paragraph 3; he had in mind especially cases of dual nationality. It would not be possible to apply paragraph 3 of the joint amendment to any person until he was quite old because it had first to be established by the authorities that the person concerned did not meet the conditions mentioned in sub-paragraph 2(c), and that could not be established until the periods mentioned in sub-paragraph 2(c) had elapsed. After that, it would probably take a long time to decide whether the conditions had been fulfilled.

Mr. BESSLING (Luxembourg) said that the provisions of paragraph 1 of the joint amendment should not be restricted to the extent they were by the other paragraphs of the amendment.

If paragraph 1 were adopted, there should be added to it a clause requiring parties to declare whether they intended to apply sub-paragraph (a) or sub-paragraph (b).

The International Law Commission's text for article 1 was clearly intended to apply only to persons born after its entry into force. In view of the wording of paragraph 2 of the joint amendment in particular, the text of that amendment should be redrafted so as to make it clear whether it would apply to persons who were already alive when it came into force.

It was certainly not at all clear at what age many of the clauses of the joint amendment would be applicable.

Mr. BEN-MEIR (Israel) expressed the desire to know whether other representatives were proceeding, as he was, on the assumption that the Convention would apply only to persons born after its entry into force, whatever wording was finally adopted for article 1. It was clear that the International Law Commission's text for article 1 was intended to apply exclusively to such persons, because the principal clause provided for the acquisition of nationality only at the time of birth.

There was a discrepancy between the joint amendment and the original text where he believed no change of substance was intended; for the first words of the joint amendment read "A Party shall grant ..." whereas the original text read "A person ... shall acquire". That discrepancy might have been at the root of the discord which had manifested itself at the previous meeting over the question whether States lost any of their sovereignty by assuming obligations through becoming parties to international conventions. There appeared to be no obstacle in the way of changing the first two lines of the joint amendment to read "1. A person who would otherwise be stateless shall acquire the nationality of the Party in whose territory he is born, either ... ".

There was another discrepancy between the two texts. Paragraph 3 of the joint amendment had the words "parents' nationality at the time of the person's birth", whereas the International Law Commission had obviously intended to refer to the nationality of the parents at the time when the clause became applicable, i.e. when the person reached the age of eighteen. It would be wrong to lay down in the proposed paragraph that persons should acquire at eighteen the nationality

of a parent at the time of their birth if the parent had lost that nationality and acquired another. Moreover, in such a case, the child would have practically no chance of acquiring even the parent's previous nationality, for the parents would have most probably moved permanently to another country together with the child, who would thus be prevented from fulfilling the conditions to which paragraph 4 of the joint amendment related.

He had not been convinced by the assertion at the previous meeting that the last sentence of paragraph 1 of the joint amendment served any useful purpose. It would not impose any kind of obligation on a party, nor would it derogate from the effect of any obligation undertaken by a party by virtue of article 1 or any oth article. It amounted merely to a declaration that parties might be more generous in granting their nationality in order to reduce statelessness than was provided in sub-paragraph 1(b). Such a declaration was superfluous. It would not meet any requirement of policy or legislation of any State which had made its views known to the Conference.

It was laid down in the joint amendment that the age for filing declarations covered by paragraph 2 should be fixed by the party on whose territory the child was born, whereas the provision in paragraph 4 regarding the lodging of a declaration before the person reached the age of twenty-three related to a different party. As they were different parties, there was a possibility that, since the age for filing a declaration mentioned in sub-paragraph 2(b) might be relatively advanced, the right accorded by paragraph 4 to submit a declaration to a different State might in many cases be useless. A person who in good faith believed that he would acquire the nationality of his country of birth and was denied that nationality for a valid reason when submitting his declaration might be unable to benefit from the provisions of paragraphs 3 and 4 because they were not co-ordinated with paragraph 2. Instead of specifying an age in paragraph 4, provision should be made for the declarations to which that paragraph related to be made at the latest one or two years after the nationality of the country of birth was finally and validly refused.

With reference to the oral amendment moved by the representative of the Federal Republic of Germany at the previous meeting, States applying sub-paragraph 1(b) of the joint amendment should not be able to add the further condition that the person making the declaration must have been stateless from birth until the time of filing the declaration.

If these discrepancies and defects were removed, the joint amendment would probably help to reduce statelessness, although not to the same extent as would the Commission's text, from which his delegation would part only with great regret.

Sir Claude COREA (Ceylon) said that he had submitted the first part of his amendment (A/CONF.9/L.15) to sub-paragraph 1(b) of the joint amendment because he considered it of cardinal importance that States should be free to decide who their citizens should be. His Government was far from opposed to granting Ceylonese nationality to all people who would otherwise be stateless. During the past two years Ceylon had granted Ceylonese nationality to approximately 125,000 applicants. Recently, a number of stateless persons who had come from Europe had found refuge in Ceylon and been granted Ceylonese nationality. Ceylon's laws on the acquisition of nationality were very liberal where certain necessary conditions were fulfilled.

As the second part, he had proposed the substituion of the word "application" for the word "declaration" in paragraph 2 of the joint amendment because the use of the word "declaration" would oblige parties applying sub-paragraph 1(b) to accept as nationals persons whom they ought not to be obliged to accept. It had been asserted that the two words would have the same effect. They would not. If it were true that they would have the same effect, there would be no grounds for objecting to the use of the word "application". It was not merely a matter of drafting. The word "application" would imply refusal or acceptance, whereas the word "declaration" would imply that there could be no refusal and suggest that the authorities concerned should not even check whether the person making the declaration possessed the requisite residence qualifications.

As an alternative to the first part of his amendment to sub-paragraph 1(b), he would propose the wording "under the conditions provided for by its legislation". Some representatives would be opposed to that wording because it would leave too much to the discretion of parties, but it was essential that parties to the convention should enjoy freedom of action.

Mr. HERMENT (Belgium), referring to the point raised by the representative of Luxembourg and Israel, said that it had clearly not been the intention of the International Law Commission to legislate for stateless persons born before the entry into force of the convention. It was nevertheless important that the Conference itself should place beyond any doubt that it too did not intend to legislate for such persons.

The Israel representative had made a number of most important points which should not be disregarded during subsequent discussion.

While he did not doubt the generous intentions of the Ceylonese Government, his delegation could not accept the Ceylonese amendment, which would do nothing to modify existing national legislation in respect of statelessness. He had no objection in principle to the Ceylonese proposal to substitute the word "application" for the word "declaration" so long as it was clearly understood that an application could be refused only for the reasons set out in paragraph 2 of the joint amendment.

Mrs. TAUCHE (Federal Republic of Germany) said that she shared some of the apprehensions expressed by the representative of Israel. If, as contemplated in paragraph 3 of the joint amendment, States were allowed to decide whether the national status of a stateless person should follow that of the father or that of the mother, one party might decide in favour of one parent while another party decided in favour of the other. In that event, which nationality would apply? Would the child have the right to acquire the nationality of both parents or of neither?

Mr. ROSS (United Kingdom) reiterated that the joint amendment was the result of a compromise and hence was inevitably open to criticism.

Replying to the representatives of Italy and Israel, he pointed out that the conditions contained in paragraph 2 of the joint amendment should be regarded as representing the maximum degree of stringency. It was probable that very few States would wish to apply all those conditions and consequently, from the point of view of countries like the United Kingdom which preferred a more liberal policy, the paragraph need not be considered as restrictive as might appear. Even on its strictest interpretation, however, paragraph 2 would enable a considerable number of persons not currently eligible to apply for nationality. Some cases, it was true, would fall within the purview neither of paragraphs 1 and 2 nor of

paragraphs 3 and 4, but they would probably not be sufficiently numerous to warrant an attempt to draft yet another paragraph to bring them under the jus soli principle, which might have the effect of unduly complicating the text.

The arguments of the Italian representative had not convinced him that there was any real danger that countries would be tempted to introduce less liberal legislation as a consequence of the adoption of paragraph 2.

Admittedly there was the risk pointed out by the Israel representative that as a result of the discrepancy between the ages indicated in paragraphs 2 and 4 some persons might fail to acquire a nationality, but even allowing for bureaucratic delays there should not be much likelihood that a person who had applied for one nationality at the age of eighteen would not have time to make application for another nationality before the age of twenty-three.

He appealed to all countries which, like Ceylon, had difficulty in accepting the provisions of article 1 to follow the lead of the Belgian and Swiss delegations, which had withdrawn amendments more restrictive than the provisions under discussion.

The valuable points made by the Israel representative should be taken into account as drafting amendments.

Mrs. SCHMID (Austria) requested that the two parts of the Ceylonese amendment be put to the vote separately.

After some procedural discussion, the CHAIRMAN put to the vote the first part of the Ceylonese amendment to the joint amendment.

The first part of the Ceylonese amendment was rejected by 20 votes to 4, with 8 abstentions.

Sir Claude COREA (Ceylon) said that he would withdraw the second part of his delegation's amendment.

The CHAIRMAN suggested that the choice between the word "declaration" and the word "application" - it being understood that an application could be refused only in virtue of the conditions set forth in paragraph 2 of the joint agreement - should be left to the drafting committee.

It was so agreed.

The CHAIRMAN invited comments on the Ceylonese oral amendment to substitute for paragraph 1(b) of the joint amendment the phrase "under the conditions provided for by its legislation".

Mr. JAY (Canada), said that the Ceylonese oral amendment bore the same meaning as the amendment that had just been rejected, and he would vote against it.

Sir Claude COREA (Ceylon) expressed the view that his oral amendment was narrower in scope than the rejected amendment.

Mr. ROSS (United Kingdom) moved the closure of the debate on the subject under discussion under rule 17 of the Conference's rules of procedure.

The motion for the closure was carried by 20 votes to none, with 5 abstentions.

The CHAIRMAN put to the vote the Ceylonese oral amendment.

The Ceylonese oral amendment was rejected by 19 votes to 4, with 9 abstentions.

Mr. PEREIRA (Peru) said that he had abstained from voting because he had not yet received instructions from his Government.

Mr. BACCHETTI (Italy) observed that, although a number of amendments had been submitted to the joint amendment, it had not as yet been given the status of a basic document.

Mr. JAY (Canada) proposed that the joint amendment (A/CONF.9/L.10/Rev.1) to article 1 be adopted as a basis for discussion.

The Canadian proposal was adopted by 16 votes to none, with 16 abstentions.

The CHAIRMAN invited the Committee to discuss the German amendment (A/CONF.9/L.18) to the joint amendment.

Mr. BEN-MEIR (Israel) said that it would be necessary to delete the words "at birth" in both places where they occurred in the German amendment, since it related to the provisions of paragraph 2, which was concerned with persons who had not acquired a nationality at birth.

Mrs. TAUCHE (Federal Republic of Germany) asserted that the words were necessary, since without them there would be no provision for persons who lost a nationality which they had acquired at birth.

The CHAIRMAN, speaking as the representative of Denmark, said that if the German amendment were adopted the Danish Government would not avail itself of its provisions. Danish nationality law was based on an extension of the principle of jus soli under which Danish nationality was granted to all persons brought up in the country whether born in its territory or not.

Mr. ROSS (United Kingdom) took the view that only a small number of cases would fall under the provisions of the German amendment and that it was undesirable to extend further the restrictions already contemplated. His delegation would vote against the amendment.

Mr. FAVRE (Switzerland) considered that the amendment was justified. As an illustration of the circumstances to which it might apply, one could imagine the case of a mass of refugees flooding into a country, settling there, having children, and, after a period of twenty years, being deprived of the nationality of their country of origin. Should the country which, from humanitarian motives, had received the refugees then be obliged to confer its nationality upon them and their children?

Mr. SIVAN (Israel) admitted that the phrase "at birth" might have some possible application. The attempt to include such a provision would however result in a further departure from the jus soli principle of article 1 as drafted by the Commission and his delegation was opposed to any extension of the restrictions already envisaged in paragraph 2 of the joint amendment.

Mr. JAY (Canada) said that he would vote against the German amendment, which could only increase the number of stateless persons ineligible to acquire nationality either under paragraph 2 or under paragraph 3.

Mrs. TAUCHE (Federal Republic of Germany) explained that her delegation's amendment was intended to avoid an obligation to grant German nationality being imposed upon her country as a consequence of the legislation of other States.

Mr. HERMENT (Belgium) said that in addition to the case imagined by the Swiss representative it might happen that persons migrating from their country of birth and acquiring the nationality of another country would, in the event of being deprived as a penalty of their new nationality, claim the right to re-acquire the nationality of the country in which they had been born. A proposal making such a situation possible seemed to him quite unacceptable.

The CHAIRMAN put to the vote the German amendment (A/CONF.9/L.18) to the revised joint amendment (A/CONF.9/L.10/Rev.1).

The German amendment was not approved, 9 votes being cast in favour and 9 against, with 15 abstentions.

The meeting rose at 1.10 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE FIFTH MEETING

held at the Palais des Nations, Geneva
on Friday, 3 April 1959, at 3.15 p.m.

Chairman: Mr. LARSEN (Denmark)
later: Mr. CALAMARI (Panama)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

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

Article 1 (A/CONF.9/L.10/Rev.1, L.19)(continued)

The CHAIRMAN invited the representative of Belgium to introduce his amendment (A/CONF.9/L.19) to the draft article 1 submitted jointly by the delegations of Denmark, France, the Netherlands, Switzerland and the United Kingdom (A/CONF.9/L.10/Rev.1). It would be recalled that that joint draft had been accepted at the previous meeting as the basis for the discussion of article 1 of the draft convention.

Mr. HERMENT (Belgium) said that in paragraph 1 of his delegation's amendment in addition to the deletion of the words "The national laws of" in paragraph 2 of the joint draft, he proposed the insertion of the word "Contracting" before the word "Party".

Paragraph 1 of the Belgian amendment to draft article 1, paragraph 2, as revised orally, was approved.

Mr. HERMENT (Belgium) said, with regard to his delegation's amendment to paragraph 2(b) of the joint draft, that in Belgium a person aged sixteen required his parents' consent for the purpose of making an application of the type mentioned.

Mr. SIVAN (Israel) suggested that the English text would be made clearer by the deletion of the word "and" at the beginning of the Belgian amendment.

Mr. HERMENT (Belgium) accepted that amendment.

Paragraph 2 of the Belgian amendment to article 1, paragraph 2(b), was approved.

Mr. HERMENT (Belgium) said that paragraph 3 of his delegation's amendment (addition of a new sub-paragraph (d)) was self-explanatory.

Mr. FAVRE (Switzerland) said that the amendment in question was properly related to article 8 since there was a natural link between a State's reasons for refusing to grant its nationality to a person and its reasons for depriving a person of the nationality it had granted to him. In that connexion, the United Kingdom and French amendments to article 8 (A/CONF.9/L.11 and A/CONF.9/L.14) were relevant. He moved that consideration of paragraph 3 of the Belgian amendment be deferred until article 8 was considered.

Mr. BACCHETTI (Italy) said that his delegation would have to vote against the Belgian amendment and would do so also in the plenary meeting. It would be wrong to discriminate on the basis of a criminal offence. The Conference was endeavouring to establish a kind of limited, autocratic system for the reduction of statelessness, and to begin by discriminating on the basis of individual merit might lead it very far. With regard to political acts, the greatest caution should be exercised and precision was essential. Moreover, it might be possible to expel the person concerned.

Mr. HERMENT (Belgium), pointing out that a stateless person could not be deported, added that under Belgian legislation neither could a person who had been granted Belgian nationality.

Mr. HUBERT (France) supported the Swiss representative's motion since the question covered in the proposed new sub-paragraph was closely linked with the provisions of article 8. The French delegation would not be able to vote on the new Belgian clause until it knew what the reactions of the Conference would be to the French amendment to article 8 (A/CONF.9/L.14).

Mr. ROSS (United Kingdom), supporting the Swiss motion, expressed the view that those States wishing a provision on the lines of the new Belgian clause to appear in the convention would not often refuse a young man nationality for reasons as grave as those mentioned, for a person aged sixteen or seventeen would hardly ever have been guilty of an overt act of disloyalty or sentenced to imprisonment. Article 8 as amended by the United Kingdom delegation (A/CONF.9/L.11) explicitly distinguished between natural-born citizens and others. Persons who had acquired a nationality under the provisions of article 1 would clearly not be natural-born citizens, and under the United Kingdom amendment a State would have the power to deprive such persons of their nationality for extreme reasons only. It was more appropriate that the question covered by the Belgian amendment should be dealt with under article 8 because the latter article contained the safeguard of recourse to a review by an independent judicial authority. If article 8 as drafted were rejected the Belgian representative could resubmit his amendment to article 1 at a plenary meeting.

Mr. HERMENT (Belgium), replying to a question by the CHAIRMAN, said that he did not wish the consideration of the Belgian amendment to be deferred; he would, however, agree to a separate vote on the two conditions contained therein.

Mr. JAY (Canada), while appreciating the spirit of the Belgian representative's statement, said that if a young man were deprived of the right to obtain citizenship because of some misdemeanour, it would lead to situations which should not be covered in a convention designed to reduce statelessness. He could not therefore accept the Belgian amendment.

Sir Claude COREA (Ceylon), supporting the Belgian representative's statement, pointed out that article 8 referred to deprivation of nationality whereas article 1 referred to the acquisition of nationality. The Belgian amendment might be made even stronger by the insertion of the words "or the public interest" after the words "national security", but he would not submit a formal proposal to that effect.

Mr. CARASALES (Argentina) suggested that the Belgian amendment should be considered also in conjunction with article 1, paragraph 4. Under the joint draft of article 1, paragraph 2, a jus sanguinis State would be permitted to impose certain limitations on its obligation to grant its nationality to a stateless person born in its territory. Paragraph 3 of the same article contained a corresponding obligation for jus soli States and the conditions on which the latter would grant their nationality were set out in paragraph 4. In the Belgian amendment a new condition was laid down only in paragraph 2. While not wishing to express a final opinion on the substance of the Belgian amendment, he considered that if it were possible for a State covered by paragraph 2 not to grant nationality the States covered by paragraph 4 should also have that right.

Mr. SCHMID (Austria) supported the Belgian amendment, explaining that his delegation had voted against the amendment proposed by the delegation of Ceylon (A/CONF.9/L.15) because it would have given too much discretion to the States concerned and limited the rights of the individual. However, the Committee should be realistic and not expect a State to grant its nationality to a person who had committed a serious offence.

Mr. VIDAL (Brazil) said that, as the Belgian amendment would upset the balance of article 1, his delegation would vote against it.

The CHAIRMAN, speaking as the representative of Denmark, said that a rule such as that contained in article 1, paragraph 1 (b) had existed in Danish legislation for more than one and a half centuries and to the best of his

knowledge the Danish authorities had never met with the type of case covered by the proposed additional sub-paragraph (d).

Mr. HERMENT (Belgium) said that there had been two cases in his country which unfortunately had proved that young persons who had been granted Belgian naticnality were quite unworthy of it.

Sir Claude COREA (Ceylon) said that certain States, before admitting a person to their citizenship, wished to be satisfied that that person was worthy of the grant of nationality. The aim of the Belgian amendment was to enable States to lay down certain conditions for that procedure.

The CHAIRMAN, referring to the Swiss representative's motion that consideration of paragraph 3 of the Belgian amendment (addition of new sub-paragraph 2(d)) should be deferred until article 8 was examined, said that under rule 16 of the rules of procedure two representatives might speak in favour of and two against the motion, after which it should be immediately put to the vote.

Mr. HERMENT (Belgium) and Mr. TSAO (China) expressed their opposition to the Swiss representative's motion.

Mr. BACCHETTI (Italy) and Mr. HUBERT (France) supported the motion.

The Swiss representative's motion was carried by 11 votes to 8, with 8 abstentions.

Mr. TYABJI (Pakistan), explaining his vote, said that he had voted against the Swiss motion because he considered that the Belgian amendment should not be debated at the same time as article 8.

Mr. HERMENT (Belgium), introducing paragraph 4 of the Belgian amendment, proposed that the word "Contracting" should be inserted before the word "Party".

Paragraph 4 of the Belgian amendment, to article 1, paragraph 3, as revised orally, was approved.

Mr. HERMENT (Belgium), explained that paragraph 5 of the Belgian amendment was a drafting amendment only.

Paragraph 5 of the Belgian amendment to article 1, paragraph 4, was approved.

The CHAIRMAN put draft article 1 as amended to the vote on the understanding that it might be further amended on the basis of paragraph 3 of the Belgian text (A/CONF.9/L.19) when the Committee considered article 8.

On that understanding, the joint draft of article 1, as amended, was approved by 17 votes to none, with 11 abstentions.

Mr. LEVI (Yugoslavia) said that he had voted for article 1 as amended on the understanding that the last part of paragraph 1 would be reconsidered by the drafting committee.

Mr. SIVAN (Israel) said that he had abstained in the vote on article 1 as amended. He hoped that the drafting committee would bear in mind the remarks made by the representative of Israel at the previous meeting.

The CHAIRMAN, replying to a question by Mr. BACCHETTI (Italy), said that the drafting committee would have to bear in mind certain unsolved problems, and that the Committee's intention with respect to certain points of substance would have to be made very clear. Representatives would have an opportunity of discussing such points before the text of article 1 was referred to the drafting committee.

Mr. JAY (Canada) recalled that he had stated at the fifth plenary meeting that his delegation's attitude to certain articles would depend on the substance of article 1. He did not wish to challenge the Chairman's remarks, but his delegation would have to reconsider its attitude if changes were made to the substance of article 1.

Article 2 (A/CONF.9/L.13)(concluded)

The CHAIRMAN, speaking as the representative of Denmark, and introducing his delegation's amendment to article 2 (A/CONF.9/L.13), said that the purpose of the proposal was to bring the text of article 2 into line with the amendments to article 1 which the Committee had already approved.

If an abandoned child were found in the territory of a jus soli country, and were presumed to have been born on the territory of that country, it would eo ipso acquire that country's nationality. But if the text of article 2 as drafted by the International Law Commission remained unchanged the situation would be quite different in the case of a child found in the territory of a jus sanguinis country. In accordance with the amended text of article 1, he would have to wait until the age of eighteen before he could declare that he wished to acquire that country's nationality. The purpose of the Danish amendment was to ensure that a child found in the territory of a jus sanguinis country would have the same rights as one found in the territory of a jus soli country.

Statistics tended to show that most foundlings were not in fact children of stateless persons, but of parents who were nationals of the country in whose territory they were found; they should therefore be entitled to acquire the same nationality as soon as they were found.

Mr. HERMENT (Belgium) said that his delegation could not support the Danish amendment. If an abandoned child were found in the territory of a particular country there might indeed be a presumption that he had been born there, until the contrary were proved. If it were eventually proved, however, that the foundling had in fact been born in the territory of another country, article 1 and not article 2 should apply.

Articles 2 and 3 should be dependent upon article 1. If the Danish amendment were adopted and that dependence no longer remained, then States parties to the convention would be required to confer their nationality on persons who might later be discovered to be nationals of other States which were not parties to the convention at all.

The CHAIRMAN, speaking as the representative of Denmark, agreed that his delegation's amendment to article 2, if adopted, should be regarded as autonomous, and that it would not be appropriate to place it between articles 1 and 3.

Mr. TSAO (China) said he was quite prepared to accept the Danish amendment, but did not fully understand the reasons underlying it. There was a close connexion between article 2 and article 1: and if, in accordance with the International Law Commission's draft of article 2, a child found in the territory of a certain State were presumed to have been born on that territory, then, under article 1, that child would automatically acquire the nationality of the country in whose territory he had been found. In the Chinese delegation's view there was no substantive difference between the Danish amendment and the original draft of the International Law Commission.

Mr. BACCHETTI (Italy) agreed with the Danish representative that, since the Committee had decided to amend article 1, some change was required in article 2. The objections of the Belgian representative might perhaps be met if the text of the Danish amendment were revised to read: "A foundling found in the territory of a Contracting Party shall be considered as a national of that Contracting Party".

Mr. ABDEL-MAGID (United Arab Republic) said that his delegation supported the Danish amendment. The words "in the absence of proof to the contrary", however, should refer to the foundling's place of birth and not to the nationality which he might possess. He would therefore ask the Danish representative if he would agree to his proposal being amended to read: "A foundling found in the territory of a Party and presumed, in the absence of proof to the contrary, to have been born in the territory of that Party, shall be considered as a national of that Party". In that form, the provision might be more acceptable to the Belgian delegation.

With regard to the alleged relationship between article 1 and article 2, in his view article 2 was autonomous for it presupposed that the parents of the foundling were unknown. If the nationality of the father or mother of the foundling were known, then other provisions would apply.

Mr. SIVAN (Israel) said his delegation preferred the original draft of article 2 as prepared by the International Law Commission. There was no doubt in his mind that, whatever the provisions of article 1 might be, article 2 should be consequential upon that article; and if the Commission's draft were retained a foundling would be no worse off than a stateless person. The Danish representative had said that, unless his delegation's amendment were accepted, an abandoned child found in a jus sanguinis country might have to wait for eighteen years before acquiring a nationality. Admittedly, that that would be the result, but he failed to understand why a foundling should be placed in a better position than a stateless person. In most countries represented at the Conference foundlings in any case enjoyed government protection during their minority.

Mrs. TAUCHE (Federal Republic of Germany) said that it was very probable that a foundling was the child of nationals of the country in whose territory he was found. For that reason alone it was justifiable to place the deserted child in a better position than a stateless person.

The CHAIRMAN, speaking as the representative of Denmark, agreed with the previous speaker. Further, even if a foundling were the child of foreign parents, those parents would not be present to undertake the child's education. Instead, he would be educated in the national institutions of the State in whose territory he had been found and it was surely better that the child should acquire

at birth the nationality of that country than that he should have to wait until the age of eighteen.

Mr. BACCHETTI (Italy) repeated his belief that the amendments to article 1 called for some corresponding changes in article 2. The International Law Commission's draft of article 2 spoke of a presumption of fact whereas the Danish amendment wished to assert a state of law. If the Danish amendment were accepted, there might be a certain vacuum juris. His delegation would submit its own amendment to article 2 that the words "For the purpose of article 1" at the beginning of the article be deleted, and that the words "and shall thereby acquire the nationality of that Party" should be added at the end of the article.

Mr. HERMENT (Belgium) said that if the words "For the purpose of article 1" were deleted, the provisions of article 2 would then refer to any persons, whether they were later discovered to be nationals of States parties to the convention or not.

Mr. JAY (Canada) said that his delegation supported the Danish amendment. Since it had been introduced, however, other delegations had laid special emphasis on the link between article 2 and article 1. In its deliberations on article 1 the Committee had retreated from the principles expressed in the original draft of the International Law Commission in order to take into account the special difficulties of certain jus sanguinis States. Since article 1 had been qualified by certain limitations, they should be retained in article 2. For that reason, he would abstain from voting on the Danish amendment.

Rev. Father de RIEDMATTEN (Holy See) said that his delegation also would be compelled to abstain from voting on the Danish amendment. His instructions had been to take part in the drafting of the convention for the reduction of statelessness. He had no instructions whatsoever to discuss the problem of foundlings.

Mr. TYABJI (Pakistan) supported the Danish amendment. Under the Pakistan Citizenship Act No. II of 1951, a child found on Pakistan territory was automatically granted Pakistan nationality.

Mr. LEVI (Yugoslavia) also expressed support for the Danish amendment. The clarification given by the representative of the United Arab Republic was

of particular value. He asked if that representative would be prepared to submit a formal amendment.

Mr. ABDEL-MAGID (United Arab Republic) said that he would be satisfied if his statement on the Danish amendment appeared in the summary record.

Mr. SCHMID (Austria) said that after the explanations given by the Danish and other representatives his delegation would support the Danish amendment.

Mr. HERMENT (Belgium) said that he interpreted the words "proof to the contrary" as applying not to the place of birth but to the nationality of the foundling. He would ask the Danish representative to consider the case of an abandoned child found in Danish territory. In accordance with the Danish amendment, he would acquire Danish nationality. If, however, the child were later recognized by the mother who was not of Danish nationality, that recognition in itself would prove conclusively that the foundling was likewise not of Danish nationality, even though indisputably born on Danish territory.

The CHAIRMAN, speaking as the representative of Denmark and explaining the effects of his delegation's amendment as applied by each of the two groups of countries said that an abandoned child found in a jus soli country would acquire the nationality of that country. If it were later discovered that the child had been born abroad and that the parents possessed another nationality, the rules of nationality by descent such as existed, for instance, in the United Kingdom would apply and the child would acquire a new nationality, namely that of its parents.

If a child found in a jus sanguinis country were later discovered to have been born in another country, that child would either acquire the nationality of the parents or if they were stateless would at the age of eighteen be qualified under the amended article 1 to acquire the nationality of the country of birth.

In either case, the child would possess the nationality of the country in which he had been found until shown to be entitled to another nationality.

Sir Claude COREA (Ceylon) said that his delegation would vote for the Danish amendment, which reproduced the exact sense of his country's law relating to foundlings.

Mr. HERMENT (Belgium) said that the Danish amendment, if adopted, would seriously alter the whole purport of the convention. His Government was quite prepared to propose amendments to Belgian law as part of a general effort to reduce statelessness but had no intention of amending the law in so far as it affected the children of nationals of other countries.

Mr. ROSS (United Kingdom) pointed out that the effect of the Danish amendment would be to avoid statelessness in certain cases. He hoped that on those grounds at least it might be acceptable to the Belgian delegation.

The CHAIRMAN declared closed the discussion of article 2 and the Danish amendment.

Mr. Calamari (Panama), Vice-Chairman, took the Chair.

The CHAIRMAN put to the vote the Danish amendment (A/CONF.9/L.13) to article 2 of the draft convention.

The Danish amendment was approved by 20 votes to 5, with 4 abstentions.

The CHAIRMAN, speaking as the representative of Panama, said that, though debarred from voting on the amendment by rule 6 of the rules of procedure, he wished to place on record that his delegation was in favour of it.

Mr. Larsen (Denmark) resumed the Chair.

Article 3 (A/CONF.9/L.4)(concluded)

The CHAIRMAN recalled that at the fifth plenary meeting the Conference had already amended the text of article 3 by substituting the word "Party" for the word "State".

Mr. HARVEY (United Kingdom) said that his delegation's object in proposing that the words "For the purpose of article 1" be replaced by the words "For the purposes of articles 1 and 4" (A/CONF.9/L.4) was merely to correct an inadvertent error in the drafting of the International Law Commission's text. If the Committee took the view that the amendment was one of form rather than substance, he would be quite prepared to withdraw it.

Mr. HERMENT (Belgium) said that he did not regard the United Kingdom amendment as one of form only. Article 3 was related specifically to article 1; but article 4 introduced a new element, birth outside the territory of a contracting party.

Mr. TSAO (China) expressed the view that article 3 should expressly apply only to birth in a vessel or aircraft on or over the high seas.

The CHAIRMAN said that the attention of the drafting committee would be drawn to the points raised by the representatives of the United Kingdom and China.

Article 3, as amended by the Conference at its fifth plenary meeting, was approved unanimously.

APPOINTMENT OF DRAFTING COMMITTEE

Mr. ROSS (United Kingdom) proposed that a drafting committee should be appointed.

It was decided to appoint a drafting committee composed of the representatives of Argentina, Belgium, France, Israel, Panama and the United Kingdom.*

The meeting rose at 6.10 p.m.

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* The Drafting Committee elected the representative of Panama as its Chairman.

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE SIXTH MEETING

held at the Palais des Nations, Geneva,
on Monday, 6 April 1959, at 10.15 a.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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(12 p.)

EXAMINATION OF THE QUESTION OF THE ELIMINATION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

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

Article 4 (A/CONF.9/L.21)

Mr. HARVEY (United Kingdom), introducing his delegation's amendment (A/CONF.9/L.21), said that it was intended to bring article 4 of the draft convention into line with article 1 as approved by the Committee. Article 4, as drafted, provided for the grant of nationality to persons not born in the territory of a party to the convention, on the principle of jus sanguinis. The amended text provided that nationality might be granted, as under article 1, either at birth by operation of law or later upon a declaration being lodged with the appropriate national authority.

When article 1 was being examined there had been much discussion of the terms "declaration" and "application", the final decision being left to the Drafting Committee. In using the term "declaration" in its amendment, his delegation was in no way prejudging the Drafting Committee's decision and the use of that term should not be taken as having any particular significance.

Paragraph 2 of the amendment laid down the conditions which might be embodied in the national law of a contracting party regarding the acquisition of nationality. It was intended that the only grounds on which an application for nationality under article 4 could be refused should be those specified in the national law in accordance with paragraph 2. The conditions in question were similar to those agreed on for article 1.

The CHAIRMAN, speaking as the representative of Denmark, asked whether it would be possible under the United Kingdom amendment for a State to decide to apply alternative 1(a) in the case of the first and second generations born abroad and alternative 1(b) in the case of the third and fourth generations born abroad.

Mr. HARVEY (United Kingdom) took the view that a State might argue, although with some difficulty, that such a course was possible. It would however be a surprising, though not necessarily a wrong, interpretation of paragraph 1.

Mr. BEN-HEIR (Israel) asked for clarification of the second sentence of paragraph 1 of the amendment. If only one of the parents had the nationality of the party, it might be possible to make the child take the nationality of the other parent.

Mr. HUBERT (France) said that, while he could accept the United Kingdom amendment, he also had some misgivings about the second sentence of paragraph 1, which might give a contracting party the power to confer the nationality of another State.

Mr. ROSS (United Kingdom) said that it should be borne in mind that both article 1 and article 4 made provision for the national law to impose tests of residence. The majority of States would to some extent take advantage of the permissive provisions of the articles and impose conditions as to residence. It was because of the residence test rather than the alleged defect of the provision criticized that some children might fail to acquire a nationality.

While sympathizing with the views expressed, he would appeal to the Committee to agree to the second sentence of paragraph 1 and not to reopen the debate on article 1.

Mr. JAY (Canada) said that there were three reasons for the retention of the second sentence of paragraph 1. First, the principle underlying it had already been incorporated in article 1. Secondly, it would be unwise to spoil the chance of a wide measure of acceptance of the convention by what might prove to be a minor objection. Thirdly, it was unlikely that the provision would result in many cases of statelessness.

Under Canadian law a child born abroad of Canadian parents was a Canadian citizen, provided his birth was registered at a Canadian Consulate or in Canada within two years of the birth of the child, or such extended period as might be authorized. Such a person must, however, make a declaration before he reached the age of twenty-four. That provision was not in conflict with the sense of article 4 as amended. He would like to know whether delegations considered that the Canadian provisions complied with the amended article.

Mr. SIVAN (Israel) said that he could not accept the argument that the second sentence should be retained merely because it was similar to a provision in article 1. Article 1 referred to persons born on the territory of a contracting party, whereas article 4 referred to those not born on the territory of a contracting party. He suggested that the second sentence be deleted and that the first sentence amended to read "A Party shall grant its nationality to a person who is not born in the territory of a Party and who would otherwise be stateless, if the nationality of one of his parents at the time of the declaration hereunder referred to was that of the Party".

Mr. RIPHAGEN (Netherlands) said that, his understanding of the second sentence was that a contracting party would have the right to confer either the nationality of the father or that of the mother on a child born abroad, but could not compel another contracting party to grant its nationality to such a child; that should however be made clear in the text.

In reply to the Canadian representative's question, his delegation considered that registration of birth would comply with the provisions of the amended article provided that such registration was permitted up to the age of twenty-three.

Mr. ROSS (United Kingdom) reiterated that the Committee should not go back on the compromise it had reached in regard to article 1: the provisions of article 4 were similar to those of article 1, paragraph 3, because both provisions referred to birth outside the territory of the country concerned. In essence, the provisions relating to birth were provisions to be used by those countries which followed the jus soli principle in conferring their nationality on certain categories of person born outside their territory. As to the question whether the nationality to be granted a child should be that of the parent at the time of the child's birth or at the time of its application for nationality, the United Kingdom delegation considered that it should be the former, which was consonant with the whole spirit of article 1, paragraph 3.

Rev. Father de RIEDMATTEN (Holy See) suggested that the first sentence of paragraph 1 be amended to indicate that a party should grant its nationality to a person who was not born in the territory of a party and who would otherwise be stateless, if the nationality of one of the parents at the time of the person's birth was that of the party.

Sir Claude COREA (Ceylon) said that he could accept the first sentence of paragraph 1 but not the second, since it appeared to mean that a contracting State would have the power to grant the nationality of another State to a child born of parents who had different nationalities at the time of its birth.

As to paragraph 1(a), it was questionable whether a party could grant nationality at birth by operation of law if the nationality to be granted was not its own.

The word "declaration" was still unacceptable.

Mr. ROSS (United Kingdom) opined that some of the difficulty encountered by representatives when reading the United Kingdom amendment would be removed by the Drafting Committee.

Although he welcomed the amendment proposed by the representative of the Holy See, which would simplify article 4, it would not be acceptable to his Government because English law held strongly to the principle of the priority of the father over the mother in the inheritance of nationality. The proposal would mean that when a British woman married an alien and had a child abroad, the United Kingdom would be obliged to confer British nationality on that child, even though it might subsequently also acquire the nationality of its father. His delegation therefore wished to reserve its right to provide for the priority of the father over the mother in the inheritance of nationality. It appreciated that other countries did not wish to recognize any such priority favouring equal rights for both parents.

Rev. Father de RIEDMATTEN (Holy See) said that he had not proposed a formal amendment to the first sentence of paragraph 1. If article 4 as amended by the United Kingdom were adopted, would there not be more cases of statelessness than if the text were amended as he had suggested?

Mr. ROSS (United Kingdom) agreed that the article as amended by the United Kingdom delegation would result in a few more cases of statelessness, but it was unlikely that they would be numerous.

With regard to the amendments suggested by the representative of Israel, a two-thirds majority vote would be required for their adoption. He moved the closure of the debate and asked that a vote be taken immediately.

The CHAIRMAN said that, although many delegations thought that the problems covered by article 1, paragraph 3 and article 4, paragraph 1 should be settled in the same manner, in view of their resemblance to one another a two-thirds majority vote was not required.

As to the United Kingdom representative's motion, under rule 17 of the rules of procedure permission to speak on the closure of the debate could be accorded only to two speakers opposing the closure, after which the motion must be immediately put to the vote.

Sir Claude COREA (Ceylon) and Mr. JAY (Canada) expressed their opposition to the motion.

The United Kingdom motion was rejected by 21 votes to 1, with 7 abstentions.

Mr. JAY (Canada) said that he could not support the amendments submitted by the delegation of Israel. The Canadian Government held very strongly that in the case of legitimate children the father's nationality should prevail and in the case of illegitimate children the mother's.

Mr. TSAO (China) said that the nationality of the father prevailed in his country and his delegation would therefore accept article 4 as amended by the United Kingdom delegation. The delegation of China could not accept the Israel amendments.

The CHAIRMAN put to the vote the oral amendments proposed by the delegation of Israel to the amendment to article 4 submitted by the United Kingdom delegation (A/CONF.9/L.21).

The Israel oral amendments were rejected by 11 votes to 4, with 15 abstentions.

Mr. SIVAN (Israel) proposed that in the third line of paragraph 1 of the United Kingdom amendment the words "at the times of the person's birth" be replaced by the words "at the time when the problem of the acquisition of nationality by the child arises."

The Israel amendment was rejected by 9 votes to 1, with 18 abstentions.

The United Kingdom amendment (A/CONF.9/L.21) to article 4 was approved by 15 votes to 1, with 17 abstentions.

ESTABLISHMENT OF A WORKING GROUP TO CONSIDER THE APPLICATION OF THE CONVENTION TO PERSONS BORN BEFORE ITS ENTRY INTO FORCE

The CHAIRMAN said that, since the Committee had completed its consideration of the four articles relating to acquisition of nationality, he would invite its attention to a question that was causing some concern to a number of delegations.

Upon the entry into force of the convention which the Conference was drafting stateless persons in the *jus soli* countries which were prepared to operate the procedure described in article 1, paragraph 1(a), would acquire nationality immediately; but in the *jus sanguinis* countries which preferred the procedure described in article 1, paragraph 1(b), the question arose whether the convention would apply only to persons born after it came into force or equally to those born before that date?

The Convention Relating to the Status of Stateless Persons concluded in 1954 had still not acquired the number of ratifications necessary for entry into force. If a similar period were to elapse before the convention under discussion acquired the necessary number of ratifications, twenty to thirty years would pass before a stateless person in a jus sanguinis country could acquire the nationality of that country under article 1, paragraph 1(b), unless it were specifically provided that the convention applied to persons born before its entry into force.

Speaking as the representative of Denmark, he would most strongly urge that the convention include a provision to that effect.

Mr. RIPHAGEN (Netherlands), Mr. IRGENS (Norway) and Mr. HERMENT (Belgium) enorsed the Danish representative's viewpoint.

Mr. JAY (Canada) said that the question raised by the Danish representative should be considered under article 14. It might be possible to amend that article to provide that the convention should apply to all stateless persons irrespective of whether they were born before or after it came into force.

Mr. VIDAL (Brazil) suggested that the words "future statelessness" in the title of the convention be replaced by the words "statelessness in the future".

The CHAIRMAN, speaking as the representative of Denmark, suggested that the word "future" might be deleted altogether. It was surely self-evident that any convention concluded and ratified by a number of States referred to the future.

Mr. FAVRE (Switzerland), while supporting the Danish representative's viewpoint, said that he would have to submit an amendment in plenary to the effect that the convention should apply to persons born before it came into force only if they had been stateless since birth.

Mr. ROSS (United Kingdom) said that he had some difficulty in accepting without reservation the principle that the convention should apply to all stateless persons whether born before or after it came into force. He proposed that a small working group be set up to consider the question raised by the Danish representative and to make specific proposals thereon to the Committee.

It was decided to establish a working group to consider the question raised by the Danish representative, composed of the representatives of Canada, China, Israel and Switzerland.

Article 5 (A/CONF.9/L.12, L.22)

Mr. TYABJI (Pakistan) submitted an amendment (A/CONF.9/L.22) that the words "or upon the procedure prescribed by the national laws of the Party" be added at the end of article 5.

The amendment was self-explanatory. If loss of nationality consequent upon changes in personal status were to be made conditional upon the acquisition of another nationality as provided in the International Law Commission's draft, then the Government of the country of which the person concerned was a national in the first instance would expect certain action by the Government of another country. If no action were taken or if the laws of that country did not provide for the conferring of nationality on the person who had changed his status, the Government of the former country must have some discretion to terminate nationality without reference to the actions or laws of the latter.

Mr. RIPHAGEN (Netherlands) said that he did not understand the purpose of the Pakistan amendment. Was it to make an exception to the principle stated in the article?

Mr. TYABJI (Pakistan) said that his delegation could not agree that acquisition of another nationality should be a prerequisite to loss of nationality as a consequence of changes in personal status. It urged that the Government of a country should have some freedom in deciding on the nationality of one of its citizens without reference to the Government of another country. The acquisition of another nationality should be the concern of the person changing his status and not of the State.

Mr. HERMENT (Belgium) asked if it would not be more appropriate for the Pakistan amendment to be applied to article 7.

Sir Claude COREA (Ceylon) supported the Pakistan amendment on the grounds that it would provide an additional obstacle to the loss of nationality and would therefore tend to reduce statelessness.

Mr. ROSS (United Kingdom) said that there appeared to be two ways of interpreting the Pakistan amendment. As interpreted by the representative of Ceylon, it constituted an obstacle to the loss of nationality. According to that interpretation, even if a person were to acquire the nationality of his or her spouse

on marriage a benevolent State would ensure that there was no inadvertent loss of nationality before marriage. If that were the sense of the amendment, it would certainly be in accord with the spirit of the convention; but its usefulness was questionable since the article already began with the words "If the law of a Party entails loss of nationality as a consequence of any change in the personal status".

On the other hand, as interpreted by its sponsor, the amendment seemed to imply that a person who did not acquire the nationality of the spouse on marriage might become stateless. If that were its effect, it was the exact opposite of what the International Law Commission had intended.

His delegation would vote against the amendment, whose adoption would be a retrograde step.

Mr. JAY (Canada) said that the Pakistan amendment was not acceptable to his delegation. The whole purpose of the article was to ensure that there should be no loss of nationality consequent upon changes in status if such loss would result in statelessness.

The individual might be protected to some extent if the word "or" in the Pakistan amendment were altered to "and"; but if the word "or" remained he would have no protection at all.

Mr. TSAO (China) said that his delegation would vote for the Pakistan amendment. Under Chinese law loss of nationality followed upon changes in status such as marriage and recognition by a foreign parent. The result in such cases was not statelessness, but the acquisition of another nationality. Hence there would be no conflict on that issue between Chinese law and the provisions of the article.

It was difficult however to agree that acquisition of a second nationality should be a precondition for loss of the first nationality, and the Pakistan amendment should make the convention acceptable to a larger number of States.

He would suggest that the amendment would be clarified if the additional phrase were re-worded to read "or upon compliance with the procedure prescribed in the national laws of the Party."

In reply to the Belgian representative, the purport of article 5 was quite different from that of article 7. Article 7 dealt with renunciation, taken upon the initiative of the person concerned whereas article 5 was concerned purely with changes of status.

The CHAIRMAN, speaking as the representative of Denmark, said that the word "procedure" was hardly appropriate. The International Law Commission's draft of article 5 was intended to apply to cases where there was conflict between the nationality laws of different countries. For example, a woman who was a national of a country in which marriage to a foreigner entailed loss of nationality might marry a man who was a national of a country whose law did not confer nationality on a person marrying one of its nationals; article 5 was designed purely and simply to prevent such a woman becoming stateless and was not intended in any sense to deal with matters of procedure.

Mr. WEIS (Office of the United Nations High Commissioner for Refugees), speaking at the invitation of the Chairman, agreed with the previous speaker. He had assisted the rapporteur in the drafting of the International Law Commission's report on nationality including statelessness, and was convinced that the purpose of article 5 was to consolidate in a single article the provisions of articles 9, 16 and 17 of the 1930 Convention on Certain Questions relating to the Conflict of Nationality Laws, which dealt respectively with marriage, legitimation and adoption.

Sir Claude COREA (Ceylon) suggested that the additional phrase proposed in the Pakistan amendment should be re-worded to read "or upon compliance with the national laws of the Party".

Admittedly, the individual must be protected against loss of nationality as a consequence of change of status, but few Governments were likely to subscribe to a convention which forced them to perpetuate a person's nationality indefinitely simply in order to avoid statelessness.

Mr. CARASALES (Argentina) said that his delegation would vote for the International Law Commission's text of article 5.

With regard to the general question of delegations whose Governments could not amend their national laws to bring them into line with various articles of the convention, it was doubtful whether either the delegations themselves or the Committee gained anything from the practice of submitting amendments to those articles, as a result of which the convention might become more limited in scope

and fail to fulfil its objectives. Would it not be possible to leave the articles unamended and allow States to include reservations on them in their instruments of ratification?

Mr. TYABJI (Pakistan) said that he could accept the re-wording of his delegation's amendment proposed by the representative of Ceylon.

The CHAIRMAN put to the vote the Pakistan amendment to article 5 (A/CONF.9/L.22), as amended by the delegation of Ceylon.

The Pakistan amendment, as amended, was rejected by 18 votes to 5, with 6 abstentions.

Mr. HERMENT (Belgium), introducing his delegation's amendment to article 5 (A/CONF.9/L.12), said that it was intended to make good a serious omission in the provisions of the article. If a foundling acquired the nationality of the country in which he had been found and were then recognized by a stateless person, according to the International Law Commission's draft of the article, he would retain his first nationality. On the other hand, a legitimate child born of known stateless parents would remain stateless until the provisions of article 1, paragraph 1(b) could come into effect. The Belgian delegation considered that a foundling should lose the nationality of the country in whose territory he had been found as soon as he was recognized as being the child of stateless parents and should be placed on the same footing as the legitimate child of stateless parents.

Mr. ROSS (United Kingdom) said that his delegation would support the Belgian amendment. Relating only to a very small number of children, it would not tend to increase statelessness but would merely bring the provisions of the article into line with the national laws of certain countries.

He asked the Belgian representative what was meant by the word "unemancipated".

Mr. HERMENT (Belgium) replied that "unemancipated" meant "not yet having acquired the rights and privileges of majority".

Mr. RIPHAGEN (Netherlands) pointed out that the case to which the Belgian representative had referred in explanation of his amendment was also affected by the provisions of article 2. Should not the Belgian amendment contain a specific reference to the relation between articles 2 and 5?

Mr. HERMENT (Belgium) said that his delegation's sole reason for introducing the amendment was that article 5 still contained the word "recognition", which it had wished to delete. It also wished to limit the scope of the article so that it would not apply to non-emancipated minors recognized as the children of stateless persons.

There was the further question whether the phrase "termination of marriage" in the article referred to divorce or annulment.

The CHAIRMAN took the view that "termination of marriage" referred to a marriage which had been legally valid in the first instance, but which had been terminated later.

Mr. JAY (Canada) said that the terms marriage, termination of marriage, legitimation etc. were merely included in the text of the article as examples of changes in personal status. It might be better to omit all the examples rather than try to define each one of them.

The meeting rose at 1 p.m.

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE SEVENTH MEETING

held at the Palais des Nations, Geneva,
on Monday, 6 April 1959, at 3 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, (Executive Secretary of the Conference)

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

Draft convention on the reduction of future statelessness (A/CONF.9/L.1) (continued)
Article 5 (A/CONF.9/L.12) (concluded)

The CHAIRMAN, referring to the Belgian amendment (A/CONF.9/L.12) to article 5 of the Draft Convention, said that there was a fundamental difference between the legislations which, like that of Belgium, applied the principle of recognition in the case of illegitimate children and those which did not know such a principle. Under Belgian law, for example, an illegitimate child born in Belgium of unknown parentage would apparently acquire Belgian nationality at birth automatically, whereas in certain other countries, in accordance with the provisions of article 1 of the draft convention as approved in Committee, nationality might not be conferred upon the child until the age of eighteen. If the Belgian representative were prepared to modify his amendment so as to restrict the possibility of loss of nationality to a period of perhaps two years from the child's birth, that would not expose a person recognized by a non-national parent at a much later age to the risk of losing the nationality at such a time.

Mr. HERMENT (Belgium) said that his delegation's amendment was intended to defend the basic principle of justice that illegitimate children should not enjoy a more privileged position than legitimate children.

The CHAIRMAN expressed the view that a certain departure from that strict principle might be justified if it worked only to the advantage of stateless persons.

Mr. TSAO (China) inquired whether the word "unemancipated" in the Belgian amendment was necessary. In his understanding the term "minor" required no qualification.

Mr. HERMENT (Belgium) explained that, under Belgian law, it was possible for a person to become sui juris before attaining the age of majority. The word in question had been added in order to exclude such persons. Provided, however, that that point was clearly understood, he would not object to the deletion of the word.

He was unable to accept the Chairman's suggestion; his amendment should be put to the vote as it stood.

The Belgian amendment to article 5 (A/CONF.9/L.12), without the word "unemancipated", was not approved, 5 votes being cast in favour and 5 against, with 21 abstentions.

Mr. RIPHAGEN (Netherlands) proposed that the words "possession or" should be inserted before the word "acquisition" in article 5, recalling that he had put forward a similar amendment at the seventh plenary meeting.

The Netherlands amendment was approved by 23 votes to none, with 3 abstentions.

Article 5 of the draft convention, as amended, was approved by 21 votes to 4, with 3 abstentions.

Mr. MEHTA (India) explained that his delegation had voted against article 5 as amended, because under Indian law change in personal status upon marriage did not entail loss of citizenship. His Government's view was that the other changes in status referred to in the text were not as fundamental as marriage and that an express clause was not required providing that loss of nationality in consequence of such changes would be conditional upon the acquisition of another nationality. If there had been a separate vote on the part of the article relating to change of status upon marriage, his delegation would have voted in favour of it.

Article 7, paragraphs 1 and 2 (A/CONF.9/L.16, L.17)

The CHAIRMAN drew attention to the amendments to article 7 submitted by the delegations of Ceylon (A/CONF.9/L.16) and Pakistan (A/CONF.9/L.17). It would be recalled that at the Committee's first meeting it had been agreed that article 6 would be discussed after articles 7, 8 and 9 had been disposed of.

Mr. HERMENT (Belgium) recalled that some delegations had argued that the respect for fundamental human freedoms demanded that a person should have a unilateral right to renounce his nationality. But the possession of a nationality surely implied obligations as well as rights and it was difficult to sympathize with those whose purpose in renouncing the latter was to avoid fulfilling the former. It had also been argued that refugees should be given the opportunity to free themselves from the nationality of their country of origin in order to avoid enforced repatriation. Since it was unlikely that such countries would be parties to the convention or would be willing to recognize the right to unilateral renunciation of their nationality if they considered it to be contrary to their interests to do so, the argument seemed to be purely hypothetical.

Moreover, it was inconceivable that the country offering asylum would consent to the enforced repatriation of refugees. Paragraph 1 had therefore an important function and should be retained.

Mr. TYABJI (Pakistan) explained that his delegation had submitted its amendment because, under section 16(4) of the Pakistan Citizenship Act, a Pakistan national was subject to deprivation of his nationality, if while resident abroad he failed to register at a Pakistan mission within seven years.

Rev. Father de RIEDMATTEN (Holy See) said that the Ceylonese amendment represented a compromise worked out by delegations in informal consultations. He conceded that the amendment might entail a few cases of statelessness, but in the existing world situation it had to be realized that for certain persons statelessness, at least of a temporary nature, was preferable to the possession of a nationality.

Mr. CALAMARI (Panama), while agreeing with the spirit in which the Ceylonese amendment had been submitted, said it was unacceptable as it stood since it did not effectively remove the difficulty facing persons renouncing their existing nationality in order to acquire a new nationality. If renunciation were permitted a period would elapse during which such persons would become stateless. He therefore proposed that the words "as a result of the said renunciation" be added at the end of paragraph 1.

Mr. KANAKARATNE (Ceylon) said that the dilemma in which a person desirous of renouncing his existing nationality in order to acquire a new one would be placed by the nationality laws of many countries had already been fully discussed. It was not desirable from the point of view either of the individual or of the State that such a person should be compelled to retain the nationality of a country of which he had no desire to be a loyal citizen. Apart from the few eccentrics who aspired to world citizenship, it was clear that any person wishing to renounce his nationality would take that step only because he desired to acquire a new nationality, and the Ceylonese amendment was designed specifically to deal with cases of that type.

It had been pointed out that paragraph 1 enunciated a general principle whereas paragraph 2 was concerned with its practical application. The Ceylonese amendment consolidated the provisions concerning principle and application in a single paragraph.

The Panamanian representative had stated that there was bound to be a period during which a person who changed his nationality would be stateless. At most, one could endeavour to shorten that period as much as possible.

Despite the amendment's imperfections, he was convinced that, if there were agreement on its substance, the Drafting Committee would succeed in working out an acceptable text.

Mr. FAVRE (Switzerland) drew attention to certain consequences of both article 7 of the draft convention and the Ceylonese amendment to it. If a refugee were enabled to renounce his original nationality, under the provisions of article 1 he would be entitled to acquire the nationality of the country of asylum. In effect, the nationality of the country of asylum would be conferred on such a person by virtue of the decision of the Government of another country.

At the Committee's fourth meeting the representative of the Federal Republic of Germany had submitted an amendment (A/CONF.9/L.18) - which had not been approved on account of an equally divided vote to article 1, paragraph 2, designed to prevent such a state of affairs. The Swiss delegation would not submit an amendment to article 7, but in order to limit its application to children born stateless, would submit an amendment on those lines when the Conference resumed discussion of article 1.

Mr. LEVI (Yugoslavia) said that his delegation supported the paragraphs 1 and 2 of article 7 of the draft convention, which were in harmony with the Yugoslav legislation. There did not appear to be any great difference between those paragraphs and the Ceylonese amendment, but the provision concerning renunciation of nationality should not apply only to persons seeking a new nationality. Yugoslav law permitted renunciation also in the case of persons possessing dual nationality.

Paragraph 3 of the article was not in accordance with Yugoslav law. His Government would not however oppose it since there would be an opportunity to reconsider the question before ratifying the convention.

Mr. SUBARDJO (Indonesia) said that the nationality laws of his country were particularly liberal both because of the great extent of its territory and because, being recent measures, they had been drafted in full knowledge of the gravity of the problem of statelessness. Thus, although based primarily on jus soli, they contained concessions to the principle of jus sanguinis.

His delegation had no difficulty in accepting the paragraphs 1 and 2 or the Ceylonese amendment thereto. As to paragraph 3, Indonesian law provided for the lapse of Indonesian nationality in the case of a citizen resident abroad who did not register with an Indonesian mission within a period of five years. He therefore supported the Pakistan amendment.

Mr. RIPHAGEN (Netherlands) said he would vote for the retention of the paragraphs 1 and 2.

The Drafting Committee should note that, as drafted, paragraph 1 assumed the form of a general rule of international law. The text should be amended so as to restrict its application to contracting parties. During the previous discussion of article 7 at the Committee's first and second meetings, several delegations had drawn attention to the situation that would arise if a person were unable to acquire a new nationality until he had been released from his existing nationality. The Drafting Committee should see to it that that point was reflected in the final draft, since it nowhere appeared in the text under consideration.

Mr. TSAO (China) expressed support for the Ceylonese amendment, which was a considerable improvement on the original draft of the paragraphs 1 and 2. He wished to place on record that his delegation understood the word "person" in the amendment to mean a person who had reached his majority and was fully sui juris. Under Chinese law, such majority was reached at the age of twenty years.

Mr. JAY (Canada) said that his delegation would support the Ceylonese amendment for reasons which he had explained at previous meetings.

With regard to the Netherlands representative's reference to further drafting changes in article 7, any change desired should be proposed while the article was under discussion.

Mr. BACCHETTI (Italy) said that his delegation preferred that paragraphs 1 and 2 should stand as drafted.

The Ceylonese amendment, which seemed to be lacking in clarity, was not acceptable.

The CHAIRMAN, speaking as the representative of Denmark, said that whereas article 7, paragraph 2 in the International Law Commission's text applied only to persons who wished to change their nationality, paragraph 1 applied also to persons who wished to divest themselves of their nationality even if as a consequence they became stateless. The amendment proposed by the delegation of Ceylon did not cover the latter case at all. It was by no means true that every person who wished to divest himself of his nationality wished to obtain another nationality. There were several cases of immigrants living in jus sanguinis countries who wished their sons to be divested of the nationality of their jus sanguinis country of origin so as to prevent their being called up by the authorities of that country for military service, even if the loss of that nationality would result in their becoming stateless; the sons in those cases would not be covered by the text put forward by the delegation of Ceylon, but they would be covered by paragraph 1 of the International Law Commission's text. The Ceylonese amendment would make it possible in the case he had cited for the authorities of the country of origin unilaterally to deprive the sons of their nationality and so, by rendering them stateless, place an onus on the country in which they were resident. It was by no means certain that the Danish Government would agree to such a provision. Some small densely populated countries, although willing to grant their nationality to persons who would otherwise be stateless, were not willing to grant it to persons who deliberately made themselves stateless.

The adoption of the Ceylonese amendment would mean the deletion of paragraph 1 of the International Law Commission's text. It would, for example, completely change the situation for Denmark.

The substance of the first sentence of the Ceylonese text was contained in paragraph 2 of the Commission's text. The second sentence related to a matter which should be covered by domestic legislation and not by an international convention.

Mr. JAY (Canada) said that, in the cases cited by the Danish representative, the wording of article 1 as approved by the Committee, would seem to ensure that no onus was placed on the country of residence.

Mr. KANAKARATNE (Ceylon), in connexion with the remarks of the representative of Italy, suggested that the Drafting Committee should give special consideration to the words "is assured of another nationality" in his delegation's text, because he feared they might give rise to difficulties of interpretation.

The second sentence of the Ceylonese amendment had been included in order to take into account the point made by the representative of Belgium.

In reply to the Danish representative, there might be a few hundred cases in the world of persons trying to avoid military service by deliberately becoming stateless, but surely the Conference had not been convened to draft provisions concerning such a relatively minor matter. On the other hand, unless a clause in the convention offered the appropriate remedy, a much larger number of persons wishing to change their nationality would be prevented from doing so by the refusal of the authorities of the country of residence to naturalize them so long as they had another nationality and by the refusal of the authorities of the country of nationality to release them of their allegiance. It was a question of protecting the individual against the State; such protection was often necessary.

Mr. ROSS (United Kingdom) said that he would prefer paragraph 1 of the International Law Commission's text to be retained. He did not agree with the representative of Ceylon that only very few persons would rather be stateless than nationals of the country of origin. There were many reasons why people preferred statelessness; e.g. some people wished to become stateless in order to avoid deportation. Furthermore, if a person divested himself of his nationality - at the risk of becoming stateless -, what would be the status of that person's wife and children? The children would not in all cases be able to acquire a nationality by virtue of either article 1 or article 4. It was essential to avoid the inclusion in the convention of any clause which would be detrimental to the interests of the wives and children. Lastly, the possibility of a refusal by the country of origin to release a person from his nationality could be dealt with by amending paragraph 2 of the International Law Commission's text.

Mr. HERMENT (Belgium) said that in his country it was possible for a person to become a naturalized Belgian citizen while still possessing the nationality of another country.

He welcomed the Ceylonese delegation's inclusion in its amendment of the second sentence.

Mr. BACCHETTI (Italy) suggested that, before voting on the text submitted by the delegation of Ceylon, the Committee should decide whether paragraph 1 of the International Law Commission's text should be deleted, since the Ceylonese amendment involved the deletion of the substance of that paragraph.

The CHAIRMAN supported that suggestion.

Mr. SIVAN (Israel) said it would be wrong to proceed as the Italian representative had suggested, for part of the substance of paragraph 1 of the International Law Commission's text was included in the text proposed by the delegation of Ceylon; both sentences of the latter, like paragraph 1 of the Commission's text, referred to "renunciation", whereas paragraph 2 of the Commission's text did not.

The CHAIRMAN, speaking as the representative of Denmark, proposed the deletion of the second sentence of the text submitted by the delegation of Ceylon as a substitute for article 7, paragraphs 1 and 2, of the International Law Commission's text.

That proposal was not approved, 8 votes being cast in favour and 8 against, with 10 abstentions.

The Ceylonese amendment (A/CONF.9/L.16) was rejected by 10 votes to 9, with 12 abstentions.

Paragraph 1 of the International Law Commission's text of article 7 was approved by 22 votes to 7, with 2 abstentions, on the understanding that the Drafting Committee would amend it in the sense that it would not apply to parties whose laws did not provide for renunciation of their nationality.

Rev. Father de RIEDMATTEN (Holy See) said he had voted against the paragraph because he feared that, perhaps in one case in a hundred, it would be used for purposes contrary to the humanitarian aims of the Conference.

Mr. ROSS (United Kingdom) proposed the addition of the words "or is assured of acquiring" after the words "unless he acquires" in article 7, paragraph 2, of the International Law Commission's text; that proposal had been suggested to him by the Ceylonese amendment which had just been rejected.

Mr. BACCHETTI (Italy) asked what was meant by the word "assured". Did it mean assured because the laws of the country whose nationality the person

wished to obtain were such that he would automatically acquire nationality of that country or because he held a certificate from the authorities of that country?

Mr. ROSS (United Kingdom) said that the convention could not be explicit in every respect. The wording was the best that he could suggest for the moment; perhaps the Drafting Committee would be able to improve it.

The CHAIRMAN, speaking as the representative of Denmark, said that the Danish authorities would never issue a certificate of the kind the Italian representative had in mind because they could not do so without a special Act of the Danish parliament and royal assent.

The United Kingdom proposal was approved by 11 votes to 4, with 16 abstentions.

Mr. SIVAN (Israel) said that it had been agreed in informal discussions among delegations that the words "or who obtains an expatriation permit for that purpose" in paragraph 2 should be deleted, since they added nothing to the clause and in many countries expatriation permits were never issued. He proposed the deletion of those words.

Mr. ROSS (United Kingdom) asked why the words had been included in the International Law Commission's text.

Mr. LIANG, Executive Secretary of the Conference, replied that they had been taken from The Hague Convention of 1930, which included a whole chapter on expatriation permits.

The proposal of the representative of Israel was approved by 12 votes to 6, with 12 abstentions.

Paragraph 2 of the International Law Commission's text of article 7, as amended, was approved by 25 votes to none, with 3 abstentions.

The meeting rose at 5.50 p.m.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE EIGHTH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 7 April 1959, at 10.15 a.m.

Chairman: Mr. LARSEN (Denmark)

Executive Secretary: Mr. LIANG, Executive Secretary of the Conference

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Examination of the question of the elimination or reduction of future statelessness (item 7 of the Conference agenda) (continued)

Draft convention on the reduction of future statelessness (continued)
Article 7 (resumed from the seventh meeting)

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (A/CONF.9/4) (continued)

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

Mr. PEREIRA (Peru) expressed the desire to place on record his delegation's reason for its abstention from voting on a number of articles of the draft convention (A/CONF.9/L.1) which the Committee had already approved. That abstention did not indicate either agreement or disagreement with the provisions of the articles; nationality laws in Peru were extremely liberal, and his Government had instructed him to reserve its position on provisions which tended to be more restrictive.

Article 7 (A/CONF.9/L.17) (resumed from the seventh meeting)

Mr. STABEL (Norway) said that he was not clear as to the relationship between the provision in the first sentence of article 7, paragraph 3 and the rules on deprivation of nationality in article 8. Article 7 was presumably intended to cover cases where a person lost his nationality automatically by the operation of law whereas article 8 was concerned with individual actions taken to deprive a person of his nationality. If that were correct the Drafting Committee might perhaps consider whether the distinction could be made more clear in the text.

His comments should not be taken to mean that his delegation was opposed to the provisions of paragraph 3. Like many other provisions in the International Law Commission's draft, paragraph 3 appeared to be drafted from a jus soli angle, and there was some doubt in his mind whether it took full account of all the legal systems it was intended to cover. Presumably, persons who had acquired their nationality on the principle of jus sanguinis were protected as "natural-born" nationals under paragraph 3 and thus could not lose their nationality and become stateless on the ground of absence from their country.

The Scandinavian countries based their nationality laws on the principle of jus sanguinis and with regard to the acquisition of nationality that principle was applied without limitation. A Norwegian citizen conferred his nationality upon his children whatever their birthplace and regardless of where he, his father or his grandfather had been born. It was thus possible for a family of Norwegian origin to live abroad for generations without losing their Norwegian nationality provided they did not voluntarily acquire another nationality and maintained certain ties with Norway. If they did not maintain such ties, a situation arose which was somewhat contrary to the Norwegian concept of the functions of nationality and the right to a nationality.

Some countries placed restrictions on the right of a person born abroad to acquire their nationality. That would not seem to be contrary to the draft convention provided that the provisions of article 4 did not come into operation. Under Norwegian law a Norwegian citizen born abroad lost his nationality at the age of twenty-two if at that age he had never resided in Norway or stayed there in circumstances showing that he retained some ties with the country; he could however apply for permission to retain his nationality, a request that was seldom refused.

The Norwegian delegation did not wish to defend the merits of that rule; it might well be amended, for instance, to make it apply only to the children of the first generation born outside the country provided that those children had themselves also been born outside the country and had failed to re-establish a connexion with it after having reached a certain age. However, the rule would still be contrary to paragraph 3. If his country acceded to a convention giving effect to that paragraph, it might or might not find itself in the position of having to consider restricting its laws on the acquisition of nationality. Norway might, for example, subject to its possible obligations under article 4, prescribe that a Norwegian citizen conferred his nationality upon his children born outside the country subject to certain conditions, for instance, that he himself - or at least one of his parents - was born in Norway or had resided there for a specified number of years. Similar rules were to be found in the nationality laws of other countries. While such action might be taken by Norway, he was afraid that if it were, the implementation of article 7 of the draft convention would be regarded in Norway as a retrograde step, both in general and in respect of the reduction of statelessness. As far as the principle involved was concerned, the system at present followed by Norway seemed preferable, mainly because it upheld the unity of the family in nationality questions.

The Norwegian delegation did not wish to submit an amendment to paragraph 3 at that stage, since it understood and respected the motives that had led to the inclusion of the paragraph in the draft and did not wish to see it weakened to any considerable degree. Before taking a position on paragraph 3, he wished to know whether other countries had similar difficulties. The Danish draft convention (A/CONF.9/4) contained a provision relating to the problem faced by Norway.

He would have to reserve his delegation's position on the amendment submitted at the previous meeting by the representative of Pakistan (A/CONF.9/L.17), since from the Norwegian point of view it appeared to grant a contracting state more discretionary powers than were justified.

Mr. BERTAN (Turkey) proposed the deletion of paragraph 3, the provisions of which should be included in article 8, which dealt with deprivation of nationality.

Mr. BACCHETTI (Italy), referring to the comments made by the representatives of Norway and Turkey, considered that there was a clear distinction between article 7, paragraph 3 and article 8. The former stipulated that a person could not lose his nationality on the ground of change of residence. The latter stipulated that a party could not deprive its nationals of their nationality by way of penalty, if statelessness would result, except in one single case. The confusion between the provisions of article 7, paragraph 3 and those of article 8 was due to the inclusion in article 8 of the words "except on the ground mentioned in article 7, paragraph 3", which could be omitted without loss.

Generally speaking, the text of article 7, paragraph 3 which appeared in the draft convention on the elimination of statelessness was preferable. In a spirit of compromise, however, he would merely propose that with regard to naturalized persons the State granting nationality should not have the right to fix the minimum period of residence in the country of origin which might entail loss of nationality. That period should be stated in paragraph 3, and it should be a long one for it would not be fair to impose very strict conditions of residence for the acquisition of nationality by stateless persons and at the same time deprive a naturalized person of his nationality after a very short period of residence in his country of origin.

After hearing the opinions of other delegations he would submit an amendment to that effect.

Mr. BEN-MEIR (Israel) said that his delegation would accept the first sentence of paragraph 3 as drafted by the International Law Commission.

The second sentence however called for further deliberation. In the first place, it was not clear what was meant by the phrase "country of origin". Was it the country in which a person had been born? Or the country whose nationality he had acquired at birth? Or the country whose nationality he had acquired later by naturalization? Which of those three countries would be regarded as the "country of origin" if the person concerned had possessed the nationality of more than one of them either simultaneously or at different times?

Secondly, it was not fair to restrict the provisions of the second sentence to residence in the country of origin alone. If residence normally meant resumption of ties with the country of origin and dissolution of ties with the country of adoption, then paragraph 3 should contain a specific reference to those ties as the factor determining whether nationality should be retained or lost.

Thirdly, the nationality laws of many countries made residence abroad in general - not only in the country of origin - a ground for losing nationality. If that ground were included, the convention would probably be ratified by more States and especially by those which found it difficult to abandon the principle of the maintenance of a real attachment between a naturalized person and the State which accepted him into its community.

Admittedly, an article drafted on those lines would not reduce statelessness to the same degree as the original article prepared by the International Law Commission. But due regard should be paid to the wishes of States which attached overriding importance to the existence of a real link between naturalized persons and the community to which they belonged. The views of other delegations on that point would be welcome.

Lastly, paragraph 3 should stipulate a minimum period of residence abroad which might entail loss of nationality; as the representative of Italy had suggested, it should be relatively long.

Mr. HELLBERG (Sweden) said that so long as his country's laws remained unchanged, his delegation could not vote for paragraph 3 as it stood. Swedish nationality laws did provide for loss of nationality after a certain period of residence abroad; that was one of the few instances in which they permitted a case of statelessness to arise. Although there were good prospects of amending Swedish law on that point, for the moment he would have to abstain from voting on the paragraph.

Mr. LEVI (Yugoslavia) said that his delegation would support the Pakistan amendment to article 7, paragraph 3. If the amendment were rejected by the Committee, however, he would abstain from voting on the International Law Commission's text of paragraph 3, since it was at variance with article 15 of the Yugoslav Nationality Act of 1 July 1946.

Mr. TSAO (China) said that paragraph 3 coincided, in spirit at least, with the corresponding law of his country. None of the grounds specified in the paragraph entailed loss of nationality in China and his delegation would therefore have no difficulty in approving it as drafted.

He would however, vote for the Pakistan amendment, which he regarded as purely procedural. It would take into account the wishes of States which were anxious to reserve their rights in regard to their nationals living abroad.

Mr. JAY (Canada) said that confusion had been introduced into the discussion by regarding paragraph 3 as a single provision. A clear distinction should be made between the first and second sentences. To take for the moment the first sentence only, it was mandatory in character, stating that a natural-born national should not lose his nationality for any of a number of specific reasons listed. It would hardly be logical for the Committee to adopt a paragraph on those lines in view of the attitude it had taken on articles 1 and 4. Provisions had been included in articles 1 and 4 to protect countries which conferred nationality on a somewhat stricter basis than the International Law Commission had contemplated. It would surely be logical to introduce the same protections in article 7, paragraph 3. He would welcome the views of other delegations on a proposal that the following phrase be added to the first sentence of paragraph 3: "except that the retention of nationality by a natural-born national born abroad shall be conditional on his making a declaration before the age specified in the national laws of the Party".

Mrs. TAUCHE (Federal Republic of Germany) pointed out, first, that paragraph 3 referred to natural-born nationals and naturalized persons, but said nothing of those who had acquired their nationality by other means. How, for instance, would it affect children who had acquired nationality as a result of the naturalization of their parents?

Secondly, was it fair to differentiate between natural-born nationals and naturalized persons? A naturalized person had acquired a nationality at his own request, by his free will: was not free will more important than the accident of birth?

Thirdly, it was hardly just that naturalized persons should be deprived of their nationality only on account of residence in their country of origin. It was difficult to discern any great difference between that and prolonged residence in other foreign countries.

Mr. RIPHAGEN (Netherlands) said that, like other delegations, he found the provisions of paragraph 3 at variance with his country's nationality laws. The Netherlands however would probably be prepared to amend its laws to bring them into line with the provisions of the paragraph.

It was conceivable that the statelessness which might result from the adoption of paragraph 3 could be avoided by the inclusion in the draft convention of a provision similar to that contained in article 1 of the Rio de Janeiro Convention of 1906, which laid down that "If a citizen, a native of any of the countries signing the present Convention, and naturalized in another, shall again take up his residence in his native country without the intention of returning to the country in which he has been naturalized, he will be considered as having reassumed his original citizenship, and as having renounced the citizenship acquired by the said naturalization."

The CHAIRMAN agreed that the International Law Commission's draft of paragraph 3 was based on the assumption that jus soli was the most common basis for acquiring nationality but it was quite clear that there were other grounds for acquisition. How, for instance, would paragraph 3 apply to those who acquired their nationality under paragraph 1 (b) of article 1? The Committee should distinguish between groups of persons who had acquired their nationality on different grounds and should try to establish principles for each group.

Mr. JAY (Canada), endorsing that viewpoint, said that, whereas the first sentence of paragraph 3 was mandatory, the second was permissive in respect of a limited category of persons, i.e. naturalized persons who had returned to their country of origin. The question had arisen during the discussion whether the second sentence should apply also to other persons such as naturalized persons living in any foreign country. In his delegation's view, it should.

His country was relatively generous in conferring nationality and in return required that naturalized persons should demonstrate their attachment to Canada. In the Canadian nationality laws it was assumed that a Canadian citizen residing abroad for a period of exceeding ten years did not wish to retain his Canadian citizenship and should therefore be liable to lose it.

He proposed two changes in the second sentence of paragraph 3: first, the replacement of the words "in his country of origin" by the word "abroad", and secondly, the insertion of a provision specifying a minimum period of residence abroad which might entail loss of nationality.

Mr. TYABJI (Pakistan), explaining his delegation's amendment (A/CONF.9/L.17), said that his country's nationality laws required a national of Pakistan living anywhere abroad to register with a Pakistani mission if the period of residence abroad exceeded seven years. So long as the national registered, he could live abroad and retain his nationality as long as he wished.

Mr. SUBARDJO (Indonesia) supported the Pakistan amendment.

Mr. ROSS (United Kingdom) said that his delegation was satisfied with the International Law Commission's draft of paragraph 3. Other countries had difficulty in accepting it for one of two reasons: either they wished to include a provision that natural-born nationals born abroad should be required to register and that if they did not do so loss of nationality would follow even if it entailed statelessness; or they thought it was illogical to permit a naturalized person to lose his nationality on account of residence in his country of origin only, and not elsewhere.

There were a number of amendments before the Committee, but the only one submitted formally was that of Pakistan, which was not likely to command very wide support. He proposed that the Committee should first vote on it and then set up a small working group to draft a fresh text of paragraph 3 for submission to the Committee.

Mr. HERMENT (Belgium) suggested that the discussion of paragraph 3 be deferred until all the amendments proposed had been submitted formally.

Mr. BACCHETTI (Italy) observed that the changes in the second sentence of paragraph 3 proposed by the Canadian representative would perpetuate a class of stateless persons.

He could not agree with the Chinese representative that the Pakistan amendment was merely procedural for it would give discretionary powers to contracting parties and was therefore substantive.

Mr. MEHTA (India) said that, since under Indian law in no circumstances could a natural-born citizen lose his citizenship, the first sentence of paragraph 3 was acceptable to his delegation. The second sentence however was not acceptable because the Indian Government's view was that where a naturalized citizen had been resident out of India for a continuous period of seven years without registering annually his intention to retain Indian citizenship it should have the right to deprive him of his citizenship if it considered it to be in the public interest to do so.

He proposed that a separate vote be taken on each of the two sentences.

Mr. BERTAN (Turkey) said that, under articles 6 and 7 of his country's Nationality Act of 1957, nationality was conferred automatically on immigrants applying for it. Thousands of persons took advantage of that provision every year.

His Government could not therefore give up its right to withdraw nationality from naturalized persons in the light of their subsequent activities.

Mr. LA CLAIR (United States of America) seconded the United Kingdom representative's proposal that a working group be set up to draft a fresh text of paragraph 3.

It was decided to appoint a Working Group composed of the representatives of Canada, Denmark, the Federal Republic of Germany and Pakistan to draft a fresh text of article 7, paragraph 3 for submission to the Committee.

Mr. JAY (Canada) suggested that the United Kingdom representative become a member of the Working Party established at the Committee's sixth meeting.

It was so agreed.

The meeting rose at 11.40 a.m.

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE NINTH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 7 April 1959, at 3 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations attending the Conference was issued as document A/CONF.9/9.

A list of documents pertaining to the Conference was issued as doeument A/CONF.9/L.79.

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(14 p.)

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

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

The CHAIRMAN stated that, pending the circulation of a new joint amendment (A/CONF.9/L.27/Rev.1), to article 7, paragraph 3 of the draft convention, discussion of that provision and of the related article 8 would be held over. Meanwhile, the Committee could consider article 9 and the succeeding articles of the International Law Commission's draft.

Article 9 (A/CONF.9/L.23)

Mr. TYABJI (Pakistan) said that his delegation had submitted its amendment (A/CONF.9/L.23) because, although under the law of Pakistan a person could not be deprived of nationality on racial, ethnic or religious grounds, a naturalized citizen could be deprived of Pakistan citizenship on political grounds. Since the oath of allegiance was an essential condition of naturalization the authorities of the nationalizing State should have power to deprive a naturalized person of its nationality if he broke the oath.

Mr. RIPHAGEN (Netherlands) observed that it was difficult to express an opinion on the Pakistan amendment to article 9 so long as the terms of article 8 had not been decided.

It was agreed to defer consideration of article 9 until after article 8 had been discussed.

Article 10 (A/CONF.9/4, A/CONF.9/L.20) (concluded)

Mr. HARVEY (United Kingdom), explaining the reasons for the submission of his delegation's amendment to article 10 (A/CONF.9/L.20), said that he agreed with the criticism of the article expressed in the Danish Government's memorandum (A/CONF.9/4, page 11); the Commission's text went too far in providing that stateless persons resident in a ceded territory would acquire automatically the nationality of the acquiring State and in purporting to impose obligations on "new States" which were not yet in existence and on existing States which would not be parties to the convention. The article should simply provide that persons who possessed a nationality should not become stateless in consequence of a transfer of territory. So far as treaties providing for the transfer of a territory between parties to the convention and States which were not parties thereto were concerned, at most the convention could provide, as did the second sentence of paragraph 1 of the United Kingdom amendment, that the

party should in such cases "use its best endeavours" to secure that the treaty would include provisions which would ensure that no person would become stateless as a result of the transfer.

His delegation had not included in its text the words "subject to the exercise of the right of option" which appeared in paragraph 1 of the Commission's text, because it was scarcely likely that persons resident in a ceded territory who had the right to opt for one of two nationalities would become stateless. Those words did not make sense in that paragraph; it was not clear what they were intended to qualify. His delegation's text did not cover persons who possessed dual nationality because they would not become stateless.

Mr. HERMENT (Belgium) said that the United Kingdom delegation's amendment to the article was completely satisfactory and was far more acceptable than the International Law Commission's text.

The CHAIRMAN, speaking as the representative of Denmark, said that the United Kingdom text fully met the criticism of the article expressed in his Government's memorandum.

Sir Claude COREA (Ceylon) agreed that the International Law Commission's text of the article should be amended, because it would be wrong to include in the convention mandatory clauses relating to States which would not be parties to the convention.

There was no objection to the second sentence in paragraph 1 of the United Kingdom text in itself, but it was doubtful whether it should be included in an international convention.

He suggested that the words "subject to the exercise of the right of option" be inserted after the word "nationality" in paragraph 2 of the United Kingdom text, so that in the case of treaties providing for the transfer of a territory between a party to the convention and a State which was not a party to it the party would have a duty to allow its nationals resident in the territory to opt for its nationality.

Mr. RIPHAGEN (Netherlands) suggested that the words "unless they retain their former nationality by option or otherwise or have or acquire another nationality.", which appeared in paragraph 2 of the International Law Commission's text, should replace the words "as would otherwise become stateless as a result of the transfer or acquisition." in the United Kingdom text.

Mr. HARVEY (United Kingdom) said that, as he had already explained, there was no more valid reason for including the words "subject to the exercise of the right of option" in paragraph 2 than in paragraph 1.

Even though it would not place an absolute obligation on parties, the second sentence of paragraph 1 of his delegation's amendment should be retained, especially since the International Law Commission's text contained provisions relating to treaties providing for the transfer of territory from a party to a State which was not a party to the convention.

The CHAIRMAN said that it would be wrong to approve either the amendment suggested by the Ceylonese representative or that suggested by the Netherlands representative, since the Conference had been convened to adopt a convention to eliminate or reduce statelessness, and not one dealing with nationality problems involving no question of statelessness.

Mr. HARVEY (United Kingdom) said that the Ceylonese representative presumably intended the words he had suggested to be added to paragraph 2 of the United Kingdom text to indicate a right of option only between two nationalities and not a right of option between a nationality and statelessness.

Mr. HERMENT (Belgium) said that the only option to which the words in question could refer was that between having a nationality and becoming stateless.

Mr. LINDGREN (Sweden) expressed support for the substance of the United Kingdom amendment, but suggested that the text should be rearranged so as to consist of three parts, the first relating to transfers of territory by virtue of treaties between parties, the second to transfers by virtue of treaties between a party and a State not a party, and the third to transfers without a treaty.

Mr. HARVEY (United Kingdom) said that the Drafting Committee could deal with that suggestion.

Mr. CARASALES (Argentina) pointed out that the draft article related only to persons who were "inhabitants" of territories that were transferred from one State to another whereas the United Kingdom text related to persons who would become stateless by reason of a transfer of territory if the action for which that text provided were not taken. He asked whether the United Kingdom amendment would place an obligation on parties to confer their nationality in some cases on the children of persons who had acquired the nationality of those parties by virtue of residence in a territory transferred to them, even though the children themselves had not been resident in the territory.

Mr. HARVEY (United Kingdom), replied that it would do so. The point was a very important one, which the International Law Commission had failed to cover.

The first sentence of paragraph 1 of the United Kingdom amendment to article 10 (A/CONF.9/L.20) was approved by 25 votes to none, with 5 abstentions.

The second sentence of paragraph 1 of that amendment was approved by 23 votes to none, with 7 abstentions.

Paragraph 2 of the United Kingdom amendment to article 10 was approved by 23 votes to none, with 8 abstentions.

Article 11 (A/CONF.9/L.24)

The CHAIRMAN pointed out that article 11 provided for the establishment of an agency "within the framework of the United Nations" and also for the establishment of a tribunal within that framework. Since several delegations were not in a position to vote for paragraph 2 relating to the tribunal, he would suggest that that paragraph be removed from the draft convention and that the proposed tribunal should be made the subject of a protocol, so that States could become parties to the Convention without undertaking any obligations in respect of the tribunal.

Mr. ROSS (United Kingdom), endorsing the Chairman's suggestion, said that under his delegation's amendment (A/CONF.9/L.21) paragraph 2 of the article would be deleted.

Mr. BACCHETTI (Italy) said that on the whole he was in favour of the Chairman's suggestion. The Committee should consider, however, whether the functions which the International Law Commission had allocated to the new agency might perhaps be performed by the Office of the United Nations High Commissioner for Refugees or by some other existing body.

Mr. LEVI (Yugoslavia) said that, having doubts regarding all four paragraphs of the Commission's text, he would vote for the United Kingdom amendment.

Mr. SUBARDJO (Indonesia) said that he would vote for paragraph 4 if it were so worded as not to make it compulsory to refer to the International Court of Justice all disputes between parties regarding the interpretation or application of the convention that could not be settled by other means.

Mr. HORLESBERGER (Austria) said that since most of the persons to whom the convention would apply were refugees or the children of refugees the Committee should at least consider entrusting to the Office of the United Nations High Commissioner for Refugees or to some other existing body the functions to be performed by the proposed new agency.

Mr. TSAO (China) said that his delegation was one of those that did not wish to undertake any obligation regarding the proposed tribunal; it even had misgivings regarding the proposed agency. In view of the fact, however, that some delegations were in favour of establishing both the agency and the tribunal, he would support the Chairman's compromise suggestion.

Sir Claude COREA (Ceylon) reserved his delegation's position with regard to paragraph 1 of the article and also with regard to the other paragraphs because his Government was opposed to the compulsory reference of cases to the International Court of Justice.

Mr. CARASALES (Argentina) said he would have difficulty in supporting the United Kingdom amendment because of the vagueness of its paragraph 1; if it were adopted as drafted the parties would be undertaking to establish an agency whose functions might either be very broad or very limited.

Mr. HERMENT (Belgium) agreed that the part of the article relating to the proposed tribunal should not be included in the convention itself and also that the United Kingdom delegation's text for paragraph 1 was not sufficiently explicit. It was not at all clear what the words "shall support" and "supervising" were intended to mean. There should be an agency to assist persons who were stateless or were in danger of becoming stateless to obtain the benefits to which the convention would entitle them. The United Nations High Commissioner for Refugees should be able to give that assistance.

Mr. KAWASAKI (Japan) welcomed the Chairman's suggestion that paragraph 2 relating to the proposed tribunal be removed from the draft convention itself. No new international agencies should be set up unless they were really necessary. The United Nations High Commissioner for Refugees should be asked to perform the functions intended to be performed by the proposed new agency.

Mr. LIANG, Executive Secretary of the Conference, said that it was clear that the International Law Commission had intended that the agency should "act ... on behalf of stateless persons before Governments or before the tribunal". If the convention provided that such action should be exercised by an agency within the framework of the United Nations, it would bring about an important change in international law. The United Kingdom text for paragraph 1 was drafted in very general terms and was not sufficiently explicit. It might be interpreted as covering the whole of the substance of the Commission's text, or it might not. Under the Commission's text the proposed agency was to be established within the

framework of the United Nations by the parties or, if they did not establish it within two years after the entry into force of the convention, by the General Assembly. The United Kingdom amendment, while providing for the establishment of the agency within the framework of the United Nations, did not clearly indicate who should establish it nor what functions it should perform. There were bodies within the framework of the United Nations, such as the Permanent Central Opium Board, which had not been established by the General Assembly or by any other United Nations organ, but by the parties to a convention and which were consequently independent in many respects, although they were within the framework of the United Nations. It was, of course, possible for the General Assembly to entrust to the Secretary-General the responsibility for defining the functions of an agency whose establishment it approved as an alternative to defining those functions itself. It had assigned such responsibility to the Secretary-General when it had approved the establishment of the International Bureau for Declarations of Death in 1950. It had also made financial provision for that agency. Accordingly, article 11 should, in addition to indicating who should establish the agency - if it were agreed that a new agency should be established - also state who should define the agency's functions and the method of financing its activities.

Mr. ROSS (United Kingdom) said that the clause in the International Law Commission's text referring to the functions of the proposed agency, in particular the words "to act .... on behalf of stateless persons", was too broad; it would authorize the agency to deal with matters quite outside the convention. At the same time, that text, particularly the words "before Governments or before the tribunal referred to in paragraph 2", was too restrictive. Most of the wording of his delegation's amendment had been taken from article 35 of the Convention Relating to the Status of Refugees of 1951; his delegation had considered that its text was sufficiently precise but it was ready to discuss ways of making it more explicit.

The words "within the framework of the United Nations" were vague. If the wording his delegation had proposed for article 16 (A/CONF.9/L.24) were approved, the points referred to by the Executive Secretary would be adequately covered.

There was nothing in his delegation's text for article 11 to prevent the Office of the United Nations High Commissioner for Refugees from acting as the agency.

The CHAIRMAN said that further discussion on article 11 could be postponed until the document menttioned by the Executive Secretary had been circulated.

Article 12 (A/CONF.9/4) (concluded)

The CHAIRMAN recalled that article 12 had been drafted on the assumption that the convention would be submitted to the General Assembly for adoption. The General Assembly had, however, subsequently decided to convene a special conference to prepare the convention with the result that article 12 as drafted was no longer applicable.

Speaking as the representative of Denmark, he proposed that article 12 be replaced by article 19 of the draft convention submitted by the Danish Government in its memorandum (A/CONF.9/4), which was almost identical with article 35 of the Convention Relating to the Status of Stateless Persons, 1954. An impossible situation would arise if any State not a Member of the United Nations which was attending the Conference were not invited by the General Assembly to sign the convention.

Mr. HARVEY (United Kingdom), supporting the Danish proposal, proposed that the date left open in article 19 of the Danish draft convention should be 31 December 1960 and that article 19 of the Danish draft convention be adopted as the basis of discussion.

Sir Claude COREA (Ceylon) said that he would support the Danish proposal but asked whether there was any special reason why the International Law Commission had included in its draft of article 12 the words "having been approved by the General Assembly".

The CHAIRMAN explained that the International Law Commission's draft had been prepared before the General Assembly had decided to call a conference of plenipotentiaries to draft the convention.

Mr. JAY (Canada) supported the United Kingdom proposal that article 19 of the Danish draft convention be adopted as the basis of discussion.

That United Kingdom proposal was adopted.

The CHAIRMAN said the United Kingdom proposal that 31 December 1960 should be the closing date for signature was in keeping with the corresponding provisions of the Conventions Relating to the Status of Stateless Persons and to the Status of Refugees.

The United Kingdom proposal that the date "31 December 1960" be inserted in article 19 of the Danish draft convention (A/CONF.9/4) was approved.

The Danish proposal that the text of article 12 of the International Law Commission's draft be replaced by article 19 of the Danish draft convention, with the addition of the date, was approved.

Article 13 and article 14

Mr. HARVEY (United Kingdom) welcomed article 13 in so far as it recognized the principle that States should make the necessary changes in their municipal legislation before ratifying a convention so that they could immediately thereafter carry out its provisions. The reference to "signature" in paragraph 1, however, of the article should be deleted since it could hardly mean anything other than that States should ratify the convention within two years of signature. The reservation mentioned in article 13 should, if retained, be permitted only at the time of ratification or accession.

The intention of article 14 was that the convention should not come into force until ratified by a sufficient number of States. If however article 13, paragraph 1 were retained, the consequence would be that the first States below the critical number to be fixed in article 14 which ratified the convention would be permitted to postpone application for two years. The convention would therefore come into force before it had been implemented by the critical number of States. Article 13, paragraph 1 would in that way frustrate the purposes of article 14.

Since there were several articles of the draft convention on which no decision had been reached, he proposed that discussion of article 13, paragraph 2 be postponed until their provisions had been settled.

The CHAIRMAN agreed that it would be inopportune to discuss paragraph 2 at that stage.

Mr. HERMENT (Belgium) supported the United Kingdom proposal for the deletion of paragraph 1. It was unthinkable that the convention could come into force until States had taken the necessary measures to fulfil its provisions.

Mr. TSAO (China) agreed that discussion of paragraph 2 be deferred. His delegation would prefer paragraph 1 to stand. Although its deletion would deprive Governments of an excuse for delaying the application of the convention for two years, it would provide them with an excuse to defer ratification. The essential point was to obtain ratifications as early as possible.

The CHAIRMAN, speaking as the representative of Denmark, said that article 20 of the Danish Government's draft convention reproduced article 13 of the International Law Commission's draft. His delegation's support for paragraph 1 of that article was inspired by the desire to avoid the vicious circle in which States would become involved if there were no such provision. If in article 14 the critical number of ratifications or accessions were fixed at six, the first

five States ratifying the convention would be obliged to modify their legislation without knowing whether the convention would ever come into force and whether the obligations they were assuming would ever be reciprocated. The period of two years should be regarded as a maximum, and it was not necessary to assume that all States would avail themselves of the full period.

Mr. LIANG, Executive Secretary of the Conference, endorsed the remarks of the Danish representative. Since the convention would come into force only upon deposit of the necessary number of instruments of ratification or accession, it was important that ratification should be effected as early as possible.

The establishment of the agency proposed in article 11 would also be dependent upon the receipt of the requisite number of ratifications.

Governments would hesitate to modify their municipal law until they had become parties to the convention, in other words, until after ratification. Although it appeared that in some countries adherence to an international convention entailed automatic modification of internal legislation, that was not the case in most countries and paragraph 1 had been drafted by the International Law Commission to meet their circumstances.

Mr. SIVAN (Israel) agreed that discussion on paragraph 2 of the article be deferred.

The Danish representative's defence of paragraph 1 was valid, but it might be necessary to indicate that the period of two years should date from the time of the entry into force of the convention or accession to it, as the case might be.

Mr. TSAO (China) invited the Israel representative's attention to the provision in article 14, paragraph 2 that the convention should"enter into force on the ninetieth day following the deposit of the instrument of ratification or accession by that State".

If article 13, paragraph 1 were retained, Governments ratifying the convention would be obliged to make the necessary changes in their municipal law within the two-year period. If it were deleted, they might defer indefinitely making those changes. Thus more might be lost than would be gained by that course.

Mr. HERMENT (Belgium) said he was not convinced by the arguments in favour of the retention of article 13, paragraph 1. Under its provisions, the fact that several States had ratified the convention would not make the latter executory. The convention under discussion differed from others in the form of its provisions and it was unthinkable that it should exist without have mandatory force.

Mr. HARVEY (United Kingdom) agreed with the Belgian representative. The Committee might perhaps agree on the principles, first, that no State should be required to implement the convention before it came into force in accordance with the provisions of article 14; and secondly, that a reasonable period should be allowed during which States should know when the convention would enter into force. The ninety-day period provided for in article 14 might be replaced by a period of perhaps one year after ratification or accession. His delegation would not for the time being propose any specific amendment, but it would be prepared to do so if other delegations thought that a solution might be found on those lines.

The United Kingdom was not one of the States whose municipal law was automatically modified by adherence to an international convention, but the entry into force of legislation could be suspended until a day appointed by the Secretary of State. Other legislations probably had some similar provision.

If other delegations wished to have more time to consider the question, he would agree to the postponement of a decision on article 13, paragraph 1 but would hope that it would be possible to reach agreement on its deletion.

Mr. VIDAL (Brazil) thought that the difficulties facing the Committee might be solved by substituting for the opening words of paragraph 1 the following words: "At the time of the deposit of the instruments of ratification or accession with the Secretary-General of the United Nations, the first six countries to deposit the above mentioned instruments may make a reservation". By that change not only ratification but also the amendment of municipal law would be facilitated.

The CHAIRMAN, speaking as the representative of Denmark, said that it would be contrary to the Danish Constitution to suspend the entry into force of legislation. The Danish Parliament might well have the greatest hesitation in modifying the municipal law without knowing whether or not ratification of the convention would result in Denmark's becoming one of a fairly large group of States that applied the convention.

Speaking as Chairman, he suggested that further discussion of articles 13 and 14 be deferred to a later stage.

It was so agreed.

Article 15 (concluded)

Article 15 was approved.

Article 16 (A/CONF.9/4)

The CHAIRMAN, speaking as the representative of Denmark, pointed out that the International Law Commission's draft contained no revision clause similar to those incorporated in the Conventions Relating to the Status of Refugees and to the Status of Stateless Persons. Such a provision was all the more necessary as it was hoped that the convention on the reduction of statelessness would be adhered to by a large number of States. He therefore proposed that article 23 of the Danish Government's draft convention be substituted for article 16 of the Commission's draft.

Mr. ROSS (United Kingdom) said that at that stage of the discussion he had no objection to the Danish proposal.

Mr. JAY (Canada) inquired whether paragraph 2 of the Danish text would allow the General Assembly to discuss the substance of the convention or whether it was merely intended to provide machinery for the convening by the Assembly of a new conference.

The CHAIRMAN, speaking as the representative of Denmark, thought that the need for revision was more likely to occur in the case of a convention to which a large number of States had adhered and there should be some convenient machinery for that purpose. The General Assembly would not of course be qualified to modify the provisions of the convention in any way. The machinery for revision had already come into operation in the case of the Convention Relating to the Status of Refugees.

Mr. HARVEY (United Kingdom) suggested that it might be necessary to redraft paragraph 2 of the Danish text since it was doubtful whether the Conference had the right to impose an obligation on the General Assembly to recommend what steps should be taken. Possibly a clause on the following lines should be added: "The Contracting States shall support any steps recommended by the General Assembly".

Mr. BEN-MEIR (Israel) said that there was a basic difference between the two earlier Conventions which had been quoted in support of the Danish text and the draft convention on the reduction of statelessness. It was easy to conceive the necessity for revision in the case of the former since they concerned an essentially changing situation. That necessity was not apparent in the case of the convention under discussion. Moreover, the Conference was concerned with the codification of certain rules for the reduction of statelessness and there seemed to be no reason for including a revision in such a convention. No revision clause had been included in the Conventions relating to the law of the sea, 1958.

Mr. LIANG, Executive Secretary of the Conference, said that there was much substance in the observations of the Israel representative. Quite apart from the question of the propriety of imposing obligations upon the General Assembly as contemplated in paragraph 2 of the Danish text, it was doubtful whether the Secretary-General would be prepared to place the question of revision of the convention on the Assembly's agenda at the request of a single State. The situation would be quite different if the request for revision emanated from, say, two-thirds of the contracting parties in accordance with a provision to that effect contained in the convention. Moreover, even if the question of revision came before the Assembly, all it could do would be to convene a new conference of plenipotentiaries.

It was also a somewhat delicate question whether non-contracting States should be given an opportunity to discuss the question of the revision of the convention in the General Assembly.

The CHAIRMAN observed that any Member State of the United Nations had the right to request that any matter be placed on the General Assembly's agenda.

Speaking as the representative of Denmark, he said that the advantage of the Danish text was that it would enable States not Members of the United Nations to make a similar request.

Mr. ROSS (United Kingdom) said that after listening to the discussion and the statement by the Executive Secretary of the Conference he was inclined to agree with the Israel representative that it might be advisable not to adopt the revision clause proposed by the Danish Government.

Mr. RIPHAGEN (Netherlands) agreed with the United Kingdom representative. If a number of the parties to the convention wished to revise its provisions, they could do so without recourse to the complicated procedure contemplated in that clause.

The CHAIRMAN, speaking as the representative of Denmark, said that his delegation would withdraw the proposed clause.

Speaking as Chairman, he said that it would be desirable to defer discussion of the United Kingdom amendment to article 16 (A/CONF.9/L.24) since the Committee had already decided to postpone a decision on the establishment of the agency proposed in article 11.

Mr. ROSS (United Kingdom) agreed that it would be inappropriate to discuss his delegation's amendment at that stage.

Mr. CARASALES (Argentina) pointed out that article 16 (b) of the Commission's draft referred to reservations under article 13, which had not yet been approved.

The CHAIRMAN suggested that article 16 of the Commission's draft be approved as drafted, on the understanding however that it would be subject to amendment in the light of the terms of other articles still awaiting approval.

On that understanding, article 16 of the International Law Commission's draft was approved.

Article 17 (A/CONF.9/4) (concluded)

The CHAIRMAN, speaking as the representative of Denmark, proposed that article 17 of the draft convention be deleted and that article 24 of the Danish draft be approved as the final article of the convention.

It was so agreed.

Article 18 (concluded)

The CHAIRMAN, speaking as the representative of Denmark, proposed the deletion of article 18 since its purpose was already fulfilled by the provisions of the United Nations Charter.

It was so agreed.

The meeting rose at 6 p.m.

UNITED NATIONS

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE TENTH MEETING

held at the Palais des Nations, Geneva
on Wednesday, 8 April 1959, at 10.30 a.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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Examination of the question of the elimination or reduction of future statelessness (item 7 of the Conference agenda) (continued)

Draft convention on the reduction of future statelessness (continued)

Article 7 (resumed from the eighth meeting)

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

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

Article 7, paragraph 3 (A/CONF.9/L.17, L.27/Rev.1, L.28, L.31)(resumed from the eighth meeting)

The CHAIRMAN drew attention to the joint amendment (A/CONF.9/L.27/Rev.1) to article 7 of the draft convention submitted by the majority of the Working Group on article 7, paragraph 3, namely the delegations of Canada, Denmark and the Federal Republic of Germany, the sub-amendment (A/CONF.9/L.28), to that amendment submitted by the other member of the Working Group, Pakistan, and the amendment to article 7 (A/CONF.9/L.31) submitted by the Netherlands delegation. He asked the representative of Pakistan whether he wished to withdraw his amendment to article 7 (A/CONF.9/L.17).

Mr. TYABJI (Pakistan) replied that he would withdraw his amendment insofar as it related to article 7, without prejudice to its bearing on paragraph 3 of the joint amendment.

Mr. SCOTT (Canada), introducing the joint amendment, said that despite the complexity of the wording the principle was quite clear and would become clearer if compared with the original draft of paragraph 3.

In drafting their amendment, the three Powers had intended that the right not to lose nationality on grounds of absence should be granted to all persons who had acquired nationality by procedures similar to those set out in both article 1, paragraph 1 and article 4. It was for that reason that they had included the sentence "a person who at birth or at the latest one year after having come of age has .....". That sentence was intended to apply to all persons who acquired their nationality under procedures similar to those set out in article 1, paragraph 1. Presumably, persons under article 1, paragraph 3 were in a different category. They could not be considered as natural-born nationals of a State, since they would have originally been assumed to be in the process of acquiring another nationality.

The second sentence of the joint amendment covered persons who had acquired nationality by procedures similar to those set out in article 4. It would be remembered that under article 4 as approved by the Committee, States were allowed to make the granting of nationality conditional. Canada was somewhat more generous in granting nationality than was required under the provisions of article 4; a Canadian family could live abroad for generations, provided the members satisfied

the requirements of the Canadian Citizenship Act and each member made a declaration of retention of nationality before he reached the age of twenty-four. On the other hand, because such nationality was granted outright at birth, Canada required protection under article 7 which was roughly analagous to the conditions allowed to those other countries which made acquisition of nationality conditional under article 4.

The residence condition in the last sentence of the joint amendment was reasonable, although it was not necessary to his country. With regard to the term "other nationals" used in that sentence, his understanding was that it had been more or less agreed in principle that countries of immigration such as Canada, which were generous in allowing persons to enter their territory, should not be penalized by the convention and made to recognize such persons as nationals if they resided abroad beyond the period specified by the law. His delegation considered that the words "country of origin" used in paragraph 3 of the International Law Commission's text were ambiguous and rather arbitrary and that it was important to lay down a minimum period after which "other nationals" might lose their nationality.

Mr. BERTAN (Turkey) asked whether the last sentence of the joint amendment would apply to immigrants or whether their case would be covered by the provisions of article 8. He reiterated his proposal made at the eighth meeting that article 7, paragraph 3 be discussed in conjunction with article 8.

Sir Claude COREA (Ceylon) said that he preferred the International Law Commission's draft of article 7, paragraph 3 since the joint amendment and that submitted by the Netherlands delegation both had the same objectionable feature: they would increase cases of future statelessness.

With regard to the words "other nationals" in the last sentence of the joint amendment, it would be hardly reasonable to provide that such persons might lose their nationality by reason of residence abroad for the period mentioned. There should be some escape clause in order to avoid penalizing persons who had to reside abroad for longer periods. The question arose of what evidence the persons mentioned in the second sentence of the joint amendment would have to produce to prove that they had resided in the territory of the State concerned.

In the Netherlands amendment, the first sentence was acceptable, since it was taken from the International Law Commission's text of article 7, but the period of seven years mentioned in the second sentence was not a very reasonable one.

Mr. BACCHETTI (Italy), recalling the comments he had made at the Committee's eighth meeting on article 7, paragraph 3, said that his delegation could not accept the joint amendment, since it would create a new category of stateless persons, namely those who had left their country to reside abroad.

He would prefer paragraph 3 as drafted in the International Law Commission's draft convention on the elimination of future statelessness, but in a spirit of compromise he would support the Netherlands amendment, particularly if the words "residence abroad" in the second paragraph were replaced by "residence in the country of origin". In any case, the period of residence outside the country to which the person concerned belonged should be specified.

Mr. RIPHAGEN (Netherlands) said that his delegation was prepared to accept paragraph 3 even in the form proposed by the International Law Commission in the draft convention on the elimination of future statelessness, although that would entail changes in Netherlands law. Paragraph 3 of the draft convention on the reduction of future statelessness was also acceptable, but the Netherlands delegation had submitted its amendment in order to meet the objections of some delegations to that clause.

His delegation considered that paragraph 3 should begin with the rule formulated by the International Law Commission in paragraph 3 of article 7 of the draft convention on the elimination of future statelessness and should not contain too many exceptions. Its amendment admitted of only two such, one for naturalized persons and the other for persons born outside the territory of a State. Any sub-amendment would be acceptable which would make the article more liberal and would prevent cases of future statelessness, but in view of the joint amendment submitted by the delegations of Canada, Denmark and the Federal Republic of Germany some concession should be made to those delegations and others. From the Netherlands point of view, the joint amendment was disappointing because it would lead to many cases of statelessness and he would hope that delegations would see their way to taking a more liberal attitude.

Rev. Father de RIEDMATTEN (Holy See) said that his delegation could not support the second sentence of paragraph 3 of the International Law Commission's draft. The joint amendment was very disappointing because it would create new cases of statelessness and he would vote against it.

The first paragraph of the Netherlands amendment raised no problems for his delegation. The second paragraph, however, was not acceptable because it would penalize by loss of nationality a naturalized person for failure to observe certain formalities. The third paragraph should indicate that the persons in question must be informed of the law of the contracting State; and in the second paragraph the words proposed by the Italian representative, namely "residence in the country of origin" should be substituted for the words "residence abroad". The meaning of residence should also be defined.

Mr. LA CLAIR (United States of America) said that his delegation saw no reason for penalizing a person for residing in his country of origin as against any other foreign country and would therefore accept the International Law Commission's text of paragraph 3 if the words "in his country of origin" were replaced by the word "abroad".

The CHAIRMAN, speaking as the representative of Denmark, said that the Working Group had based its study of article 7 on the International Law Commission's draft and on the comments made in the Committee. Paragraph 3 of the draft merely restricted the sovereignty of States with respect to two groups of citizens: natural-born nationals and naturalized persons. It did not refer to any other persons and a State would be entirely free to deprive of his nationality on grounds of residence any person not in either group. For example, a child who had acquired nationality by legitimation and a woman who had acquired nationality by marriage could be deprived of nationality on those grounds.

The sponsors of the joint amendment had endeavoured to restrict the freedom of contracting States by using the phrase "A person who at birth or at the latest one year after having come of age," rather than the words "A natural-born national". The second sentence of the amendment enlarged the freedom of a State in the case of persons born outside its territory. On that point, the joint amendment was much more liberal than the Netherlands amendment and had taken into account the view expressed in the Committee that mere birth in a country might not be sufficient to create ties with that country.

On the question of residence, the joint amendment did not provide that a child born outside the territory of a contracting State might be deprived of his nationality if he had not resided in that State. The Scandinavian countries had adopted the rule given in the second sentence without objections having been

raised. There had, however, been instances of persons of Danish descent whose families had lived abroad for generations and who still claimed Danish nationality although they had no intention of residing in Denmark. Such cases were not admissible.

Although the Danish delegation was not in favour of the third sentence of the joint amendment, it had thought that the work of the Committee would be expedited by the submission of a basic text, the merits of which should be judged by each delegation according to its viewpoint.

The solution offered by the joint amendment was preferable to the International Law Commission's text and to the Netherlands amendment.

Mr. LEVI (Yugoslavia) said that his delegation could not accept the joint amendment. His Government was anxious to protect persons from becoming stateless as a result of circumstances beyond their own control but did not see any need to protect persons who of their own free will had decided to stay abroad for a period of fifteen years or more, by which time they might have acquired entitlement to another nationality.

The Netherlands amendment, which at first sight appeared preferable to the joint amendment, required further consideration.

Mr. RIPHAGEN (Netherlands) expressed surprise at the Danish representative's claim that the joint amendment was more liberal than the Netherlands amendment. The contrary, rather, was true. According to the joint amendment, a contracting State would make retention of nationality by a person born outside its territory conditional upon residence in its territory. In the corresponding sentence of the Netherlands amendment, the condition imposed was not residence but registration, which was surely more liberal.

In any case, in both amendments the exception clauses were merely permissive. Neither amendment required a contracting State to make use of the exception clauses, and it was to be hoped that States would resort to them only in special cases, if at all.

Objections to the Netherlands amendment seemed to have been made on the ground that too many exceptions were proposed. He would be quite willing to accept amendments designed to reduce the number of exceptions and thus reduce statelessness.

Mr. ROSS (United Kingdom) said that he shared the preference of the representative of Italy for the text of paragraph 3 in the International Law Commission's draft convention on the elimination of future statelessness, which corresponded to the provisions of English law.

However, discussion had shown that no text of paragraph 3 was likely to secure general agreement unless it contained an exception clause. If exceptions were to be made on the ground of living abroad there was no sense in speaking of "residence in the country of origin" alone, first because the words "country of origin" were not free from ambiguity and secondly because there was little substantive difference between residence in the country of origin and residence in other foreign countries.

There were two main differences of substance between the joint amendment and the Netherlands amendment. In the first place, the latter left a gap, as it were, between natural-born nationals and naturalized persons. It was clear that there were other categories of person to consider as well, and in that respect his delegation preferred the joint amendment. On the other hand, the Netherlands amendment was preferable in regard to the second point on which there was a difference of substance. Persons born outside the territory of a contracting State might lose their nationality under the joint amendment if they failed to reside in the territory of the State whereas under the Netherlands amendment they might lose it if they failed to register. The second condition was more liberal and therefore preferable.

He was opposed to the Pakistan amendment (A/CONF.9/L.28), which would imply that retention of nationality was conditional on registration even in respect of persons born in the territory of a contracting State.

Mr. WEIS (Office of the United Nations High Commissioner for Refugees), speaking at the invitation of the Chairman, observed that loss of nationality on account of residence abroad was a frequent cause of statelessness.

He would have preferred the Committee to adopt the International Law Commission's text of article 7, paragraph 3 but if that were impossible he would favour the proposal of the representative of the Holy See that some warning be given to persons staying abroad, before they could lose their nationality.

Under the national laws of many countries loss of nationality was automatic after a certain period of residence abroad, the assumption being that the person concerned had of his own free will broken the ties binding him to the country of his nationality. That assumption however was false. After the upheavals of the past twenty years, thousands of persons were living outside the countries of their nationality for reasons entirely beyond their control. Distance between country of residence and country of nationality was another factor which often made it difficult for a person to fulfil the requirements of the law with a view to avoiding loss of nationality.

He suggested therefore, first that loss of nationality should not be automatic, but that it should require a decision by the competent authority, which would have discretion not to deprive a person of nationality where he had resided abroad for justifiable reasons; and, secondly that individuals should be enabled to avoid the consequence of loss of nationality through residence abroad by registering with the authorities of their nationality or by making a declaration of intention to retain their nationality.

Mr. TYABJI (Pakistan) explained that, having seen the text of the Netherlands amendment to article 7, which had been distributed only after the submission of his own sub-amendment, he wished to resubmit his original amendment (A/CONF.9/L.17), which he had withdrawn, and to propose that the additional phrase contained therein be added to the first sentence of the Netherlands amendment.

Mr. RIPHAGEN (Netherlands) said that he failed to understand on what grounds the United Kingdom representative could assert that the Netherlands amendment left a gap between natural-born nationals and naturalized persons. The first sentence stated the general principle that no person should lose his nationality on the grounds listed. The second and third sentences referred to exceptions to the general principle in the case of two classes of persons.

Mrs. TAUCHE (Federal Republic of Germany) said that, despite her preference for the text of article 7, paragraph 3 in the draft convention on the elimination of future statelessness, in a spirit of compromise she had participated in the drafting of the joint amendment, of which there was a revised text (A/CONF.9/L.27/Rev.1) containing in line 2, the words "other than by naturalization". The inclusion of those words was not welcome to her delegation, first, because it was essential to define clearly each of the groups to whom paragraph 3 applied and secondly because the word "naturalized", as used both in the joint amendment and in the Netherlands amendment, was itself ambiguous.

If the text of article 7, paragraph 3, in the draft convention on the elimination of future statelessness were not acceptable to the Committee, she would be inclined to favour the Netherlands amendment, with some clarification of the word "naturalized". The third sentence of the Netherlands amendment should contain a reference not only to persons born outside the State who had acquired its nationality at birth but also to persons born outside the State who had acquired its nationality at some later time. It would be unfair if the former were required to register in order to retain their nationality whereas the latter were not.

Mr. IRGENS (Norway) asked whether the sponsors of the joint amendment would agree to the insertion of the words "as well as his parents", after the words "If the person", in the second sentence. That change would prevent successive generations of the same family residing in one country while retaining the nationality of another.

Mr. RIPHAGEN (Netherlands), replying to the representative of the Federal Republic of Germany, said that in his delegation's amendment the word "naturalized" was used in the narrowest possible sense.

Mr. ROSS (United Kingdom) proposed that a new working group, to include the Netherlands representative, be set up to make a further study of article 7, paragraph 3 of the draft convention on the reduction of statelessness.

It was decided to set up a Working Group composed of the representatives of Canada, Denmark, the Federal Republic of Germany, Italy, the Netherlands and Pakistan to make a further study of article 7, paragraph 3 and report back to the Committee.

The meeting rose at 12.10 p.m.

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE ELEVENTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 8 April 1959, at 4 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

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

Article 7 (A/CONF.9/L.17, L.27/Rev.1, L.28, L.31, L.35) (concluded)

The CHAIRMAN said that he had been asked by the sponsors of the amendment (A/CONF.9/L.35) to article 7, paragraph 3 of the draft convention submitted jointly by the delegations of Canada, Denmark, the Federal Republic of Germany, Italy and the Netherlands to make some observations on its contents.

In paragraph 4 of the joint amendment, the question whether an express reference to residence in the naturalized person's country of origin should be included was the subject of reservations by all the sponsors.

The sponsors had considered the suggestion made by the representative of the Holy See that there should be some assurance that the provisions of paragraph 4 of the joint amendment would if embodied in the convention be brought to the notice of the persons affected by it. It had been found impossible to include a provision to that effect in the paragraph, but the final act of the Conference might perhaps recommend States to endeavour to bring the clause to the notice of such persons.

In paragraph 4 the sponsors had intended the word "naturalized" to be understood in the sense current in international law, in accordance with the concepts of which naturalization meant the grant of nationality at the discretion of the State concerned. If a State granting nationality had no such discretion it would not, for the purposes of paragraph 4, be understood to have naturalized a person even if it followed a procedure similar to that of naturalization. The sponsors considered that a statement to that effect should appear in the final act of the Conference and some delegation might usefully prepare a draft to that end.

The representative of Pakistan had been unable to join in sponsoring the amendment and maintained his delegation's amendment (A/CONF.9/L.17) on the understanding that it would relate to paragraph 3 of the joint amendment and not to article 7 of the Commission's draft. In consequence of the submission of the joint amendment, the amendments submitted jointly by the delegations of Canada, Denmark and the Federal Republic of Germany, by the delegation of Pakistan and by that of the Netherlands (A/CONF.9/L.27/Rev.1, L.28 and L.31) would be withdrawn.

Mr. TYABJI (Pakistan) moved his delegation's amendment on that understanding. He had not been convinced that its point of view was inconsistent with the spirit of the convention. His amendment was intended to ensure the right of his country to withdraw its nationality from persons who showed no evidence of a desire to preserve it. But his Government had no intention whatever of depriving Pakistan citizens of their nationality by refusing their registration with a Pakistan mission.

Mr. BERTAN (Turkey) said that although the provision concerning loss of nationality in the joint amendment previously submitted by Canada, Denmark and the Federal Republic of Germany did not apply to countries like Turkey, which followed the jus sanguinis principle, he was willing to accept it if considered necessary by jus soli States. The same remark applied to the second paragraph of the Netherlands amendment. However, Turkey, which automatically and immediately conferred its nationality on immigrants of Turkish race, insisted upon retaining the right to withdraw that nationality. There was a close connexion between article 7, paragraph 3 and article 8, and his delegation reserved its position on article 8 for the reasons he had given.

Mr. SUBARDJO (Indonesia) observed that his delegation had the same difficulty in accepting the joint amendment as had the delegation of Pakistan. The nationality legislation of his country provided for the reacquisition of Indonesian nationality on condition that the persons in question returned to Indonesia.

Mr. HELLBERG (Sweden) expressing his reluctance to accept the joint amendment, considered it unreasonable that a person of Swedish descent born abroad in a jus sanguinis country should have the right to retain a purely artificial Swedish nationality in spite of the fact that his parents - perhaps even grand-parents - had had ample opportunity of acquiring the nationality of the country of residence. If such a person became stateless it was entirely his own fault. The Swedish delegation would therefore abstain from voting on the joint amendment.

Sir Claude COREA (Ceylon) regarded the joint amendment as a considerable improvement on previous drafts. It was well that, apart from the addition of the words "subject to the following provisions", the original text of article 7, paragraph 3 of the International Law Commission's draft had been substantially retained in paragraph 3 of the joint amendment.

The provision in paragraph 4 of the joint amendment recognizing the right of States to protect their interests by legislation was particularly welcome. He proposed however that the words "of not less than seven consecutive years" should be deleted since they were in conflict with the principle that the State had an unfettered right to specify the admissible length of residence abroad.

Paragraph 5 of the joint amendment was superfluous and should be deleted. There would be provision in articles 1 and 4 of the draft convention for all categories of person except those covered by paragraph 4 of the joint amendment. Should the Committee approve paragraph 5, the question arose whether the word "registration" meant a declaration of intention to retain the nationality. If so, the principle was acceptable but should be couched in clearer language.

It would be in keeping with the spirit of compromise to incorporate the Pakistan amendment.

Mr. MENDOZA (Peru) said that the nationality law of his country provided for the loss of Peruvian nationality by naturalized Peruvians resident abroad for more than two years unless they could prove that they had retained an effective vinculum with Peru.

Mr. SIVAN (Israel) congratulated the sponsors of the joint amendment on their success in combining the best points of the various proposals previously submitted. He had, however, some difficulty in understanding why the words "if he fails to declare to the appropriate authorities his intention to retain his nationality" had been added to paragraph 4, because he had no recollection of that provision having been previously discussed. It was widely recognized that countries of immigration granted their nationality more easily than other countries, but there was all the more need for them to insist that persons naturalized by them should maintain a more effective connexion than the mere expression of the desire to retain their nationality. The nationality law of Israel provided for the loss of Israel nationality if a naturalized citizen resided abroad for seven consecutive years and had no effective connexion with Israel. Deprivation of nationality was not automatic in such cases since it was necessary for the State to prove that the person had in fact resided abroad continuously for seven years and had severed his connexions with the country.

There were also further legal safeguards. He therefore proposed that the words in question be deleted from paragraph 4. If that proposal were rejected, he would propose that the words "or if he has no effective connexion with such State" be added at the end of the paragraph.

Mr. SCOTT (Canada) said that he understood the word "registration" in paragraph 5 of the joint amendment in the same sense as the representative of Ceylon. There was no necessity to use more precise language in the convention and such questions could in any event be left to the Drafting Committee.

With regard to the Ceylonese proposal that paragraph 5 should be deleted, the provisions of article 4 of the convention were certainly relevant to article 7. Article 4 however dealt merely with acquisition of nationality and not with its loss. A problem arose in connexion with article 7 for countries which followed a more generous course than that laid down in article 4, and paragraph 5 of the joint amendment was necessary in order to take their position into account. Whereas the original joint amendment of Canada, Denmark and the Federal Republic of Germany (A/CONF.9/L.27/Rev.1) and the Netherlands amendment (A/CONF.9/L.31) had referred to persons born outside the territory of the contracting State, paragraph 5 of the joint amendment under discussion was more specific in that it referred only to persons who had never resided in the territory of the contracting State.

His delegation could not support that limitation without instructions from the Canadian Government and therefore found it necessary to reserve its position on that matter when discussion of article 7 was resumed in plenary meeting.

Mr. LEVI (Yugoslavia) said that he could support paragraph 5 of the joint amendment the provisions of which were less liberal than the nationality laws of his country.

Since no distinction was made in Yugoslav nationality law between naturalized persons and other nationals he proposed the deletion from paragraph 4 of the word "naturalized" which in any case represented no substantive addition to the provisions of the article.

Sir Claude COREA (Ceylon) thanked the Canadian representative for his clarification of the meaning of the word "registration" in paragraph 5 of the joint amendment. He would reiterate his suggestion that if that paragraph were adopted the Drafting Committee should find a clearer substitute for the word. It might be possible to agree on some such wording as "declaration of intention to retain nationality".

The Canadian representative's view that article 4 of the draft convention was concerned with the acquisition and not with the loss of nationality was correct. It was article 7 which was concerned with loss of nationality, and paragraph 5 of the joint amendment dealt with persons born outside the territory of the Contracting State concerned. His point was that such persons would already have acquired nationality under the provisions of article 1 of the draft convention. Since all possible cases not coming under articles 1 and 4 were covered by paragraphs 3 and 4 of the joint amendment he still failed to see why paragraph 5 was necessary and maintained his proposal that it should be deleted.

Mr. HILBE (Liechtenstein) said that although he would have preferred to leave the article as it stood in the International Law Commission's text, nevertheless in a spirit of compromise his delegation would vote in favour of the joint amendment. At the same time, since the joint amendment was in any case the result of a compromise, a further concession should be made to incorporate the Pakistan amendment.

Rev. Father de RIEDMATTEN (Holy See) said that he would vote for the joint amendment, although there were dangers in enumerating exceptions to the provisions of the article.

Like the representative of Liechtenstein, he failed to see why the Pakistan amendment could not be incorporated. It would however be out of place in paragraph 3 of the joint amendment since its wording was not consistent with the opening phrase of the paragraph.

The Ceylonese proposal for the deletion of the words "of not less than seven consecutive years" should be acceptable to the sponsors of the joint amendment. Since there was provision in the paragraph for a declaration by a naturalized person of his intention to retain his nationality there seemed to be no necessity to specify the period of residence abroad.

Mr. TYABJI (Pakistan) supported the Yugoslav proposal for the deletion of the word "naturalized" in paragraph 4 of the joint amendment.

The amendment of the delegation of Pakistan (A/CONF.9/L.17) to article 7 was rejected by 12 votes to 8, with 8 abstentions.

Paragraph 3 of the joint amendment (A/CONF.9/L.35) was approved by 22 vot to 5, with 3 abstentions.

The Yugoslav representative's proposal that the word "naturalized" be deleted from paragraph 4 of the joint amendment was rejected by 16 votes to 5 with 8 abstentions.

The proposal of the representative of Ceylon that the words "of not less seven consecutive years" be deleted from paragraph 4 of the joint amendment wa rejected by 13 votes to 6, with 10 abstentions.

The Israel representative's proposal that the words "or if he has no effe connexion with that State" be added at the end of paragraph 4 was rejected by 11 votes to 3, with 15 abstentions.

The Israel representative's proposal that the words "by operation of law be inserted immediately after the words "may lose his nationality" was rejected by 8 votes to 1, with 19 abstentions.

Paragraph 4 of the joint amendment was approved by 17 votes to 3, with 8 abstentions.

Paragraph 5 of the joint amendment was approved by 17 votes to 3, with 10 abstentions.

Article 7 as a whole and as amended was approved by 18 votes to 4, with 8 abstentions.

Mr. SIVAN (Israel) said that it had been suggested to him that his apprehensions regarding paragraph 4 of the text just approved were groundless since article 7 related to loss of nationality only by operation of law; if that were indeed so - and, in the absence of any other interpretation, he would assume that such was the view of the Conference - it would become easier for his delegation to vote in plenary for the text just approved for article 7.

Article 8 (A/CONF.9/L.11, L.14, L.19, L.32), and article 1 (resumed from the fifth meeting)

Mr. ROSS (United Kingdom) said that his delegation had submitted a new text for article 8 (A/CONF.9/L.11) because it considered the International Law Commission's text for that article unsatisfactory in several respects.

To deprive persons of their nationality so as to render them stateless should certainly be an exceptional step and the freedom of States to deprive persons of their nationality should be severely circumscribed by means of

appropriate clauses in the convention; but the exceptions permitted by the International Law Commission to the rule that a party must not deprive its nationals of their nationality if such deprivation would render them stateless were not sufficient. His delegation did not wish to see those exceptions extended in respect of natural-born citizens but they should be extended, as proposed in paragraph 2 (b) of the United Kingdom amendment, so as to enable parties to deprive of their nationality naturalized persons who had obtained their nationality by fraud or who committed acts of treachery or were disloyal, even if such deprivation rendered the person in question stateless. The International Law Commission had discussed the question of persons obtaining a nationality by fraud; in the report on its fifth session (A/2456, paragraph 151) it had agreed that there was no need to include in the convention a clause regarding such cases because it might be argued that where the grant of nationality had been induced by fraud, the grant would be "void ab initio". In the United Kingdom, however, a person who obtained British nationality by fraud retained that nationality until he was deprived of it by the authorities.

Under the draft text for article 8 a person could be deprived of his nationality if he voluntarily - and in disregard of an express prohibition - entered or continued in the service of a foreign country; a fortiori the party whose nationality he possessed should be empowered to deprive him of that nationality if he committed acts of treason or disloyalty. In view of the terms of paragraph 3 of his delegation's text and of those of article 9, there should not be many cases of persons becoming stateless because of the inclusion of the additional clauses proposed by his delegation.

His delegation had omitted from its text the words "by way of penalty or on any other ground" since they were both unnecessary and obscure.

The words in the draft "in accordance with due process of law" might mean anything or nothing. Some might argue that they meant in accordance with any law. What was required was a clause to prevent persons to whom the article would apply from being deprived of their nationality by virtue of arbitrary decisions of the executive. It was not clear what was meant by the words "recourse to judicial authority" in the International Law Commission's text;

did they mean that a court of law should decide whether the person concerned should be deprived of his nationality? The administrative decision should be reviewed by "an independent body of a judicial character", as was stated in paragraph 3 of his delegation's amendment. That was the practice in the United Kingdom.

The French delegation had proposed the substitution of the word "jurisdictional" for the word "judicial" (A/CONF.9/L.14). The word "jurisdictional" would have little meaning in the context because in English it meant only "having jurisdiction", and every body had some jurisdiction.

The words between square brackets in his delegation's text had been included before any decision had been taken on article 1 and were no longer necessary.

Paragraph 2 (b) (iv) of his delegation's amendment should be revised in keeping with the text approved for article 7.

Paragraph 4 of his delegation's text was a new provision intended only for avoidance of doubt.

The CHAIRMAN recalled that during consideration of article 1 at the fifth meeting it had been decided that the third proposal in the Belgian amendment (A/CONF.9/L.19) would be considered in connexion with article 8.

Mr. HERMENT (Belgium) considered that the Committee should deal with the Belgian amendment independently of the United Kingdom text for article 8 and before it dealt with that text. His delegation's proposal was self-explanatory. Its purpose was to enable parties to withhold their nationality from persons to whom article 1 as drafted applied and who had been sentenced for a criminal act to imprisonment for a long term or had committed an act detrimental to the party's national security. Since article 1 would apply mainly to young people it was not likely that many persons would be affected by the amendment, but it was necessary to include it as a protection against the few who would be affected.

Mr. HUBERT (France) said that France had always been very liberal towards persons seeking refuge in its territory and for that very reason could not renounce the application to those persons who might prove to be unworthy of that liberality of measures in protection of its nationality that it

considered lawful, which no one could accuse it of having abused. He therefore viewed the Belgian amendment with sympathy. It might perhaps be amended to read "on the person not having shown himself to be obviously unworthy, for example by engaging in an activity detrimental to national security or having committed a criminal act for which he was sentenced to imprisonment for a term of not less than five years". If that suggestion were accepted he would withdraw paragraph 1 of his delegation's amendment (A/CONF.9/L.14) to the United Kingdom amendment.

The meeting rose at 6.15 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE TWELFTH MEETING

held at the Palais des Nations, Geneva, on Thursday, 9 April 1959, at 3 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conferen

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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(9 p.)

QUESTION OF THE SIGNATURE OF THE FINAL ACT OF THE CONFERENCE

The CHAIRMAN said that the Final Act of the Conference could be signed either by the President, the Vice-Presidents and the Executive Secretary, or by them and all heads of delegations as well. If the discussion were not completed until 17 April, the Final Act would not be ready for signature until 20 or 21 April.

Mr. TSAO (China) said that since some heads of delegations were leaving Geneva before 20 April, it would be better to make arrangements for the Final Act to be signed only by the President, Vice-Presidents and Executive Secretary.

Mr. ROSS (United Kingdom) agreed with the representative of China.

It was agreed that the Secretariat should proceed on the assumption that the Final Act would be signed only by the President, the Vice-Presidents and the Executive Secretary unless it could be prepared for signature on 17 April

EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (resumed from the eleventh meeting)

Draft convention on the reduction of future statelessness (A/CONF.9/L.1) (resumed from the eleventh meeting)

Title

The CHAIRMAN suggested that the Committee should agree on "Convention on the Reduction of Statelessness" as the title of the convention.

It was so agreed.

Article 8 (A/CONF.9/L.11 and Corr.1, L.14, L.25, L.32, L.36) and article 1, paragraph 3 (A/CONF.9/L.19) (resumed from the eleventh meeting)

Mr. JAY (Canada) said that there were several possible ways in which the nationality laws could protect the State and at the same time safeguard the interests of the citizen. Although the laws of some countries contained no provisions concerning the deprivation of nationality, those of most countries did contain such provisions. He was in favour of drafting article 8 in such general terms that it would be possible for parties to protect themselves against abuse of their nationality laws in many different ways.

If the International Law Commission's text for article 8 (A/CONF.9/L.1) were adopted, a party would be able to deprive persons of its nationality so as to render them stateless only on the ground mentioned in article 7 or on the ground that they voluntarily entered or continued in the service of a foreign country in disregard of an express prohibition. In his opinion, if the Conference were prepared to accept that relatively unimportant ground, which his country did not need, a party should be free to deprive persons of its nationality, even if that

rendered them stateless, on other more serious grounds as well and for that reason he preferred the United Kingdom delegation's text (A/CONF.9/L.11 and Corr.1) to the draft text or even to that of the Turkish delegation (A/CONF.9/L.25) as a basic text for article 8.

He proposed that the Committee should take the United Kingdom text as the basis for its discussion on article 8.

The United Kingdom text contained little that was not already embodied in Canadian legislation. Precisely because the acquisition of Canadian citizenship had been made easy, in self-protection Canada needed provisions under which persons could be deprived of its citizenship. A person could not be deprived of Canadian citizenship by way of penalty but could be deprived of it on the ground of having obtained it by fraud and on three other grounds, of which one was failure of a naturalized Canadian citizen to return to Canada when required to do so in order to answer a charge of treachery; that case was adequately covered by the United Kingdom text. The other two grounds were set out in his delegation's amendment (A/CONF.9/L.36) to the United Kingdom text.

The CHAIRMAN ruled, in connexion with the Canadian amendment, that remarks concerning the renunciation of nationality were out of order since in approving the text of article 7 the Committee had disposed of the provisions relating to renunciation of nationality.

Mr. JAY (Canada) said that that article related only to renunciation of nationality which resulted automatically in loss of nationality.

The CHAIRMAN maintained his ruling.

Mr. JAY (Canada) said that under Canadian law a person could not be deprived of Canadian citizenship on the ground of having been sentenced to imprisonment. He was therefore opposed to the Netherlands amendment (A/CONF.9/L.32) although it was preferable to the French amendment (A/CONF.9/L.14, paragraph 1)

His delegation had submitted its amendment primarily in order to make its views clear. As he had indicated, article 8 should be drafted in general terms. He would suggest that the Drafting Committee prepare a text which would cover the whole of the substance of the United Kingdom text, his delegation's amendment thereto and some of the other reasonable suggestions made by other delegations without mentioning all the details of the United Kingdom's text and his delegation's amendment. If such a text was not submitted, he might press for his delegation's amendment to be put to the vote.

Mr. LEVI (Yugoslavia) said that he would be unable to vote for the International Law Commission's text for article 8.

Mr. HERMENT (Belgium) requested that paragraph 3 of his delegation's amendment to article 1 (A/CONF.9/L.19) be considered before any further discussion on article 8.

In reply to a question by Mr. HARVEY (United Kingdom), he said he wished the text in that paragraph to be treated as an amendment to article 1 and not to article 8 because he wished parties to be able to refuse, on the grounds mentioned in the text, to grant their nationality to persons to whom the text adopted by the Committee for article 1 applied. If his text were not added to article 1 and the grounds mentioned in it were added to those for deprivation of nationality mentioned in article 8, parties would be constrained to grant their nationality to persons to whom his text applied only to deprive them of it immediately afterwards.

The amendment to his text suggested by the French representative at the preceding meeting was acceptable.

Mr. FAVRE (Switzerland) said that the differences of view regarding the texts of the Belgian and French delegations were due to the differences between the systems followed in the various countries. His delegation could have voted for the International Law Commission's text for article 8 of the draft convention on the elimination of future statelessness, but it was prepared to agree to the inclusion in the article of a number of additional clauses such as those proposed by the delegations of the United Kingdom and Canada - even though their inclusion might create some cases of statelessness - because it realized that States whose nationality was comparatively easy to acquire should have the power to deprive of their nationality unworthy persons to whom they had granted it. A citizen of Switzerland could not be deprived of Swiss nationality, but the Swiss authorities exercised great caution in granting it. The substance of the text of the Belgian and French delegations should be embodied in article 1 to protect countries such as Switzerland and the substance of the additional clauses proposed by the delegations of the United Kingdom and Canada should be included in article 8 to protect countries which followed a different system from that applied in Switzerland.

Mr. RIPHAGEN (Netherlands) said that the words in paragraph 3 of the Belgian amendment to article 1 as amended by the French representative, "having shown himself to be obviously unworthy" and "an activity detrimental to national security", were somewhat vague. The Committee should not accept as proof of

treachery or disloyalty or of "activity detrimental to national security" anything less than a decision of a court of law. That was why his delegation had submitted its amendment (A/CONF.9/L.32) to the United Kingdom text. He hoped that in the light of his remarks the delegations of Belgium and France would agree to revise their amendments.

Mr. HERMENT (Belgium) said that in his country only serious crimes were punishable by imprisonment "for a term of not less than five years".

Mr. HUBERT (France) withdrew paragraph 1 of his delegation's amendment (A/CONF.9/L.14) to the United Kingdom text for article 8.

Mrs. TAUCHE (Federal Republic of Germany) asked whether the Belgian text for addition to article 1 would enable a party to refuse its nationality to a person to whom the existing text for that article applied and who had committed a crime for which he would be sentenced to imprisonment for five years or more, but had not actually been sentenced to imprisonment at the time he made a declaration of the kind mentioned in the article.

Mr. BACCHETTI (Italy) said that he still entertained the misgivings regarding the Belgian delegation's text which he had expressed at the Committee's fifth meeting. The Netherlands representative's remarks regarding the question of proof were pertinent; the words "having shown himself to be obviously unworthy" were not sufficiently explicit.

Mr. CARASALES (Argentina) said that the text which the Committee had approved for article 1 was well-balanced and formed a harmonious whole. The addition of the Belgian delegation's text was not acceptable for it would result in an increase in the number of cases in which jus sanguinis parties might refuse to grant their nationality to persons, and unless an approriate clause was added to paragraph 4 of article 1 it would result in jus soli parties having to grant their nationality to persons who had committed crimes and had not been able to obtain the nationality of a jus sanguinis party.

Mr. HERMENT (Belgium) said that, clearly, his delegation's text would only enable parties to refuse to grant their nationality to persons who had committed crimes if such persons had actually been sentenced to imprisonment for five years or more; in practice, however, parties would surely be able to suspend the decision concerning the grant of nationality to persons charged with crimes punishable by imprisonment for five years or more until sentence had been passed.

It was untrue to say that the text adopted by the Committee for article 1 was harmonious for it would constrain jus sanguinis parties to grant their nationality even to persons who had shown themselves to be obviously unworthy of it.

Sir Claude COREA (Ceylon) said that he was fully in favour of embodying in article 1 the substance of the texts of the Belgian and French delegations. The wording however should be made more precise before it was put to the vote. The representative of Switzerland had explained the position very well.

Mr. ROSS (United Kingdom) asked whether the French representative intended the text he had suggested to cover more than the two types of act specifically mentioned in that text. If not, the formula of the Netherlands delegation for article 8 might be used for article 1 as well.

Mr. BACCHETTI (Italy) said that a distinction should be drawn between ordinary criminals and hot-headed youths who might be sentenced on political grounds but subsequently become worthy citizens. He therefore requested that the passages in the revised Belgian text which referred to offences against State security and to imprisonment for a criminal should be put to the vote separately.

The CHAIRMAN said that he would put to the vote first the revised Belgian text as a whole, then in paragraph 2 the passage dealing with offences against national security and finally in the same paragraph the passage restricting its application to persons sentenced for a criminal act to imprisonment for not less than five years.

Mr. HERMENT (Belgium) said that he must make it clear that he could not agree with the United Kingdom representative that the grounds for refusing an application for nationality and the grounds for depriving a person of his nationality should necessarily be identical.

In answer to a question from Mr. ROSS (United Kingdom), he said that the Belgian amendment meant that a person could be refused nationality on grounds of unworthiness other than those expressly mentioned.

Mr. HUBERT (France), agreeing with the Belgian representative's explanation, emphasized that, although the two cases mentioned specifically in the amendment were those his delegation thought most important and most likely to occur, the French Government would consider itself entitled to refuse to grant French nationality on other grounds of unworthiness as well.

After some procedural discussion, the CHAIRMAN put to the vote the Belgian amendment (A/CONF.9/L.1) as a whole, as orally amended by the French delegation.

The Belgian amendment as a whole and as orally amended was rejected by 12 votes to 11, with 8 abstentions.

The CHAIRMAN put to the vote the passage in paragraph 3 of the amendment, as orally amended, relating to activities prejudicial to national security.

That part of paragraph 3 of the amendment was approved by 16 votes to 4, with 8 abstentions.

The CHAIRMAN put to the vote the passage in paragraph 3 of the amendment, as orally amended, relating to persons sentenced for a criminal act to imprisonment for a term of not less than five years.

That part of paragraph 3 of the amendment was approved by 13 votes to 6, with 8 abstentions.

The CHAIRMAN said the text would be referred to the Drafting Committee.

After Mr. RIPHAGEN (Netherlands), Mr. BACCHETTI (Italy) and Mr. VIDAL (Brazil) had stated that they were obliged to reserve their position on article 1, as amended, the CHAIRMAN, speaking as the representative of Denmark, said that although he too wished to reserve the position of his delegation, he hoped that the efforts of the Conference to aid stateless persons would not be frustrated for the sake of a very few persons with criminal tendencies.

Mr. LEVI (Yugoslavia) said that with regard to article 8 of the draft convention he would confine his remarks to the United Kingdom amendment (A/CONF.9/L.11 and Corr.1). The distinction made in paragraph 2 of that amendment between natural-born nationals and others was unacceptable to his delegation. There were even stronger reasons for insisting on the loyalty of the former category of nationals. He therefore proposed that paragraph 2 (a) of the United Kingdom amendment should be redrafted to read:

"in the case of a natural-born national, on the ground of

(i) voluntarily entering or continuing in the service of a foreign country in disregard of an express prohibition by the Party, or

(ii) treachery or disloyalty:".

Mr. BERTAN (Turkey) said that his delegation withdrew sections (ii) and (iii) of the third paragraph of its amendment (A/CONF.9/L.25) since their provisions had been approved by the Committee.

His delegation's amendment differed from paragraph 1 of the United Kingdom amendment in restricting its provisions to nationals resident in the country. A country should not have the right to rid itself of undesirable persons by denationalizing and subsequently expelling them. Paragraph 2 of the Turkish amendment went beyond that of the United Kingdom in providing for deprivation of nationality in the case of a person who being abroad failed without good cause to report when officially called up for military service. That provision was essential in the case of countries with compulsory military service.

Mr. JAY (Canada) recalled that he had proposed that the United Kingdom amendment (A/CONF.9/L.11 and Corr.1) should be adopted as the basis for discussion of article 8.

Mr. VIDAL (Brazil) supported the Canadian proposal.

The Canadian proposal was adopted.

The CHAIRMAN pointed out that the Turkish amendment could be regarded as applying to the United Kingdom amendment.

Mr. MIMOSO (Portugal) said that the possession of a nationality was not only a human right but also a juridical reality with political implications. A State had the right to lay down conditions governing the grant of its nationality, and that right must in some cases prevail over the rights of individuals. The Portuguese National Assembly had recently enacted new nationality legislation which was inspired throughout by the desire to reduce statelessness to the minimum. The draft convention would be generally acceptable to his Government, which based its legislation on jus soli. His delegation could not however accept article 8 even with the United Kingdom amendment because the reservations it contained were not sufficiently rigorous. It was not clear why they did not cover the case of a person who had been but no longer was in the service of a foreign country, or why a person guilty of treachery should be deprived of his nationality only if he we not a natural-born national. The Yugoslav representative was right in holding that there was no reason why a State should be more generous towards a natural-born national than to a naturalized citizen. There was no such distinction in the Turkish amendment.

Portuguese nationality legislation provided for deprivation of nationality even if statelessness resulted in the case of persons who accepted public office in a foreign State or who performed their military service in a foreign State and in the case of persons convicted of offences against national security. In addition, a person might be debarred from acquiring Portuguese nationality if he had committed a serious crime. His delegation would be unable to accept any parts of the draft convention which conflicted with those provisions of Portuguese law, but he could support paragraph 2 of the French amendment (A/CONF.9/L.14), which was in keeping with Portuguese legislation.

The CHAIRMAN, in reply to a question by Mr. SIVAN (Israel), suggested that the United Kingdom amendment be discussed clause by clause.

Mr. JAY (Canada) said that he would ask for a vote on his delegation's amendment (A/CONF.9/L.36) only if the Yugoslav oral amendment to the United Kingdom amendment were rejected.

After some procedural discussion, Mr. ROSS (United Kingdom) moved the closure of the debate on his delegation's amendment as a whole.

Mr. TYABJI (Pakistan), supported by Mr. SUBARDJO (Indonesia), opposed the motion of closure on the grounds that delegations should have the opportunity of expressing their views on the amendment as a whole.

The United Kingdom motion was carried by 14 votes to 10, with 8 abstentions.

The CHAIRMAN invited debate on paragraph 1 of the United Kingdom amendment. Speaking as the representative of Denmark, he asked whether it was the intention of the Turkish delegation that paragraph 3 of the Turkish amendment should apply only to nationals not resident in the country. Did paragraph 1 of the amendment mean that nationals not resident in the country could be deprived of their nationality without the State being required to indicate that the deprivation was based on the grounds mentioned in paragraph 2?

Mr. BERTAN (Turkey) said that paragraph 3 of his delegation's amendment was independent of paragraph 1 and applied both to resident and non-resident nationals. The object of paragraph 1 was to exclude the possibility of loss of nationality in the case of citizens resident in the country. The paragraph did not mean that the State could at will deprive non-residents of their nationality. Paragraph 2 set forth the only circumstances in which such deprivation could occur.

The meeting rose at 6.20 p.m.

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GENERAL ASSEMBLY

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE THIRTEENTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 10 April 1959, at 10.15 a.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

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

Article 1 (A/CONF.9/L.42) (continued)

Mr. HARVEY (United Kingdom) said that the text (A/CONF.9/L.42) submitted by the Drafting Committee for an additional sub-paragraph to article 1, paragraph 2 of the draft convention and purporting to reproduce the sense of the oral amendment submitted by the French representative at the eleventh meeting and approved by the Committee at its twelfth meeting*, did not in fact give the sense of that amendment as his delegation had understood it when it was put to the vote.

There seemed to be three different interpretations of the oral amendment in question. Some delegations regarded it as meaning that nationality might be withheld from a stateless person if he had been convicted of an offence prejudicial to national security: others, as meaning that nationality might be withheld if the stateless person had committed an offence prejudicial to national security, whether or not he had been charged and convicted, and others, as meaning that nationality might be withheld if the stateless person had acted in a manner prejudicial to national security, regardless of whether he had committed an offence against the national laws of the contracting State. The Drafting Committee had adopted the third interpretation.

Had his delegation shared that interpretation of the oral amendment at the time when it had been submitted, it would have voted against it. Owing to the misunderstanding which had arisen, he wished to submit two alternative amendments to the Drafting Committee's text and to that end he moved that discussion of the additional sub-paragraph to article 1, paragraph 2, be re-opened.

Sir Claude COREA (Ceylon) opposed the United Kingdom motion on the ground that delegations which had not understood the oral amendment submitted at the Committee's twelfth meeting should have asked for clarification before voting took place. Completion of the Committee's work would be delayed indefinitely if discussion of proposals already adopted were to be re-opened at the request of delegations who said that they had misunderstood the proposals.

The CHAIRMAN put to the vote the United Kingdom motion that discussion of the additional sub-paragraph to article 1, paragraph 2, be re-opened.

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* See A/CONF.9/C.1/SR.11, p.10 and A/CONF.9/C.1/SR.12, p.7.

The result of the voting was as follows: 15 for, 9 against, and 8 abstentions.

The CHAIRMAN ruled that, the United Kingdom motion not having obtained the two-thirds majority of representatives present and voting required under rule 23 of the rules of procedure, discussion of the additional sub-paragraph to article 1, paragraph 2, could not be re-opened.

Article 11 (A/CONF.9/L.37, A/CONF.9/L.41) (resumed from the ninth meeting)

The CHAIRMAN, speaking as the representative of Denmark, observed that some delegations favoured the establishment of an agency to act on behalf of stateless persons as envisaged in article 11, paragraph 1 of the draft convention, but were opposed to the establishment of a tribunal for deciding disputes between Parties concerning the interpretation or application of the convention, as envisaged in the following paragraph. Other delegations were unlikely to support the establishment either of the agency or of the tribunal.

His delegation was therefore proposing that the provisions of article 11 be deleted from the convention altogether and included in a separate protocol. States which accepted the remaining provisions of the convention and were in favour of the establishment of an agency and a tribunal could then sign both the convention and the protocol. States which opposed the establishment of the agency or the tribunal or both would be able to sign the convention only.

Article 1 of the draft protocol submitted by his delegation (A/CONF.9/L.37) was similar in content to article 11 of the International Law Commission's draft convention. Article 2 of the draft protocol allowed States which were in favour of the agency but opposed to the tribunal to make a reservation to that effect. The remaining two articles were merely formal in character.

Mr. LIANG, Executive Secretary of the Conference, said that the Secretariat had prepared two models for an optional protocol of signature, which were circulated as document A/CONF.9/L.41.

The first model (Annex A) was similar in substance to the draft protocol submitted by the Danish delegation with the exception that whereas the Danish draft protocol dealt with the establishment of the agency, Annex A was drafted on the assumption that the agency was established under the terms of the convention.

The second model (Annex B) was quite different in essence from the Danish draft protocol as it referred only to jurisdiction by the International Court of Justice in disputes between States.

The two models were submitted to the Committee for reference only and were not in any sense intended as substitutes for the Danish draft protocol.

The CHAIRMAN observed that delegations might desire some further time for considering the models of optional protocols of signature, and suggested that further consideration of the matter be deferred until a later meeting.

It was so agreed.

Article 13 (resumed from the ninth meeting)

The CHAIRMAN, speaking as the representative of Denmark, repeated the proposal made by the representative of Brazil at the Committee's ninth meeting, that the right to make a reservation under article 13, paragraph 1, be confined to the first six States ratifying or acceding to the convention. The seventh, eighth and ninth States ratifying the convention would know exactly where they stood, since the convention would already be in force. They could first make the necessary changes in their legislation before ratifying or acceding to the convention. In their case, the right to make the reservation referred to in paragraph 1 was unnecessary.

Mr. TSAO (China) did not agree with the Chairman's proposal. It might be that the first six ratifications would be made three months after the signature of the convention and the seventh ratification only five or six months later. If the Chairman's proposal were adopted, the seventh State to ratify the convention would be deprived unjustly of its right to make a reservation.

Mr. JAY (Canada) said that the difficulty to which the Chairman had drawn attention might be overcome if amendments were made both to article 13, paragraph 1, and to article 14. In article 13, paragraph 1, the words "for a period not exceeding two years" might be replaced by the words "until the entry into force of the convention" and in article 14 the words "on the ninetieth day" be replaced by the words "two years", or "one year" if the Committee preferred a shorter period.

Mr. HERMENT (Belgium) said that he failed to see why States should not be required to execute the convention immediately after ratification.

Mr. CARASALES (Argentina), seeing no reason to provide for the possibility of making a reservation at the time of signature, proposed that the word "signature" be deleted from paragraph 1.

Mr. LEVI (Yugoslavia), agreeing with the previous speaker, said that the only reservation which could possibly be made at the time of signature was "subject to ratification".

Mr. HARVEY (United Kingdom) said that the representative of Argentina had raised a point which the United Kingdom delegation had brought up when the article had first been discussed. It was hard to understand what real meaning could be attached to a reservation made by a State at the time of signature reserving its right not to implement the convention for two years. Such a reservation could be made only at the time of ratification. For the sake of clarity the word "signature" and the comma following it should certainly be deleted.

The CHAIRMAN, speaking as the representative of Denmark, supported the amendment proposed by the United Kingdom representative.

The amendment was approved.

Mr. BUSHE-FOX (United Kingdom) said that his delegation would have some difficulty in accepting the suggestion that the application of the convention should be postponed for a certain period after it had been ratified. It was inconsistent with the general principle that a convention should not be ratified by a country unless it was in a position to give effect to it.

The Committee was dealing with a situation in which a convention would enter into force when there had been a comparatively small number of ratifications. It was unlikely that the initial small number of ratifications would be prevented from being obtained simply because some countries were unwilling to make the necessary legislation effective until there was a measure of reciprocity on the part of other States. To that extent the assumption on which the procedure suggested in paragraph 1 of the article was based was questionable; even if it were limited to the first six Parties which ratified, it might still be possible for the convention to be in force in theory though its application was postponed for a considerable period. A convention should be applied from the moment it entered into force; the United Kingdom delegation must therefore continue to oppose paragraph 1 of the article.

Mr. HERMENT (Belgium), supported by Mr. TYABJI (Pakistan), associated himself with the United Kingdom representative's statement and proposed the deletion of paragraph 1.

The Belgian representative's proposal was adopted by 13 votes to 5, with 13 abstentions.

The CHAIRMAN said that as a result of the deletion of paragraph 1 paragraph 2 would be referred to the Drafting Committee.

Article 14 (resumed from the ninth meeting and concluded)

The CHAIRMAN, speaking as the representative of Denmark, said that as a result of the vote on article 13, paragraph 1, he wished to propose that the words "on the ninetieth day" in article 14, paragraph 1 be replaced by the words "two years". In that connexion a number of conventions adopted in recent years had not yet been ratified because of the time taken by the legislative processes of some States.

Mr. HERMENT (Belgium) supported by Mr. BEN-MEIR (Israel), suggested a period of one year.

Mr. JAY (Canada), supported by Mr. TSAO (China), pointed out that, although he understood why certain representatives thought that the period specified in paragraph 1 should be reduced, the legislative processes in some countries took longer than one year to complete. His delegation therefore supported the Danish amendment.

Mr. CARASALES (Argentina) said that as the date of entry into force of the convention would be linked with the number of instruments of accession or ratification deposited, if the Committee accepted the Danish amendment the necessary number of ratifications should be reduced to three.

Mr. BUSHE-FOX (United Kingdom) observed that it was normal that a convention or treaty should not be ratified unless it was possible within domestic law for a State to give effect to it. He would agree however that in the case of the convention under consideration it would be proper to provide a much longer period than usual. The voting on article 13, paragraph 1 had taken place in the knowledge that an amendment would be proposed to article 14, paragraph 1, and if a relatively short period for the entry into force after deposit of a certain number of ratifications were retained it would be somewhat unfair to those delegations which had voted for the deletion of article 13, paragraph 1.

Mr. HERMENT (Belgium) pointed out that States could prepare amendments to their domestic legislation before the convention entered into force.

Mr. RIPHAGEN (Netherlands) considered that the two paragraphs of the article were connected and that paragraph 2 would have to be amended if the Danish amendment to paragraph 1 were adopted.

The CHAIRMAN, speaking as the representative of Denmark, disagreeing, pointed out that the words "subsequently to the latter date" in paragraph 2 referred to the date on which the convention entered into force.

Mr. JAY (Canada) said that paragraph 2 referred to States which ratified the convention after it had entered into force. He could accept the change proposed in paragraph 1 but would have to vote against a similar amendment being made to paragraph 2.

Mr. LEVI (Yugoslavia) suggested that if the words "subsequently to the latter date" in paragraph 2 were replaced by the words "after the entry into force of the convention" the difficulties of certain delegations might be removed.

Mr. BUSHE-FOX (United Kingdom) said that the Yugoslav suggestion did not solve the problem, since it would entail a further amendment of paragraph 2 to cover the case of States which became Parties to the convention between the date of deposit of, say, the sixth ratification and the date of entry into force of the convention.

Mr. JAY (Canada) considered it otiose to make provision for the States which the United Kingdom representative had in mind.

Mr. BEN-MEIR (Israel) suggested that the Committee should decide forthwith on the number of ratifications necessary to bring the convention into force.

The CHAIRMAN, speaking as the representative of Denmark, recalled that at the Geneva Conference on the Status of Refugees, the Danish delegation's suggestion that two ratifications should be sufficient to bring the convention on the status of refugees into force had been rejected and the figure of six had finally been agreed on. He therefore proposed that the convention on the reduction of future statelessness should enter into force after six instruments of ratification or accession had been deposited.

Mr. SCHMID (Austria), Mr. JAY (Canada) and Mr. ROSS (United Kingdom) supported that proposal.

The proposal was approved by 29 votes to none, with 3 abstentions.

The Danish amendment to article 14, paragraph 1 that the words "on the ninetieth day" be replaced by the words "two years" was approved by 19 votes to 3, with 9 abstentions.

Mr. TSAO (China) said that he had voted for the period of two years as a matter of principle and suggested that the text of paragraph 1 be referred to the Drafting Committee.

It was so agreed.

Article 14, paragraph 1, as amended, was approved by 29 votes to none, with 5 abstentions.

Mr. LEVI (Yugoslavia) asked that the amendment he had proposed to paragraph 2 should be referred to the Drafting Committee.

Article 14, paragraph 2 was approved.

Article 14, as a whole and as amended, was approved by 29 votes to none with 3 abstentions.

New draft article (A/CONF.9/L.38)

The CHAIRMAN, speaking as the representative of Denmark, proposed the inclusion in the convention of a new draft article (A/CONF.9/L.38) to the effect that the provisions of the convention should be without prejudice to any provisions more favourable to the reduction of statelessness contained in the laws of any Contracting State or contained in any other convention between two or more Contracting States.

Mr. JAY (Canada), Mr. ROSS (United Kingdom) and Rev. FATHER DE RIEDMATTEN (Holy See) supported the Danish proposal.

The CHAIRMAN put the Danish proposal (A/CONF.9/L.38) to the vote.

The Danish proposal was adopted unanimously.

Effect of the convention: report of the Working Group (A/CONF.9/L.30) (resumed from the sixth meeting)

Mr. MEYER (Switzerland), introducing the report (A/CONF.9/L.30) of the Working Group on the effect of the convention set up at the sixth meeting,

observed that both draft conventions prepared by the International Law Commission had provided for the acquisition of nationality at birth. It was clear therefore that articles 1 to 4 of those draft conventions would have applied only to children born after the conventions had entered into force.

The new draft approved by the Committee however had adopted another system which, in addition to automatic acquisition of a nationality at birth, established that nationality might be conferred after birth on stateless persons who lodged an application when they reached the age of eighteen. If that provision were only applied to persons born after the convention had come into force, a State making use of its reservations under article 1, paragraph 2(a) might defer the application of article 1 by 18 years, which would be manifestly absurd. The Working Group had encountered no difficulty in drafting a text which would provide for the application of paragraphs 1 and 2 of article 1 not only to persons born after the convention came into force but also to persons born before it came into force, so long as they satisfied the conditions which a Party demanded of them.

It had been further decided that the time of application for the provisions of article 4 should be the same as that for article 1, paragraphs 1 and 2; and paragraph 1 of the proposed new article thus coupled articles 1 and 4 together in the opening words "A Contracting Party which does not grant its nationality at birth by operation of law in accordance with articles 1 or 4".

The Working Group had decided on a slightly different arrangement for the operation of article 1, paragraph 3. Article 2, dealing with foundlings, should clearly apply only to abandoned children found after the entry into force of the convention, whose main purpose was the reduction of future statelessness. No special provision seemed to be required concerning the time of application of article 3, which did not in itself give grounds for the acquisition of nationality and was merely an appendage to article 1. Finally, it was quite clear that articles 5 - 9 could only apply to a loss of nationality occurring after the entry into force of the convention. The Working Group had mentioned those articles in its draft, on the proposal of the representative of Israel, but the reference could be deleted if the Committee wished.

Mr. ROSS (United Kingdom), supporting the draft article prepared by the Working Group, emphasized that under it a country granting nationality at

birth under articles 1 or 4 was not obliged also to confer it on persons born before the convention came into force, though it still had freedom to do so if it wished.

Mr. HERMENT (Belgium), supported by Mr. BACCHETTI (Italy), criticized the use of the negative in paragraph 2 of the draft article. He would have preferred a draft similar to that of paragraph 1, namely "Paragraph 3 of article 1 shall apply in regard also to persons who were born before the convention comes into force".

Mr. ROSS (United Kingdom) said that the use of the negative in paragraph 2 of the draft article was justified. The sense of the paragraph was that if a person born before the convention came into force and entitled to apply for nationality under article 1, paragraph 1(b) failed to do so, he would not be debarred from applying under article 1, paragraph 3 by the mere fact of his having been born before the convention came into force.

Mr. MEYER (Switzerland) observed that the text proposed by the representative of Belgium was acceptable and might be referred to the Drafting Committee.

Mr. HERMENT (Belgium) suggested that paragraph 4 of the draft article as it stood might have some awkward consequences. He could not believe that the Working Group really intended that provisions as to loss of nationality under articles 8 or 9 should apply only to events occurring after the entry into force of the convention.

Mr. BEN-MEIR (Israel) said that paragraph 4 of the draft article had been included at his suggestion and approved by the Working Group without discussion. He would be the first to admit that the wording had not received adequate consideration by the Group and that the objections of the Belgian representative were sufficiently well-founded in respect of article 8 to justify further examination by that body.

The CHAIRMAN suggested that paragraph 4 of the draft article might be referred back to the Working Group for further consideration.

It was so agreed.

The CHAIRMAN declared closed the discussion on paragraphs 1, 2 and 3 of the draft article contained in the report of the Working Group on the effect of the convention (A/CONF.9/L.30).

He put to the vote, separately, paragraphs 1, 2 and 3 of the draft article.

Paragraphs 1, 2 and 3 of the draft article were adopted unanimously.

Territorial application clause (A/CONF.9/L.26 and L.29)

Mr. HERMENT (Belgium) said that his delegation's proposal for a territorial application clause (A/CONF.9/L.29) should be regarded as an amendment to the United Kingdom proposal on the same subject (A/CONF.9/L.26).

Mr. HARVEY (United Kingdom) said that from a procedural point of view his delegation could accept the Belgian representative's statement.

The new article proposed by the United Kingdom delegation already appeared in the Convention on the Nationality of Married Women. His delegation had considered it necessary to submit the clause because the organization of the British Commonwealth was extremely complex and included lands in various stages of constitutional development. Her Majesty's Government in the United Kingdom was completely responsible for the government of some small territories, but there were also States within the Commonwealth which enjoyed complete independence. Some members of the British Commonwealth were at a half-way position: although the United Kingdom was responsible for their international relations they had their own nationality laws. The purpose of the proposed clause was to ensure that the United Kingdom Government, when it signed and ratified the convention, would not be binding itself in respect of territories which were autonomous in regard to their nationality laws, although it was responsible for their international relations.

The difference between the two proposals before the Committee was one of form only. If the Committee preferred the Belgian proposal the United Kingdom delegation would vote for it, otherwise it would probably abstain.

Mr. HERMENT (Belgium) said that the Belgian delegation had been unable to support the Convention on the Nationality of Married Women referred to by the United Kingdom representative. The Belgian proposal before the Committee was based on a clause in the Convention relating to the Status of Stateless Persons.

Mr. CARASALES (Argentina) expressed the view that there was a substantial difference between the two drafts before the Committee. In the United Kingdom draft a distinction was made between three classes of territory, namely, the metropolitan territory, non-metropolitan territories which had gained a certain

degree of independence and which would have to be consulted by the Contracting State responsible for them and non-metropolitan territories which had not gained that degree of independence and would therefore not have to be consulted by the Contracting State concerned. Under the United Kingdom proposal the convention would automatically apply to the first and third classes and the Contracting State would merely have to submit a list of such territories.

The Belgian draft, on the other hand, left a State entirely free to decide whether or not the convention should be applied to non-metropolitan territories which did not have to be consulted. The Argentine delegation would therefore prefer the United Kingdom proposal. Argentina was opposed to all colonial systems and in that attitude was supported by all Latin American countries.

Mr. LEVI (Yugoslavia) said that he had received instructions from his Government to vote against both the United Kingdom and the Belgian proposals as the Yugoslav Government opposed all territorial clauses as a matter of principle.

Mr. SUBARDJO (Indonesia) supported that view.

Mr. HUBERT (France) said that he could accept paragraph 1 of the Belgian proposal subject to certain drafting changes which he would suggest to the Drafting Committee. Paragraph 2 of the proposal was also acceptable but the final words of paragraph 3, beginning from the words "subject, where necessary", should be deleted.

Mr. HERMENT (Belgium) accepted that amendment.

Mr. TSAO (China) said that he understood that the intention of the United Kingdom proposal was not to discriminate against any of the territories for whose international relations it was responsible, but rather to respect their rights. It was for that reason that his delegation had been able to support the similar clause in the Convention on the Nationality of Married Women and would support the inclusion of the clause proposed by the United Kingdom delegation.

He agreed with the Argentine representative's comment on the Belgian proposal and would abstain from voting on it.

Mr. KANAKARATNE (Ceylon) suggested that the Committee should first consider whether a territorial clause was required. If it decided in the affirmative the Drafting Committee could decide on the type of clause to be included.

Mr. TYABJI (Pakistan) said that his delegation did not regard the Belgian proposal as an amendment to the United Kingdom proposal. Under the rules of procedure the latter, which had been submitted first, should be voted on first.

Mr. HARVEY (United Kingdom) said that he could not agree that the Drafting Committee should decide what type of territorial clause should be included in the convention. The two proposals before the Committee were based on similar texts which already appeared in other conventions and had thus been carefully considered by various drafting committees.

Referring to the Pakistan representative's suggestion, he would point out that the United Kingdom delegation had already accepted the Belgian proposal as an amendment to its own proposal.

The CHAIRMAN ruled that the Belgian proposal should be voted on first. It would be difficult for the Drafting Committee to prepare a third text for consideration by the Committee.

The Belgian proposed new article containing a territorial application clause (A/CONF.9/L.29), as amended, was approved by 12 votes to 9, with 11 abstentions.

The meeting rose at 1.10 p.m.

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE FOURTEENTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 10 April 1959, at 3 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LLING, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations attending the Conference was issued as document A/CONF.9/3.

A list of documents pertaining to the Conference was issued as document A/CONF.9/L.79.

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

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

Article 8 (A/CONF.9/L.11 and Corr.1, L.25, L.32, L.36, L.45, L.46) (resumed from the twelfth meeting)

The CHAIRMAN said that, since all the amendments to article 8 of the draft convention, except the French amendment (A/CONF.9/L.14), related to paragraph 2 of the United Kingdom amendment (A/CONF.9/L.11 and Corr.1), that paragraph should be considered first.

He drew attention to paragraphs 1 and 2 of the Yugoslav amendment (A/CONF.9/L.46) and to paragraph 1 of the Canadian amendment (A/CONF.9/L.36).

Mr. JAY (Canada) said that, as he had stated at the twelfth meeting, his delegation would press its amendment to a vote only if the Yugoslav amendment were rejected.

Mr. LEVI (Yugoslavia), observing that paragraph 3 was dependent upon the adoption of paragraphs 1 and 2 of his delegation's amendment, stressed that the proposal was intended to ensure equal treatment of natural-born and naturalized persons.

The CHAIRMAN said that the Yugoslav representative would be given an opportunity to indicate the consequences of paragraphs 1 and 2 of his amendment if they were adopted.

Mr. CALAMARI (Panama) proposed that the words "in disregard of an express prohibition by the Party" in paragraph 2(a) and paragraph 2(b) (iii) of the United Kingdom amendment be replaced by the words "without the authorization of the Party". The provisions of the United Kingdom amendment would apply only to nationals already in the service of a foreign country since there could, in the nature of things, be no general prohibition preventing them from entering such service. An express prohibition would be required in each individual case. His delegation's amendment on the other hand would discourage nationals from entering foreign service since they would be aware of the consequences of such action; very few cases would be likely to occur. He had considered inserting in his amendment the word "previous" to qualify the word "authorization" but had decided not to do so because it seemed more liberal to give a person who had in ignorance entered the service of a foreign country an opportunity to apply for authorization ex post facto.

Mr. TYABJI (Pakistan) said the principle that a person could not, for valid reasons, be deprived of his nationality if statelessness would result was quite unacceptable to his delegation, especially because the exceptions listed in the United Kingdom amendment did not cover all the provisions of Pakistani nationality law. It was clear that no State would deprive a person of his nationality except for the gravest reasons. It was, therefore, a surprising consequence of the article that a person regarded as undesirable by one country should be given the right to acquire the nationality of another. The United Kingdom amendment provided for deprivation of nationality under certain conditions; the Pakistani delegation had proposed that a person might lose his nationality if while resident abroad he failed to register with a mission of the State of nationality within seven years, or if he had been sentenced to a term of imprisonment of one year. The difference between the points of view of the two delegations was consequently one of degree only, and it was hard to see why no concession had been made to his delegation's point of view.

His delegation's amendments, however innocuous, had been persistently opposed on the grounds that they were not in the interests of stateless persons. He would have found the position of other delegations, and in particular that of the United Kingdom, easier to understand if they had not made an exception in the case of criminals, the very case in which it was most necessary that a State should retain its responsibility. The effect of the United Kingdom amendment would be that the more notorious the criminal, the more readily he could be deprived of his nationality, and either become stateless or be foisted on some other country. Since exceptions were apparently admissible, it was difficult to understand why his delegation's amendment could not be accepted, for it would mean that a lesser criminal - one sentenced to only one year's imprisonment - could be deprived of his nationality. Pakistani legislation made no distinction between natural-born and naturalized nationals, so that his point respecting residence abroad would be met if the words "other than a natural-born national" were deleted from paragraph 2(b) of the United Kingdom amendment.

Mr. HARVEY (United Kingdom) said that his delegation would have preferred to exclude altogether the possibility of deprivation of nationality in the case of natural-born nationals. It had, however, respected the view of the International Law Commission, whose draft of article 8 allowed such

deprivation, though still holding that such deprivation should be regarded as an exception. Furthermore, it recognized that if the State could deprive a citizen of its nationality by reason of his voluntarily entering or continuing in the service of a foreign Power, then, a fortiori, the State should have the same right in the much graver cases of treason or disloyalty. Paragraph 2 of the Yugoslav amendment therefore was acceptable in principle, although the drafting might have to be revised.

Paragraph 1 of the Yugoslav amendment seeking to make no distinction between natural-born and naturalized nationals was not acceptable.

There was no objection in principle to the Panamanian oral amendment, but it was not to be preferred to the wording of paragraph 2(a) of the United Kingdom amendment, which followed the Commission's draft and, while empowering the State to deprive a person of its nationality, did not put the person in the position where he could lose his nationality almost without knowing it.

Mr. LEVI (Yugoslavia) said that he would agree to drafting changes in his delegation's amendment, provided that its principle was maintained.

Mr. BACCHETTI (Italy) said that his delegation was prepared - though somewhat reluctantly - to vote for paragraph 2(a) of the United Kingdom amendment.

The Panamanian amendment was unacceptable; the word "prohibition" was preferable to the word "authorization", since the former placed upon the State the responsibility for initiating action and more effectively safeguarded the rights of the individual.

Paragraph 2 of the Yugoslav amendment was also unacceptable because the terms treachery and disloyalty had no precise legal significance. In that matter the Committee should proceed with the utmost caution since a most important principle was involved. Paragraph 3 of the United Kingdom amendment did, it was true, provide for submission of the case to an independent body of a judicial character. But that provision would not become operative until after the person concerned had been deprived of his nationality. His delegation's view was that it should not be possible to deprive a person of his rights before his case had been tried by a judicial body. In that connexion the principle contained in the Netherlands amendment (A/CONF.9/L.32) might well be approved.

Mr. SCHMID (Austria) said that his country's nationality legislation recognized only one ground for deprivation of nationality, regardless of whether

statelessness resulted. Since it was similar to those provided for in paragraphs 2(a) and 2(b) (iii) of the United Kingdom amendment, he would vote for that amendment but could not accept the Yugoslav and Panamanian amendments thereto.

Mr. JAY (Canada) reiterated that his country's legislation did not provide for deprivation of nationality by way of penalty. Nevertheless he could support paragraph 2 of the Yugoslav amendment since the convention was bound to contain provisions differing from the municipal law of his own and other countries.

The United Kingdom argument that if the less serious grounds for deprivation contained in paragraph 2(a) of the United Kingdom amendment were admissible it was only logical to include more serious grounds as well was a sound one.

Mr. VIDAL (Brazil) said that he would vote for the United Kingdom amendment, but in view of the Panamanian representative's argument the words "in disregard of an express prohibition by the Party" might be deleted from its paragraph 2(a) so that the Parties would be free either to prohibit foreign service or to require its citizens to obtain permission for the purpose of entering or remaining in it.

Sir Claude COREA (Ceylon) agreed with the Yugoslav representative that a State should have the right to deprive disloyal citizens of their nationality whether they were natural-born or naturalized and would vote for the Yugoslav amendment.

There was a question whether the word "service" in paragraph 2(a) of the United Kingdom amendment should be understood to apply to military service only.

Mr. SCHMID (Austria) said that the provision for deprivation of nationality on the ground of service in a foreign country was a practical measure rather than a penalty. The case was rather similar to that of persons with dual nationality who could, in accordance with the legislation of most countries, be more rapidly deprived of their nationality than others.

He supported the proposal of the Brazilian delegation.

Mr. ABDEL MAGID (United Arab Republic) said that since there seemed to be general agreement that nationality had not only legal but also political implications he would support the Yugoslav amendment.

In his understanding the word "service" in paragraph 2(a) of the United Kingdom amendment meant service in general and not merely military service.

Service as a political adviser to a foreign Power might, for example, be a more serious offence than military service.

He would support the Panamanian representative's oral amendment, which seemed to show more liberality to the individual than the United Kingdom text.

Mr. JAY (Canada), referring to the Austrian representative's remarks, pointed out that the International Law Commission's draft provided for deprivation of nationality on grounds less serious than some of those mentioned during the discussion. It was only logical, if a person could be deprived of his nationality on less serious grounds, to make provision also for deprivation of nationality on more serious grounds.

Mr. CARASALES (Argentina) expressed the view that a provision empowering the State to deprive a citizen of its nationality on the ground of any kind of foreign service would be excessively harsh.

He would ask whether the words "express prohibition" in the United Kingdom amendment referred to a general or to an individual prohibition.

Mr. MIMOSO (Portugal) said that his delegation would support the first three paragraphs of the Yugoslav amendment. If they were rejected he would vote against paragraph 2(a) of the United Kingdom amendment.

Mr. RIPHAGEN (Netherlands) said that if paragraph 2 of the Yugoslav amendment were put to the vote, he would submit as an amendment thereto the text contained in his delegation's amendment.

Sir Claude COREA (Ceylon) observed that an important difference between the Yugoslav amendment and the Netherlands amendment to it was that the former did not require the person to have been convicted of treachery or disloyalty. Treachery and disloyalty were not legal terms and the Yugoslav amendment was preferable because the State had to be protected against treacherous and disloyal citizens whether convicted by a court or not.

Mr. HERMENT (Belgium) opined that the word "service" should be construed to mean civil as well as military service. The words "an express prohibition" would refer to a prohibition applied to a specific person.

His delegation would have preferred that there should be no provision in the convention for deprivation of nationality, which was a common cause of statelessness, but would not oppose its inclusion since it appeared to be considered essential by a number of delegations.

Mr. LIANG, Executive Secretary of the Conference, responding to a number of requests for information concerning the intentions of the International Law Commission in including the words "service" and "express prohibition" in its draft of article 8, said he could not find in the Commission's report on its fifth session (A/2456) any evidence concerning its intentions. In his personal view, however, service in general was meant in the first case and either a prohibition in the municipal law of the Party or a specific prohibition applying to an individual in the second.

Mr. ROSS (United Kingdom) observed that, although the words occurred in the United Kingdom amendment, his delegation could not undertake to provide a definitive interpretation of them since it had merely adopted them from the International Law Commission's draft. For his own part he agreed with previous speakers that "service" was not confined to military service. It was to be hoped that the carefully formulated text of the Commission would be acceptable.

The Panamanian amendment seemed to go further than the International Law Commission had intended.

His delegation would oppose the Netherlands proposal. He pointed out that paragraphs 2(a) and 2(b) of the United Kingdom amendment were subject to the provisions of paragraph 3 of that amendment.

Mr. BACCHETTI (Italy) subscribed to the view that the intention of the amendment was to cover both civil and military service. If the International Law Commission had wished to restrict the case to military service it would surely have done so.

Mr. LEVI (Yugoslavia) recalled that his delegation had, in a spirit of compromise, voted in favour of a number of articles which were not in accordance with Yugoslav law. His country had, however, bitter memories of wartime traitors and if his amendment were rejected the odds were against his being able to vote for the United Kingdom amendment.

Mr. CALAMARI (Panama) expressed support for the Brazilian proposal that the words "in disregard of an express prohibition by the Party" should be deleted from paragraph 2(a) of the United Kingdom amendment.

The Brazilian proposal that the words "in disregard of an express prohibition by the Party" be deleted from paragraph 2(a) of the United Kingdom amendment (A/CONF.9/L.11 and Corr.1) was rejected by 18 votes to 6, with 6 abstentions.

The Panamanian representative's proposal that the words "without the authorization of the Party" be substituted for the words "in disregard of an express prohibition by the Party" was rejected by 16 votes to 4, with 9 abstentions.

Paragraph 2(a) of the United Kingdom amendment was approved by 19 votes to 2, with 8 abstentions.

The CHAIRMAN said that he intended to treat the Netherlands representative's oral proposal regarding treachery and disloyalty as a proposal for the amendment of the United Kingdom text, and since that proposal was not so far removed from that text as paragraph 2 of the Yugoslav amendment he would put the latter to the vote first.

Mr. RIPHAGEN (Netherlands) said that his proposal was meant as an amendment to the Yugoslav amendment, but that he would have no objection to the procedure indicated by the Chairman.

The CHAIRMAN put to the vote paragraph 2 of the Yugoslav amendment (A/CONF.9/L.46).

Paragraph 2 of the Yugoslav amendment was rejected by 12 votes to 10, with 8 abstentions.

Mr. RIPHAGEN (Netherlands) said that in view of the rejection of paragraph 2 of the Yugoslav amendment he would withdraw his proposal.

Mr. JAY (Canada) said that he would have withdrawn paragraph 1 of his amendment (A/CONF.9/L.36) to paragraph 2(a) of the United Kingdom amendment if paragraph 2 of the Yugoslav amendment had not been rejected.

The words in his amendment "when not under a disability" were intended to cover cases of duress and mental disorder as well as minority.

Mr. ROSS (United Kingdom) asked whether the Canadian representative would not agree to the deletion of the words "when not under a disability", for if they were included in paragraph 2(a) they should be added to many other clauses in the draft convention.

Mr. JAY (Canada) agreed to the deletion of the words in question.

Mr. HERMENT (Belgium) said that if the Canadian amendment were accepted it would partly contradict the rest of paragraph 2(a), for under it a young man who, with the permission of the authorities of his country, joined the military forces of a foreign country and took an oath on doing so could be deprived of

his nationality, whereas under paragraph 2(a) of the United Kingdom amendment persons who entered the service of a foreign country could be deprived of their nationality only if they were forbidden to do so by the authorities of their country.

Mr. JAY (Canada) said that his delegation's amendment related to a far more serious matter than some of those covered by the part of the United Kingdom amendment as approved by the Committee. That text would make it permissible for a Party to deprive of its nationality even a labourer employed on the construction of a government building by a foreign State.

The CHAIRMAN, recalling the ruling he had made at the twelfth meeting regarding discussion of the question of renunciation of nationality, ruled that the Committee could not vote on the words in paragraph 1 of the Canadian amendment "or (2) of having made a declaration renouncing his nationality". He put paragraph 1 of that amendment (A/CONF.9/L.36), without those words and also without the words "when not under a disability", to the vote.

Paragraph 1 of the Canadian amendment, as amended, was approved by 8 votes to 7, with 15 abstentions.

Mr. BERTAN (Turkey) said that the Committee should discuss paragraph 2 of the amendment (A/CONF.9/L.25) submitted by his delegation as a substitute for paragraph 1 of the International Law Commission's text for article 8, since the contents of that paragraph were related to paragraph 2(a) of the United Kingdom amendment.

The CHAIRMAN said that the only part of the passage in the Turkish amendment relating to natural-born nationals which was not covered by paragraph 2(a) of the United Kingdom amendment was that reading "or if, being abroad, he is liable for military service and fails without good cause to report when officially called-up". He invited discussion on those words.

Rev. Father de RIEDMATTEN (Holy See) said that the inclusion of the words would tend to increase statelessness. He was opposed to it.

Mr. BERTAN (Turkey) said that he was proposing that the substance of those words be added to paragraph 2(a) of the United Kingdom text. His delegation had included them in its text because persons who were required by the authorities of their country to perform military service and who were living abroad could not be extradited from the foreign country of residence on the

ground that they were required to perform military service by the authorities of their country; and in many countries, including Turkey, no one who was not actually present in the country could be convicted. Only a very small number of people would be affected by the inclusion of the words.

The proposal to add the substance of the words in question to paragraph 2(a) of the United Kingdom amendment was rejected by 15 votes to 2, with 13 abstentions.

Paragraph 2(a) of the United Kingdom amendment, as amended, was approved by 10 votes to 4, with 16 abstentions.

The CHAIRMAN invited consideration of paragraph 2(b) of the United Kingdom amendment and on the amendments thereto.

Mr. FAVRE (Switzerland) said that clause (i) of paragraph 2(b) of the United Kingdom text would create great insecurity. It would enable parties to deprive persons of their nationality many years, even twenty or more, after it had been granted. The clause would tend to increase statelessness.

Mr. HERMENT (Belgium) said that in general authorities looked on persons who had been deprived of a nationality with less benevolence than on people who had always been stateless.

Mr. LEVI (Yugoslavia) withdrew paragraph 3 of his delegation's amendment (A/CONF.9/L.46).

Sir Claude COREA (Ceylon) requested that his delegation's amendment (A/CONF.9/L.45) be treated as a proposal for an additional new sub-paragraph (c) so that it would apply to natural-born as well as to naturalized nationals.

The CHAIRMAN ruled that the Committee could not accede to the request of the representative of Ceylon as it had already disposed of the whole of that part of paragraph 2 which related to natural-born nationals.

The meeting rose at 6.20 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE FIFTEENTH MEETING

held at the Palais des Nations, Geneva, on Saturday, 11 April 1959, at 10 a.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

CONTENTS:

Examination of the question of the elimination or reduction of future statelessness (item 7 of the Conference agenda) (continued)

Draft convention on the reduction of future statelessness (continued)

Article 8 (continued)

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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(13 p.)

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

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

Article 8 (A/CONF.9/L.11 and Corr.1, L.25, L.32, L.36, L.45, L.46) (continued)

Mr. SCHMID (Austria) said that his delegation could not support paragraph 2 (b) of the United Kingdom amendment (A/CONF.9/L.11) to article 8 of the draft convention since Austrian law did not differentiate between natural-born and naturalized citizens; in a spirit of compromise, however, it would not vote against the paragraph.

His Government would not be willing to sign a convention which would force it and others like it in Europe to accept countless refugees, whereas overseas countries were able to pick and choose their new nationals. His delegation would therefore vote against any provision in the convention which would create more cases of statelessness in the future.

Paragraph 2 (b) (i) giving a party the power to deprive a person of his nationality on the ground of false representation or fraud for the purpose of obtaining the party's nationality might with advantage be replaced by a stipulation that nothing in paragraph 2 should be construed as preventing a State from declaring null and void nationality which had been acquired by fraud. He would welcome such an amendment since the provision as drafted raised some difficulties for the Austrian delegation.

Rev. Father de RIEDMATTEN (Holy See) said that he was not in favour of listing the grounds on which a party might deprive one of its nationals of nationality; it would be better to amend article 13 to provide for reservations by parties relating to deprivation of nationality.

The question arose whether a minor who had acquired nationality through the naturalization of his parents would be within the scope of paragraph 2 (b): there were no grounds for making a distinction between such a minor and a natural-born citizen. Difficulties would certainly arise if a distinction were made between natural-born and naturalized citizens in the matter of deprivation of nationality. Paragraph 1 of the Turkish delegation's amendment (A/CONF.9/L.25) could be accepted by his delegation.

He supported the Netherlands amendment (A/CONF.9/L.32) to paragraph 2 (b) (ii) of the United Kingdom amendment but could not accept sub-paragraph (iv) unless it were amended in the sense of article 7, paragraph 4.

Mr. BACCIETTI (Italy) referring to the statement made by the Swiss representative at the previous meeting, said that his delegation fully shared the view that efforts must be made to reduce future statelessness to the minimum.

He supported article 8 as drafted by the International Law Commission, but not the United Kingdom amendment as it stood because it differentiated between natural-born and naturalized nationals, and listed grounds on which a citizen could be deprived of his nationality.

Paragraph 2 (b) (i) of the United Kingdom amendment conferred too much power on a party. Such a threat should not be allowed to hang over a person for an unlimited time and after a certain period had elapsed following naturalization Governments should not be permitted to take action on the grounds mentioned. Deprivation of nationality affected the family of the person concerned, paragraph 2 (b) (i) should therefore be amended to include a certain time limit, say fifteen years. If that were accepted his delegation would be able to support the provision.

He considered the suggestion on article 13 made by the representative of the Holy See a good one, but thought that the article should not give States an opportunity of expanding the grounds on which a person could be deprived of his nationality.

Mr. BERTAN (Turkey) said that the amendment submitted by his delegation had been submitted as an amendment to draft article 8 prepared by the International Law Commission and not as a sub-amendment to the United Kingdom amendment. The latter proposal would lead to the creation of more cases of statelessness in the future, and although the Turkish Government was ready to amend its nationality laws to conform to the convention, it would do so only if that instrument were really calculated to reduce future statelessness.

The words "Everyone has the right to a nationality" in the preamble to the convention were of real importance and the Committee should not continually act in a spirit of conciliation and should take the law of certain States into account.

He asked that in accordance with the rules of procedure his amendment be put to the vote as a whole.

Mr. FAVRE (Switzerland) said that his delegation would have been prepared to accept article 8 as drafted. As to paragraph 2 (b) (i), of the United Kingdom amendment, the time-limit suggested by the Italian representative was too long and might be reduced to a period of five years.

His delegation would not oppose paragraph 2 (b) (ii) if it would help other countries to accede to the convention. But, without proposing a formal amendment, he suggested that it would be preferable to exclude such a provision, since what might be called treachery or disloyalty in one country might not be so regarded in another. The sponsor of the amendment certainly did not need such a provision in a convention and its inclusion might justify acts contrary to the principles accepted by the civilized world.

Sir Claude COREA (Ceylon) said that article 8 was one of the most important articles of the convention since it concerned both the interests of the party and those of the person concerned.

There was a case for paragraph 2 (b) (i) of the United Kingdom amendment, but he could not support the Italian representative's proposal that action by the party concerned should be barred after a certain lapse of time.

While he had no objection to the grounds for deprivation of nationality being listed, such a list might become endless. It would be therefore wiser to insert a general clause in the convention giving a party the right to deprive a national of his nationality in certain circumstances. In that connexion, he would draw attention to paragraph 3 of the United Kingdom amendment, and to the amendment submitted by the delegation of Ceylon (A/CONF.9/L.45), which might be adopted as a general clause rather than as a new sub-paragraph of paragraph 2 (b).

Mr. MEHTA (India) said that under Indian law the Government had the right to deprive such a person of his nationality in certain specified circumstances, e.g. if registration or naturalization were obtained by fraud, false representation or concealment of material fact, or if by act or speech a person had shown himself to be disloyal or disaffected towards the Constitution of India. Such a person could also be deprived of his nationality if in wartime he unlawfully traded with or in any way assisted the enemy or if within five years of his naturalization he were sentenced to imprisonment for a term of not less than two years. Lastly, a citizen could be deprived of his nationality if he resided abroad for a continuous period of seven years without registering annually his intention to retain his Indian citizenship.

The Government of India attached importance to that right, for otherwise it would have no means of withdrawing its nationality from a person who might have acquired it by naturalization or registration but who might prove to be thoroughly unworthy.

As the United Kingdom proposal was in substance in accord with the Indian position, his delegation would support it, but considered that a Government should have the right to withdraw its citizenship from a naturalized national during an initial period if he were proved guilty of an offence and sentenced to imprisonment for a period of not less than two years, provided that the Government was satisfied that it was contrary to the public interest for such a person to continue to be a citizen. Since in that respect the Yugoslav amendment (A/CONF.9/L.46) covered that point, he would support it.

Mr. JAY (Canada) said that he respected the views of those delegations which believed that a Government had no right to deprive a national of his nationality on any ground whatsoever, especially since they were ready to move away from that position in an attempt to meet the views of other countries. All delegations were convinced that the right to deprive a person of his nationality should be restricted in the convention, but the Canadian delegation could not accept article 8 as drafted by the International Law Commission since it recognized only one broad and unimportant ground of deprivation.

There were many ways of approaching the problem. The suggestion however that article 13 might provide some right of reservation as to deprivation of nationality might make the convention meaningless if too broad, while an attempt to restrict it would provoke the same discussion as under article 8. It would be preferable to have a general clause of reasonably limited scope covering deprivation under article 8; failing that, he would support the enumeration of grounds for deprivation of nationality contained in that article.

He could not accept the suggested five-year period in the Netherlands amendment for it would conflict with Canadian law.

Mr. IRGENS (Norway) explained that a natural-born Norwegian national could not be deprived of his nationality on any grounds whatsoever.

His delegation considered that with a view to adopting a convention acceptable to a large number of States those which so wished should be permitted to retain the right to deprive naturalized citizens of nationality on certain grounds.

He would support the United Kingdom amendment, but would be unable to vote for any amendments adding to the list of grounds on which a citizen could be deprived of his nationality.

Mr. BACCHETTI (Italy) said that he would support the Swiss representative's proposal that the period within which a person could be deprived of his nationality under paragraph 2 (b) (i) should be limited to five years.

With regard to paragraph 2 (b) (ii), under a régime such as that which had existed in the past in Italy many distinguished persons would have been deprived of their nationality if such a provision had been included in Italian law. He would therefore prefer that paragraph to be deleted or replaced by the Netherlands amendment. The aim of the Conference was, after all, to reduce future statelessness.

Mr. ROSS (United Kingdom) referring to the suggestion made by the representative of the Holy See, said that the United Kingdom delegation would be willing to consider the replacement of paragraph 2 of its amendment by a general paragraph stipulating that a contracting party, at the time of ratifying the convention, might make a reservation in respect of deprivation of citizenship relating to any existing provision in its law. However, the United Kingdom delegation believed that fewer cases of statelessness would arise if a short list of grounds on which a national could be deprived of his nationality were included in the convention. It should be noted that the United Kingdom proposal, if adopted, would circumscribe the freedom of the United Kingdom Government to deprive persons of their nationality.

The United Kingdom delegation could not support the amendment submitted by the delegation of Ceylon.

Mr. LEVI (Yugoslavia) supported the suggestion of the representative of the Holy See. Although the grounds mentioned in paragraph 2 (b) (iii) and (iv) of the United Kingdom amendment were not recognized by Yugoslav law, he would not vote against those sub-paragraphs but would abstain.

Mr. RIPHAGEN (Netherlands) said that, although the United Kingdom amendment would give every contracting party the power to make reservations as to its national law, the International Law Commission's text would also raise some difficulties.

If Governments were not prepared to amend their national laws to conform to the convention, there was little object in their representatives attending the Conference. It was advisable that the cases in which it was strictly necessary to provide for deprivation of nationality should be listed. His delegation could accept most of the grounds listed in the United Kingdom delegation's amendment but not paragraph 2 (b) (ii), to which it had submitted an amendment.

As to the Canadian representative's comments, his delegation would be willing to change the period specified in its amendment, but would emphasize that cases of treachery or disloyalty must be determined by a judicial authority before they could be considered as grounds for deprivation of nationality.

The CHAIRMAN, speaking as the representative of Denmark, said that he shared the misgivings of the Italian representative in regard to paragraph 2 (b) (ii) of the United Kingdom amendment. In the national laws of some countries the term "treachery" was applied only to crimes of extreme seriousness; in other countries, it embraced a large number of less serious crimes. His delegation therefore tended to favour the Netherlands amendment (A/CONF.9/L.32), which would ensure that deprivation of nationality under paragraph 2 (b) (ii) was permissible only if the national concerned had committed one of the more serious treasonable offences.

With regard to paragraph 2 (b) (i), the establishment of a time-limit beyond which a party could not deprive a person of nationality on the ground that it had been acquired by false representation or fraud would be welcome. It would surely be unjust to deprive a naturalized person of a nationality he had possessed for a number of years merely because there had been some technical irregularity in his application. His delegation therefore proposed that in paragraph 2 (b) (i) the words "provided that deprivation takes place within five years of acquisition of the nationality" be inserted after the words "the Party's nationality".

Mr. TSAO (China) said that his delegation would abstain from voting on all amendments to article 8. There was no provision in his country's national law for depriving either a natural-born national or a naturalized person of his nationality on any grounds whatsoever.

Mr. ROSS (United Kingdom), referring to the Italian representative's statement, said that in the United Kingdom a person retained his nationality until the moment when, by decision of the Secretary of State, he was deprived of it. There was no reason, however, why the provision contained in paragraph 2 (b) (i) should not be applied also in countries where proof of false representation or fraud in the application entailed annulment of the nationality ab initio.

His delegation agreed that it would be reasonable to provide for a time-limit in the application of paragraph 2 (b) (i), and would not oppose the amendment submitted orally by the Danish delegation.

Mr. JAY (Canada) expressed the hope that a separate vote would be taken on the Danish amendment notwithstanding its acceptance by the United Kingdom representative. He was not certain of Canadian practice on the issue to which the Danish amendment referred and in the Committee would vote against the proposal while reserving the right to alter his vote in plenary meeting.

Mr. VIDAL (Brazil) observed that, having approved the right of States to withhold nationality from persons who had committed offences punishable by five years' imprisonment, in the interests of consistency the Committee should also permit States to deprive persons of their nationality on the grounds of treachery or disloyalty.

His delegation supported the Danish amendment to paragraph 2 (b) (i) and would vote in favour of the United Kingdom draft of paragraph 2 (b) (iii) as it had voted for paragraph 2 (a), which contained the same provision in respect of natural-born nationals.

Mr. SCHMID (Austria) said that he would be compelled to vote against the Danish amendment to paragraph 2 (b) (i). Ratification of the convention as a whole by his country would, however, in any case entail sweeping changes in Austrian law and, if the Committee and later the Conference were to adopt the Danish amendment, he would hope that the necessary changes would be made.

Sir Claude COREA (Ceylon) said that he opposed the Danish amendment. A State should have the right to deprive a person of his nationality on the grounds of extensive and deliberate fraud in the application regardless of the time when the fraud was discovered.

Mrs. TAUCHE (Federal Republic of Germany) expressed support for the Danish amendment; paragraph 2 (b) (i) however should contain a specific reference to the annulment of nationality ex tunc, if the Committee wished to permit annulment, as well as deprivation ex nunc, on the ground of fraud in the application.

There was a question of the application of Danish amendment to the case of a woman who had obtained German nationality by a marriage which was subsequently annulled. Her country's law held that annulment of the marriage automatically entailed annulment of the nationality ex tunc. Did the Danish amendment imply that nationality in that case could not be annulled, if the marriage were annulled more than five years after it had been contracted?

The CHAIRMAN, speaking as the representative of Denmark, said that the sole purpose of his delegation's amendment was to establish a time-limit after which naturalized persons could rest assured that their nationality could no longer be either withdrawn or annulled on the grounds of technical irregularities in the application. There were occasions when Governments, wishing to withdraw nationality from persons whom they regarded as politically undesirable, would re-examine applications lodged twenty or thirty years previously. His delegation earnestly wished to see an end put to that practice. In his country, nationality was conferred by legislation and could not be withdrawn or annulled if the application were later found to have been based on false representation.

Mr. CALAMARI (Panama) said that his country's laws did not provide for deprivation of nationality on grounds of fraud in the application, but, understanding as it did the position of other countries, his delegation would vote for the Danish amendment to paragraph 2 (b) (i).

With regard to paragraph 2 (b) (ii), the Netherlands amendment was acceptable in principle, but if the Netherlands delegation would consider substituting for it the words "the person having been convicted by a competent court of treachery or disloyalty" that would eliminate the reference to the arbitrary figure of five years' imprisonment.

He would vote for paragraph 2 (b) (iii), which merely reproduced the provision in respect of natural-born nationals adopted by the Committee at its fourteenth meeting.

He was opposed to the Ceylonese amendment (A/CONF.9/L.45) and to a similar proposal by the representative of the Holy See, because they would give States too wide discretion in deciding whether or not to withdraw nationality.

Mr. ROSS (United Kingdom) said that his delegation would abstain from voting on the Danish amendment to paragraph 2 (b) (i), though it would still support that paragraph if the Committee decided to amend it.

With regard to paragraph 2 (b) (ii), his delegation did not accept the principle of the Netherlands amendment with its reference to court proceedings in connexion with treachery and disloyalty; in the United Kingdom for instance a person could not be charged or convicted in absentia. However, should the Netherlands amendment find favour in the Committee, he would propose a sub-amendment to replace the words "five years" by the words "one year".

With regard to the discussions and the decisions taken by the Committee on paragraphs 2 (a) and 2 (b) at its fourteenth meeting, his delegation agreed with the International Law Commission in recognizing a distinction, for the purposes of article 8, between natural-born nationals and naturalized persons. The natural-born person had a birthright to his nationality: but the naturalized person was expected to justify his acquisition of nationality by a higher standard of behaviour and States should have greater freedom to deprive him of his nationality. Article 8, paragraph 3 and article 9 would prevent States from abusing their rights in that respect.

He could not agree with the remark made by the Swiss representative at the fourteenth meeting that the United Kingdom delegation was inconsistent in its attitude to articles 1 and 8. Article 1 was designed to confer a quasi-birthright and contained no reference to an independent body of a judicial character such as was mentioned in article 8, paragraph 3.

Mr. BERTAN (Turkey), referring to his delegation's amendment to article 8 (A/CONF.9/L.25), proposed that the words "or if, being abroad, he is liable for military service and fails without good cause to report when officially called up", contained in paragraph 2 of the amendment, be included as an additional sub-paragraph in paragraph 2 (b) of the United Kingdom amendment. His Government took the view that a provision to that effect was essential since under Turkish law a person could not be tried for desertion in his absence, nor was it possible under international law to apply for extradition on grounds of desertion.

Mr. LEVI (Yugoslavia) said that if delegations were going to reject all restrictions on the deprivation of nationality other than those contained in their own amendments his delegation would reserve the right to introduce fresh proposals for articles 7 and 8 in the plenary Conference. He would propose that article 7 should read simply: "Absence abroad shall not be a ground for loss of nationality", and article 8: "A Party may not deprive its nationals of their nationality on any grounds whatsoever".

Mr. RIPHAGEN (Netherlands) accepted the proposal of the representative of Panama that the Netherlands amendment to paragraph 2 (b) (ii) should read "the person having been convicted by a competent court of treachery or disloyalty".

Mr. JAY (Canada) agreed that the new text of the Netherlands amendment met the requirements of an internationally recognized criterion for deciding whether a person to be deprived of his nationality under paragraph 2 (b) (ii) had or had not committed a serious offence.

It did not, however, cover the case of a person who was legally charged with an offence but could not be tried on account of absence. He therefore proposed the addition to the new text of the Netherlands amendment of the words: "or, when charged with such offences, having refused to return to the territory of the Party".

Mr. RIPHAGEN (Netherlands) said that he would accept the Canadian proposal although in his own country judgment by default was permitted in some cases.

Mr. ROSS (United Kingdom) said that he would withdraw his original amendment to the Netherlands amendment in favour of the Canadian proposal. In the latter, however, he proposed that the word "refused" be replaced by the word "failed". The word "refused" implied that a request to return had actually been made to the person, but in cases of treachery it was often difficult to discover his whereabouts.

Mr. HERMENT (Belgium) expressed a preference for the word "refused". If an act of treachery were known to a Government, the whereabouts of the person committing it would normally also be known, or at least easily ascertainable.

Mr. BERTAN (Turkey) supported the United Kingdom proposal.

Mr. JAY (Canada) and Mr. RIPHAGEN (Netherlands) agreed to replace the word "refused" by the word "failed".

The CHAIRMAN asked the United Kingdom representative whether he wished to retain sub-paragraph (iv) in paragraph 2 (b). It would seem that the case in question was covered by the text already approved by the Committee for article 7, paragraph 4.

Mr. ROSS (United Kingdom) said that sub-paragraph (iv) should be retained. Whereas article 7 dealt with automatic loss of nationality on certain grounds, article 8 was concerned with specific orders for deprivation of nationality.

Mrs. TAUCHE (Federal Republic of Germany) agreed with the United Kingdom representative.

The CHAIRMAN suggested that, since the representative of Israel was not present to introduce his delegation's amendment to sub-paragraph (iv) (A/CONF.9/L.39), further discussion of that sub-paragraph be deferred.

It was so agreed.

The CHAIRMAN declared closed the discussion of paragraph 2 (b) of the United Kingdom amendment to article 8 (A/CONF.9/L.11 and Corr.1) and the amendments thereto, with the exception of sub-paragraph (iv) and the amendment thereto.

He put to the vote separately sub-paragraphs (i), (ii) and (iii) of paragraph 2 (b) of the United Kingdom amendment and amendments thereto, and amendments adding new sub-paragraphs to paragraph 2 (b).

The Danish amendment to sub-paragraph (i), to the effect that the words "provided deprivation takes place within five years after acquisition of the nationality" be added after the words "the Party's nationality" was adopted by 14 votes to 6 with 6 abstentions.

Sub-paragraph (i) as amended, was adopted by 19 votes to none, with 7 abstentions.

The CHAIRMAN speaking as the representative of Denmark, said that the Danish delegation reserved the right to submit in plenary meeting an amendment to the effect that sub-paragraph (i) applied to annulment of nationality ex tunc as well as deprivation ex nunc.

Mr. JAY (Canada) said that he would have voted against the adoption of sub-paragraph (i) if he had believed that it referred to deprivation only and not to annulment ex tunc.

Mr. HERMENT (Belgium) said that the application of sub-paragraph (i) could be decided by the national law of contracting parties.

The Netherlands amendment to sub-paragraph (ii) (A/CONF.9/L.32), as amended on the proposals of the representatives of Panama, Canada and the United Kingdom, reading: "the person having been convicted by a competent court for treachery or disloyalty, or, when charged with such an offence, having failed to return to the territory of the Party", was adopted by 14 votes to 6, with 8 abstentions.

Sub-paragraph (ii), as amended, was adopted by 12 votes to 2, with 12 abstentions.

Sub-paragraph (iii) was adopted by 18 votes to 1, with 5 abstentions.

The Turkish proposal introducing the words: "or if, being abroad, he is liable for military service and fails without good cause to report when officially called up" as an additional sub-paragraph to paragraph 2 (b) was not adopted, 3 votes being cast in favour and 3 against, with 22 abstentions.

Mr. JAY (Canada) said that he wished to revise paragraph 2 of his delegation's amendment (A/CONF.9/L.36), so as to propose the addition to paragraph 2 (b) of the following sub-paragraph: "the person having taken or made an oath, affirmation or other declaration of allegiance to a foreign country", which text would correspond with the amendment already adopted to paragraph 2 (a).

Mr. CARASALES (Argentine) suggested that the word "voluntarily" be added between the word "having" and the word "taken".

Mr. JAY (Canada) took it as a general assumption that all acts giving rise to deprivation of nationality under paragraph 2 (b) were voluntary acts and that deprivation would not follow action taken by the person concerned under a disability.

The Canadian amendment to paragraph 2 (b) was adopted by 10 votes to 1, with 16 abstentions.

Sir Claude COREA (Ceylon) said that in view of the trend of the voting on the foregoing amendments he would withdraw his delegation's amendment to paragraph 2 (b) (A/CONF.9/L.45).

The Yugoslav amendment to paragraph 2 (b) (A/CONF.9/L.46) was rejected by 13 votes to 7, with 6 abstentions.

The meeting rose at 1 p.m.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE SIXTEENTH MEETING

held at the Palais des Nations, Geneva,
on Monday 13 April 1959, at 10 a.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations attending the Conference was published 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

Draft convention on the reduction of future statelessness (A/CONF.9/L.1) (continued) Article 8 (A/CONF.9/L.11 and Corr.1, L.14, L.23, L.25, L.39) (continued)

Mr. SIVAN (Israel) said that his delegation would have supported paragraph 2(b)(iv) of the United Kingdom amendment (A/CONF.9/L.11) to article 8 of the draft convention with the addition of the specific provision requiring seven years' consecutive absence abroad as a ground for deprivation (A/CONF.9/L.11/Corr.1). He could, however, accept the condition respecting declaration of intention only if the words "or if he has no effective connexion with such State" in the Israel amendment (A/CONF.9/L.39) were added. The reference to intention had been designed to bring article 8 into line with article 7, paragraph 3, which was referred to in the International Law Commission's draft of article 8. His delegation did not agree with such automatic co-ordination since the texts of both article 7, paragraph 3 and article 8 as eventually to be adopted by the Conference would differ greatly from the International Law Commission's draft. Moreover, the articles dealt with distinct problems - loss of nationality by automatic operation of law in the one case and deprivation by discretionary act of the authorities in the other. Israel law did not provide for automatic loss of nationality and, although it provided for deprivation in the case of naturalized persons, no case of that kind had occurred in practice. The oral amendment proposed by his delegation to article 7, paragraph 3, at the eleventh meeting had probably not been adopted because of the distinction pointed out by some delegations, including that of the United Kingdom, between the two articles in question; admittedly, the proof needed to establish whether there was an effective connexion between a person and the State might not be appropriate in cases of loss of nationality by automatic operation of law without judicial process. If, however, as had appeared possible during the discussion, article 7 could apply to deprivation, some provisions at least of article 8 were superfluous. Conversely, if revocation of naturalization were to be dealt with in article 8 it was desirable that certain restrictions appearing in article 7 which might be applicable to loss of nationality by operation of law only should not be repeated in article 8.

The text of paragraph 2(b)(iv) in the United Kingdom amendment (A/CONF.9/L.11/Corr.1) did not provide an adequate test of the severance of effective connexion with the country of nationality since some countries did not impose upon their naturalized citizens any obligation to register with a diplomatic mission when abroad. It was with a view to providing an alternative formula covering such cases that his delegation had submitted its amendment. As a corollary of the ease with which Israel nationality could be acquired, his country's legislation insisted on a naturalized person maintaining an effective connexion with Israel.

The Pakistan representative's comment at the fourteenth meeting that a State would hardly deprive a person of its nationality without cogent reasons was pertinent. Most countries provided for judicial safeguards and a provision in that sense appeared in paragraph 3 of the United Kingdom amendment. There was accordingly no justification for apprehensions that article 8 would be applied arbitrarily.

The provisions of the United Kingdom amendment (A/CONF.9/L.11 Corr.1) and those of the Israel proposal had the same purpose. The only difference between them was that one was appropriate to legislations imposing on citizens resident abroad the duty to register with a mission of the State of nationality, or some similar duty, whereas the other was appropriate to legislations which did not impose such obligations. The convention should take account of both systems. No country would be obliged to add the further clause proposed by his delegation to its national legislation, but the inclusion of that clause in the convention would facilitate the support of those States whose legislation required it. The Israel delegation had shown its willingness to support provisions not in accordance with its national law, and hoped that its amendment would be accepted in the same spirit by other delegations.

The Israel amendment (A/CONF.9/L.39) was approved by 9 votes to 8, with 12 abstentions.

The United Kingdom amendment (A/CONF.9/L.11/Corr.1), as amended, was approved by 10 votes to 7, with 13 abstentions.

Paragraph 2(b) of the United Kingdom amendment (A/CONF.9/L.11 and Corr.1) as a whole, as amended, was approved by 9 votes to 2, with 19 abstentions.

The CHAIRMAN invited debate on the introductory words of paragraph 2 of the United Kingdom amendment (A/CONF.9/L.11).

Rev. Father de RIEDMATTEN (Holy See) proposed that those words should be replaced by a clause drafted on the following lines: "A Party may at the time of signature or ratification of the Convention make the following reservations to paragraph 1 ....". The text of paragraph 2 as drafted would give to the grounds for deprivation of nationality listed therein the sanction of an international convention. His delegation's amendment permitted Parties to make reservations in the same sense but without such sanction.

At the suggestion of the CHAIRMAN, Rev. Father de RIEDMATTEN (Holy See) agreed to include in his proposed clause the words "or accession" after the word "ratification", the word "or" after "signature" being replaced by a comma.

Mr. JAY (Canada) said the proposal of the representative of the Holy See was most interesting. He would vote against it as applying to article 8, but it should be reconsidered when the Committee dealt with article 13 on reservations.

Mr. HERMENT (Belgium) endorsed the principle of the proposal of the Holy See.

Mr. RIPHAGEN (Netherlands) supported the principle of the proposal. It would be advisable, however, to include a provision similar to that found in various international instruments to the effect that a State could subsequently withdraw any reservations it had made. The Committee might vote on the principle of the proposal, leaving its precise formulation to the Drafting Committee.

Mr. CARASALES (Argentina) said that he would vote for the proposal.

Mr. LEVI (Yugoslavia) asked whether it was intended to include as reservations all the grounds of deprivation rejected by the Committee.

The CHAIRMAN observed that the representative of the Holy See would probably not wish the list to be extended. Its discussion could be resumed in plenary meeting.

Mr. LEVI (Yugoslavia) opined that that would be the effect of the proposal.

Mr. HARVEY (United Kingdom) opposed the idea of treating the various grounds of deprivation of nationality as reservations. If however the Committee

approved the proposal of the representative of the Holy See, it would be inappropriate to enumerate specific grounds. The correct procedure might perhaps be to provide that a State could reserve its right to deprive a person of its nationality on any ground which existed in its municipal law immediately prior to the entry into force of the convention.

Mr. BACCHETTI (Italy) said that he would not be able to support any extension of the list of grounds for depriving a person of his nationality.

He had not spoken to the Israel amendment because he had expected that there would be an opportunity for a fuller discussion in plenary meeting and had voted against it for reasons which he had explained previously.

The CHAIRMAN pointed out that since paragraphs 2(a) and 2(b) of the United Kingdom amendment had already been approved by the Committee there was no question of extending the list of grounds at that stage.

Mr. SCHMID (Austria) said that the proposal of the representative of the Holy See was a useful one. He would abstain from voting on it at that stage, but its discussion might be resumed in connexion with paragraph 13.

Mr. FAVRE (Switzerland) said that the authors of the Commission's draft would be astounded when they learnt that the Committee had approved paragraph 2(b)(ii) of the United Kingdom amendment respecting treachery or disloyalty and the Israel amendment, which would enable a State to deprive a citizen of his nationality on the grounds of having no effective connexion with that State. Such provisions were out of place in a convention intended to reduce statelessness. They were not needed by the States represented at the Conference, but once inserted in an international convention they could be used by other States to justify arbitrary acts. He therefore supported the principle of the proposal of the representative of the Holy See.

Sir Claude COREA (Ceylon) said that the question of reservations should be decided in connexion with article 13. Furthermore, the right to make reservations implied the existence of mandatory provisions from which such reservations were a departure. If the proposal of the representative of the Holy See were adopted there would be no such mandatory provisions.

The CHAIRMAN observed that if the proposal were approved it would be necessary to delete the opening words of paragraph 1 of the United Kingdom amendment: "Subject to the provisions of this article". That matter could be left to the Drafting Committee.

Mr. BEN-MEIR (Israel), replying to the representative of Switzerland, agreed that the Commission might well be astounded by some of the provisions approved by the Committee - and not only in connexion with article 8. His delegation, which had supported measures to achieve a radical reduction or even the complete elimination of statelessness had, for example, been willing to accept article 1 of the draft convention on the elimination of future statelessness. Other delegations however, including that of Switzerland, had preferred article 1 of the draft convention on the reduction of future statelessness, and had added further restrictions to it. The Conference had, rightly or wrongly, embarked on a course which it was hoped would ensure the support of the greatest possible number of States.

The assertion that his delegation's amendment opened the door to arbitrary deprivation of nationality could not stand. Israel nationality did not apply the principle of automatic deprivation and included a number of legal safeguards. There was not a single example to date of a person being deprived of Israel nationality on the grounds contained in the Israel amendment.

The proposal of the Holy See should be discussed in connexion with article 13.

Rev. Father de RIEDMATTEN (Holy See) said that the Swiss representative had well expressed the intention behind his proposal and the Netherlands representative had suggested an improvement. Admittedly, it would be more logical to discuss the proposal in connexion with article 13, but he had submitted it at that stage to avoid loss of time later.

The CHAIRMAN said that he would put the proposal to the vote. If any delegation wished to oppose his decision it could do so under rule 13 of the rules of procedure.

In the absence of any opposition, the CHAIRMAN put to the vote the oral amendment of the representative of the Holy See to paragraph 2 of the United Kingdom amendment (A/CONF.9/L.11 and Corr.1).

The oral amendment of the representative of the Holy See was approved by 15 votes to 4, with 13 abstentions.

Subject to the consequential changes necessitated by the foregoing decision, paragraph 2 of the United Kingdom amendment was approved by 14 votes to 1, with 16 abstentions.

Mr. BACCHETTI (Italy) said that his delegation had abstained from voting on the paragraph only because it could not accept the Israel amendment.

The CHAIRMAN invited debate on paragraph 3 of the United Kingdom amendment.

Mr. HUBERT (France), introducing the French amendment (A/CONF.9/L.14), said that it was intended to cover legislations in which there was provision for appeal to an independent judicial body and those which provided for appeal to an independent administrative body. The word juridictionnel would apply to both.

Mr. HARVEY (United Kingdom) suggested that the problem was one of translation. "Judicial" in the English text of the United Kingdom amendment implied an independent and impartial body which was either a court of law or had a similar character. In the United Kingdom such cases were submitted to an ad hoc body consisting of a High Court Judge and distinguished members of the public. That body could be correctly described as judicial, for a judge was its president, it followed the same procedure as courts of law and it was impartial. The French word judiciaire did not apparently describe such a body. His objection to the French amendment was that not only was there no such word as "jurisdictional" in English, but that, even if an English word of similar meaning could be found, it would imply a body competent to give a final determination and that would exclude an ad hoc body of the type he had described. The problem would be solved if a French word synonymous with "judicial" could be found.

Mr. BACCHETTI (Italy) thought that the precise wording could be left to the Drafting Committee. He supported the principle of the French amendment and hoped that it would be voted on forthwith.

Sir Claude COREA (Ceylon), in view of the approval of the Holy See's proposal concerning reservations, questioned the point of discussing paragraph 3 of the United Kingdom amendment referring to cases in which deprivation of nationality was permitted.

The CHAIRMAN observed that, although paragraph 3 of the United Kingdom amendment would need to be redrafted in consequence of the adoption of the Holy See's proposal, the question of making provision for cases to be submitted to an independent body still remained.

Mr. HUBERT (France) agreed with the Chairman.

The competent body in France was the Conseil d'Etat, whose decisions were binding upon the Executive. If the decisions of the body referred to by the United Kingdom representative were also binding upon the Executive he would agree that the problem was merely a drafting one. Otherwise the difference between the two texts would be substantive.

The CHAIRMAN recalled that a similar difficulty had been encountered in the drafting of earlier conventions. Some attempt to solve it had been made in article 32 (2) of the 1951 Convention Relating to the Status of Refugees and article 31 (2) in the 1954 Convention Relating to the Status of Stateless Persons. It would be necessary to agree on a text which did not do violence to the various systems followed in different countries.

Mr. ABDEL-MAGID (United Arab Republic) agreed with the Frence representative that if the decisions of the body described by the United Kingdom representative were not binding on the executive there would be a difference of substance between the two amendments. He would support the French amendment, which was in keeping with the legal structure of his own country.

Mr. HERMENT (Belgium), in reply to the representative of Ceylon, said that, even if the convention merely laid down that States should have the right to make reservations, it would be still necessary to guarantee the impartiality of the body deciding the cases referred to in paragraph 3 of the United Kingdom amendment.

As a compromise, some such words as "an independent and completely impartial body" might be used.

Mr. ROSS (United Kingdom) repeated that the ad hoc body to which such cases were referred in the United Kingdom could be correctly described as of a judicial character since, in addition to the characteristics already mentioned, there was provision for the representation of the parties by counsel.

In reply to the French representative, in the United Kingdom the body was a purely advisory one, the final decision resting with the Home Secretary. The Home Secretary would not, however, disregard its advice except in very special circumstances. The British and French systems were suited to different constitutions and the United Kingdom Government had no wish to alter its own

system or to compel others to alter theirs. He would however support the compromise proposal of the Belgian representative.

Mr. HUBERT (France) said that, as he had supposed, there was a substantive difference between the English and the French terms. In France the executive could not disregard a decision of the Conseil d'Etat, which therefore had the final word, whereas in the United Kingdom it would seem that the final word lay with the Government. The latter system did not provide sufficient guarantees.

Mr. JAY (Canada) said that the Committee should attempt to establish principles rather than take into account the legal position prevailing in each country. The main point was that the decision on deprivation of nationality should be taken by a body which was independent and impartial, but it would be extremely difficult to specify exactly how those qualities were to be represented. It would be well for the Committee to vote on the principle, leaving it to the Drafting Committee to devise language giving effect to the principle.

Mr. HUBERT (France) observed that the crucial question was quite simply whether the executive or an independent body had the final decision.

Mr. TSAO (China), in view of the poor prospects of reconciling the two systems, proposed the deletion of the entire phrase "which shall provide for submission of the case to an independent body of a judicial character".

Mr. HERMENT (Belgium) said that the Chinese amendment was too drastic. The clause should specify that the appelate body should be an independent body of a completely impartial character.

Mr. LEVI (Yugoslavia) supported that suggestion. In Yugoslavia the Supreme Court had the final decision.

Mr. BACCHETTI (Italy) said that, although he preferred the French amendment, the Belgian amendment might be acceptable if it specified that the body should be independent of the executive.

Mr. SIVAN (Israel) suggested that the clause might read: "which shall provide for submission of the case to a court of law or to an independent and impartial body acting in accordance with judicial principles".

The CHAIRMAN put the Chinese proposal to the vote.

The Chinese proposal was rejected by 14 votes to 4, with 14 abstentions.

It was decided to defer further consideration of paragraph 3 of the United Kingdom amendment.

The CHAIRMAN invited debate on paragraph 4 of the United Kingdom amendment.

Mr. ROSS (United Kingdom) said that paragraph 4 had originally been drafted in the light of proposals made in connexion with article 1 in order to make it clear that a State might deprive of its nationality a person who possessed at the time another nationality; but in view of the changes in article 1 the paragraph could if necessary be omitted.

Mr. BACCHETTI (Italy) proposed that paragraph 4 of the United Kingdom amendment be deleted.

The Italian proposal was adopted by 15 votes to 3, with 10 abstentions.

The CHAIRMAN pointed out that consequential upon the decision taken by the Committee on paragraph 2 some drafting changes would be required in paragraph 1.

Mr. FAVRE (Switzerland) suggested that the Drafting Committee might consider whether paragraph 1 would not be better placed at the beginning of article 7 as approved by the Committee since that article already contained exceptions to the prohibition against depriving persons of nationality.

Mr. BERTAN (Turkey), introducing the amendment submitted by his delegation to paragraph 1 (A/CONF.9/L.25), explained that it contained an element not included in the United Kingdom text (A/CONF.9/L.11 and Corr.1). Since a person could be deprived of the nationality of a State by reason of activities incompatible with the status of national, such an exceptional step should be taken only if the Stage was wholly unable to compel such a person to comply with national laws and regulations, but the State could certainly apply the law of the land to nationals residing in the country. Deprivation of nationality could thus be justified only if the national were not resident in the country. A serious concomitant of deprivation of nationality was deportation. Denationalized persons moved to neighbouring countries and if they were dangerous to their own country might also be dangerous to other countries. It would be immoral for a State to deprive a national of its nationality at its discretion and then deport him. Such penalties should be limited by the unanimously accepted principle that every person had the right

to a nationality. In Turkish law no Turkish national could be deprived of nationality while resident in Turkey. The adoption of such a general rule would certainly go some way towards at least preventing statelessness from increasing in the future.

Mr. JAY (Canada) pointed out that the Turkish amendment would alter substantively the interpretation of the list in paragraph 2 as approved. Furthermore, drafting changes would be needed in paragraph 1.

The CHAIRMAN observed that drafting changes might be left to the Drafting Committee.

Rev. Father de RIEDMATTEN (Holy See) suggested that the Turkish representative should submit his amendment in connexion with article 8, paragraph 2, in plenary meeting where if a system of reservations was accepted his point could be made.

Mr. BERTAN (Turkey) explained that he had originally suggested that article 7, paragraph 3 and article 8 be discussed together. He had introduced his amendment because paragraph 2 of the United Kingdom amendment had already been discussed and his delegation had already accepted the list of exceptions to the prohibition against deprivation of nationality.

Mr. ROSS (United Kingdom) suggested that the Turkish representative should make clear the exact meaning of his proposal before it was raised in plenary meeting, since it seemed capable of meaning either that a State had complete freedom to deprive a person of its nationality if he were not resident in the country or that in no circumstances could a State deprive a person of its nationality if he were resident in the country.

Mr. BERTAN (Turkey) explained that the main intention of his delegation's amendment was to prohibit a State from depriving of its nationality any national resident in the country. The only exceptions to that rule would occur if a person voluntarily entered or continued in the service of a foreign country in disregard of an express prohibition, or if a naturalized person had obtained the nationality by false representation or if a naturalized person committed an act detrimental to the security of the State which had naturalized him.

Mrs. TAUCHE (Federal Republic of Germany) observed that if States were allowed to deprive their nationals of their nationality for the reasons

given in paragraph 2 they could do so whether or not the persons in question were resident in the country. The State's main interest was to prevent persons deprived of nationality from exercising political rights.

Mr. FAVRE (Switzerland) remarked that approval of the Turkish amendment would involve a revision of articles 7 and 8.

Mr. BERTAN (Turkey) said that in view of the Swiss representative's observation he would withdraw the Turkish amendment (A/CONF.9/L.25), reserving his right to bring up the matter again in plenary meeting.

Paragraph 1 of the United Kingdom amendment (A/CONF.9/L.11) was approved, subject to drafting changes, by 18 votes to none, with 14 abstentions.

Article 9 (resumed from the ninth meeting and concluded)

The CHAIRMAN drew attention to the Pakistan amendment (A/CONF.9/L.23) to the International Law Commission's text for article 9 (A/CONF.9/L.1).

Mr. ROSS (United Kingdom) said that the Pakistan amendment was wholly unacceptable, especially in view of the amended form of article 8. The necessity to retain in the original text the term "racial" as well as the term "ethnic" was questionable.

Mr. SCHMID (Austria) pointed out that in the recent past groups which could not be distinguished from the remainder of the population on ethnic grounds had been discriminated against on racial grounds; both terms should be retained.

The Pakistan amendment (A/CONF.9/L.23) to article 9 was rejected by 23 votes to 2, with 6 abstentions.

Article 9 (A/CONF.9/L.1) was adopted by 28 votes to none, with 5 abstentions.

Article 6 (A/CONF.9/L.34) (resumed from the first meeting and concluded)

The CHAIRMAN said that the Committee could pass to article 6 as the principles of article 8 had been settled. Dealing with the consequences for the children of the loss of nationality by the parents, article 6 should probably be inserted in the final draft after article 9.

Mrs. TAUCHE (Federal Republic of Germany) expressed the view that article 6 should be placed after article 8 rather than after article 9 since article 9 contained an absolute prohibition.

Mr. SIVAN (Israel), introducing the Israel amendment (A/CONF.9/L.34)

to the article, said that his delegation had already made it clear that it accepted the principle laid down in the article although that would entail some changes in national legislation. It would however be unrealistic and illogical to stretch the article to preserve the nationality of children when both parents had ceased to be nationals of a State and the children were not normally resident in its territory.

Mr. HELLBERG (Sweden) observed that there was an obvious link between articles 6 and 7. The Swedish Government was not prepared to allow a person who had been born abroad as a Swedish national but who had never been domiciled in Sweden to retain, together with his children, Swedish nationality by a simple act of registration on attaining the age of majority. If such persons became stateless it would be largely due to their own remissness in omitting to acquire the nationality of the country of residence. He had voted against article 7, paragraphs 3, 4 and 5 and would abstain from voting on article 6, which was consequential on article 7. Having been unable to do so earlier, his delegation would submit an amendment to article 6 in plenary meeting.

Mr. ROSS (United Kingdom) opposed the Israel amendment. The general principle stated in article 6 was that the loss of nationality by a parent should not entail the loss of nationality by the children. A child might not wish to lose his nationality through some action or omission by his parents over which he could have no control.

Mr. IRGENS (Norway) supported the Israel amendment, which was consequential on the terms of article 7, paragraph 5 as approved by the Committee (A/CONF.9/L.40). If the preservation of nationality were made dependent on registration the link between the children of persons resident abroad and the country of nationality would be even weaker than in the case of the parents and the retention of nationality would benefit neither the child nor the country.

The CHAIRMAN, speaking as the representative of Denmark, agreed with the Norwegian representative. A child who had had no connexion with Denmark and had never even registered could hardly remain a Danish national after his parents had lost Danish nationality.

Mr. RIPHAGEN (Netherlands) pointed out that if the parents failed to

register themselves and failed to register their child and the child failed to register himself, he would lose his nationality under article 7 by such failure to register but not because the parents had lost their nationality. The Danish requirements would be met in that way and the Israel amendment was therefore unnecessary.

Mr. CARASALES (Argentina), agreeing with the United Kingdom representative, said that he would vote against the Israel amendment. Some drafting changes would be required at the beginning of the article to bring it into line with article 5.

The Israel amendment (A/CONF.9/L.34) was rejected by 14 votes to 5, with 12 abstentions.

Article 6 (A/CONF.9/L.1), subject to drafting changes, was approved by 25 votes to none, with 6 abstentions.

The CHAIRMAN, speaking as representative of Denmark, explained that, having voted for the Israel amendment, he had abstained from voting on the article because as a result of the rejection of the former the Danish Government would have to restrict the jus sanguinis, in the sense that it would not be able to accord Danish nationality to children born abroad unless at least one of the parents had been born in Denmark. Being a small country, Denmark had few consular facilities for registration. It was to be doubted whether such a restriction was in the best interest of reducing future statelessness.

The meeting rose at 1 p.m.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE SEVENTEENTH MEETING

held at the Palais des Nations, Geneva,
on Monday, 13 April 1959, at 3.30 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda)(continued)

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

Article 8 (A/CONF.9/L.11 and Corr.1, L.14)(resumed from the sixteenth meeting and concluded)

The CHAIRMAN announced that since the Committee's sixteenth meeting the French delegation had agreed to withdraw its amendment (A/CONF.9/L.14) to paragraph 2 (b) of the United Kingdom amendment (A/CONF.9/L.11 and Corr.1) to article 8 of the draft convention.

It had also agreed to propose that in paragraph 3 of the United Kingdom draft the words "of a judicial character" be replaced by the words "offering every guarantee of impartiality".

Mr. HUBERT (France) said that his delegation had provisionally withdrawn its amendment to paragraph 2 (b) on certain conditions. It would accept the principle of consultation of an independent body in regard to deprivation of nationality provided that provision were made for similar consultations in regard to the acquisition of nationality under article 1 of the draft convention. But he would abstain from voting on the amended text of paragraph 3.

The CHAIRMAN put to the vote the French amendment to paragraph 3 that the words of the United Kingdom amendment (A/CONF.9/11 and Corr.1) "of a judicial character", be replaced by the words "offering every guarantee of impartiality".

The French amendment was adopted by 19 votes to none, with 11 abstentions.

Paragraph 3, as amended, was adopted by 20 votes to none, with 7 abstentions.

The CHAIRMAN recalled that at the sixteenth meeting paragraphs 1 and 2 had been approved and paragraph 4 rejected.

He put to the vote article 8, as a whole and as amended.

Article 8, as a whole and as amended, was adopted by 9 votes to none, with 18 abstentions.

Article 11 (A/CONF.9/L.24, L.33, L.37) (resumed from the thirteenth meeting and concluded)

The CHAIRMAN, speaking as the representative of Denmark, recalled that at the fourteenth meeting his delegation had submitted a draft protocol (A/CONF.9/L.37), which might be of interest to delegations opposed to the inclusion in the convention of any reference to the establishment of an agency to act on behalf of stateless persons or of a tribunal to decide disputes between States concerning the interpretation or application of the convention.

His own delegation took the view that the convention should provide for the establishment of an agency and proposed that in article 11, paragraph 1 the words "or international organizations" be inserted after the word "Governments".

Mr. ROSS (United Kingdom) suggested that the Committee first decide whether the convention should contain any reference to the establishment of a tribunal. If it did, his own delegation and others could not sign it unless adherence to such provision were made optional. He would therefore urge that provision for the establishment of a tribunal be contained in a separate instrument, such as a protocol, signature of which would be optional.

As to the agency, a reference to its establishment might be included either in the convention or in an optional protocol, but his delegation's preference would go to the former.

If the Committee decided in favour of establishing an agency, it would first have to define its functions; some proposals on that matter were contained in the International Law Commission's draft of the article and in the United Kingdom amendment thereto (A/CONF.9/L.24). The final task would be to establish the machinery by which the agency would be set up.

Mr. FAVRE (Switzerland) said that his Government thought that it should be possible to refer disputes on the interpretation of the convention to an independent tribunal, but believed that parties to the convention should recognize the jurisdiction by the International Court of Justice as compulsory. There was no need to establish a special tribunal.

Mr. TSAO (China) said that his delegation had some misgivings in regard to the establishment both of an agency and of a tribunal and would prefer the provisions relating to them to be deleted from the convention.

Mr. CARASALES (Argentine) expressed the hope that the Committee would give serious consideration to the Danish draft protocol. Some delegations wished to reserve their position on the establishment of an agency and a tribunal and on the question of compulsory jurisdiction. It would be more satisfactory if all three questions were made the subject of a separate instrument.

Mr. HERMENT (Belgium) observed that the Danish draft protocol was extremely ingenious since it met the wishes of States which supported both the agency and the tribunal, of those which supported the agency but not the tribunal and of those who were opposed both to the agency and to the tribunal.

Its great drawback, however, was that it might allow the Conference to neglect the establishment of a body to assist and protect stateless persons just as the Office of the United Nations High Commissioner for Refugees assisted refugees. His delegation urged that provision for the establishment of the agency be made in the convention itself, although the question of the tribunal might be left to Contracting Parties.

Mr. RIPHAGEN (Netherlands) said that his delegation would have preferred the International Law Commission's draft of article 11, as of many other articles, but would take the wishes of other delegations into account.

Sharing the view of the Belgian representative that the convention should provide for the establishment of an agency, he preferred the description of the agency's functions given in the Belgian amendment (A/CONF.9/L.33) to that contained in the United Kingdom amendment.

Mr. JAY (Canada) considered that the work of the Committee could be expedited if it were known as soon as possible how many delegations were opposed to the establishment of a tribunal being provided for in the convention. He therefore moved the closure of the debate under rule 17 of the rules of procedure, and explained that if the motion were carried he would propose as an amendment to the article that no reference to the establishment of a tribunal be included in the convention.

The motion for closure of the debate was carried unanimously.

The CHAIRMAN put to the vote the Canadian amendment to article 11 to the effect that no reference to the establishment of a tribunal be included in the convention.

The Canadian proposal was approved by 21 votes to 2, with 3 abstentions.

The CHAIRMAN observed that it was still open to the Committee to decide that provision for establishment of a tribunal be made in a separate instrument.

He put to the vote a proposal that no reference to the establishment of an agency be included in the convention.

The proposal was not approved, 10 votes being cast in favour and 10 against, with 8 abstentions.

Mr. TSAO (China), expressing regret that a proposal on so important an issue had not been approved owing to an equally divided vote, said that it was to be hoped that the Committee would still have an opportunity to discuss the Danish draft protocol.

Mr. KANAKARATNE (Ceylon) thought that the Committee should first consider the method by which the agency was to be established. He observed that according to International Law Commission's draft of the article "the Parties undertake to establish .... an agency", whereas the United Kingdom delegation had proposed an addition to article 16 to the effect that "the Secretary-General of the United Nations shall .... bring to the attention of the General Assembly the question of the establishment, in accordance with article 11, of such an agency ...."

Mr. JAY (Canada) said that it might be possible for the Conference to adopt a resolution calling for the establishment of an agency.

Mr. HERMENT (Belgium) took the view that the question how and when the agency was to be established was of secondary importance. The main decision to take was whether the convention itself should provide for the establishment of an agency.

The CHAIRMAN, in reply to a question by Mr. SIVAN (Israel), ruled that the Committee's failure to approve the proposal that the convention should not contain any reference to the establishment of an agency did not preclude the deletion of article 11 from the convention and a decision to provide for the establishment of an agency in a separate protocol if a majority of representatives were subsequently to favour that course.

Mr. LIANG, Executive Secretary of the Conference, replying to the point raised by the representative of Ceylon, said that there was no substantive difference between the words "the Parties undertake to establish an agency" as used in the International Law Commission's draft of article 11 and the words which appeared in the addition to article 16 proposed by the United Kingdom delegation. In paragraph 161 of the report on its fifth session (A.2456), the International Law Commission had stated that: "After the draft conventions have been approved by the General Assembly and accepted by States, they will become, in a general sense, United Nations conventions. The United Nations, by giving its approval to the conventions, will accept the responsibilities - including those of a financial nature - devolving upon it under the various provisions of article 10."

Whether the Committee accepted the International Law Commission's draft of article 11, paragraph 1 or the addition to article 16 proposed by the United Kingdom delegation, it would be for the United Nations and not for the parties themselves to deal with the details of establishing the agency.

The CHAIRMAN observed that in resolution 896 (IX) the General Assembly had noted and expressed its appreciation of the work of the International Law Commission in preparing a draft convention on the reduction of future statelessness. It would not therefore come as a surprise to the General Assembly if the Committee were to adopt the wording of article 11, paragraph 1 proposed by the Commission.

Mr. KANAKARATNE (Ceylon) thanked the Executive Secretary of the Conference for the explanation he had given of the role of the United Nations in establishing an agency, but reiterated his belief that it would be better for the Committee to adopt the addition to article 16 proposed by the United Kingdom delegation in order to remove any possible doubts as to the obligations of parties in regard to the agency.

In paragraph 160 of the report on its fifth session the International Law Commission had stated: "It was not considered necessary at this juncture to provide for the details of the organization .... of the agency referred to in paragraph 1. .... That task must be left, in the first instance, to the contracting parties. It is only when they have failed to take the steps necessary for the purpose .... that the setting up of the agency .... will become a responsibility of the General Assembly of the United Nations ....".

The General Assembly, in paragraph 3 of resolution 896 (IX), had merely requested the Secretary General to communicate the draft conventions to member States and to fix the time and place for a conference. If the Committee were to adopt the provision that "the Parties undertake to establish an agency" it might be that the General Assembly would decline to undertake the responsibilities of establishing the agency.

Mr. HELLBERG (Sweden) asked the United Kingdom representative if he would accept the Belgian amendment (A/CONF.9/33) to the United Kingdom amendment.

Mr. ROSS (United Kingdom) said that his delegation was not opposed in principle to the Belgian amendment, but preferred its own wording. He expressed the hope that a separate vote would be taken on the Belgian sub-amendment.

If it appeared likely that the Belgian amendment would command the support of a majority of the Committee, his delegation would propose that the words "and its submission to the competent authority" be replaced by the words "and assistance in its submission to the competent authority". Otherwise, it might seem that the agency itself could appear before a court of law.

Mr. SIVAN (Israel) said that article 11, paragraph 1 of the International Law Commission's draft suggested that an agency be set up on what might be called a contractual international basis. As the representative of Ceylon had suggested, if the agency were set up by the parties they might be responsible for its maintenance and conduct.

The Committee should first decide by whom the agency would be set up, what should be its functions, and then whether or not it should be mentioned in the convention. His own view was that the agency should be set up by the parties to the convention, who should define its functions as closely as possible in an optional protocol or resolution.

Mr. HERMENT (Belgium) said that his delegation would prefer the agency to be set up by the Contracting Parties.

Mr. BUSHE-FOX (United Kingdom), referring to his delegation's amendment to article 11, paragraph 1 (A/CONF.9/L.24) said that some confusion had arisen because the first line had been translated into French as "Les Parties contractant voteront pour la creation ....". The English text merely said that "the Parties shall support the establishment".

Mr. JAY (Canada) recalled that at the ninth meeting the Committee had approved the Danish amendment (A/CONF.9/4, article 19) to article 12, which removed from its debates any suggestion that the text relating to the mutual contractual responsibilities of the parties could in any way be changed by the General Assembly. Article 11 must be examined against that background and the Committee should not amend it in any way that would jeopardize the coming into effect of the mutual contractual obligations assumed by contracting parties in regard to substantive matters. If reference were made to an agency in the article countries which would otherwise be willing to accept the obligations imposed by the convention might hesitate to do so. He therefore suggested that the question of an agency be dealt with in a resolution.

Mr. CARASALES (Argentina) considered that the Conference should not leave the task of setting up an agency to the General Assembly. If it did so it was quite possible that States not represented at the Conference would vote agains the establishment of an agency in the General Assembly. The contracting States must assume the financial burden of setting it up and its establishment should be dealt with in a separate protocol.

Mr. LIANG, Executive Secretary of the Conference, said that he did not interpret the International Law Commission's draft as meaning that the contracting parties should themselves set up the proposed agency. In that connexion, he would draw attention to paragraphs 7 and 8 of the document on organs and agencies established by treaty within the framework of the United Nations (A/CONF.9/8) which had been prepared by the Secretariat.

If the Conference recommended in the convention or in a resolution that the General Assembly should approve the establishment of an agency, then that body would study the matter and if it approved the proposal would regard the agency as a subsidiary organ of the United Nations and make financial provision for it. Such action had been taken in connexion with the Convention on the Declaration of Death of Missing Persons, when the General Assembly had made provision for the establishment and maintenance of the International Bureau for Declarations of Death.

Mr. TSAO (China) took the view that the agency should not be mentioned in the convention but should be dealt with in a resolution or an optional protocol. His delegation supported the Belgian subamendment to the United Kingdom amendment.

Mr. BUSHE-FOX (United Kingdom), referring to the statement by the Executive Secretary of the Conference, said that certain countries experienced the same difficulties with article 8 of the Convention on the Declaration of Death of Missing Persons as they did with article 11 of the International Law Commission's draft convention on the reduction of future statelessness.

The United Kingdom delegation saw merit in the Canadian representative's suggestion that the question of an agency should be dealt with in a resolution or recommendation.

Mr. FAVRE (Switzerland) emphasized that the States which had met to draw up the convention on the reduction of future statelessness were not acting in their own interests but in the interests of the international community as a whole and it was from that point of view that the establishment of an agency should be considered.

The CHAIRMAN declared closed the debate on the question of the proposed agency and put to the vote paragraph 1 of the Belgian amendment (A/CONF.9/L.33) to the United Kingdom amendment to article 11, paragraph 1 (A/CONF.9/L.24).

Paragraph 1 of the Belgian amendment was approved by 6 votes to 4, with 19 abstentions.

The CHAIRMAN suggested that the amendment to paragraph 2 of the Belgian amendment proposed orally by the United Kingdom delegation should be referred to the Drafting Committee.

It was so agreed.

On that understanding, paragraph 2 of the Belgian sub-amendment was approved by 12 votes to 4, with 13 abstentions.

The United Kingdom amendment to article 11, paragraph 1, as amended by the Belgian amendment, was approved by 15 votes to 2, with 11 abstentions.

Mr. ABDEL-MAGID (United Arab Republic) said that he wished to reserve his delegation's position regarding article 11, paragraph 1 since the nature and competence of the agency had not yet been defined.

Mr. PEREIRA (Peru) explaining his vote, said that although his delegation did not object in principle to the setting up of the proposed agency it was not in favour of a multiplicity of international bodies.

The CHAIRMAN ruled that as a result of the vote on the United Kingdom amendment, article 11, paragraph 3 of the International Law Commission's draft must be considered as deleted.

Mr. BUSHE-FOX (United Kingdom) pointed out that his delegation's proposal for a new paragraph 2 to be added to article 16 related to the matters covered in the deleted paragraph.

Mr. CARASALES (Argentina) said that he would have to vote against the United Kingdom amendment to article 11, paragraph 4.

The United Kingdom amendment to article 11, paragraph 4 (A/CONF.9/L.24) was approved by 20 votes to 3, with 6 abstentions.

The CHAIRMAN suggested that the United Kingdom amendment to article 11, paragraph 4 should be inserted in the Convention as a separate article.

It was so agreed.

The CHAIRMAN pointed out that a vote for article 11, paragraph 1, as amended would be a vote for the inclusion of a reference to the proposed agency in the convention.

Article 11, paragraph 1, as amended, was approved by 10 votes to 9, with 12 abstentions.

Mr. PEREIRA (Peru) proposed that the next plenary meeting of the Conference should not be held until twenty-four hours after the close of the last meeting of the Committee.

Mr. HARVEY (United Kingdom) opposed that proposal.

The Peruvian representative's proposal was rejected by 13 votes to 3, with 12 abstentions.

The meeting rose at 6.05 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE EIGHTEENTH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 14 April 1959, at 10.20 a.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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(11 p.)

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

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

Article 16 (A/CONF.9/L.24, L.33) (resumed from the ninth meeting and concluded)

The CHAIRMAN recalled that at the ninth meeting article 16 of the draft convention had been approved subject to any modifications necessitated by subsequent decisions. An amendment to the article had been submitted by the United Kingdom delegation (A/CONF.9/L.24) and the Belgian delegation had submitted an amendment (A/CONF.9/L.33) to the United Kingdom amendment.

Mr. HARVEY (United Kingdom) said that he accepted the Belgian amendment.

The United Kingdom amendment (A/CONF.9/L.24), as amended was approved.

Article 16, as amended, was approved.

Effect of the convention: report of the Working Group (A/CONF.9/L.30) (resumed from the thirteenth meeting)

The CHAIRMAN recalled that paragraphs 1, 2 and 3 of the draft article concerning the effect of the convention (A/CONF.9/L.30) prepared by the Working Group had been approved but that consideration of paragraph 4 had been deferred. As it stood, paragraph 4 was not very satisfactory because a State might act according to its national law before the convention came into force and might act subsequently only if the cause of loss or deprivation of nationality were specified in the convention. In other words, there would be no provision covering cases not finally disposed of before the convention came into force.

Mr. BEN-MEIR (Israel) said that during the drafting of the new article his delegation had submitted a proposal - which had not been taken into account owing to pressure of time - for dividing paragraph 4 into two parts: the first dealing with cases arising under articles 5, 6 and 9, and the second with cases arising under articles 7 and 8 and specifying that provisions concerning loss or deprivation of nationality under articles 7 and 8 should apply to persons in whose case the fulfilment of the conditions constituting the grounds for such loss or deprivation had begun before and terminated after the entry into force of the convention. Articles 5, 6 and 9 dealt with acts and events that took place at a specific time, whereas

articles 7 and 8 dealt to a certain extent with continuous events, such as prolonged residence abroad.

Mr. RIPHAGEN (Netherlands) thought that preferably paragraph 4 should be omitted altogether. The matter with which it attempted to deal was very complex, and the provision might produce unintended results. The articles cited implied some limitation of State sovereignty in the sense that loss or deprivation of nationality would not be permitted save on the grounds set forth in the convention. If circumstances constituting such grounds occurred before the convention came into force the cases would be solved by the normal interpretation of the convention, although the difficulty would be how to reconcile that conception with the principle that the provisions of the convention should, if possible, be more favourable to the persons concerned than existing national law.

Mr. ROSS (United Kingdom) did not wholly agree with the Netherlands representative. There might be varying interpretations of the effect of the convention. In principle, in the cases arising under articles 5 and 6 the date on which the act occurred should be decisive. In cases arising under article 7, a State should not be debarred from applying existing law concerning long residence abroad if the seven-year period of foreign residence had been completed before the entry into force of the convention. With regard to article 8, a State should be free to take action in respect of a fraud or crime committed before the entry into force of the convention, if proceedings had been started before the convention's entry into force.

Mr. JAY (Canada) said that he was not entirely clear what was meant by the term "events". If it meant the grounds for some subsequent action by the State, it was hard to see the difficulty referred to by the United Kingdom representative; an action for deprivation would surely be based on events antedating the entry into force of the convention.

Mr. HARVEY (United Kingdom) pointed out that there was a material difference between loss of nationality and deprivation of nationality and that to devise a single formula to cover both would be almost impossible. In cases where loss occurred automatically by operation of law (articles 5, 6 and 7) it occurred at thetime of the decisive event; in the case of deprivation (articles 8 and 9) a considerable time might elapse between the

occurrence of the material event and the final decision. In the latter case proceedings should be instituted promptly - if at all. With the object of distinguishing between the two different situations the United Kingdom delegation proposed that paragraph 4 of the draft article be replaced by two paragraphs in the following terms:

"4. Article 5, 6 or 7 shall not preclude the loss of the nationality of a Contracting State if the condition precedent for such loss was fulfilled before the coming into operation of this Convention for that State.

"5. Article 8 or 9 shall not preclude a Contracting State from depriving a person of his nationality if deprivation proceedings were brought before the entry into force of this Convention for that State".

Mr. HERMENT (Belgium) suggested that it would be preferable not to include in the convention any provision such as that in paragraph 4 of the draft article. In any case, it was unthinkable that there should be any article in the convention permitting any derogation from article 9 once deprivation proceedings had been instituted.

Mrs. TAUCHE (Federal Republic of Germany) said that it was questionable whether a State should have the power to deprive a person of its nationality after the convention had entered into force on any grounds other than those set out in article 8. Deprivation proceedings initiated before its entry into force should of course be completed, but after its entry into force it should not be possible to deprive a person of his nationality except on the grounds specified in article 8. If such deprivation were permitted by reason of earlier events that would not be consistent with paragraph 1 of the draft article which obliged contracting States to apply the convention to persons born before it had come into force.

The CHAIRMAN, speaking as the representative of Denmark, drew an analogy with criminal law. The benefit of any amendment in the criminal law enured to the accused. Similarly, on the entry into force of the convention, the only grounds on which a person could lose or be deprived of his nationality were those expressly mentioned in the convention. Naturally,

earlier events would be taken into consideration but only if they were recognized in the convention as capable of constituting grounds for the loss or deprivation of nationality.

Mr. HARVEY (United Kingdom) explained that the provisions proposed by his delegation were intended as transitional provisions permitting the conclusion of pending proceedings. A very anomalous position would arise if a person were to be able to take advantage of procedural delays to postpone a decision on deprivation of nationality until the convention came to his rescue. The decisive question was when the proceedings had been begun, not when they were concluded.

Mr. SIVAN (Israel) disagreed with the United Kingdom representative. Admittedly, some persons might take advantage of technicalities, but such instances could not be taken as a basis for a general provision. He was inclined to agree with the Belgian representative that no such provisions as those proposed by the United Kingdom delegation were needed. In most cases, municipal law was compatible with the provisions of the convention but in others the law might have to be adjusted. In the case of proceedings for deprivation on the ground of false representation or fraud the end rather than the beginning of the proceedings should be regarded as the material point in time. The case of prolonged absence abroad might not even have to be referred to in the article, for if national law permitted deprivation of nationality on the ground of long residence abroad on conditions compatible with the convention there would be no problem.

Mr. TYABJI (Pakistan) said that the provisions proposed by the United Kingdom delegation were undesirable.

Mr. TSAO (China) said that since it was obviously impossible to find a universally acceptable formula he was inclined to agree with the Belgian representative's suggestion that paragraph 4 be omitted.

Paragraph 4, as proposed orally by the United Kingdom delegation, was rejected by 10 votes to 4, with 16 abstentions.

Paragraph 5, as proposed orally by the United Kingdom delegation, was rejected by 15 votes to 4, with 12 abstentions.

It was decided by 23 votes to none, with 6 abstentions, that the new article concerning the effect of the convention (A/CONF.9/L.30) should consist of the three paragraphs as approved previously.*

Article 13 (A/CONF.9/L.51) (resumed from the thirteenth meeting)

The CHAIRMAN recalled that it had been agreed at the thirteenth meeting to delete paragraph 1 of the article and to defer discussion of paragraph 2, and drew attention to the Yugoslav amendment (A/CONF.9/L.51).

Mr. CARASALES (Argentina) said that the fact that so many provisions of the convention had been approved by a relatively small majority indicated that a number of countries would have difficulty in accepting some of its provisions. It was necessary to achieve a compromise between two desirable aims: to obtain the greatest possible number of ratifications on the one hand, and to make the convention as effective as possible as a means of reducing statelessness on the other. Those two objectives were not necessarily incompatible since the reservations which States might wish to make would probably refer only to certain points of detail and in many cases would affect only one article. Admittedly, there was a danger that some States might seek to evade their obligations under the convention by making a number of major reservations, but that danger should be very slight since States would hardly ratify the convention if they did not intend to accept most of its provisions. The danger of failing to obtain a sufficient number of ratifications if there were no provision for reservations to be made was a much greater one. His delegation therefore proposed the deletion of paragraph 2 of article 13.

Mr. LEVI (Yugoslavia), introducing his delegation's amendment (A/CONF.9/L.51), recalled that although the importance of article 8 was generally recognized only nine delegations had voted for its adoption, whereas nineteen delegations had abstained. It seemed unlikely that the States represented by the latter would ratify the convention and it might well be that only the nine States which had voted for the article would do so. But ratification by those nine States would do nothing to reduce statelessness since the States in question were precisely those which had succeeded in

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* See A/CONF.9/C.1/SR.13.

having the article amended in order to conform with their municipal law. His delegation's amendment would enable States to make reservations concerning articles 7 and 8.

If any delegations desired the insertion in the convention of a general reservation clause or wished to add some other article to those mentioned in his delegation's amendment, he would consider their suggestions favourably. He would also consider any proposal to introduce in paragraph 3 of the amendment provisions similar to those contained in article 8 of the Convention on the Nationality of Married Women.

Mr. TSAO (China) proposed that paragraph 1 of the Yugoslav amendment should include a reference to article 11, which dealt with the establishment of an agency.

Mrs. TAUCHE (Federal Republic of Germany) expressed the view that the Yugoslav amendment conflicted with article 8, paragraph 2, as approved at the sixteenth meeting.

Paragraph 3 of the Yugoslav amendment discriminated against States whose existing legislation did not provide for deprivation of nationality on certain grounds which were admitted by other States, since the former would be precluded by the Yugoslav text from enacting subsequently legislation admitting such grounds.

Mr. BACCHETTI (Italy) said that the Conference should seek a compromise solution which would ensure the greatest possible reduction of statelessness. With regard to the statement of the representative of Yugoslavia, the International Law Commission's draft had already been extensively modified in order to give States broader powers to deprive citizens of their nationality. If the Yugoslav amendment were adopted States would be given absolute powers in that respect. He could not support any proposal which would involve departing even further from the Commission's draft.

Mr. LEVI (Yugoslavia) said that if his delegation's amendment were approved he intended to introduce in the plenary Conference an amendment to article 7 excluding absence abroad as a ground of loss of nationality and an amendment to article 8 ruling out deprivation of nationality altogether.

In reply to the representative of Italy, he was not convinced that article 8 as approved would tend to reduce statelessness. The article was acceptable to a very few countries only and those few would not be obliged by it to amend their national law. His Government might decide not to make any reservations but States should have an opportunity to consider their positions before ratifying the convention.

Mr. HILDE (Liechtenstein) observed that the problem of reconciling the desirability of obtaining the largest possible number of ratifications by allowing reservations to be made and of making the instrument as effective as possible by forbidding reservations was one which inevitably arose in the drafting of any international convention. He had difficulty in understanding why reservations to articles 7, 8 and 11 should be admitted if reservations to article 1, which presented great difficulties to a number of countries, were disallowed.

Mr. KANAKARATNE (Ceylon) said that he appreciated the Yugoslav representative's point that the contribution of the convention to the reduction of statelessness would be small if only a few countries were willing to ratify it. On the other hand, there was a conflict between the ideal of universality and the practical object of effectiveness.

In view of General Assembly resolution 598 (VI), which laid down that multilateral conventions should contain provisions relating to the admissibility or non-admissibility of reservations, the question arose of the effect of the Argentine representative's proposal to delete article 13 altogether. If that proposal were adopted, would States be entitled to make any reservations at all?

He found great difficulty in deciding what atitude to adopt to the Yugoslav amendment so long as the articles to which it related were liable to be amended in plenary meeting.

Mr. BERTAN (Turkey) said that unless States were allowed the right to make reservations the scope of the convention would be severely limited. The provisions of article 8 as approved were entirely acceptable to the Turkish Government since they were in conformity with existing Turkish legislation. But his Government would insist upon the right to make a reservation in respect of compulsory military service.

Rev. Father de RIEDMATTEN (Holy See) recalled that he had introduced his amendment to article 8 at the sixteenth meeting in order not to give the sanction of an international convention to the restrictions introduced by various delegations to bring the article into line with their national legislation. He had thought it preferable that those restrictions should take the form of reservations. It had been his expectation that when once the principle of reservation had been admitted those delegations whose amendments to article 8 had been rejected would seek to reintroduce them in plenary meeting.

He therefore agreed with the representative of the Federal Republic of Germany that the Yugoslav amendment proposed admitting reservations to reservations, and thought that some other approach would have to be found. If the Yugoslav amendment were maintained he would be able to vote for it only on condition that the reservations clause did not apply to article 9, and that the principles of articles 13 and 14 of the Declaration of Human Rights were safeguarded.

Mr. JAY (Canada) expressed the opinion that if delegations had known at the time when the provisions of article 8, paragraph 2 were being discussed that they would take the form of reservations rather than mandatory principles a very different list would have been drawn up. Ideally it would have been desirable to adopt a very simple convention ensuring the complete elimination of statelessness. In practice however it was necessary to take account of the varying requirements of different States, for example in the matter of compulsory military service. The purpose of reducing statelessness would not be accomplished if States wishing to make reservations which would create but a few cases of statelessness were prevented from adhering to the more important basic clauses of the convention.

Drafting improvements would probably be required in paragraph 3 of the Yugoslav amendment. His Government would not welcome the adoption of too general a provision forbidding States to deprive persons of their nationality, but the Conference should be able to devise a reasonable general provision.

The representative of the Federal Republic of Germany had suggested that paragraph 3 of the Yugoslav amendment discriminated against some States: that suggestion called for examination.

Mr. LEVI (Yugoslavia), in reply to the comments of representative of Ceylon, repeated that his delegation intended to submit in the plenary Conference amendments to articles 7 and 8 on the lines he had indicated.

Replying to the representative of Liechtenstein, he said that his delegation had been anxious not to avoid interfering with the compromise between the jus soli and jus sanguinis principles achieved in article 1. He would however consider all proposals for addition to his delegation's amendment.

In deference to the remarks of the representative of the Holy See, he was willing to include a reference to articles 13 and 14 of the Declaration of Human Rights and would welcome drafting improvements on the lines suggested by the Canadian representative.

Mr. LIANG, Executive Secretary of the Conference, replying to the question asked by the representative of Ceylon, explained that General Assembly resolution 598 (VI) had been adopted on the basis of a report of the International Law Commission on reservations to multilateral conventions. The object of the resolution was to avoid disputes about the validity of reservations not acceptable to all Parties. It was incumbent upon the authors of conventions to include in the conventions specific provisions regarding reservations so that any subsequent controversy would be avoided. It was not necessary for individual Parties to avail themselves of all the reservations permitted.

Mr. RIPHAGEN (Netherlands) said that there was a close connexion between the substance of the various articles and the question of reservations. A great many compromise decisions affecting article 8 and a great many other articles had been reached in order to avoid conflict between the convention and existing national laws. If reservations were permitted the balance in the articles previously approved would be disturbed. The proper course for delegations not satisfied with article 8 as approved would be to propose a different reservations clause in the plenary Conference. He therefore suggested that further discussion on the Yugoslav amendment be postponed until the entire convention was considered in the plenary.

It would be desirable to include a reference to the possibility of withdrawing reservations and in that connexion the suggestion in paragraph 3

of the Yugoslav amendment might be of value. Reservations should be admitted only in so far as they were required by existing national legislation.

Mr. HARVEY (United Kingdom) said that the convention should lay down the limits within which reservations would be admissible. He agreed with the Netherlands representative that if reservations were admitted there should be provision for their withdrawal.

He had been impressed by the Canadian representative's observations that the list of grounds for deprivation of nationality in article 8, paragraph 2 had not originally been drawn up in the knowledge that they would be treated as reservations. It was a defect in that paragraph that the reservations had been drafted with the particular laws of certain countries in mind and it was arguable that they should be stated in broader terms.

He agreed that articles 7 and 8 were less important than articles 1 and 4.

Mr. LEVI (Yugoslavia), replying to the Netherlands representative, said he could not agree that article 8 reflected any compromise since only nine delegations had voted in favour of it while nineteen had abstained. He would accept the inclusion of a provision respecting the withdrawal of reservations.

The meeting rose at 12.45 p.m.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE NINETEENTH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 14 April 1959, at 3.10 p.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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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EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the Conference agenda) (continued)

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

Article 13 (A/CONF.9/L.51) (continued)

Mr. TYABJI (Pakistan) said that his delegation's amendments (A/CONF.9/L.22, L.17 and L.23) to articles 5, 7 and 9 of the draft convention had shown his Government's difficulties with regard to the International Law Commission's text. Although Pakistan would be happy to accede to the convention if its difficulties were taken into account it could not do so if reservations were not permitted. He was convinced that States would not shelter behind reservations and decline to make their laws conform with the provisions of the convention; and only a few States would be able to accede to the convention without reservations.

The United Kingdom representative had pointed out that the fundamental articles of the convention were articles 1 and 4 and no delegation had expressed its desire to make a reservation on those articles. The delegation of Pakistan had received the impression that the convention was being shaped to suit conditions prevailing in Europe and appreciated the United Kingdom delegation's sympathetic attitude towards the difficulties of other delegations.

Mrs. TAUCHE (Federal Republic of Germany), referring to the Yugoslav amendment (A/CONF.9/L.51), emphasized that article 8 was as important as article 1; both were the results of compromises reached by the Committee.

Mr. LEVI (Yugoslavia), recalling the statement that he had made at the eighteenth meeting, said that his delegation would accept the oral amendments to paragraph 3 of its amendment, and agree to the retention of paragraph 3 of article 8, provided the Yugoslav amendment to article 13 was approved. His delegation would propose a new article 7 and a new article 8 in plenary meeting.

Mr. CARASALES (Argentina) recalled that at the eighteenth meeting he had proposed the deletion of article 13, and had reserved his right, if that proposal were not adopted, to submit an oral amendment to the Yugoslav amendment.

Mr. HERMENT (Belgium) said that paragraph 1 of the Yugoslav amendment was meaningless since article 8 implied that reservations might be made.

Sir Claude COREA (Ceyon) asked for a separate vote on each paragraph of the Yugoslav amendment. Would reservations be possible if the Argentine proposal were adopted?

The CHAIRMAN said that if the convention made no mention of reservations Contracting States could make reservations only if all their co-signatories agreed to such action.

Mr. LIANG, Executive Secretary of the Conference, recalling the statement he had made at the eighteenth meeting, said that if no article of the convention prohibited reservations then a Contracting State would be free to make them. The practice which had been followed by the League of Nations and adopted by the United Nations was that reservations had to be accepted by all the Contracting States. The Organization of American States followed another practice.

Mr. LEVI (Yugoslavia) pointed out that if article 13 were deleted, as the Argentine representative had proposed, it would be possible to make reservations only on the list contained in article 8.

Mr. TYABJI (Pakistan), referring to the statement of the Executive Secretary of the Conference, presumed that if article 13 were deleted any State could make reservations, although such reservations might or might not be binding on their co-signatories.

Mr. SIVAN (Israel) said that the Committee should show caution and not depart from the International Law Commission's draft of article 13. He had not been impressed by the arguments adduced at the preceding meeting, since despite the importance of articles 7 and 8 they were not as sacrosanct as the articles relating to the attribution of nationality, namely articles 1 and 4.

It would be hardly possible to include an exhaustive list in article 8; he therefore suggested that serious consideration be given to the adoption of the Yugoslav amendment, which his delegation would support. It would also support any proposal for the inclusion of a reference to article 11 in the Yugoslav amendment.

The CHAIRMAN, speaking as the representative of Denmark, said that his Government would be unable to sign a convention if it were possible for the signatories to make a variety of reservations even though they might apply only to articles 7 and 8. The sole case in which his Government reserved its right to deprive a national of his nationality was that of a Danish national born abroad who failed to return to Denmark and to maintain his ties with that country.

The Scandinavian countries considered that the convention on the reduction of future statelessness should be a binding agreement and could not agree to its being made so flexible.

Mr. HERMENT (Belgium) supported the Danish representative's view.

Sir Claude COREA (Ceylon) observed that his delegation might be able to consider the Yugoslav amendment favourably if the Yugoslav delegation were willing to include certain articles on which other countries might wish to make reservations.

Mr. LEVI (Yugoslavia) said that although his delegation could not agree to include an extensive list of articles in paragraph 1 of its amendment it would include a reference to article 11 concerning the proposed agency.

Mr. JAY (Canada) suggested that the Committee should decide in principle forthwith whether reservations should be permitted on articles 7 and 8. If they were permitted, so far as article 8 was concerned they should apply only to the list it contained. A drafting group should then be appointed consisting of the representatives of Belgium, France, the Netherlands, Switzerland and Yugoslavia - and possibly Turkey - to study articles 7 and 8. The Committee should then decide whether reservations should be permitted on article 11.

Mr. BACCHETTI (Italy) said that he understood the difficulties which article 13 raised for the Yugoslav delegation, but the amendment submitted by that delegation would not make the convention more acceptable. After deciding whether reservations were to be permitted the Committee should vote on article 13.

Mr. FAVRE (Switzerland) said that his country could not be a member of a working group called upon to introduce provisions that might lead to more statelessness. He recalled that during the discussion of article 1 a suggestion had been made that it should be left to the discretion of a State to decide whether or not it would grant its nationality to a person born in its territory who would otherwise be stateless at birth. The Swiss delegation had opposed that idea, urging that the conditions governing the acquisition of nationality be stipulated in the convention. Once Switzerland granted its nationality to a person, it was never withdrawn. It would be far better for the convention to be accepted by a small number of States than to become a meaningless document because it opened the door to statelessness instead of eliminating or reducing it.

Mr. BUSHE-FOX (United Kingdom) asked that the oral amendment his delegation had made to the Yugoslav amendment at the previous meeting be referred to the Drafting Committee.

The CHAIRMAN acceded to that request and suggested that further discussion on article 13 be postponed.

It was so agreed.

Preamble

The CHAIRMAN called for comments on the preamble in the International Law Commission's draft (A/CONF.9/L.1).

Mr. LEVI (Yugoslavia) suggested the deletion of the phrase "so far as its total elimination is not possible" in the last paragraph.

Mr. ROSS (United Kingdom) endorsed that suggestion, and further proposed that the fifth paragraph of the preamble should be drafted in a less pretentious manner, e.g. "Whereas the possession of a nationality is a condition of ....".

Mr. LIANG, Executive Secretary of the Conference, said that the fifth paragraph was based upon a rather persuasive commentary in paragraph 130 of the report of the International Law Commission covering the work of its fifth session (A/2456).

Mr. JAY (Canada) agreed with the suggestions of the Yugoslav and United Kingdom representatives. He could not support the wording of the third paragraph of the preamble and wondered whether it was right for the Conference to say that statelessness often resulted in suffering and hardship shocking to conscience. He suggested that the third and fifth paragraphs should be combined and redrafted to read: "Whereas statelessness frequently prevents the enjoyment by the individual of certain rights recognized by international law, and results in suffering and hardship offensive to the dignity of man."

Mrs. TAUCHE (Federal Republic of Germany) thought that the preamble should merely say "Whereas it is desirable to reduce statelessness."

The CHAIRMAN, referring to the first paragraph, pointed out that the convention, as drafted by the Committee, did not give everyone the right to a nationality. He considered that the Economic and Social Council should not be mentioned in the preamble.

Mr. HUBERT (France) said that the preamble might have been acceptable if the Conference had drafted a convention on the elimination of future statelessness, but in existing circumstances it was too lengthy and pompous.

Mr. BEN-MEIR (Israel) suggested that the General Assembly resolution under which the Conference had been convened should be cited in the preamble. He pointed out that a preamble often threw light on the contents of a convention and suggested that at least the wording of the fifth paragraph should be retained.

The CHAIRMAN, speaking as the representative of Denmark, suggested that the preamble should be amended to read: "The High Contracting Parties, acting in pursuance of resolution 896 (IX) adopted by the General Assembly on 4 December 1954, and considering it desirable to reduce statelessness by international agreement, have agreed as follows."

The amendment was approved by 28 votes to none, with 1 abstention.

Effect of the convention: Report of the Working Group (A/CONF.9/L.30) (resumed from the eighteenth meeting)

The CHAIRMAN announced that the Drafting Committee had referred back to the Committee, for consideration, paragraph 2 of the draft article prepared by the Working Group on the effect of the convention (A/CONF.9/L.30)

Mr. ROSS (United Kingdom) said that his delegation wished to ask the Committee's authority for a change in the text of paragraph 2 of the draft article. Under the article as drafted, it would appear possible for any person born before the entry into force of the convention, whatever his age, to apply under article 1, paragraph 1 for nationality, and on being refused on the ground of being over the age limit, to apply for nationality under article 1, paragraph 3 to the country of one of his parents, and, under the existing wording of paragraph 2 of the draft article, that country would have no discretion to refuse his application on grounds of age. His delegation therefore wished to insert in paragraph 2 of the draft article a provision to the effect that the application of article 1, paragraph 3, was restricted to persons who had not passed the maximum age required by national legislation under article 1, paragraph 2 for the granting of nationality. Other delegations had thought that an amendment to that effect would be unnecessary but his delegation wished to eliminate all possibility of doubt.

Mr. HERMENT (Belgium) considered that the amendment proposed by the United Kingdom delegation was one of substance rather than of form. The United Kingdom representative wished to prevent one group of those who might acquire nationality under article 1, paragraph 3, from doing so.

Mrs. TAUCHE (Federal Republic of Germany) expressed the view that the United Kingdom amendment was one of form only. Paragraph 1 of the draft article prepared by the Working Group spoke of "persons who were born before the date on which the Convention enters into force and who have not passed the maximum age required by national legislation". The balance of the article would be maintained if the phrase "who have not passed the maximum age" were introduced into paragraph 2 as well.

Mr. RIPHAGEN (Netherlands) observed that according to article 1, paragraph 4, the grant of nationality under paragraph 1 was conditional upon the application being lodged before the applicant reached an age fixed by the contracting State. If the age limit were stipulated in article 1, paragraph 4, why did the United Kingdom representative wish to re-introduce it in paragraph 2 of the draft article?

Mr. ROSS (United Kingdom) replied that the provision in article 1, paragraph 4, to which the Netherlands representative had referred, was optional.

Mr. JAY (Canada) said that persons applying for nationality under article 1, paragraph 1(b) had an unassailable right to nationality provided they applied before reaching the age limit fixed by the contracting State concerned. After they had reached the age limit, States should have the right to refuse their applications. It was impossible to accept the principle of the transfer of responsibility for stateless persons from countries granting nationality under article 1, paragraph 1(b) to those granting it under article 1, paragraph 3. He therefore agreed with the United Kingdom representative.

Mr. HERMENT (Belgium) asked if it was really justifiable to refuse nationality to a man of, say, 50. Persons of that age might well have children, who would benefit if nationality were conferred.

Mr. ROSS (United Kingdom) proposed that the text of paragraph 2 of the draft article be amended to read: "The provisions of paragraph 3 of article 1 of this Convention shall apply to persons born before, as well as to persons born after, its entry into force, with the exception of persons unable to acquire the nationality of the Contracting State in whose territory they were born on the grounds that, at the time the Convention came into force for that State, they had passed the age limit for lodging their application."

Mr. HERMENT (Belgium) urged the Committee to approve paragraph 2 of the draft article unamended.

The CHAIRMAN put to the vote the United Kingdom oral amendment to paragraph 2 of the draft article prepared by the Working Group on the effect of the Convention (A/CONF.9/L.30).

The United Kingdom oral amendment was rejected by 11 votes to 8, with 11 abstentions.

Draft resolutions for inclusion in the Final Act of the Conference

Belgium: draft resolution (A/CONF.9/L.48)

Mr. HERMENT (Belgium) said that the draft resolution proposed by his delegation for inclusion in the Final Act of the Conference was intended to draw the attention of States parties to the Convention to the case of persons who were not de jure stateless, but who no longer enjoyed the protection of the country whose nationality they nominally possessed. The Convention on the Status of Stateless Persons contained a reference to such persons in the Final Act.

Mrs. TAUCHE (Federal Republic of Germany) drew the Committee's attention to article 34 of the 1951 Convention relating to the Status of Refugees, in which contracting States were asked "as far as possible to facilitate the assimilation and naturalization of refugees". The Belgian draft resolution was, in substance, a repetition of that article, and it would be unwise for the Committee to adopt it.

Mr. HERMENT (Belgium) replied that not all States represented on the Committee were signatories of the 1951 Convention.

The CHAIRMAN, speaking as the representative of Denmark, said that he saw no reason why one group of persons should not enjoy benefits which legally belonged to another group.

On the other hand it was doubtful whether the group of persons who were stateless de facto could really be assimilated to the group of young persons applying for nationality, mostly before the age of twenty-three, with whom the Convention was mainly concerned. Persons who were stateless de facto should certainly be assisted in the acquisition of an effective nationality, but it was not easy to see how they could be treated as stateless persons de jure under the terms of the Convention.

Mr. HERMENT (Belgium) gave the example of a Belgian woman marrying a refugee who was stateless de facto. In such cases, the husband was regarded as stateless de jure, in order to allow the wife to retain her Belgian nationality.

The CHAIRMAN observed that the purpose of the Convention was to enable stateless persons to acquire a nationality and not to prevent others from losing one.

Mr. ABDEL MAGID (United Arab Republic) insisted that there was an essential legal difference between the status of a person who was stateless de facto and that of a person who was stateless de jure. He did not see how the one could be assimilated to the other.

Mr. HERMENT (Belgium) said that the resolution was intended to assist the large number of refugees who did not know exactly what their status was in their country of origin. It was not a legal draft but a recommendation.

Mr. JAY (Canada) said that he would not oppose the inclusion of the Belgian draft resolution in the Final Act of the Conference but could not support it since he did not understand what stateless persons de facto were if they were not refugees.

Mr. RIPHAGEN (Netherlands) said that he was personally in sympathy with the sentiment expressed in the Belgian draft resolution, but would abstain from voting on it, as it was outside the scope of his instructions.

Mr. LIANG, Executive Secretary of the Conference, thought that it might be of assistance to the Committee if he repeated the definition of stateless persons de facto given on page 9 of the United Nations Study of Statelessness (E/1112). Stateless persons were there described as "persons who, having left the country of which they were nationals, no longer enjoy the protection and assistance of their national authorities, either because these authorities refuse to grant them assistance and protection, or because they themselves renounce the assistance and protection of the countries of which they are nationals".

Mr. KANAKARATNE (Ceylon) observed that several delegations had expressed their sympathy with the Belgian draft resolution but said that they could not vote for it. It would be unfortunate if a resolution in those terms were placed before the Conference and rejected; the Belgian representative might perhaps be prepared to withdraw it.

The CHAIRMAN said that the Conference was concerned with what might be described as negative conflicts of national law resulting in cases of statelessness. Statelessness de facto did not arise from any conflict of national laws, but in most cases from a decision by the person concerned that he no longer wished to seek the assistance of the country whose nationality he possessed.

From the legal point of view, he could not understand how persons in the de facto group could be treated as though they belonged to the de jure group.

Mr. HERMENT (Belgium) said that he fully understood the legal implications of his delegation's draft resolution. The resolution was, however, a humanitarian rather than a legal document. Since he had been in Geneva, he had received many requests that the Conference should not overlook the problem of refugees and must decline to withdraw the proposal.

The CHAIRMAN put to the vote the Belgian draft resolution for inclusion in the Final Act of the Conference (A/CONF.9/L.48).

The Belgian draft resolution was adopted by 8 votes to 1, with 20 abstentions.

Denmark: draft resolution (A/CONF.9/L.52)

The CHAIRMAN, speaking as the representative of Denmark and introducing his delegation's draft resolution for inclusion in the Final Act of the Conference, pointed out that at certain points in the convention a distinction was made between natural-born nationals and naturalized persons. The word "naturalized" was ambiguous, however, and there were technical differences between the methods adopted by different States in granting naturalization. The purpose of the Danish draft resolution was to ensure that where distinctions had been made in the text of the convention, they should be based on substantive differences in the status of the person concerned and not on differences of a technical nature between the procedure of different States.

Mr. SIVAN (Israel), while supporting the principle of the Danish draft resolution, said that the text called for two drafting changes.

First, it was by no means certain that all ways of acquiring nationality other than by naturalization had been covered; and secondly the distinction between applications which legally could have been refused and those which legally could not have been refused was not clear. Even applications under article 1, paragraph 1(b), could be legally refused if the conditions stipulated in paragraph 2 were not fulfilled.

Mr. BERTAN (Turkey) observed that under Turkish law the Turkish Government was obliged to confer nationality on immigrants after a certain period of residence, without the possibility of refusal. Any definition of "naturalization" included in the Final Act of the Conference might prove to be at variance with the national laws of Contracting Parties and would tend to increase the number of reservations entered.

Mr. HARVEY (United Kingdom), referring to the statement by the representative of Israel, thought that it should be quite clear what was meant by persons other than naturalized persons. The reference to persons other than naturalized persons in article 7 was intended to cover natural-born nationals and those acquiring their nationality under the terms of the convention. The reference in article 8, paragraph 2(b) to persons other than natural-born nationals covered naturalized persons and persons acquiring their nationality under the terms of the convention.

Mr. HILBE (Lichtenstein) said that the unity of the family would be protected if women acquiring nationality by marriage were regarded, for the purpose of articles 7 and 8, as natural-born nationals.

Mr. JAY (Canada) said that the United Kingdom representative had clearly distinguished between three types of national, the natural-born national, the person acquiring his nationality under the terms of the convention and the naturalized persons.

It was still not clear, however, what interpretation should be placed on nationality acquired under article 1, paragraph 3. He would therefore suggest an amendment to the Danish draft resolution to the effect that the word "only" be deleted from the third line and that the following words be added at the end of the fourth line "(notwithstanding the preceding sentence, persons who have acquired their nationality under article 1, paragraph 3 of the Convention may be considered to be naturalized persons)".

Mr. TSAO (China) regretted that his delegation could not support the Danish draft resolution. Different countries had different methods of conferring nationality, and there was substance in the Turkish representative's point that any attempt to produce a universally applicable definition of naturalization would tend to increase the number of reservations made.

The CHAIRMAN, speaking as the representative of Denmark, agreed that, under the terms of his delegation's draft resolution, acquisition of nationality under article 1, paragraph 3, might be regarded as naturalization. What was important was not the term applied to the method by which nationality was conferred, but whether or not the application could legally have been refused.

The meeting rose at 6 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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24 April 1961

Original: ENGLISH

UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE TWENTIETH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 15 April 1959, at 10 a.m.

Chairman: Mr. LARSEN (Denmark)

Secretary: Mr. LIANG, Executive Secretary of the Conference

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Examination of the question of the elimination or reduction of future statelessness (item 7 of the Conference agenda) (continued)

Draft convention on the reduction of future statelessness (continued)

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Article 13 (resumed from the previous meeting) 2

Draft protocol submitted by Denmark on the establishment of a tribunal relating to the convention on the reduction of statelessness 3

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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.

GE.61-4347

61-11779

(3 p.)

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

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

Draft resolutions for inclusion in the Final Act of the Conference (continued)

Denmark: draft resolution (A/CONF.9/L.52) (continued)

The CHAIRMAN put to the vote the Danish draft resolution.

The Danish draft resolution was approved by 12 votes to 5, with 10 abstentions.

In reply to a question by Mr. JAY (Canada), the CHAIRMAN said that the Drafting Committee would consider the text approved and any suggestions for drafting improvements.

Article 13, paragraph 2 (A/CONF.9/L.51) (resumed from the nineteenth meeting)

Mr. SMALL (Brazil) said that under article 8 as approved at the seventeenth meeting, States could choose from the list contained therein the grounds for deprivation of nationality which they wished to apply. They would be better described as options than as reservations, since they were similar to the conditions set out in article 1, paragraph 2. He hoped that the Drafting Committee would examine the possibility of giving to the grounds in article 8 the character of options, for it would weaken the convention to admit reservations to its substantive articles.

Reservations, should, however, be admissible to the article relating to the International Court of Justice since the substance of the convention would not be affected thereby. Brazil would probably not wish to avail itself of the possibility of making such a reservation, but some countries would find it easier to ratify the convention if that possibility were allowed.

Mr. LEVI (Yugoslavia), supported by Mr. BACCHETTI (Italy), Mr. SIVAN (Israel) and Mr. TSAO (China), proposed that further discussion of article 13 be deferred until the plenary meetings resumed.

It was so agreed.

The CHAIRMAN suggested that, in order to provide two opportunities for discussion of article 13, it should be considered again at a resumed meeting of the Committee, after a final decision had been reached in the plenary meeting on articles 1 to 12, that the agreed text should be referred to the Drafting Committee for revision, and that the text as revised should be finally considered in plenary.

The Chairman's suggestion was adopted.

Draft protocol submitted by Denmark on the establishment of a tribunal relating to the convention on the reduction of statelessness (A/CONF.9/L.37)

The CHAIRMAN recalled that the Committee had agreed to the establishment of the agency mentioned in the International Law Commission's draft of article 11 (A/CONF.9/L.1) but had rejected the establishment of a tribunal.

Speaking as the representative of Denmark, he drew attention to document A/CONF.9/L.37 and announced the following changes in the text to make it apply to a tribunal only: in article 1, paragraph 1 should be deleted and the words "Parties to the Convention on the Reduction of Statelessness, hereinafter referred to as the Convention", should be inserted after the word "States" at the beginning of paragraph 2; the words "in paragraph 1" should be deleted and replaced by the words "in article 11 of the Convention"; in the second line of paragraph 3 the words "and 2", and in the last line of that paragraph the words "agency or" should be deleted; paragraph 4 should be deleted; the paragraphs in article 1 should be renumbered; article 2 should be deleted; articles 3 and 4 should be renumbered 2 and 3 respectively; section b) of the renumbered article 3, and the words "of the agency and" in section d) of the renumbered article 3 should be deleted; at the end of the draft the usual formal provisions should be added.

The Danish draft protocol, as amended by the above changes, was rejected by 8 votes to 5, with 18 abstentions.

The CHAIRMAN, speaking as representative of Denmark, expressed the opinion that States which were willing to submit to the jurisdiction of a tribunal should be given the right to do so. He would therefore reintroduce the draft protocol in plenary meeting.

Mr. JAY (Canada) explained that he had voted against the Danish draft because he did not consider that United Nations funds should be spent on the establishment of complicated machinery which would be used by only a small number of States.

The meeting rose at 10.50 a.m.

UNITED NATIONS

GENERAL ASSEMBLY

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24 April 1961

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE FIRST PLENARY MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 24 March 1959, at 3 p.m.

Acting President:	Mr. LIANG
Later, 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 organizations 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.

(4 p.)

GE.61-4487

61-11594

OPENING OF THE CONFERENCE (item 1 of the provisional agenda) (A/CONF.9/1)

The ACTING PRESIDENT, speaking as representative of the Secretary-General of the United Nations, declared open the United Nations Conference on the Elimination or Reduction of Future Statelessness. The Secretary-General, who regretted his inability to be present in person, attached the greatest importance to the work of the Conference, both as a contribution to the development of international law and as an effort to enable numerous persons, whether living or yet to be born, to overcome serious legal handicaps and to find a more secure place in society.

A person without a nationality was deprived not only of the rights of citizenship within any State, but also, in international relations, of the diplomatic protection which a State extended to its nationals. From the point of view of international law itself, statelessness was an anomaly, as had been recognized by the International Law Commission in the report on its fifth session (A/2456, paragraph 130). Both from the humanitarian and from the juridical points of view there were, therefore, strong reasons for eliminating statelessness or reducing it as much as possible.

Earlier attempts to reduce statelessness included the provisions of the Convention on Certain Questions relating to the Conflict of Nationality Laws adopted by the Conference for the Codification of International Law, The Hague, 1930, which were designed to reduce statelessness occurring at birth and to prevent loss of nationality without acquisition of another nationality. The same Conference had also adopted two protocols regarding statelessness.[1/] Although those instruments had not been ratified by many States, they had probably exerted a powerful influence on State legislation and practice.

After the Second World War, statelessness had again become a pressing problem. In various parts of the world, large numbers of persons, because of their status as refugees or as stateless persons, or both, had not enjoyed the protection of any Government. To relieve the hardships of such persons, action taken under the auspices of the United Nations had resulted in the Convention Relating to the Status of Refugees of 1951 and the Convention Relating to the Status of Stateless Persons of 1954. In addition, efforts had been made to

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1/ Protocol relating to a Certain Case of Statelessness. Signed at The Hague, April 12, 1930: League of Nations Treaty Series, vol CLXXIX, p.115; Special Protocol concerning Statelessness: League of Nations publication 1930 V.6

eliminate or at least to reduce as much as possible the occurrence of future statelessness. That was the specific purpose for which, pursuant to General Assembly resolution 896 (IX), the Conference had been convened.

The Conference had before it as a basis of discussion the two draft conventions prepared by the International Law Commission at its sixth session and reproduced in document A/CONF.9/L.1, which were the outcome of the discussion at successive sessions on the topic "nationality including statelessness" (A/2456, paras. 115 et seq.). The members of the International Law Commission were persons of recognized competence in international law and represented the principal legal systems of the world and in the drafting of the texts account had been taken of any comments submitted by Governments. The principles on which the Commission's work had been based had been endorsed by the Economic and Social Council at its seventeenth session in resolution 526 B (XVII). It still remained, however, to agree on a formulation of those principles for incorporation in one or more international instruments. For that purpose, the nationality laws of various countries based on different conceptions of national allegiance and citizenship would have to be reconciled as far as possible in the interests of the international community as a whole. It was hoped that, in a spirit of co-operation, the Conference would succeed in working out provisions which would meet the urgent need for eliminating or at least drastically reducing future statelessness.

ELECTION OF THE PRESIDENT (item 2 of the provisional agenda)

The ACTING PRESIDENT called for nominations for the office of President of the Conference.

Mr. ROSS (United Kingdom) proposed Mr. Larsen (Denmark).

Sir Claude COREA (Ceylon) seconded that proposal.

Mr. Larsen (Denmark) was elected President.

The PRESIDENT, thanking the Conference for the honour conferred on him, expressed the hope that the Conference would succeed in drafting a convention on the elimination or reduction of statelessness which would be acceptable to Governments and to parliaments and which would help those unfortunate people whose future well-being was dependent on the outcome of the Conference.

ADOPTION OF THE AGENDA (item 3 of the provisional agenda)

The PRESIDENT suggested that the provisional agenda be adopted on the understanding that the question of the elimination or reduction of future statelessness (item 7) might be taken before item 6 (organization of work).

The provisional agenda (A/CONF.9/1) was adopted on that understanding.

ADOPTION OF THE RULES OF PROCEDURE (item 4 of the agenda) (A/CONF.9/2)

The PRESIDENT drew attention to the provisional rules of procedure prepared by the Secretariat (A/CONF.9/2).

The provisional rules of procedure (A/CONF.9/2) were adopted.

ELECTION OF VICE-PRESIDENTS (item 5 of the agenda)

The PRESIDENT called for nominations for the offices of the two Vice-Presidents of the Conference.

Mr. POPPER (United States of America) proposed Mr. Kawasaki (Japan).

Mr. SIVAN (Israel) seconded that proposal.

Mr. VIDAL (Brazil) proposed Mr. Calamari (Panama).

Mr. PARADAS (Dominican Republic) seconded that proposal.

Mr. Kawasaki (Japan) and Mr. Calamari (Panama) were elected Vice-Presidents of the Conference.

The meeting rose at 4.15 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE SECOND PLENARY MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 25 March 1959, at 10.05 a.m.

President: Mr. LARSEN (Denmark)

Executive Secretary: Mr. LIANG

CONTENTS:

Examination of the question of the elimination or reduction of future statelessness (item 7 of the agenda)

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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.

(10 p.)

GE.61-4489

61-11593

EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the agenda) (A/CONF.9/4, A/CONF.9/L.1)

The PRESIDENT paid a tribute to the work of the International Law Commission in preparing two draft conventions on future statelessness (A/CONF.9/L.1) and asked the Conference to bear in mind the Commission's observation in the report on its sixth session that "if Governments adopted the principle of the elimination, or at least the reduction, of statelessness in the future, they should be prepared to introduce the necessary amendments in their legislation" (A/2693, para.12). Nothing would be gained if after a convention had been approved Governments decided merely to reject those provisions which were in conflict with their national laws. The position of human beings in need could be improved only if Governments were prepared to make some sacrifices.

A stateless person, it was clear, was a person not having the nationality of any of the eighty odd existing States. But the problem before the Conference was not to enable such a person to acquire any nationality, since in most cases the nationality of seventy to seventy-five of the existing States would be inappropriate. It was no use ensuring that a person of German or French origin could become a national of some country far from Germany or France. Theoretically, he might cease to be stateless, but in fact one evil would be replaced by another. The Conference's task was to ensure that a stateless person could obtain the nationality of a State with which he had at least a minimum connexion.

As a first step, the Conference should choose which of the draft conventions before it should be regarded as the basic document. The choice would be purely procedural and would not prejudice any subsequent decisions on matters of substance.

Mr. ROSS (United Kingdom) observed that his country occupied a middle-of-the-road position on one of the main issues before the Conference, since its nationality laws contained elements both of jus soli and of jus sanguinis.

The Conference should beware of two dangers. First, in its eagerness to eliminate statelessness altogether, it might draw up a convention which only a few States would be prepared to sign. Secondly, in its desire to achieve some practical result, it might prepare an instrument which many States would sign and ratify, but which would improve the condition of stateless persons only in a very small degree. The Conference should attempt to steer a middle course by drafting a convention which would secure many ratifications and at the same time represent an appreciable improvement in the lot of stateless persons.

The main cause of statelessness at birth was the conflict between jus soli and jus sanguinis. No general agreement could be obtained if the Conference were to attempt to solve the problem through either principle alone; it was a source of satisfaction that the two draft conventions prepared by the International Law Commission (A/CONF.9/L.1) and the draft submitted by the Danish delegation (A/CONF.9/4) represented a combination of the two principles.

Any country signing and ratifying a convention on statelessness would have to agree to some alteration in its national laws, and if any one of the three drafts were approved his own country contemplated amending its laws to confer British nationality on illegitimate children born abroad and on children of a stateless father and a British mother. Inheritance through the mother and inheritance by an illegitimate child were novel concepts in English law, but his Government would amend the law in that sense if other countries followed suit.

The draft convention submitted by the Danish delegation had some attractive features, but one of the two drafts submitted by the International Law Commission would make a better basic document, first, because to disregard the work of a body of such eminent jurists would be lacking in respect and, secondly, because one or other of the Commission's drafts was more likely to secure general agreement. The Danish draft was very heavily weighted against jus soli and contained many features that were exceedingly complex and not fully understood by his delegation. His Government did not hold very strong views on the choice of a basic text and would agree to a convention based on either of the two drafts prepared by the Commission; it was probable, however, that the draft convention on the reduction of future statelessness would secure a wider measure of agreement and might well be adopted by the Conference as the basic document. Neither draft was perfect, and his delegation would submit amendments to whichever was chosen.

Mr. TSAO (China) observed that, although there were indeed two distinct principles on which nationality laws were generally based, the difference between them was not so large as would seem. The nationality laws of his country were based on jus sanguinis, whereas the two drafts prepared by the International Law Commission rested primarily upon jus soli, but with one or two exceptions both texts were acceptable to his Government.

On the choice of a basic document for the Conference, he would agree with the United Kingdom representative that, despite the merits of the Danish draft, it

would be advisable to accept one of the texts prepared by the International Law Commission, in which case the draft convention on the reduction of future statelessness offered better prospects of agreement.

Mr. HERMENT (Belgium) expressed appreciation of the deep understanding of the problem of statelessness displayed in the draft convention submitted by the Danish delegation, but agreed with the United Kingdom representative that the Danish draft was in some respects excessively complex. It was true that Governments would have to make concessions if statelessness were to be eliminated or reduced, but the Conference should make a careful study of the consequences of such concessions, and particularly the repercussions of article 1 of the two draft conventions prepared by the International Law Commission.

In his view, both the Commission's draft conventions called for too many concessions on the part of States whose nationality laws were based on jus sanguinis, but with some reservations he would suggest that the Conference adopt as its basic document the first draft convention, on the elimination of future statelessness.

Mr. ABDEL MAGID (United Arab Republic) said that it was well known that matters of nationality were within the exclusive competence of States. Before asking States to make sacrifices for the solution of the difficult problem of statelessness - sacrifices that might sometimes be necessary - and expecting Governments to amend their national legislations, the extent to which existing laws were in harmony with the relevant international law should be ascertained. Provisions to avoid statelessness were contained in the Egyptian Nationality Act No. 391 of 1956 and in a similar Act (No. 82) passed in the United Arab Republic in 1958. Representatives were attending the Conference not only as legal experts but as representatives of Governments; they should therefore eschew purely academic considerations and endeavour to reach a practical solution which would later meet with the approval of their Governments.

Mr. LEVI (Yugoslavia) said that since on the whole his Government preferred the draft convention on the reduction of future statelessness, he would propose that the Conference adopt it as its basic document, although the Yugoslav delegation would have a number of amendments to submit thereto.

Mr. BACCHETTI (Italy) expressed the view that, although the Danish draft convention was most useful, it would be advisable for the Conference to start its discussion on the basis of one or other of the two draft conventions prepared by the International Law Commission.

His Government preferred the draft convention on the elimination of future statelessness on the grounds that the text which offered the greater guarantees to the individual should be studied first. The first duty of the Conference was not to adjudicate between the merits of jus sanguinis and jus soli, but to consider actual cases and discover empirically and without dogmatism how the stateless person could best be protected.

Mr. HUBERT (France) observed that the International Law Commission's draft convention on the elimination of future statelessness was technically the most effective of the three drafts before the Conference, for it closed the door to statelessness altogether. Its most serious shortcoming was that it contained no reference to a real attachment of a person to the State whose nationality he was to obtain, since a person born on the territory of a given State would automatically acquire the nationality of that State. The Commission's draft convention on the reduction of future statelessness went some way towards meeting that difficulty in that to a certain extent it permitted a State to verify whether a person had a genuine connexion with it or not, although it might not go far enough in that direction.

The interesting Danish draft convention, on the other hand, went too far. It would be better to steer a middle course between the Danish draft convention and the Commission's draft on the elimination of future statelessness and he would therefore propose that the draft convention on reduction of future statelessness be adopted as the basic text.

Mr. CARASALES (Argentina) said that for the reasons explained by the United Kingdom representative it would be difficult to adopt the Danish draft convention. The two drafts prepared by the International Law Commission represented a compromise reached by legal experts and had already been commented on by Governments and discussed by the Sixth Committee at the ninth session of the General Assembly (A/C.6/SR.397-402).

While believing that the draft convention on the reduction of future statelessness would command the greater support, his delegation would accept either of the Commission's two draft conventions as a basic document.

Mr. VIDAL (Brazil) proposed that the Conference adopt the Commission's draft convention on the elimination of future statelessness as its basic document and that delegations be invited to submit amendments to it.

Mr. JAY (Canada) said that his Government believed that there were some cases where statelessness, however undesirable, represented the lesser of two evils. It was essential to keep in mind a person's real attachment to the country to which he belonged as the first principle of nationality and citizenship. In the past, his country had been relatively generous in granting citizenship to newcomers, but it was anxious to protect the status and prestige of Canadian citizenship.

Each of the draft conventions before the Conference gave rise to a number of special difficulties, but it was to be hoped that forthcoming discussions would reduce those difficulties to a minimum and enable his Government to accept the final convention. His preference went to the draft convention on the reduction of future statelessness as a working text but in submitting amendments many delegations would undoubtedly draw heavily on the ideas embodied in the Danish draft.

Mr. FAVRE (Switzerland) said that his country could not be held responsible for creating statelessness in the past, but for humanitarian reasons it would co-operate in drafting agreements to reduce future statelessness.

The two draft conventions of the International Law Commission were based on the principle of jus soli, a solution that had the merit of simplicity, and one or other of the draft conventions should certainly be approved by States whose nationality laws were also based on jus soli. The same could not be said, however, of States - many of them European States - whose nationality laws rested upon jus sanguinis. Those States, many of them over-populated, could not, without seriously affecting their political and social structures, assimilate thousands of persons who had no real links with them and whose birth on their soil was often fortuitous.

A country such as his own, which at the moment had more than 500,000 foreigners on its territory out of a total population of about 5 million and in the last quarter of a century had offered temporary or permanent hospitality to more than 300,000 refugees or stateless persons, could not assume the risks which would be involved in granting nationality to stateless persons merely

because of their birth on its territory. Before granting nationality, it had to ensure that the persons concerned were adapted to the habits, customs and mentality of its nationals and that they would become good citizens. Birth on the territory of a State could be regarded as one link with that State and was to be taken into account in deciding whether citizenship should be granted; but it could not be the determining factor.

The main task of the Conference therefore was to find a way for the jus sanguinis States to co-operate in reducing future statelessness. The variant to article 1 in the Commission's second draft was obviously designed for that purpose, but the solution proposed there was contestable, since it was based essentially on jus soli. The Conference should produce a fairly flexible text so as to allow States which could not accept the jus soli formula to make the granting of citizenship to persons born on their territory subject to an examination of their conduct and the possibility of their assimilation within the community.

Sir Claude COREA (Ceylon) said that it was unimportant which of the draft conventions the Conference took as its basic document. It would, for instance, be quite possible to adopt the Commission's first draft convention, on the elimination of future statelessness, and by subsequent amendment, to bring it into line with the second draft, on the reduction of future statelessness. His preference, however, lay with the draft convention on the reduction of future statelessness. He would reserve the right to speak at a later stage on matters of substance, such as the meaning of statelessness. New factors had arisen since the adoption of the concepts jus soli and jus sanguinis and it was clear that statelessness needed to be defined afresh.

Mr. POPPER (United States of America) said that his delegation fully shared the appreciation of the humanitarian aspects of the problem of statelessness to which previous speakers had alluded. The United States delegation realized the hardships to which individuals might be subjected through no fault of their own because they were deprived of a nationality and considered it important that Governments be induced to eliminate or reduce as far as possible the amount of statelessness which resulted from the operation of their national laws.

It might be asked how that objective could best be attained, whether through an international convention concluded within the framework of the United Nations or through appropriate legislative action by individual Governments taken pursuant to a recommendation of an appropriate organ of the United Nations. In the field of human rights, the United States Government had inclined to the latter view and its action at the Conference would be based on that attitude.

There were very few instances in which the loss of American nationality under United States law had resulted in a person becoming stateless. Moreover, stateless persons admitted to the United States of America for permanent residence were eligible for naturalization upon compliance with the statutory requirements to the same extent as other aliens. Consequently, the present United States laws did not to any great extent add to the number of stateless persons but rather aided the reduction of statelessness by affording stateless persons the same opportunity for naturalization as other permanently resident aliens.

The United States delegation would participate in the Conference with a view to assisting as and when it could in producing the best possible draft convention susceptible of ratification by a significant number of States. His Government did not however believe that there was any pressing necessity for it to sign or ratify a convention of the kind being negotiated and did not contemplate any such action.

With regard to the various texts before the Conference, the United States delegation would prefer as a basis for discussion the draft convention on the reduction of future statelessness, prepared by the International Law Commission. The other draft prepared by that Commission and the document submitted by the Danish delegation contained many excellent ideas and could, if necessary, be used as starting points. In the light of the discussion however it seemed clear that the most effective and expeditious procedure would be to begin consideration of the draft convention on the reduction of future statelessness and to add to it such points from the other two drafts as the Conference might decide.

Mr. HERMENT (Belgium) congratulated the Swiss representative on the clarity with which he had expressed the viewpoint of States whose nationality laws were based on jus sanguinis.

Delegations favouring the Commission's second draft convention should consider the fact that under paragraph 2 of article 1 of that draft a person might become stateless at the age of eighteen if certain conditions were not fulfilled. He was opposed to any provisions which might lead to a lapse of citizenship on the grounds that they were at variance with the aims of the Conference.

The PRESIDENT, speaking as the representative of Denmark, explained that his Government had never assumed that the Danish draft convention would be adopted as a basic document of the Conference. Its object in submitting the draft had merely been to put forward some realistic proposals. In 1954, a Convention on the Status of Stateless Persons, which conferred only the minimum of rights upon them, had been adopted unanimously by a conference representing twenty-seven States, but had been ratified by three States only. His Government feared that the Conference might produce a magnificent, idealistic document containing provisions to eliminate or reduce statelessness, which after scrutiny by experts and practical politicians would never come into force. Surely it was better to give real assistance to 5, 20 or 30 per cent of stateless persons than to aim at perfection. The Chairman of the ad hoc Committee on Statelessness and Related Problems in 1950 had said that it was unwise to reach for the stars and that actual results, however, modest, were of far greater value.

His delegation certainly had no intention of asking other delegations to sponsor its draft convention as a basic document, but hoped that certain of its features would be embodied in the text finally approved by the Conference. The Conference's choice lay solely between the two draft conventions prepared by the International Law Commission.

Mr. BERTAN (Turkey) said that, whereas the nationality laws of Turkey were based on the principle of jus sanguinis, the principle of jus soli was respected, provided that the person concerned had a definite link with Turkey. The Conference should adopt as a basis for discussion the text of the draft convention on the elimination of future statelessness prepared by the International Law Commission.

The PRESIDENT, replying to a question by Mr. HERMENT (Belgium), said that the adoption of one of the two texts prepared by the International Law Commission as a basis for discussion would not preclude a delegation from submitting amendments thereto and would not mean that the Conference bound itself in advance to accept a certain set of principles.

Mr. RIPHAGEN (Netherlands))said that his Government would favour a convention along the lines of the draft on the reduction of future statelessness prepared by the International Law Commission.

Mr. JAY (Canada) said that, if the Conference adopted the draft convention on the reduction of future statelessness as a basis for discussion, that decision would not mean that delegations completely rejected the text of the draft convention on the elimination of future statelessness.

Rev. Father de RIEDMATTEN (Holy See) said that his delegation wished to co-operate fully in the Conference's humanitarian task. Although of the opinion that the draft convention on the reduction of future statelessness would stand a better chance of acceptance by States, it would not vote against the adoption as a basis for discussion of the draft convention on the elimination of future statelessness.

Mr. TSAO (China) said that the consensus of opinion was strongly in favour of adopting the draft convention on the reduction of future statelessness as a basis for discussion, although no delegation would wish to vote against the draft on the elimination of future statelessness.

Mr. HELLBERG (Sweden) said that in May 1954 the Swedish Government had notified the Secretary-General of the United Nations that the Swedish Citizenship Act No. 382 of 1950, which had come into force on 1 January 1951, had been drafted in close co-operation with the Governments of Denmark and Norway. Although the draft convention on the reduction of statelessness submitted by the Danish Government was more compatible with the Swedish Citizenship Act, the Swedish delegation was willing to take part in the discussion of the two drafts prepared by the International Law Commission. It would, however, prefer the draft convention on the reduction of future statelessness to be taken as a basis for discussion.

Sir Claude COREA (Ceylon) proposed that, without any commitment on the principles underlying the draft, the Conference adopt as a basis for discussion the draft convention on the reduction of future statelessness (A/CONF.9/L.1).

Mr. VIDAL (Brazil) supported that proposal.

The PRESIDENT put the proposal of the representative of Ceylon to the vote

The proposal was adopted by 28 votes to none, with 5 abstentions.

The meeting rose at 12 noon.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE THIRD PLENARY MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 25 March 1959 at 3 p.m.

President: Mr. LARSEN (Denmark)

Executive Secretary: Mr. LIANG

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Article 1.

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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.

GE.61-4491
61-11592
(10 p.)

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

Draft convention on the reduction of future statelessness (A/CONF.9/L.1) (A/CONF.9/L.2, L.4, L.6)

Article 1

The PRESIDENT said that in conformity with the decision taken at the previous meeting, the text which would form the basis of discussion was the draft convention on the reduction of future statelessness prepared by the International Law Commission (A/CONF.9/L.1).

He proposed that consideration of the preamble be postponed until after certain substantive provisions had been discussed.

It was so agreed.

The PRESIDENT invited debate on article 1 of the draft convention.

Mr. HERMENT (Belgium) said that his Government was reluctant to accept the provision laying down the principle of automatic citizenship by virtue of birth (article 1, paragraph 1), although it might be acceptable if applied to the child of stateless persons, provided that the child had resided for a number of years in the country of birth. A child who had acquired the nationality of the country of birth might, for example, in cases where the father was an alien, move to the father's country, acquire that country's nationality and receive his entire education there. It was unacceptable that in such a case the child should have the nationality of the country of birth as well.

It was true that the phrase "who would otherwise be stateless" in article 1, paragraph 1, was intended to exclude the children of parents already possessing a nationality, but it would be very difficult in practice to ascertain whether or not a child was eligible for nationality under the legislation of the country of origin of its parents. Cases of double nationality might easily arise in that way. His Government therefore would propose an amendment to article 1 which would enable a child to acquire the nationality of the State in which it had resided for a number of years without however conferring upon that child the automatic right to that nationality by virtue of birth (A/CONF.9/L.2).

Mr. HARVEY (United Kingdom) said that his delegation approved the underlying principle of article 1, paragraph 1, and article 4 of the draft convention, namely that nationality should be acquired from birth. The numerous applications for British nationality received by his Government on behalf of persons under eighteen years of age demonstrated that the need was felt to

establish nationality at an early age. In countries in which personal status was based on nationality and not domicile, it was particularly important that a person should be able to acquire nationality as early as possible.

Although United Kingdom nationality law was based on jus soli, his delegation understood the viewpoint of countries which followed jus sanguinis and it was therefore prepared to accept the residence qualification stipulated in article 1, paragraph 2. If however, a very close connexion with the country of birth were insisted upon, the contribution of the article to the reduction of statelessness would be gravely impaired, inasmuch as most persons having such a connexion were in any case qualified to acquire the nationality. If the delegations wishing to insist on the maintenance of a close connexion with the country of birth would state the minimum requirements acceptable to them, it would be possible to see whether sufficient scope remained to preserve the effectiveness of the article. An illustration of the hardship which might occur was the case of a child whose father was transferred to an overseas branch of his firm and maintained a home there throughout part of the child's minority. Although such a child could not be said to have been normally resident until the age of eighteen years in the territory of the State of nationality, in these circumstances he should be entitled to preserve the nationality, provided that he was normally resident in the territory of the state in question at the age of eighteen.

Although it was quite reasonable that a person should lose a nationality acquired in accordance with the convention if, at the age of eighteen, he opted for and acquired a different nationality (paragraph 2), there was no reason to limit the application of the provision to cases in which the new nationality was acquired by option. The question would be more appropriately considered in connexion with article 8, in which it should be clearly stated that a person who had acquired a nationality by virtue of the convention would lose that nationality if he acquired a different nationality whether before or after the age of eighteen years.

It was essential that a person should be required to declare his intention of retaining his nationality within a brief period after attaining the age of eighteen years in order to ensure that the responsible authorities were in a position to make an effective investigation of his claim respecting normal residence in the territory.

In the light of the considerations he had referred to, his delegation proposed certain amendments to paragraphs 2 and 3 (A/CONF.9/L.4). Among the reasons for requiring a declaration within, say, twelve months of the persons's attaining the age of eighteen years was that questions of military service obligations and the possibility of marriage arose at about that age.

Sir Claude COREA (Ceylon) said that countries whose nationality laws were based on jus sanguinis would have difficulty in accepting the provisions of the article 1, which was based on jus soli. In order to avoid infringement of the sovereign right of States to determine which persons should be admitted to their nationality, paragraph 1 should be amended so as to confer upon persons born in the territory of a particular State not the nationality of that State by automatic operation of law but the right to acquire that nationality. He therefore proposed that the words "shall be entitled to acquire" be substituted for the words "shall acquire" in the paragraph in question.

In paragraph 2 the stipulation of normal residence allowed excessive latitude of interpretation. A person might be absent for fourteen or fifteen years from the country of his birth and yet claim "normal" residence in it.

Unless paragraph 2 were supplemented by a provision expressly recognizing the right of the State to lay down further conditions governing the preservation of nationality, great difficulties would be put in the way of countries desirous of giving stateless persons the right to acquire their nationality.

The PRESIDENT, speaking as the representative of Denmark, took the view that the provisions of the article were artificial. They would confer nationality automatically at birth in accordance with the principle of jus soli, a principle which would be quite unacceptable to some countries. Moreover, at the age of eighteen years, which was precisely the age at which the possession of a nationality became of supreme importance, a person ran the risk of again becoming stateless. Paragraph 3, furthermore, would confer upon him the nationality of one of his parents at the very time when his legal bonds with his parents were being loosened.

His delegation also found unacceptable the provision in paragraph 3 under which, if the persons were of different nationalities, the nationality of the father would prevail over that of the mother. In the case of a child of divorced parents, the effect of that provision would be to confer on him the nationality of a father who might have had no effective influence on the child

during the greater part of the child's life. A nationality in which neither the person concernednor the State had any real interest was no better than statelessness. In the view of his delegation, a child born while his parents were residing for a short time in a particular State should acquire the nationality of the perents and not the nationality of that State. If that principle were ignored, neither the nationality of the parents nor the nationality of the child could be said to be fully effective. It was to remedy some of the defects of the draft to which he had drawn attention that the Danish delegation was submitting certain amendments to the article (A/CONF.9/L.6).

As to the amendment to paragraph 1, while it was highly artificial to confer the father's nationality upon an illegitimate child, it was necessary to lay down some rule governing the case of such children. An illegitimate child should therefore acquire the mother's nationality and a legitimate child the father's.

The idea underlying the Danish amendment to paragraphs 2 and 3 was that, if a person had not acquired a nationality by birth or otherwise by the age of eighteen, he should acquire the nationality of the country in which he had been brought up.

Mr. JAY (Canada) emphasized that the Conference was concerned with the reduction of statelessness and not with the drafting of nationality laws.

At the previous meeting he had referred to the principle of State sovereignty stressed by the representative of Ceylon, but had expressed the hope that it would not be given undue prominence. If the principle were taken into account in article 1, the question of reducing statelessness would be relegated to a secondary position.

The Belgian amendment (A/CONF.9/L.2) seemed to be designed to preserve statelessness up to the age of fifteen or sixteen years, whereas the article as drafted left open the possibility of statelessness from the age of eighteen. The amendments proposed by the United Kingdom delegation did much to avoid that possibility.

His delegation would have preferred paragraph 1 to stand without amendment. Whether it would be able to accept the amendments submitted would depend on the turn taken by the discussion, but it was to be hoped that there would be no radical departure from the provisions of that paragraph, which by conferring nationality at birth did much to reduce statelessness.

Mr. LEVI (Yugoslavia) said that although the article of the Commissions's draft was not entirely in accordance with existing Yugoslav law

regarding nationality he could accept it, but would consider amendments thereto. The Belgian amendment did not appear to be far removed from his delegation's attitude. The Danish delegation's views regarding the last sentence of paragraph 3 were broadly acceptable. His delegation was submitting an amendment (A/CONF.9/L.7) which would overcome the difficulties to which attention had been drawn.

Mr. BACCHETTI (Italy) said that, even though Italy was a jus sanguinis country, he agreed with the remarks of the United Kingdom, for children should have a nationality from birth, especially for reasons connected with problems of inheritance, and should have the right to choose their nationality when capable of exercising such a right, if there were any choice. The arguments advanced against the rigid application of the jus soli principle were not without foundation, but it should be remembered that the article mainly referred to ordinary cases, not to the relatively uncommon case of children whose parents frequently changed their country of residence. A person who did not acquire the nationality of a country until the age of eighteen years would probably not be as good a citizen of that country as a person who had acquired that nationality at birth; school children who were not nationals of the country of residence were profoundly affected by their alien status.

Mr. ROSS (United Kingdom) said that the Conference appeared to be discussin two separate questions: first, whether the article should be based primarily on the principle of jus sanguinis or on that of jus soli; secondly, the time when persons to whom the article applied should acquire a nationality. As to the second question, the proposals made could be divided into three categories: first, those - which reflected the views of the International Law Commission and the United Kingdom delegation - under which persons to whom the article referred would automatically acquire a nationality at birth and their retention of that nationality would be subject to the fulfilment of certain conditions when they were about eighteen years old; secondly, proposals such as that submitted by the Belgian delegation under which the persons in question would automatically acquire a nationality around the age of eighteen subject to the fulfilment of certain conditions; and thirdly, proposals such as that put forward by the representative of Ceylon, under which such persons would not acquire any nationality at birth and would acquire a nationality around the age of eighteen only if the state to which they applied for naturalization approved their application. He was strongly opposed to proposals in the third category; the

Conference had been convened with a view to reducing statelessness and such proposals would place persons to whom the article applied very much at the mercy of States.

Mr. TSAO (China) said that his Government would have no difficulty in accepting the article. It could accept it even if it consisted only of paragraph 1, although the law of his country regarding nationality was primarily based on the principle of jus sanguinis Admittedly, there were difficulties over paragraph 1 described by other representatives, but paragraphs 2 and 3 should provide adequate safeguards.

The adoption of the Belgian amendment would weaken the convention, for it would have the effect of continuing the statelessness of some children until the age of fifteen or sixteen years. There was no objection to the substance of the United Kingdom amendment, but it was too complicated for a multilateral agreement and its adoption might well make it more difficult for some States to become parties to the convention.

Mr. HERMENT (Belgium) said that it was true that under the text proposed by the Belgian delegation children might remain stateless until the age of fifteen or sixteen; yet surely that solution was preferable to that proposed by the International Law Commission under which persons who had had a nationality from birth might in certain circumstances become stateless on attaining the age of eighteen years. Furthermore, it was preferable to the United Kingdom proposal under which persons who had had a nationality from birth would become stateless at eighteen unless they made a declaration of their intent to retain that nationality. The possession of a nationality between the ages of fifteen and eighteen was far more important than under the age of fifteen. The purpose of his delegation's amendment was to enable young persons to acquire the nationality of the country in which they were established by means of a simplified procedure.

Sir Claude COREA (Ceylon) said that article 1, paragraph 1, of the International Law Commission's text conflicted with the right of every State to determine who should be nationals of the State. The Conference could not ignore that right and the convention should therefore specify that a person could not acquire the nationality of a State unless that State expressly accepted him as a national.

The PRESIDENT, speaking as the representative of Denmark, agreed with the representative of Ceylon that each State had the right to decide who should be

nationals of that State, but it would not be incompatible with that right if the convention provided that persons who fulfilled certain specified conditions should automatically become nationals of a State party to the convention or if a State undertook, by becoming a party, to grant to persons who would otherwise be stateless the right to its nationality. The nationality laws of many countries provided that certain persons automatically acquired nationality. The Danish Nationality Act contained several provisions enabling persons who were not nationals of Denmark to acquire Danish nationality by virtue of a declaration which did not need the concurrence of the authorities.

Mr. RIPHAGEN (Netherlands) said that the law regarding nationality of his country was based primarily on the principle of *jus sanguinis*, but in the interests of a reduction of future statelessness, he would accept paragraph 1 if there were sufficient support for it and if it were laid down in the article that persons acquiring a nationality by virtue of that paragraph should retain it only if they did not acquire a different nationality, either voluntarily or involuntarily, and if there were some genuine link between such persons and the State concerned, such as that resulting from normal residence in the territory of that State.

He would not express a definite opinion on paragraph 2 until after he had studied carefully all the amendments put forward.

Paragraph 3, should be amended by the addition of a clause enabling a person who lost one nationality to acquire another before attaining the age of eighteen. Under the International Law Commission's text, provision was made only for the possibility of such a person's acquiring a new nationality at the age of eighteen.

Mr. HUBERT (France) said that his delegation would submit an amendment (A/CONF.9/L.5/Rev.1) that would steer a middle course between the proposals under which the persons to whom paragraph 1 referred would acquire a nationality at birth and those under which such persons would acquire a nationality when they were about eighteen years old.

The PRESIDENT, speaking as the representative of Denmark, said that it was illogical to argue, as did some representatives, that persons to whom paragraph 1 applied should have a nationality before they reached the age of eighteen years and sumultaneously to defend texts - such as paragraphs 2 and 3 - under which, in effect, persons who had had a nationality from birth might become stateless at the age of eighteen.

The words "the nationality of one of his parents" in paragraph 3 were not clear. Did they mean the nationality of one of the parents at the time of birth of the person concerned or the nationality of that parent at the time when the person reached the age of eighteen? Paragraph 3 was unacceptable because it was unreasonable to lay down in effect that a State must accept as a national at eighteen a person who could not be a national of that State before reaching that age.

The jus soli States would obviously continue to grant their nationality to persons born in their territory, even if the article were finally adopted in the form proposed by the Danish delegation. It was to be hoped that those States might be persuaded to agree to the application of the principle of jus sanguinis for the purposes of the article.

Mr. HARVEY (United Kingdom) said that it was better for children to have a nationality provisionally than to be stateless. If the United Kingdom amendment to the article were adopted, only very few of the persons who had acquired a nationality at birth by virtue of paragraph 1 would lose it at the age of eighteen and only because they had not taken steps to preserve it.

His delegation has considered the possibility of submitting an amendment to paragraph 3 with a view to making the words "the nationality of one of his parents" explicit but had decided that such an amendment might make the text unnecessarily complicated. He interpreted the phrase to mean the nationality of one of the parents at the time of the person's birth or, in the case of a posthumous child, the father's nationality at the time of his death.

Mr. BACCHETTI (Italy) said that it was true that paragraph 1 provided for the acquisition of a nationality at birth and paragraphs 2 and 3 for the possible loss of that nationality at the age of eighteen years. He would prefer the article to consist only of paragraph 1, but had not submitted a formal proposal to that effect because such a proposal would have little chance of being accepted.

Mr. VIDAL (Brazil) said that under Brazil's nationality laws any person born in Brazil who would otherwise be stateless possessed Brazilian nationality; accordingly, there were no cases of statelessness attributable

to Brazilian legislation. Article 1 should be so worded as to be acceptable to both jus sanguinis and jus soli countries, but it should not be forgotten that the purpose of the Conference was to reduce statelessness. He had been impressed by the argument that every person should have a nationality from birth. Statelessness was a worse hardship for persons under fifteen years of age than for persons who were older. He feared that large numbers of children both of whose parents were stateless would themselves be stateless too, unless paragraph 1 were adopted unconditionally.

The meeting rose at 5.30p.m.

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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.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE FIFTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 31 March 1959, at 10.15 a.m.

President: Mr. LARSEN (Denmark)

Executive Secretary: Mr. LIANG

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A list of documents pertaining to the Conference was issued as document A/CONF.9/L.79.

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

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

The PRESIDENT said that, since a new draft of article 1 was expected to be submitted shortly by a group of delegations, further discussion of the article in plenary would be deferred until the text had been circulated.

Article 2 (A/CONF.9/4)

The PRESIDENT, speaking as the representative of Denmark, said the principle laid down in article 2 of the draft convention was probably acceptable to all delegations, but, since it was expressed in terms of pure jus soli, he proposed that it should be amended in conformity with the corresponding provision (article 4) of the Danish Government's draft convention (A/CONF.9/4). The great majority of foundlings were born in the territory of the State in which they were found and were the children of nationals of that State and not of stateless persons; hence it would be wrong to apply to all foundlings rules applicable to the children of stateless persons. In respect of foundlings, assumptions had to be made. In jus sanguinis countries it was generally assumed that they were children of nationals of the State in which they were found, and in jus soli countries that they had been born in the territory of the State in which they were found. In both jus sanguinis and jus soli countries, foundlings were generally brought up by the State in whose territory they had been found; they should therefore be given the nationality of that State until it was proved that the assumptions on the strength of which they had been given the nationality of that State were incorrect. If it were proved that those assumptions were incorrect, the normal rules, i.e. those relating to children who were not foundlings should be applied.

Sir Claude COREA (Ceylon) said that article 2 as drafted by the International Law Commission was dependent on article 1; it merely raised a presumption that foundlings were born in the territory in which they were found, whereas the Danish Government's draft article provided for the granting of a nationality to foundlings. He would suggest that further consideration of article 2 be deferred until the substance of article 1 were known.

Mr. JAY (Canada) said that it was certainly difficult to deal with article 2 without knowing what would be the substance of article 1.

Mr. ABDEL-MAGID (United Arab Republic) said that the Danish Government's draft article was preferable to the Commission's text. For humanitarian reasons, foundlings should be presumed to have been born in the State in which they had been found and to be the children of nationals of that State.

Mr. HARVEY (United Kingdom) agreed with the representative of Ceylon that it would be difficult to deal with article 2 before it was known what would be the substance of article 1 for in the Commission's text the two articles were interdependent. By contrast, the Danish draft provision concerning foundlings was self-contained and as it had the added advantage of being very liberal might be accepted provisionally. Although he welcomed that text, he would not vote for it unless he were satisfied that it would be acceptable to a large number of States.

Mr. RIPHAGEN (Netherlands) said that a defect of the Danish Government's text was the presupposition of the necessity of making an assumption regarding the country of birth of every foundling to which the article would apply. What would happen if it were established that a foundling, although of unknown parents, had been born in a country other than that in which he was found? The words "in the absence of proof to the contrary" might well render the text inapplicable to such a child.

The PRESIDENT, speaking as the representative of Denmark, said that the Danish draft provision did not refer to the place of birth of foundlings. If, for example, it were established that a foundling found in Danish territory had in fact been born in the territory of a neighbouring State, under that draft provision the child would nevertheless be a Danish national.

Mr. HERMENT (Belgium) said that, according to the Danish Government's draft article, contracting parties which were jus sanguinis countries would have an obligation to treat as their nationals foundlings, wheresoever born, who were found in their territory.

Mr. TSAO (China) said he could accept either the Commission's draft article 2 or the Danish Government's draft article 4. His country's law regarding nationality did not make any distinction between children whose parents

were unknown and children whose parents were stateless. He suggested, however, that the discussion of article 2 be deferred until a decision had been taken on article 1.

It was so agreed.

Article 3 (A/CONF.9/4, A/CONF.9/L.4)

Mr. HARVEY (United Kingdom) said that the principle of article 3 was entirely acceptable to his delegation, although it proposed the substitution of the word "Party" for the word "State" and of the words "for the purpose of article 1 and article 4" for the words "for the purpose of article 1" (A/CONF.9/L.4). Since article 3 related to article 1 it would, in effect, apply only to children born in vessels or aircraft belonging to parties, but his delegation was proposing the first of those amendments in order to dispel any idea that the convention contained clauses applicable to States which were not parties. It proposed the second amendment, because, if that amendment were not made, a child born in a vessel or aircraft belonging to a party would be covered by article 4 as well as by article 1 as qualified by article 3, for such a child would not have been born "in the territory" of any party. Presumably, it was the intention of the Commission that such a child should be covered by articles 1 and 3 but that it should not have any rights by virtue of article 4.

The PRESIDENT, speaking as the representative of Denmark, agreed that the convention should not contain any provisions applying to States which were not parties. The corresponding clause (article 8) in the Danish Government's draft spoke of "Contracting States".

Mr. HERMENT (Belgium) said the article should certainly be so worded as to apply to parties only, but it should not be subordinated to article 4, as proposed by the United Kingdom delegation, because such an amendment would make it necessary to endeavour to establish the paternity of every illegitimate child to whom article 3 applied.

Mr. RIPHAGEN (Netherlands) said that he had always looked on article 3 as a clause constituting an exception to article 1 in that it would prevent that article from being applied to a child born in a vessel belonging to a contracting State in the territorial waters of another State or to a child born in an aircraft belonging to a contracting State over the territory or territorial waters of another State.

The PRESIDENT, speaking as the representative of Denmark, said that the Netherlands representative had raised an important point. He had previously considered article 3 only as an extension of the principle laid down in article 1 and as applying only to vessels and aircraft in or over the high seas. Perhaps the words "on the high seas" should be added to article 3.

Mr. TSAO (China) said that article 3 was surely meant to apply only to birth on board a vessel or aircraft on or over the high seas. An express provision to that effect should be added.

Mr. BACCHETTI (Italy) agreed with the representative of China.

Sir Claude COREA (Ceylon) said it was difficult to deal with article 3 because it was dependent on article 1. He agreed that the word "State" should be changed to "Party", because otherwise the article might prevent children born in vessels or aircraft of a non-contracting State from acquiring the nationality of one of the parties.

Mr. CARASALES (Argentina) thought that the words "on the high seas" should be inserted in the article itself.

Mr. de SOIGNIE (Spain) asked what would be the status of children born in warships in the territorial waters of a party.

Mr. JAY (Canada) said that the points which were being discussed were very minor and very difficult ones and should find no place in the convention lest it became too complicated.

Mr. HERMENT (Belgium), agreeing with the Canadian representative, said that he was certain that the Commission, in drafting the article, had purposely made no distinction between vessels on the high seas and vessels in territorial waters. In some cases it might be very difficult to decide whether a child to whom the article applied had been born on the high seas or in territorial waters.

Mr. RIPHAGEN (Netherlands) explained that he was not advocating any change in the Commission's text of the article; he had been arguing against the amendment proposed by the United Kingdom delegation.

Mr. ROSS (United Kingdom) said that there was no need to make a distinction in the article between a child born on the high seas and one born in territorial waters, for a child to whom the convention would apply would, if born on a vessel in the territorial waters of a party, either acquire the nationality of that party or be covered by article 4.

Mr. LIANG, Executive Secretary, said that he had followed very closely the debate in the International Law Commission on the draft under discussion. He did not think the Commission had used the word "State" as opposed to the word "Party" in order to place obligations on States which were not parties.

The Majority of States considered their territorial waters as part of their territory for most purposes. With respect to the minority of States which took a different view, article 3 meant that a person born on board a vessel in the territorial waters or on board an aircraft over the territorial waters or territory of such a State would - if he would otherwise be stateless - acquire the nationality of the State to which the vessel or aircraft belonged.

Mr. RIPHAGEN (Netherlands) said that the Commission's text of article 3 should be approved without change because, in his opinion, a child born in a ship or aircraft belonging to a non-contracting State should be covered by article 4 rather than by article 1. Such a child would be covered by article 4 if article 3 were not amended, being deemed not to have been born on the territory of a party.

The PRESIDENT said the convention could hardly stipulate that a child born in the vessel of a non-contracting State should be deemed to have been born on the territory of that State, for article 1 would not affect children born on the territories of non-contracting States.

Mr. ROSS (United Kingdom) thought that the effect of the United Kingdom amendment to article 3 would be precisely that desired by the Netherlands representative. A child who was born in a vessel or aircraft not registered in a contracting State would come under the provisions of article 4. The United Kingdom amendment did not attempt the inappropriate task of laying down which nationality the child should have, but it made it quite clear that the child would not be deemed to have been born in the territory of a contracting party; accordingly, article 4 would become operative automatically.

Mr. JAY (Canada) agreed with the United Kingdom representative that the term "Party" was the logical one to use in the first three articles. Article 4 dealt with the quite distinct category of persons not born on the territory of a party.

Mr. SIVAN (Israel) thought that the somewhat subtle distinction drawn by the Netherlands representative might have some importance. It was desirable

that article 3 should be so worded as to bring as many cases as possible within the scope of article 1, which would be more fundamental than article 4.

Mr. CARASALES (Argentina) pointed out that in the Spanish text of article 3 the word "State" was qualified by the adjective "contracting".

Sir Claude COREA (Ceylon) said that the first three articles were interrelated for they all dealt with persons born in the territory of a party. Article 4 however was concerned with the quite distinct category of persons not born on the territory of a party. The intention of the International Law Commission was quite evident from that arrangement of the provisions. It would not be logical to attempt in article 3 to legislate for non-contracting States.

The PRESIDENT said that, in view of the Spanish text of article 3 and of the logical connexion between the first three articles, the Commission's intended meaning in article 3 was beyond doubt.

Mr. RIPHAGEN (Netherlands) said that, whether or not the drafting of the French and English texts was in error, they could not be rejected out of hand. Article 3 provided for a legal fiction, and the use of the word "Party" would narrow its application.

Mr. HARVEY (United Kingdom), in reply to a question from the PRESIDENT concerning the United Kingdom amendments to article 3 (A/CONF.9/L.4), said that his delegation moved that in article 3 "Party" should be substituted for "State" in each place where it occurred. He was willing that a separate vote be taken on that particular amendment.

The United Kingdom proposal was adopted by 23 votes to 2, with 5 abstentions.

The PRESIDENT invited comments on the other United Kingdom amendment to article 3.

Sir Claude COREA (Ceylon) said that he would have difficulty in admitting in article 3 a reference to article 4 because, whereas the first three articles were interrelated, article 4 was quite distinct.

Mr. HERMENT (Belgium) agreed with the representative of Ceylon.

Mr. JAY (Canada) said that he failed to see that the United Kingdom amendment made any contribution to the text as a whole. If, however, it were to be admitted in article 3, he did not see why a reference to article 4 should not also be introduced into article 2.

Mr. HARVEY (United Kingdom), replying to the Canadian representative, said that there was a real distinction between the cases contemplated in articles 2 and 3 respectively, since the difficulty of determining territorial attachment did not arise in the case of a foundling.

The effect of article 3 was to extend the application of article 1 to persons born on board vessels or aircraft, with a consequent reduction in the number of cases falling under the provisions of paragraph 4. If article 3 stood as drafted, a person might be eligible for a nationality under both articles 1 and 4. The purpose of the United Kingdom amendment was to eliminate that overlap.

Mr. JAY (Canada) observed that in any event every article of the draft convention would be subject to interpretation in the light of all the other articles. He did not wish to oppose the United Kingdom amendment but would abstain from voting on it.

Rev. Father de RIEDMATTEN (Holy See) requested that no vote be taken on the United Kingdom amendment until final agreement had been reached on articles1 and 4.

The PRESIDENT said that, since the United Kingdom amendment was essentially a drafting amendment, he would prefer not to put it to the vote.

Mr. ROSS (United Kingdom) said that his delegation would not press for a vote on that amendment.

Article 4

Mr. LEVI (Yugoslavia) said that his delegation would have great difficulty in accepting the final sentence of the article, which conflicted with the principle of the equality of rights of both parents.

The PRESIDENT, speaking as the representative of Denmark, said that it was not clear from the text at what point the child would acquire the nationality of one of the parents. If the intention was that the child should acquire the nationality at birth, then the condition of normal residence was not applicable. The condition must in fact govern not the acquisition, but the preservation of nationality. The second sentence of the article should be amended in that sense.

Mr. ROSS (United Kingdom), inviting attention to the United Kingdom amendment (A/CONF.9/L.4) to article 4, said that his delegation was prepared to

accept the underlying principle of the article, even though that would involve amending United Kingdom law. The observations of the previous speaker concerning the condition of normal residence were to the point, but, in order to avoid hardship, nationality should not be lost by the automatic operation of the law. For example, a person might not discover that he was stateless until an advanced age, and not only he but his descendants might suffer.

Further, a clear distinction should be made between the position of legitimate and that of illegitimate children. Since article 4 was closely dependent upon article 1 he would not press for a vote on his delegation's amendment until a final decision had been reached on article 1.

The PRESIDENT suggested that the Yugoslav representative's difficulty might be solved if the parties were left free to decide which parent's nationality should prevail. Although it was desirable to avoid multiplying cases of dual nationality, a country should not be prevented from conferring nationality through the mother, even though the father were a national of one of the parties.

Mr. HERMENT (Belgium) said that under Belgian law an illegitimate child could acquire Belgian nationality through the mother only if recognized by her.

Mr. BACCHETTI (Italy) said that Italian law on that point was similar to Belgian law. One way out of the difficulty would be to prescribe that the child should acquire the nationality of the parent recognizing the child.

The PRESIDENT thought that, while that course might solve the difficulties of some countries, it would create difficulties for countries not imposing conditions of recognition.

Mr. JAY (Canada) said that under Canadian law the father's nationality prevailed in the case of legitimate, the mother's nationality in the case of illegitimate children. If article 1, as finally adopted, created at the age of eighteen a whole new group of the category of persons dealt with in article 4, his delegation's difficulty in accepting the latter would be greatly increased. He would prefer further discussion of article 4 to be deferred until final agreement had been reached on article 1.

Mr. CALAMARI (Panama) pointed out that article 4 applied only to children one of whose parents possessed a nationality. If statelessness were to be effectively reduced, children both of whose parents were stateless should not be overlooked.

A specific period, perhaps five years, of continuous residence prior to an application for the preservation of nationality would be preferable to the condition of "normal" residence stipulated in paragraph 2 of the United Kingdom amendment.

The Yugoslav representative's objection to the provision under which the father's nationality prevailed over that of the mother was pertinent. Under Panamanian law, both parents enjoyed equal rights. The difficulty might be removed if the article provided that the child should acquire the nationality of the parent responsible for its education and upbringing.

The PRESIDENT, speaking as the representative of Denmark, proposed that the words "A person who under article 1 would not acquire the nationality of a contracting Party, and who would otherwise be stateless" should be substituted for the opening words of paragraph 1 of the United Kingdom amendment.

Mr. ROSS (United Kingdom) thought that the proper context for the Danish representative's amendment was article 1, paragraph 3. The United Kingdom delegation intended to submit a further amendment to article 1 having the same object.

The PRESIDENT, speaking as the representative of Denmark, explained that his amendment was meant to cover the case of birth in a country which based its legislation on a modified jus soli. It was immaterial to him under which particular article his suggested amendment was considered.

Mr. HERMENT (Belgium) recalled that his delegation had submitted an amendment (A/CONF.9/L.3) to article 4 providing for a child to acquire, by a simplified procedure from the age of sixteen [fifteen] years, the nationality of of the party of which one of his parents was a national.

The meeting rose at 12.50 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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24 April 1961

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE SIXTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 31 March 1959, at 3 p.m.

President: Mr. LARSEN (Denmark)

Executive Secretary: Mr. LIANG

CONTENTS:

Examination of the question of the elimination or reduction of future statelessness (item 7 of the agenda) (continued)

Draft convention on the reduction of future statelessness (continued)

Article 1 (resumed from the fifth meeting)

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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.

(7 p.)
GE.61-4502

61-11589

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

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

Article 1 (A/CONF.9/L.4, L.5/Rev.1, L.8, L.9) (resumed from the fifth meeting)

Mr. FAVRE (Switzerland) explained that the amendment (A/CONF.9/L.8) to article 1 of the draft convention submitted in his delegation's name represented the combined opinions of the delegations of jus sanguinis countries which had met informally after the fourth plenary meeting of the Conference. Had it been drafted by the Swiss delegation alone it would have been different in many respects, but it came so close to expressing his delegation's views that he was prepared to introduce it as a basis for discussion.

The amendment dealt only with paragraphs 1 and 2 of the article, since paragraph 3 had not been discussed at the meeting of delegations of jus sanguinis countries. It offered States parties to the convention the choice between two courses: to grant nationality on the basis of jus soli, either ipso jure or on fulfilment of certain conditions, a course which would be more attractive to countries anxious to safeguard their existing social and political structures. The conditions were application by the person concerned and a period of residence. There was no intention whatever of preventing countries which favoured jus sanguinis or countries whose nationality laws were complex in other respects from being more generous in granting nationality. The proposed second course represented merely the minimum which the convention was to require of all contracting parties.

Application for nationality was an extremely important condition, for no one would wish to impose a nationality on a person against his will. The jus sanguinis countries had discussed at length how and by whom application should be made. In some countries, it could be made by young persons themselves, in others only by their legal representatives and in others by a legal representative acting in the name of the child. As a compromise, it had been provided that application should be made in accordance with the national law of the contracting party.

With regard to the time when application should be made, it appeared that in many countries applications were made by or on behalf of persons who had not reached the age of eighteen, and the authors of the amendment were not opposed to that practice. The point they wished to establish was that once a person had reached the age of eighteen a State was obliged to accept his application.

In the third line of paragraph 1 (ii) of the amendment, the words "at the latest" had been accidentally omitted, and should be inserted immediately before the words "in the year ....". There were two advantages in including that provision in the amendment. First, a prospective applicant would have a whole year after attaining his majority in which to make up his mind whether he wished to take the nationality of the country in whose territory he was born. Secondly, there would be a time limit after which a State was no longer obliged to grant an application for nationality.

The period of residence had been fixed at ten years because that was the normal period of education. The jus sanguinis countries had discussed whether the qualifying ten years should be the ten years immediately preceding the submission of the application for nationality; but, since a young person might have to travel abroad to complete his education, it had been decided to stipulate only that the ten years should include the five years immediately preceding application.

Many countries would have preferred article 1 to include some reference to assimilation within the community of the country concerned and to moral and spiritual worthiness for the acquisition of nationality. In that connexion, attention had been drawn to the difference of opinion between States with regard to article 8. A number of countries were not in favour of that article; others, like his own, supported it, and under Swiss law it was impossible to deprive a person of his nationality, whatever offence he might have committed. The question had arisen whether the country of birth should not be given the right to deny its nationality to persons whom it might subsequently deprive of it, but the members of the drafting group had thought it better not to confer nationality in the first instance than to grant it on grounds of jus soli and then withdraw it on grounds of moral unworthiness. It had been decided, however, to discuss refusal to confer nationality during consideration of article 8 and, if necessary, to revert to article 1 in order to amplify it.

The PRESIDENT congratulated the delegations of jus sanguinis countries on combining their proposals in a single amendment.

Mr. TSAO (China) asked, if the Swiss amendment was put before the Conference as representing the views of all the jus sanguinis countries, what was the status of the other amendments already submitted? Which of them were withdrawn, and which were still to be considered?

The PRESIDENT asked whether the Conference would now wish the Swiss amendment to be treated as a basic document. That would mean that the other amendments would become amendments to the Swiss amendment, which would necessitate some change in the rules of procedure.

Mr. JAY (Canada) observed that the fewer documents before the Conference the better. Some consideration, however, should certainly be given to the Netherlands amendment (A/CONF.9/L.9).

Mr. RIPHAGEN (Netherlands) said that he would welcome consideration by the Conference of other amendments to the article, particularly that submitted by his own delegation.

Mr. ROSS (United Kingdom) said that he would be interested to hear an explanation of the Netherlands amendment, after which he would introduce his delegation's amendment (A/CONF.9/L.4).

Sir Claude COREA (Ceylon) pointed out that any amendment already circulated must be considered by the Conference unless it had been formally withdrawn by the delegation submitting it. He suggested that the sponsors of all amendments to article 1 be invited to explain their amendments or to state whether or not they wished to withdraw them. Some would undoubtedly be withdrawn, and the Conference could then proceed to discuss the article in the light of the amendments that remained.

Mr. HUBERT (France) agreed with the representative of Ceylon on that point. While fully appreciating the work done at the informal meeting of jus sanguinis countries, he could not accept without reservation the amendment introduced by the Swiss representative. He had no intention, for the moment, of withdrawing the revised French amendment (A/CONF.9/L.5/Rev.1).

Mr. HERMENT (Belgium) announced that in the light of the discussion he would withdraw his delegation's amendment (A/CONF.9/L.2). He would revert to the question of the right of refusal to confer nationality when article 8 was being discussed.

Mr. BACCHETTI (Italy) observed that under rule 30 of the rules of procedure the Conference was required to consider first the amendment furthest removed in substance from the original proposal. Hence it was necessary only to decide which amendment was furthest removed from the substance of the original proposal, namely, the International Law Commission's draft of article 1 and to proceed forthwith to consider it.

The PRESIDENT observed that it was extremely difficult to decide which of the amendments already submitted was furthest removed in substance from the International Law Commission's original draft. Many of the amendments were exceedingly liberal in some respects and equally restrictive in others.

Sir Claude COREA (Ceylon) pointed out that rule 30 of the rules of procedure applied to voting on amendments and not to consideration of them.

The Belgian amendment had already been withdrawn and it was highly probable that it would be followed by others. If all delegations submitting amendments were asked whether they wished to press their amendments or not, that would make it clear exactly how many amendments remained for consideration.

Mr. ROSS (United Kingdom) said that he did not intend to withdraw his delegation's amendment but would reserve the right to request a vote on it at a later stage. It obviously had low priority for consideration since it was closer then other amendments to the International Law Commission's original draft.

For the moment, he would only enunciate the three or four main points for which his delegation stood. First, he hoped that the final text of article 1 would assert the right of stateless persons to acquire a nationality as early as possible, at birth if that were feasible, or at any rate during minority. Secondly, a person's right to apply for nationality should not be hampered too much by onerous conditions of residence. Thirdly, it was undesirable for the Conference to agree on a provision which automatically conferred nationality on a young person if certain conditions of residence were fulfilled. The persons concerned would not in fact know whether the conditions were actually fulfilled, unless application were made when the facts were fresh. Lastly, it was to be hoped that the Conference would agree to include paragraph 3 of the International Law Commission's draft in the final text of the article. The principle of that paragraph was retained in the Netherlands amendment. Were the authors of the Swiss amendment also in agreement with that principle?

If a vote were taken on the proposal that the Swiss amendment be adopted as a basic document, his delegation would abstain, because it preferred the International Law Commission's draft. But, if the Swiss amendment was adopted as a basic document, his delegation would, in a spirit of co-operation, continue its efforts to secure agreement on article 1.

Mr. BESSLING (Luxembourg) believed that there was, in fact, an objective criterion for judging which of the amendments was furthest removed in substance from the original proposal. Both the International Law Commission's text of the article and the United Kingdom amendment proposed that nationality be conferred at birth. The Netherlands amendment contemplated the possibility of conferring nationality at birth in certain circumstances if application were lodged by the child's legal representative. The Swiss amendment, on the other hand, provided for the conferring of nationality only at the age of eighteen and was thus clearly furthest removed in substance from the original proposal.

Mr. HUBERT (France) asked the Luxembourg representative where he would place the revised French amendment.

Mr. BESSLING (Lusembourg) replied that he would place it between the United Kingdom and the Netherlands amendments.

Mr. JAY (Canada) said that his delegation, like those of the other jus soli countries, fully understood the difficulties of the jus sanguinis countries and their desire to reach agreement among themselves on the maximum concessions they could accept. Every retreat however from the provisions of paragraph 1 as drafted by the International Law Commission would mean transferring more of the burden of reducing future statelessness from the jus sanguinis countries to the jus soli countries.

The Netherlands amendment represented an admirable compromise between the interests of the two groups of countries and the Netherlands representative should be given an opportunity to introduce it formally.

Mr. RIPHAGEN (Netherlands), introducing his delegation's amendment (A/CONF.9/L.9), said that to a certain extent it resembled that submitted by the French delegation. Under the Netherlands amendment, a child who would otherwise be stateless and who was born in the territory of one of the contracting parties would acquire the nationality of that party provided he himself or his legal representative lodged an application with the appropriate authority.

It had emerged from the discussion that certain States considered that there should be a maximum age for making application for nationality. That point was covered by paragraph 2 (a) of the Netherlands amendment, and the person applying for nationality would have at least one year in which to lodge his application.

Paragraph 2 (b) contained a residence requirement and resembled similar provisions in the French and United Kingdom amendments. The Netherlands amendment, however, included a proviso that the period of residence required should not exceed five years. Paragraph 4 contained conditions concerning the age by which an application for nationality must be submitted and the period of residence required.

The Netherlands delegation maintained its amendment, which it considered more liberal than that of the Swiss delegation.

Rev. Father de RIEDMATTEN (Holy See) supported the suggestion of the representative of Ceylon that there should be a general discussion of the various amendments before the Conference in order that they might be compared and co-ordinated, but it was not necessary to adopt one of the amendments as a basic text. It would be helpful if the Conference first discussed paragraphs 1 and 2 of the article together and paragraph 3 afterwards.

Mr. FAVRE (Switzerland), replying to a question by the United Kingdom representative, said that his delegation would accept the principle in article 1, paragraph 3 of the United Kingdom amendment and considered that the differences between the Netherlands and Swiss amendments could easily be removed.

Mr. ROSS (United Kingdom) moved the adjournment and proposed that a generally acceptable text for article 1 be prepared at an informal meeting.

It was so agreed.

The meeting rose at 4.30 p.m.

UNITED NATIONS

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE SEVENTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 1 April 1959, at 3.30 p.m.

President: Mr. LARSEN (Denmark)

Executive Secretary: Mr. LIANG

CONTENTS:

Examination of the question of the elimination or reduction of future statelessness (item 7 of the agenda) (continued)

Draft convention on the reduction of future statelessness (continued)

Articles 5 and 6

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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.

(15 p.)

GE.61-4504

61-11588

EXAMINATION OF THE QUESTION OF THE ELIMINATION AND REDUCTION OF FUTURE STATELESSNESS (item 7 of the agenda) (continued)

Draft convention on the reduction of future statelessness (A/CONF.9/L.1) (continued)
Articles 5 and 6 (A/CONF.9/4)

The PRESIDENT said that, pending the drafting of a generally acceptable text for article 1, the Conference could consider articles 5 and 6 of the International Law Commission's draft convention (A/CONF.9/L.1).

Mr. RIPHAGEN (Netherlands) drew attention to a discrepancy in wording between article 5 and article 6. According to article 5, loss of nationality was to be conditional "upon acquisition of" another nationality, whereas article 6 stipulated that a spouse or children should not lose nationality unless they "have or acquire" another nationality. The wording of article 5 should be brought into line with that of article 6.

The PRESIDENT agreed with the Netherlands representative. In view of the fact that article 10 of the Danish draft convention (A/CONF.9/4), which corresponded to article 5 of the International Law Commission's draft, provided that loss of nationality should be conditional "upon acquisition or possession" of another nationality, would the Netherlands representative be satisfied if the words "possession or" were inserted before the word "acquisition" in article 5?

Mr. RIPHAGEN (Netherlands) proposed that article 5 be so amended.

Mr. SIVAN (Israel) supported the Netherlands amendment and in reply to a request of the PRESIDENT agreed to prepare a fresh text of article 5 on that basis.

Mr. HERMENT (Belgium) doubted whether it was necessary to retain the word "recognition" in the text of article 5. His Government was concerned particularly with the case of foundlings who, in accordance with article 2 of the draft convention, would acquire by presumption the nationality of the country on whose territory they were found. If a child, found on Belgian territory and having acquired by presumption Belgian nationality, were later recognized as being the child of stateless parents, should the presumption still remain? In his Government's view, it should not, and the foundling would lose his Belgian nationality.

The PRESIDENT said that his understanding of the intentions of the International Law Commission was that there was no connexion between the provisions of article 2 and those of article 5. Presumption was essentially something provisional. A deserted child found on Belgian territory would not necessarily acquire Belgian nationality, so that, if he were later recognized as being the child of stateless parents, he would have no nationality to lose. Thus, the retention of the word "recognition" in the text of article 5 would not affect the status of foundlings at all.

Mr. HERMENT (Belgium) said that in his country "presumption" was interpreted in quite a different manner. A child found on Belgian territory was presumed to have full Belgian nationality until it was proved that he had not. If the foundling were later recognized as being the child of stateless parents, then under Belgian law he would lose Belgian nationality.

Mr. BACCHETTI (Italy) observed that article 5 also contained a reference to adoption. He asked what would happen on the adoption of a child who had had Belgian nationality from birth.

Mr. HERMENT (Belgium) said that no difficulties were raised by adoption, since adopted children did not acquire the nationality of the adopting parents.

Mr. SCHMID (Austria) said that the attitude to foundlings in his country was the same as in Belgium. Children found on Austrian territory were presumed to have full Austrian nationality. Some change would have to be made in the Austrian nationality laws if a child found on Austrian territory and later recognized as the child of stateless parents were not to lose his nationality.

The PRESIDENT said that he did not believe that any disadvantage would be suffered by a foundling presumed to have been born in the territory of the country in which he was found and later recognized as the child of stateless parents. The child would merely be transferred from the category of foundlings to that of ordinary stateless persons and the normal rules for acquisition of nationality by stateless persons would apply.

Mr. BACCHETTI (Italy) suggested that the question raised by the Belgian representative should be studied in the light of any decision the Conference might reach on the text of article 2.

Mr. HERMENT (Belgium) formally proposed that the word "recognition" be deleted from the text of article 5.

The PRESIDENT observed that, if the Conference were to agree to the deletion of the word "recognition", it would thereby give its approval to national laws which entailed loss of nationality as a consequence of a change in status. He himself would oppose any decision to that effect, for it was surely the Conference's aim to safeguard persons against loss of nationality under such conditions. In his view, until the Conference had approved a final text for article 2 it should not take any decision on article 5 which it might later have cause to regret.

Mr. HERMENT (Belgium) said that he had no intention of withdrawing his amendment to article 5.

The PRESIDENT thought it would be unwise for the Conference to vote at once on article 5 and the amendments thereto, since delegations had had little time to consider the amendments. He therefore suggested that further consideration of article 5 be deferred to a later meeting.

It was so agreed.

The PRESIDENT observed that the Conference's consideration of articles of the International Law Commission's draft was merely a first reading. It had been brought to his attention that the rules of procedure adopted at the first plenary meeting did not provide for two readings of the proposed convention, since rule 23, in particular, stated that "when a proposal or amendment has been adopted or rejected it may not be reconsidered unless the Conference, by a two-thirds majority of representatives present and voting, so decides". In order to make provision for a second reading, the Conference might consider amending rule 23 by inserting the words "during the same reading" after the word "reconsidered".

Sir Claude COREA (Ceylon) doubted whether the Conference had any power to amend its rules of procedure, since they contained no provision to that effect. Moreover, any such step was unnecessary. He suggested that the Conference continue considering the draft convention article by article together with any amendments at a first reading, without taking a vote. At a second reading, a vote would be taken on each article.

Mr. BACCHETTI (Italy) supported that suggestion.

Mr. SCOTT (Canada) said that procedural difficulties had arisen because, while the rules of procedure had been intended originally for the General Assembly, the Conference had decided to organize its business in another way. The majority of proposals before the General Assembly were voted on first in Committee, and then by the plenary Assembly. The Conference could find a way out of its difficulty by setting up a Committee of the Whole Conference in the first instance to discuss and vote on proposals. All proposals approved by the Committee would then be voted on by the Conference in plenary meeting. If that course were adopted, no amendment to the rules of procedure would be required.

Mr. CARASALES (Argentina) agreed with the President that the rules of procedure should be amended to provide for two readings of all proposals by the Conference. Some delegations would have to ask their Governments for instructions on certain articles and, when instructions were sought, it would be essential to supply Governments with the texts of proposals already approved at a first reading.

Mr. ABDEL MAGID (United Arab Republic) agreed with the Canadian representative that a Committee of the Whole Conference should be set up to give a first reading to all proposals.

After further discussion, Rev. Father de RIEDMATTEN (Holy See) moved that the debate be closed and proposed that a Committee of the Whole Conference meet forthwith to consider and decide on the texts before the Conference. The Conference would then in plenary meeting vote on the texts approved in Committee.

The proposal of the Holy See was adopted by 13 votes to none, with 15 abstentions.

The meeting rose at 4.30 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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24 April 1961

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE EIGHTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 15 April 1959, at 10.50 a.m.

President: Mr. LARSEN (Denmark)

Executive Secretary: Mr. LIANG

CONTENTS:

Page

Examination of the question of the elimination or reduction of future statelessness (item 7 of the agenda) (continued)

Draft convention on the reduction of future statelessness (continued)

Article 1 (resumed from the sixth meeting)
Paragraph 1 2
Paragraph 2 5

A list of government representatives and observers and of representatives of specialized agencies and of intergovernmental and non-governmental organizations 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.

(10 p.)

GE.61-4506

61-11587

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

Draft convention on the reduction of future statelessness (A/CONF.9/L.40 and Add.1-4, L.42) (continued)

The PRESIDENT pointed out that the revised drafts prepared by the Drafting Committee (A/CONF.9/L.40 and Add.1-4, A/CONF.9/L.42) should be regarded as the basic working documents of the Conference.

Article 1, paragraph 1 (A/CONF.9/L.54, L.58)

Mr. RIPHAGEN (Netherlands) said that he had submitted the first two amendments in document A/CONF.9/L.54 in order to make it quite clear that Governments would not be permitted to impose substantive conditions under their national law, and that the provision contained in the last sentence of paragraph 1 should be regarded as quite separate from the two modes of procedure set out in that paragraph

Mr. HERMENT (Belgium), supported by Mr. HUBERT (France), assured the Netherlands representative that the French text of the paragraph corresponded precisely to that representative's interpretation of the English text.

Mr. RIPHAGEN (Netherlands) said that he would withdraw the two amendments in question provided that the confirmation of his interpretation by the Belgian and French representatives were recorded in the summary record.

Mr. JAY (Canada) said that he found it difficult to understand why the final sentence of the paragraph had been included.

Mr. HARVEY (United Kingdom) said he had the same difficulty as the Canadian representative; the sentence seemed, however, to be regarded as essential by some delegations owing to the differences between national legislations.

Sir Claude COREA (Ceylon) said the final sentence of paragraph 1 (b) seemed to go beyond the decisions reached in Committee. If that sentence made no substantive addition to the paragraph it was unnecessary; if it made a substantive addition, it was unwarranted. His Government wished to be able to ratify the convention, but its difficulties in so doing were increased by the addition of the sentence in question. He had, therefore, submitted an amendment (A/CONF.9/L.58, para. 3) to delete the sentence.

Mr. HARVEY (United Kingdom) recalled his delegation's view that the rejection of the "application" referred to in paragraph 1 (b) should not be possible except on the grounds set forth in paragraph 2 of the article. The Drafting Committee had included the sentence in question because it had thought that it reflected more clearly the views expressed in Committee.

Mr. FAVRE (Switzerland) said that if the Ceylonese amendment were adopt he would proposed that the opening words of paragraph 2 of the article be amended by the insertion of the word "only" after the word "may". He agreed with the Ceylonese representative that the text in question in paragraph 1 (b) was not altogether appropriate in an international convention and might be amended.

At the request of the representative of the Netherlands, a vote was taken by roll-call on paragraph 3 of the Ceylonese amendment (A/CONF.9/L.58).

Ceylon, having been drawn by lot by the President, was called upon to vote first.

In favour:	Ceylon, China, the Holy See, Indonesia, the United Arab Republic
Against:	Chile, Denmark, France, Federal Republic of Germany, India, Israel, Italy, Japan, Liechenstein, Luxembourg, Netherlands, Norway, Panama, Peru, Portugal, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, Argentina, Austria, Canada.
Abstaining:	Iraq, Pakistan, Turkey, United States of America, Yugoslavia, Belgium, Brazil.

The amendment was rejected by 21 votes to 5, with 7 abstentions.

Rev. Father de RIEDMATTEN (Holy See) explained that he had voted for the amendment because he agreed with the Ceylonese representative that the sentenc in question represented a substantive addition which had not been approved in Committee.

Sir Claude COREA (Ceylon), introducing paragraph 1 of his delegation's amendment (A/CONF.9/L.58), said that the object of the particular amendment was to make it quite clear that the applications referred to in article 1, paragraph 1 (b) must be in conformity with the national law. As paragraph 1 (b) stood, the reference to the national law served merely to obscure the fact that States were being denied the right to decide which persons they would admit to their nationality. In Ceylon there was no statelessness, and his Government wished to co-operate in the endeavour to eliminate statelessness in other countries as well. It could not, however, agree to apply a convention which might result in injury to its vital social, economic and political interests. There might be some countries which, while paying lip-service to the aim of reducing statelessness, would in fact create large numbers of stateless persons who would then become a

burden to other countries. Since it was undesirable to enumerate all the conditio to which various States might wish to subordinate the granting of their nationalit the only alternative was to recognize their right to apply their nationality laws. Ceylon was a democratic country in which the interests of the individual were safeguarded; at the same time, however, his Government upheld the right of the State to defend its vital interests. The clauses approved in Committee admitted grounds for deprivation of nationality in accordance with the municipal law of som of the States represented at the Conference and he could not see why grounds for refusing to grant nationality should not also be admitted.

At the request of the representative of Ceylon, a vote was taken by roll-call on paragraph 1 of his delegation's amendment (A/CONF.9/L.58).

The Holy See, having been drawn by lot by the President, was called upon to vote first.

In favour:	Iraq, Pakistan, Peru, United Arab Republic, Yugoslavia, Ceylon.
Against:	India, Israel, Italy, Japan, Liechenstein, Luxembourg, Netherlands, Norway, Panama, Portugal, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, Argentina, Austria, Canada, Chile, Denmark, France, Federal Republic of Germany
Abstaining:	Indonesia, Turkey, United States of America, Belgium, Brazil, China

The amendment was rejected by 20 votes to 6, with 6 abstentions.

Sir Claude COREA (Ceylon) withdrew paragraphs 3 and 4 of the Ceylonese amendment in consequence of the vote just taken.

Mr. SIVAN (Israel) proposed that in the English text of the final sub-paragraph of paragraph 1 the words "which provides for the grant of its nationalit should be substituted for the words "which grants its nationality" and that in the same clause the words "may also provide for the grant of its nationality" should be substituted for "may also grant its nationality". That would make it clear tha the reference was not to the grant of nationality in a particular case but to the system in general.

The PRESIDENT, speaking as the representative of Denmark, drew attention to the Danish proposal (A/CONF.9/L.44) for a new paragraph to be inserted between paragraphs 2 and 3; if adopted, that proposal might affect the substance of paragraph 1.

Mr. HARVEY (United Kingdom) observed that some inconsistencies of style remained in some articles and drafting changes might be required in the light of decisions concerning substance. It had been his hope that the Drafting Committee, rather than the plenary Conference, might be able to deal with such changes.

The PRESIDENT said that a text formally adopted by the plenary Conference could hardly be changed by a subsidiary body. He suggested that, after the draft convention had been considered article by article in plenary meeting, the Drafting Committee should remedy any discrepancies and report back before the vote was taken on the draft convention as a whole.

It was so agreed.

Mr. RIPHAGEN (Netherlands) moved that the discussion should not be reopened, even if alleged drafting changes made by the Drafting Committee were found to be changes of substance.

It was so agreed.

The Israel amendments to paragraph 1 proposed orally were adopted by 21 votes to none, with 9 abstentions.

Article 1, paragraph 1, as amended, was approved by 24 votes to 1, with 7 abstentions.

Mr. KUDO (Japan) explained that he had abstained from voting on the paragraph, not because he was opposed to the substance, but because its expression differed in some respects from existing Japanese law, and he had therefore wished to reserve his Government's position in order to consider the matter.

Article 1, paragraph 2 (A/CONF.9/L.42, L.43, L.56)

The PRESIDENT drew attention to the text submitted by the Drafting Committee for an additional sub-paragraph to article 1, paragraph 2 (A/CONF.9/L.42)

Mr. WILHEIM-HEININGER (Austria) proposed that the additional sub-paragrap be amended by inserting the word "serious" before "criminal" and deleting the words "for a term of five years or more". Owing to its geographical position, Austria bore the heavy burden of an influx of refugees from certain countries. Other countries were willing to select from those refugees the persons who seemed to be of good character and conduct and to admit them and Austria was left with a large number of persons whose conduct left much to be desired. It could not therefore accept an obligation to accord its nationality to all persons who had not been sentenced to imprisonment for a term of five years or more on a criminal charge. Some of the undesirable persons might be habitual offenders who, however, had been

sentenced to terms of only four years. Under recent naturalization laws enacted in Austria, including those concerning Volksdeutsche refugees, Austrian nationality was denied to persons convicted of serious crimes. It was very unlikely that Austria would ratify a convention containing any such provision as that submitted by the Drafting Committee unless it were permitted to make reservations.

Mr. TSAO (China) asked what was meant by the phrase "legal authorization" in paragraph 2(a); was the authorization to be granted by parents, guardian or the competent authorities, and on what grounds, other than minority, was such authorization required?

Mr. HARVEY (United Kingdom) replied that, under certain systems of law, a juridical act by a young person required the authorization of some person or of the court. Under paragraph 2, such persons would be allowed at least one year, without having to obtain anyone's consent, to make the application.

Mr. HERMENT (Belgium) explained that a child between the ages of eighteen and twenty-one years might make a personal application.

Mr. CARASALES (Argentina) observed that paragraph 2 dealt with countries which did not apply jus soli, whereas paragraph 3 imposed additional obligations on the other group of countries. If the additional sub-paragraph was adopted, the jus sanguinis countries would be able to impose yet another condition for the grant of nationality. Article 1 should represent a balance. If the jus sanguinis countries were allowed to add new conditions, the jus soli countries should be allowed to do likewise. He would therefore reserve the right to submit amendments adding to article 1, paragraph 4, and to article 4 any further conditions that migh be attached to article 1, paragraph 2.

Mr. BACCHETTI (Italy) observed that, although the Argentine representativ should have raised his point after paragraph 2 had been approved, the Conference would do well to bear it in mind when it considered adding any further conditions, which he himself hoped that it would not do.

Mr. HERMENT (Belgium) said that he appreciated the Argentine representative's concern, but similar considerations should also have been borne in mind whe the grounds for deprivation of nationality had been enumerated in article 8.

After a brief procedural discussion, the PRESIDENT said that the French amendment (A/CONF.9/L.56) would be put to the vote before the United Kingdom alternative amendments (A/CONF.9/L.43) to the Drafting Committee's text (A/CONF.9/L.42), since the French amendment was tantamount to a proposal for total substitution.

Mr. VIDAL (Brazil) objected to the phrase "his having been sentenced to imprisonment for a term of not less than five years, for a criminal act" in the French amendment. It represented a retreat from the ideals of modern criminal systems in which the main stress was laid upon rehabilitation. If a young offender was sentenced to six years imprisonment, he would emerge, however good the rehabilitation facilities, with the additional stigma of statelessness. A separate vote should be taken on that phrase. In general, he supported the Argentine representative's point of view.

Rev. Father de RIEDMATTEN (Holy See) said he had some doubts about the French and other amendments for the same reason as the Brazilian representative. Sub-paragraph (a), although not wholly satisfactory, was acceptable because it provided some guarantees at the time of the grant of nationality. The main difficulty was that the paragraph concerned young persons. While he had every sympathy with the motives actuating the Austrian representative's amendment, he felt that it was too drastic to apply to young persons. The French amendment was open to the same objection.

Mr. HERMENT (Belgium) pointed out that in Belgium and most other countries a young person could not be sentenced for a serious crime until he had reached the age of eighteen.

Mr. LEVI (Yugoslavia) said that he could accept the first part of the French amendment, but not the final proviso, since no independent body dealing with the acquisition of nationality existed in Yugoslavia. A separate vote should be taken on that part of the French amendment.

Mrs. TAUCHE (Federal Republic of Germany) said that even if a State were permitted to refuse the grant of nationality to persons who had been sentenced to imprisonment for a term of not less than five years, a court could decide only whether the condition had been fulfilled or not, but it could not rule on the acceptance of the application. It would not be possible to institute in the Federal Republic of Germany an independent body which must be consulted before an application for nationality was refused, but any applicant not satisfied with the decision of an administrative body could appeal to an administrative tribunal and would in that way be protected against arbitrary administrative decisions.

Mr. HARVEY (United Kingdom) pointed out that paragraph 2 dealt essentially with the case of young men born in the country and established there. The acquisition of the nationality by such persons should not be subject to undue restrictions. The French amendment gave the State too much scope to reject an application. The phrase "manifest unworthiness" was far too broad and the proviso concerning consultation with an independent body did not remedy that defect. The examples of "manifest unworthiness" in the amendment were merely illustrative anddid not remove the vagueness of the term. The amendment would undermine the whole basis of article 1. After considerable discussion, the concept of acquisition of nationality at birth had been abandoned in favour of the idea that nationality should be granted to a young man who had made his home in a country. The French amendment went further. The young man must not only wait until he was twenty years of age and was an established member of the community, but he must also not have given evidence of manifest unworthiness, which meant that if the State did not think him a desirable citizen, it could reject his application. The question of acts prejudicial to national security was a special one and the United Kingdom delegation had very strong views concerning the text submitted by the Drafting Committee (A/CONF.9/L.42). There had been some misunderstanding in Committee about the reasons which had led to the adoption of that text. The United Kingdom amendments (A/CONF.9/L.43) were an attempt to express what many delegations had believed they had been voting for.

Mr. BACCHETTI (Italy) said that he was opposed both to the French amendment and to the text submitted by the Drafting Committee. Such proposals would alter the balance achieved in article 1. Additional conditions governing the grant of nationality were undesirable, especially if no explicit judicial guarantees were open to applicants. Of the two alternatives submitted by the United Kingdom delegation, the first was the less undesirable; but he had little enthusiasm for it, although it at least provided a judicial guarantee.

Mr. JAY (Canada) observed that the jus sanguinis countries had been induced to modify their system very considerably in the interest of reducing statelessness and deserved whatever compensation could be offered to them in return. The difficulty lay in the extent to which limitations could be admitted into the convention, especially in article 8 and in article 1, paragraph 3. He could accept article 1, paragraphs 2(a) and 2(b) readily and could even go further, but not to the extent of endorsing the clause submitted by the Drafting Committee.

The French amendment went too far; it removed any idea of conviction by a court and cited specific categories by way of example only. A provision permitting a State to decline to apply article 1 to a person who had been sentenced to imprisonment for a term of five years or more, although it also went too far, might, however, be accepted in deference to those countries which had made concessions in the drafting of article 1 as a whole. He would support some such provision and the first of the alternative amendments submitted by the United Kingdom.

Mr. HERMENT (Belgium) said he could not understand why delegations which had voted for the much vaguer provisions concerning deprivation of nationality in article 8 should now be unwilling to refuse to permit a State to reject an application for nationality on the grounds set out in the French amendment.

Sir Claude COREA (Ceylon) said that the debate in Committee had shown that a large number of delegations felt strongly that a clause on the lines of that submitted by the Drafting Committee should be added.

Mr. HUBERT (France) said that there was nothing new about the French amendment. He recalled that during the discussion of article 8 in the Committee of the Whole Conference (17th meeting) the French delegation had made certain concessions to the point of view of the United Kingdom delegation. It would be only fair that the Conference should now accede to the French delegation's wishes with regard to article 1.

Mr. BACCHETTI (Italy) said that the French and Belgian representatives were logical in their dislike of article 8 as it stood; the Italian delegation shared their dislike. There was, however, one important difference: article 1 dealt with young persons, whereas article 8 dealt with adults. No doubt the French system provided adequate guarantees, but an international convention could not take account of a particular system. In some countries the provision concerning "evidence of manifest unworthiness" might even be used as a pretext for spying on the political opinions of students. It was sound practice to interpret any legal texts submitted to a conference as unfavourably as possible to the interests of the individual in order to protect him.

Mr. HERMENT (Belgium) moved the closure of the debate.

The Belgian motion was carried.

The PRESIDENT put to the vote the French amendment to article 1, paragraph 2 (A/CONF.9/L.56) in parts, as requested by the Brazilian and Yugoslav representatives.

The first part, to the words "..... national security", was rejected by 13 votes to 7, with 9 abstentions.

The second part, "that the person concerned .... for a criminal act", was rejected by 17 votes to 6, with 7 abstentions.

Mr. JAY (Canada) explained that he had voted against the second part, but was still prepared to vote for a provision relating to a person sentenced to imprisonment for five years, since he was willing to defer to that extent to the wishes of the jus sanguinis countries, even though he could not subscribe to the basic principles.

The PRESIDENT said that in consequence of the foregoing votes it was unnecessary to put the last part of the French amendment to the vote.

The Austrian oral amendments to the text submitted by the Drafting Committee (A/CONF.9/L.42) were rejected by 10 votes to 6, with 13 abstentions.

The PRESIDENT invited the Conference to vote on the United Kingdom alternative texts in the order submitted (A/CONF.9/L.43).

Mr. HERMENT (Belgium) asked what the difference was between "being convicted of an offence" and "committed an offence".

Mr. HARVEY (United Kingdom) explained that the former phrase covered a person convicted by a court, the latter one who had committed an act which was an offence, even though he was neither brought to trial nor convicted. As the paragraph dealt with persons actually in the country concerned, the first alternative was the logical one to adopt.

The first of the alternative amendments submitted by the United Kingdom (A/CONF.9/L.43) was adopted by 12 votes to 8, with 9 abstentions.

The PRESIDENT invited the Conference to vote on the text submitted by the Drafting Committee (A/CONF.9/L.42), as amended.

Mr. VIDAL (Brazil) asked for a separate vote on the second part, beginning "nor has been sentenced .....".

That part was adopted by 8 votes to 4, with 16 abstentions.

The text submitted by the Drafting Committee (A/CONF.9/L.42), as amended, was adopted by 14 votes to 1, with 14 abstentions.

The meeting rose at 1.40 p.m.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE NINTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 15 April 1959, at 3.15 p.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 organizations 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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(14 p.)

EXAMINATION OF THE QUESTION OF THE ELIMINATION AND REDUCTION OF FUTURE STATELESSNESS (item 7 of the agenda) (continued)

Draft convention on the reduction of future statelessness (A/CONF.9/L.40 and Add.1-4 L.42) (continued)

Article 1, paragraph 2 (A/CONF.9/L.18, L.47, L.54) (continued)

Mr. MEYER (Switzerland) pointed out that his delegation's amendment to article 1, paragraph 2 (A/CONF.9/L.47) was similar to the amendment submitted by the Federal Republic of Germany (A/CONF.9/L.18) which had not been approved at the fourth meeting of the Committee of the Whole Conference as the result of an equal vote, except that the Swiss amendment did not contain the words "or subsequently".

Among the States unlikely to sign the convention, there were several which permitted their nationals to renounce nationality, even if they did not possess another nationality. It would be possible, under the draft convention, for nationals of those countries born on Swiss territory to obtain Swiss nationality at the age of eighteen, by renouncing their original nationality and becoming voluntarily stateless.

Switzerland was extremely generous to the stateless child of a Swiss mother and a foreign father. If such a child was stateless at birth, it was usually granted full nationality; if it had been a foreign national by birth but had become stateless later, it could still acquire Swiss nationality by naturalization. The fathers of such children often deliberately caused them to become stateless after birth, so that they could acquire Swiss nationality by naturalization - a procedure which his country could not tolerate.

The rejection of his delegation's amendment would be regrettable for he would then be unable to propose to his Government that the convention be signed and ratified. It might be said that it was unwise to add a further condition to the paragraph, but the addition proposed by his delegation was essentially preventive, and it was optional. States granting nationality on the basis of jus soli would not need to apply it.

Logic might demand that the condition of statelessness at birth should also be introduced in paragraph 1(b), but his delegation did not wish on grounds of logic alone to prevent other countries from being more generous than its own, and was making no such proposal. It would not, of course, be opposed to the introduction of the same condition in paragraphs 3 and 4 of the article.

Mrs. TAUCHE (Federal Republic of Germany), endorsing the comments of the Swiss representative said that she wished to re-submit her delegation's amendment to article 1, paragraph 2 on the grounds that the additional words "or subsequently" were essential. A person born on German territory might emigrate with his parents to another country, acquire the nationality of that country and later be deprived of it; if he returned to the Federal Republic of Germany, under paragraph 2 as it stood he could not be refused German nationality Her Government did not wish to be obliged, without option of refusal, to confer nationality on persons already deprived of the nationality of another country.

Mr. WILLFORT (Austria) said that his delegation strongly supported both the Swiss amendment and that submitted by the Federal Republic of Germany.

The PRESIDENT put to the vote the amendment to article 1, paragraph 2, submitted by the Federal Republic of Germany (A/CONF.9/L.18).

The amendment was adopted by 13 votes to 6, with 11 abstentions.

Mr. MEYER (Switzerland) accepted the PRESIDENT's suggestion that the adoption of that amendment made it unnecessary to vote on the Swiss amendment.

The PRESIDENT put to the vote article 1, paragraph 2, as amended.

Article 1, paragraph 2, as amended, was adopted by 17 votes to none, with 10 abstentions.

Article 1, additional paragraph (A/CONF.9/L.44)

The PRESIDENT, speaking as the representative of Denmark, said that the purpose of his delegation's proposal to introduce a new paragraph between paragraphs 2 and 3 (A/CONF.9/L.44) was to include in the convention the provisions of article 15 of the 1930 Convention on Certain Questions Relating to the Conflict of Nationality Laws. His delegation did not think that there was any need for the legitimate child of a marriage in which the father either was stateless, or possessed a nationality which could not be conferred upon his child at birth, to remain stateless until the age of eighteen, if the mother had a nationality which could be conferred upon the child.

Mr. LEVI (Yugoslavia) disliked the use of the words "legitimate" and "illegitimate" in the convention: might it not be better for the Danish delegation to refer to "a child born in wedlock"?

The PRESIDENT, speaking as the representative of Denmark, accepted the Yugoslav representative's proposal, though he thought that "a child born in wedlock" would still have to be translated as "un enfant légitime" in the French text.

Mr. RIPHAGEN (Netherlands) said that there was a difference of substance between the article 15 of the 1930 Convention and the new paragraph proposed by the Danish delegation. Article 15 of the 1930 Convention stated that: "Where the nationality of a State is not acquired automatically by reason of birth on its territory, a child born on the territory of that State of parents having no nationality, or of unknown nationality, may obtain the nationality of the said State." From that it would appear that the legitimate child of a father who possessed a nationality which could not be conferred on his child at birth, would become stateless: for there was no explicit obligation on the country whose nationality the mother possessed to confer its nationality on the child.

He would therefore propose that the words "and if the father at the time of birth was stateless" be added at the end of the proposed new paragraph.

Mr. LEVI (Yugoslavia) said that he would oppose the Netherlands sub-amendment. It was unwise in that context to re-open discussion on the respective priority of the father's and mother's nationality.

The PRESIDENT, speaking as the representative of Denmark, said that he could not accept the Netherlands sub-amendment, the consequences of which would be that the legitimate child of a father possessing a nationality which was not automatically conferred on his child at birth would remain stateless until the age of eighteen.

The PRESIDENT put to the vote the Netherlands oral sub-amendment to the additional paragraph proposed by the Danish delegation.

The Netherlands oral sub-amendment was rejected by 10 votes to 4, with 15 abstentions.

The PRESIDENT put to the vote the additional paragraph to article 1 proposed by the Danish delegation (A/CONF.9/L.44).

The additional paragraph to article 1 was adopted by 19 votes to 2, with 11 abstentions.

Paragraph 3 (A/CONF.9/L.53, L.54)

Mr. BACCHETTI (Italy) said that under the amendment submitted jointly by his delegation and those of France and Israel (A/CONF.9/L.53) the second sentence of paragraph 3 would be deleted. It was clear that in the circumstances contemplated by the sentence a contracting State could not decide whether the child concerned should have the nationality of State A or State B; it was for each State to decide for itself whether to confer its nationality on a person who applied for it and the matter could not be decided by a third party.

Nor could it be argued that the sentence in question would tend to reduce statelessness. Statelessness would remain so long as there were negative conflicts between the nationality laws of different States. All the second sentence said was that each State could adopt in its national law the solution which it preferred. It was not the Conference's task to say what a State could do, but what it must do. In the case in question, there should be a single principle for all States to the effect that the nationality of a child should normally follow that of the father but, if the father were stateless or if he possessed a nationality which could not be conferred upon the child at birth, the nationality of the child should follow that of the mother, when the latter possessed the nationality of the contracting State. There were countries, such as the Netherlands, whose laws already contained a provision to that effect; if other countries were to adopt similar provisions, that would be a small sacrifice indeed to make in the interests of reducing statelessness.

Mr. ROSS (United Kingdom) urged the Conference to reject the joint amendment on three grounds. First, article 1, paragraph 3 as drafted was the result of a compromise carefully worked out in the earlier stages of the Conference and any substantial change at that time might result in a lengthy and complicated debate. Secondly, the joint amendment would create a number of cases of dual nationality. While the United Kingdom Government did not object to dual nationality, it was a matter to which other States often took exception. Thirdly, so far as the United Kingdom was concerned, the amendment was unacceptable because, although the United Kingdom was prepared, if it ratified the convention, to modify its legislation to provide for the inheritance of nationality through the mother if the child could not obtain a nationality through its father, it was not yet prepared to legislate for the unconditional conferment of nationality through the mother.

The United Kingdom delegation had been prepared to accept the principle in the International Law Commission's text of article 1, but it had not been acceptable to certain other States represented at the Conference. It was true that as a result of the present text of article 1 a few children might be unable to claim a nationality, but it was his belief that that was the best arrangement that could be reached by the Conference and to change it would make article 1 unacceptable to a number of participating States. If the amendment were adopted and the United Kingdom were not permitted to legislate so as to make the nationality of the father prevail over that of the mother, it was doubtful whether it would be able to accede to the convention unless it were explicitly permitted to make a reservation on the point, and his delegation deplored making reservations to important articles such as articles 1 and 4.

Mr. BEN-MEIR (Israel), endorsing the remarks of the Italian representative, said that there were two reasons why his delegation had become a co-sponsor of the joint amendment. First, article 1, paragraph 1, and article 4, paragraph 1, as amended by the delegations of Switzerland and the Federal Republic of Germany, would lead to the creation of cases of statelessness, since a number of States which might accede to the convention already granted their nationality to a child only one of whose parents was a national. Secondly, his delegation considered that the fact that only one of the parents of a child had the nationality of the State concerned was sufficient to justify the granting of nationality. The provisions of article 1, paragraph 4, and of article 4, paragraph 2, contained an additional guarantee in the form of a residence qualification which ensured the existence of sufficient links between the child and the State concerned, should the State consider it necessary to avail itself of that guarantee. He therefore urged delegations to support the joint amendment.

The compromise text referred to by the United Kingdom representative had already been modified to a considerable extent by the adoption of various amendments.

Mr. RIPHAGEN (Netherlands), referring to the Italian representative's statement, said that Netherlands law contained two conditions for the grant of nationality through the mother, viz: the child must have been born in Netherlands territory and the father must have no nationality. He would have the same objection to the joint amendment as he had had to the Danish amendment and would therefore vote against it.

Mr. BACCHETTI (Italy) quoting the first sentence of article 1, paragraph 3, asserted that the joint amendment would not lead to cases of dual nationality.

Mr. HERMENT (Belgium) said that he could not support the joint amendment since it would involve important changes in the law of his country.

The PRESIDENT, speaking as the representative of Denmark, said that the joint amendment might cause certain States not to accede to the convention; there were wide differences in the municipal law of States.

Sir Claude COREA (Ceylon) said that the joint amendment would tend to reduce statelessness; he could not understand representatives who said that it would necessitate changes in municipal law and that their Governments would be unable to accede to the convention if it were adopted. Laws should be changed in order to conform to the provisions of the convention.

The PRESIDENT said that States could not be expected to change their systems of law.

He put to the vote paragraph 1 of the joint amendment (A/CONF.9/L.53).

The paragraph was rejected by 14 votes to 7, with 12 abstentions.

The PRESIDENT drew attention to paragraph 3 of the Netherlands amendment (A/CONF.9/L.54), which related to the French and Spanish texts only.

Mr. PEREIRA (Peru) said that his delegation would prefer the text of article 1, paragraph 3 as drafted in document A/CONF.9/L.40 to that proposed in the Netherlands amendment.

Mr. CORIASCO (Italy) said that in the case covered by article 1, paragraph 3, three States might be involved, namely, the State of birth of the child, the State of which the father was a national and the State of which the mother was a national. The text of that paragraph would become completely incomprehensible if the Netherlands amendment were adopted.

Mr. HERMENT (Belgium) suggested that in the French text of paragraph 3 the words "l'Etat contractant qui accorde sa nationalité" (in line 7) should be replaced by the words "l'Etat compétent dont la nationalité est sollicitée".

Mr. RIPHAGEN (Netherlands) said that he would withdraw his amendment if the Belgian amendment were approved.

Rev. Father de RIEDMATTEN (Holy See) thought the Belgian amendment might make the sentence in question even more incomprehensible; the sentence should be redrafted.

Mr. HARVEY (United Kingdom) moved the closure of the debate on paragraph 3 of the Netherlands amendment (A/CONF.9/L.54).

Rev. Father de RIEDMATTEN (Holy See) and Mr. PEREIRA (Peru) opposed the motion.

The motion for closure of the debate on paragraph 3 of the Netherlands amendment was rejected by 13 votes to 8, with 9 abstentions.

The PRESIDENT said that the meeting would adjourn for a short period.

The meeting was suspended at 4.45 p.m. and was resumed at 5.10 p.m.

Mr. CARASALES (Argentina) supported the oral amendment proposed by the Belgian delegation.

Mr. BACCHETTI (Italy) expressed the view that the adoption of that amendment would create difficulties when the Conference came to discuss article 4.

The PRESIDENT put to the vote the Belgian oral amendment to paragraph 4.

The Belgian oral amendment to paragraph 3 was adopted by 11 votes to 2, with 19 abstentions.

Mr. RIPHAGEN (Netherlands) said that his delegation would withdraw its amendment to paragraph 3 (A/CONF.9/L.54).

The PRESIDENT invited delegations to consider an amendment to paragraph 3, suggested to him by the United Kingdom delegation, that the words "the required residence conditions" in the first sentence, be replaced by the words "such a condition as is mentioned in sub-paragraph (b), sub-paragraph (c) or sub-paragraph (d) of paragraph 2 of this article".

Mr. CARASALES (Argentina) said that he would vote against the United Kingdom amendment. It was not fair to the jus soli countries to oblige them to confer nationality on persons who had been refused nationality by other countries on the grounds of having been sentenced to imprisonment for terms of not less than five years.

Mr. ROSS (United Kingdom), in explanation of his delegation's proposal, pointed out that the intention of article 1, paragraph 3, was that countries should confer nationality on persons who had failed to acquire it under article 1, paragraph 2, with the exception of those who were not old enough to lodge an application. Thus, those who might have failed under conditions (a) and (b) of paragraph 2 were to have another chance under paragraph 3. The Israel representative had already stated that the introduction of two new conditions (c) and (d) in

paragraph 2 would entail more statelessness, unless corresponding adjustments were made in paragraph 3, and the United Kingdom amendment would give effect to the spirit of the Israel proposal. As the representative of Argentina had already objected to the acquisition of nationality under paragraph 3 by those who failed under paragraph 2(c), he would propose that, for the purposes of voting, his delegation's amendment be divided into two parts, the first referring to sub-paragraphs (b) and (c) of paragraph 2 and the second to sub-paragraph (d).

Mr. HERMENT (Belgium) expressed the fear that if the United Kingdom amendment were adopted jus sanguinis countries would be obliged to confer nationality on many persons whom they regarded as undesirable.

The PRESIDENT put the United Kingdom amendment to the vote in two parts.

The United Kingdom amendment to the effect that the words "the required residence conditions" be replaced by the words "such a condition as is mentioned in sub-paragraph (b) or (c) of paragraph 2 of this Article", was rejected by 8 votes to 7, with 17 abstentions.

The United Kingdom amendment referring to sub-paragraph (d) only of paragraph 2 was rejected by 8 votes to 7, with 16 abstentions.

The PRESIDENT put to the vote paragraph 3, as amended.

Paragraph 3, as amended, was adopted by 18 votes to none, with 14 abstentions.

Paragraph 4 (A/CONF.9/L.18)

Mr. CARASALES (Argentina) said that there was a close relationship between paragraph 2 and paragraph 4, and he would have difficulty in explaining to his Government why the two new conditions contained in sub-paragraphs (c) and (d) of paragraph 2 were not included in paragraph 4. They were, after all, only optional conditions and no State would have any obligation to impose them if it did not wish to do so.

The delegation of the Federal Republic of Germany had proposed the addition, at the end of paragraph 4, of the condition contained in paragraph 2(d) A/CONF.9/L.18. He would propose the inclusion in paragraph 4 of the condition contained in paragraph 2(c).

Mr. ROSS (United Kingdom) said that he was opposed both to the Argentine amendment and to that submitted by the delegation of the Federal

Republic of Germany. His understanding was that it had been the intention of the Committee to provide in paragraph 4 a last chance for stateless persons and to make the conditions enumerated in that paragraph less onerous than those of paragraph 2. The number of persons applying for nationality under paragraphs 3 and 4 would be exceedingly small compared with the number applying under paragraphs 1 and 2.

Mrs. TAUCHE (Federal Republic of Germany) withdrew her delegation's amendment to article 1, paragraph 4.

Mr. CARASALES (Argentina) re-submitted that amendment in the name of the Argentine delegation.

Mr. PEREIRA (Peru) and Sir Claude COREA (Ceylon) supported the Argentine amendment.

The PRESIDENT put to the vote the Argentine proposal that a new sub-paragraph (c) drafted in similar terms to article 1, paragraph 2(c) should be inserted in article 1, paragraph 4.

The amendment was rejected by 10 votes to 9, with 12 abstentions.

The PRESIDENT put to the vote the Argentine proposal that a new sub-paragraph (c) drafted in similar terms to article 1, paragraph 2(d) should be inserted in article 1, paragraph 4.

The amendment was adopted by 8 votes to 7, with 13 abstentions.

Article 1, paragraph 4, as amended, was adopted by 16 votes to 3, with 13 abstentions.

Mr. HELLBERG (Sweden) recalled that the Swedish delegation had abstained from voting on article 1 in Committee because under Swedish law a longer period of residence was required than under article 1, paragraph 2(b). However, he had received instructions from his Government to vote for article 1 as amended.

Mr. VIDAL (Brazil), explaining his vote on the Argentine proposal, said that he had been unable to vote for it because his Government had faith in the penal and penitentiary systems of the jus sanguinis countries.

Mr. BEN-MEIR (Israel) said that he had voted against paragraph 4 because he felt that its scope had been restricted by certain additional conditions inserted in it. His delegation would, however, vote in favour of article 1 as amended.

Mr. CARASALES (Argentina) said that he would abstain from voting on article 1 as a whole, since his delegation supported article 1 of the International Law Commission's draft, which was wider in scope and more flexible than the text before the Conference.

Mr. BACCHETTI (Italy) said that he would abstain from voting on article 1 as a whole because all the amendments which would have made it wider in scope had been rejected.

Article 1 as a whole, as amended, was adopted by 19 votes to none, with 14 abstentions.

The PRESIDENT said that the necessary drafting changes, such as renumbering of paragraphs, consequent on the adoption of the additional paragraph proposed by the Danish delegation, would be made by the Secretariat.

Article 2 (A/CONF.9/L.50)

The PRESIDENT, speaking as representative of Denmark, recalled that five delegations had voted against the Danish amendment (A/CONF.9/L.13) when it had been submitted in Committee. In order to meet the views of those delegations, he had redrafted the amendment to read: 'Replace the words "be considered a national of a State", at the end of article 2, by the words "be considered as born within that territory of parents possessing the nationality of that State".'

Mr. HERMENT (Belgium) expressed his delegation's gratitude to the Danish representative for the gesture he had made.

The Danish amendment was adopted by 19 votes to none, with 10 abstentions.

Article 2, as amended, was adopted by 25 votes to none, with 7 abstentions.

Article 3

Mr. RIPHAGEN (Netherlands) proposed the deletion of the word "Contracting" in sub-paragraphs (a) and (b). Article 3, as drafted, did not solve the problem of the nationality of a child born in a ship of a non-contracting State when that ship was in the harbour of a contracting State. The child might either be considered as having been born within the territory of the contracting State, in which case article 1 would apply, or as having been born outside the territory of the contracting State, in which case article 4 would apply. His delegation considered that article 4 should apply, and not article 1.

Mr. HARVEY (United Kingdom) said that while his delegation had thought that the distinction between the words "Contracting State" and "State" in the context of article 3 was one which had no substance, he had been convinced by the arguments of the Netherlands representative and would vote for his amendment.

Mr. SIVAN (Israel) recalled that the Netherlands representative had raised the same point at the fifth meeting and that the delegation of Israel had supported his view. The amendment had not been adopted probably because representatives feared that they would be legislating for non-contracting States by such an amendment, but the fear was groundless.

The PRESIDENT, speaking as the representative of Denmark, said the adoption of the amendment would mean that under article 3 a child born in an aircraft which landed at a Danish airport could not be considered as having been born in Denmark.

Mr. CARASALES (Argentina) considered that article 3 should refer only to persons who would otherwise be stateless. If a child was born in Buenos Aires harbour in a ship flying a foreign flag it would be an Argentine citizen under Argentine law, whether the ship belonged to a contracting State or not. His country could never agree to such a child being considered as a national of the country whose flag the ship was flying.

Mr. SMALL (Brazil) agreed with the Argentine representative.

Mr. RIPHAGEN (Netherlands) said that article 3 was of vital importantance to the determination of the obligations to be assumed by contracting States under the convention. His amendment would in no way prevent a State which so wished from considering a child born on a ship in its territorial waters as a national. He suggested that article 3 might begin with the words "For the purpose of determining the obligations of contracting States under this convention..."

Mr. JAY (Canada) said that he could not support the Netherlands amendment as he considered that article 3 was clearly drafted. The amendment suggested might lessen the obligations of contracting States and increase cases of statelessness.

The PRESIDENT, speaking as the representative of Denmark, said that the question of birth within the territory of a contracting State was fully covered by article 1. He suggested that the point raised by the Netherlands representative might be met if article 3 were redrafted to read: "For the purposes of this

Convention ... birth outside the territory of a Contracting State, but occurring (a) in a ship ... etc. (b) in an aircraft ... etc. shall be deemed to have taken place in the territory of that State."

Mr. TSAO (China) supported the Danish amendment.

Mr. HARVEY (United Kingdom) said that while it was true that article 1 provided for persons born in the territories of contracting States, the question now before the Conference was whether a child was to be deemed for the purpose of the convention to have been born in the territory of a contracting State, and the Conference must consider the odd case of a child born in an aircraft or in a ship who might or might not be thought to have been born within the territory of a contracting State. If the child in question was deemed to have been born in the territory of a contracting State then article 1 would apply. If not, then article 4 might apply. He did not think that article 3 should be limited as suggested by the Danish representative.

Mr. JAY (Canada) said that he could not support the Danish amendment. The only purpose of including an article of the type under consideration was to avoid the possibility of misinterpretation or misunderstanding. He therefore supported article 3 as approved by the Committee of the Whole Conference (A/CONF.9/L.40).

Sir Claude COREA (Ceylon) supported the Danish amendment.

Mr. BEN-MEIR (Israel) thought that the Danish amendment was superfluous and did not cover the point raised by the Netherlands representative. All delegations seemed to agree that a child born in a ship of a contracting State outside its territory should be regarded as having been born in that State.

The PRESIDENT put to the vote the Netherlands proposal that the words "For the purpose of determining the obligations of contracting States under this convention" should be substituted for the first line of article 3, and that the word "Contracting" should be deleted in sub-paragraphs (a) and (b).

The amendment was adopted by 12 votes to 6, with 11 abstentions.

The PRESIDENT, speaking as the representative of Denmark, withdrew his delegation's oral amendment.

Mr. TSAO (China) pointed out that article 3 as originally drafted by the International Law Commission referred to birth in ships on the high seas and not in territorial waters. Under article 3, as amended, the question arose what

country would be considered the birthplace of a child born in a ship flying the Netherlands flag in Danish territorial waters.

Mr. JAY (Canada) took the view that in the case to which the representative of China had referred the nationality of the ship would be the governing factor.

Article 3, as amended, was adopted by 14 votes to 4, with 10 abstentions.

The meeting rose at 6.45 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE TENTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Thursday, 16 April 1959, at 10.15 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 organizations 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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(13 p.)

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

Draft convention on the reduction of future statelessness (A/CONF.9/L.40 and L.62) (continued)

Article 4, paragraph 1 (A/CONF.9/L.53, L.54) (resumed from the fifth meeting and concluded)

The PRESIDENT drew attention to the text of article 4 as approved in Committee (A/CONF.9/L.40), to the joint amendment submitted by the delegations of France, Israel and Italy (A/CONF.9/L.53) and to the amendment submitted by the Netherlands delegation (A/CONF.9/L.54).

Mr. BEN-MEIR (Israel) said that the first part of paragraph 2 of the joint amendment (A/CONF.9/L.53) had been withdrawn. The remaining part of the amendment was virtually identical with the amendment submitted at the previous meeting to article 1, paragraph 3.

Mr. ROSS (United Kingdom) observed that it should hardly be necessary to move the amendment to article 4, paragraph 1, after the decisive rejection of the similar amendment to article 1, paragraph 3,* especially since the text of the convention would be inconsistent should it, by some chance, be adopted.

Mr. MARSILIA (Italy) said that it would not be wasting the Conference's time to discuss the joint amendment to article 4 despite the rejection of the similar amendment to article 1, paragraph 3. The discussion at the previous meeting on the second sentence in article 1, paragraph 3, and the difficulties encountered in reaching a satisfactory wording for that paragraph might have induced some delegations to reconsider their attitude in order to make article 4 clearer. It might be possible to amend the second sentence in article 4, paragraph 1, if the Conference was unwilling to delete it, as the sponsors of the amendment would prefer. Since the article provided for the possibility of granting nationality by operation of law at birth, the text proposed at the previous meeting by the Belgian representative would not be adequate.

The United Kingdom delegation had stated at that meeting that the joint amendment, if adopted, might give rise to cases of double nationality. That apprehension was groundless, since article 4, like article 1, applied only to persons who would otherwise be stateless and who consequently did not and could not have any other

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* now article 1, paragraph 4 (see document A/CONF.9/L.62)

nationality. It was in fact article 1, as adopted by the Conference, and article 4, in the form before the meeting, which might lead to cases of double nationality. A stateless person born in State A whose father was a national of State B and whose mother was a national of State C and who himself had not been able to acquire the nationality of the State of his birth owing to non-fulfilment of the residence conditions might be told by State B that his nationality must follow that of his mother, who by then might conceivably have lost her nationality, and by State C that he must follow that of his father, who had possibly lost his nationality; as a consequence the person in question would remain stateless. That was the negative aspect.

It might, however, equally well happen that under the law both of State B and of State C the person concerned followed the nationality of the parent possessing the nationality of those States; in that event, the person would acquire double nationality.

Furthermore, a stateless person in such a position might well make two applications for nationality: to the State of the mother and to the State of the father. Since in the case used for the purpose of illustration, the person concerned would not be residing in the territory of either of those States, the only way in which he could find out what the law was would be to study the convention. The convention, however, did not lay down clearly to which State the application should be addressed. The only conclusion possible from a reading of articles 1 and 4, as they now stood, would be that a stateless person in such a situation might well remain stateless even if he made two applications. The convention should at least admit that in certain cases there might be no remedy for statelessness.

Article 1, paragraph 2, like article 8, paragraph 2 (A/CONF.9/L.40/Add.3), was too rigid, but at least the wording was clear. Article 4, however, was as disappointing for stateless persons as it was unnecessary. The residence clause in article 1 did at least stipulate some link between the stateless person and the State to which he applied for nationality and in fact provided for a form of naturalization. It had been stated that article 4 was the result of a very arduous endeavour to compromise and that other delegations should not therefore oppose it. If it had been a successful compromise between the jus sanguinis and the jus soli

countries, the appeal not to amend it might be acceptable, but the compromise seemed to have been achieved at the expense of logic and even of meaning. More than a drafting point was involved. The Conference might be well advised to discuss the matter anew.

Mr. HARVEY (United Kingdom) said that the United Kingdom Government would be prepared to introduce legislation to amend the law concerning the inheritance of nationality through the mother, subject to the stipulation that the nationality of the father prevailed if the child was legitimate. The Government would not be prepared to go further and accord nationality through the mother in any case in which the child could acquire a nationality through the father. Article 4 was a compromise not between the systems of jus soli and jus sanguinis but between systems of law concerning personal status, which differed greatly from State to State. He had been astonished at the suggestion that the amendment should be discussed at even greater length than the amendment to article 1, paragraph 3, had been at the previous meeting, especially since the discussion on article 1 might have to be reopened if the Conference amended article 4. His delegation would counter any move to prolong the discussion by invoking rule 14 of the rules of procedure.

The joint amendment submitted by the delegations of France, Israel and Italy (A/CONF.9/L.53) was rejected by 11 votes to 7, with 14 abstentions.

Mr. RIPHAGEN (Netherlands), introducing his amendment to article 4, paragraph 1 (A/CONF.9/L.54, para. 5), explained that it was designed simply to bring the French text into line with the English. The Spanish text should also concord with the English.

The Netherlands amendment was adopted by 12 votes to none, with 18 abstentions.

The PRESIDENT, speaking as representative of Denmark, submitted a drafting amendment to bring the French text of article 4, paragraph 1, into line with the similar text of article 1, paragraph 3*.

The Danish amendment was adopted by 15 votes to none, with 14 abstentions.

Mr. RIPHAGEN (Netherlands) introduced an amendment to article 4, paragraph 1(b) (A/CONF.9/L.54, para.6), affecting only the French text.

The Netherlands amendment was adopted by 16 votes to none, with 12 abstentions.

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* Now paragraph 4 (see footnote on p.2, supra)

Mr. JAY (Canada) asked for a separate vote on paragraph 1(b).

Paragraph 1(b) was adopted by 15 votes to none, with 17 abstentions.

Sir Claude COREA (Ceylon) explained that he had abstained from voting because he had the same objection to the second sentence in sub-paragraph (b) as he had had to the second sentence of article 1, paragraph 1(b).

Article 4, paragraph 1, as amended in the French and Spanish texts, was adopted by 21 votes to none, with 12 abstentions.

Article 4, paragraph 2

Mr. CARASALES (Argentina) said that article 4 was as important as article 1. Experience of international conventions showed that there were likely to be fewer contracting than non-contracting States, and hence the responsibilities of the contracting States would be very great. The countries having the jus soli system had deferred to the wishes of the jus sanguinis countries that additional restrictions be placed on the grant of nationality under article 1 and the former should therefore be allowed to require the addition of similar conditions in article 4. He proposed that the conditions stipulated in sub-paragraphs (c) and (d) of article 1, paragraph 2 (A/CONF.9/L.62) should be added to article 4, paragraph 2.

Mr. ROSS (United Kingdom) said that there was no need for him to repeat the arguments relating to the similar proposal made in connexion with article 1. They had greater force in respect of article 4, because under that article only one appeal was open to the stateless person, whereas under article 1 he could apply either to the country of birth or to the country of parentage.

Mr. VIDAL (Brazil) asked for a separate vote on the words "that the person has neither been convicted of an offence against national security" in the additional sub-paragraph (c) proposed by the Argentine delegation.

That part of sub-paragraph (c) was adopted by 12 votes to 10, with 11 abstentions.

The PRESIDENT put to the vote the phrase "nor has been sentenced to imprisonment for a term of five years or more on a criminal charge".

That part of sub-paragraph (c) was rejected by 10 votes to 6, with 14 abstentions.

The PRESIDENT put to the vote the additional sub-paragraph (d) proposed by the Argentine delegation: "That the person has not acquired a nationality at birth or subsequently".

The additional sub-paragraph (d) was adopted by 12 votes to 8, with 12 abstentions.

Subject to drafting changes, article 4, paragraph 2, as amended, was adopted

Mr. de la FUENTE (Peru) said that in Peru citizenship by naturalization was regarded as a strictly personal status and parents who were Peruvian citizens by naturalization did not transmit their nationality to their children unless the latter were born in Peru, in which case the jus soli rule operated. It was necessary to make that point clear because under article 4, if the parents were naturalized Peruvian citizens and the child was not born in the territory of Peru, the jus sanguinis rule in the Peruvian mixed system would not operate and such a child could not be granted Peruvian nationality.

Subject to drafting changes, article 4, as amended, was adopted by 20 votes to 9, with 12 abstentions.

Article 5 (A/CONF.9/L.22, L.49) (resumed from the seventh meeting and concluded)

Mr. TYABJI (Pakistan), introducing his delegation's amendment (A/CONF.9/L.22) to article 5 as approved in Committee (A/CONF.9/L.40) said that in keeping with a suggestion of the representatives of Ceylon and China the amendment should read: "or upon compliance with the national law of the Party". The amendment had not been accepted in Committee, but that merely meant that the majority of the countries did not need the qualification which Pakistan required and so would not be affected by its inclusion in the convention. The amendment was, in fact, procedural and would not affect the substance of the convention.

At the request of the representative of Pakistan, a vote was taken by roll-call.

Luxembourg, having been drawn by lot by the President, was called upon to vote first.

In favour:	Pakistan, Turkey, United Arab Republic, Yugoslavia, Ceylon, China, India, Indonesia, Iraq.
Against:	Netherlands, Norway, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, Argentina, Belgium, Brazil, Canada, Denmark, France, Federal Republic of Germany, Israel, Italy, Japan.
Abstaining:	Luxembourg, Panama, Peru, Spain, United States of America, Austria, Chile, Holy See, Liechtenstein.

The Pakistan amendment (A/CONF.9/L.22) was rejected by 15 votes to 9, with 9 abstentions.

Article 5 (A/CONF.9/L.40) was adopted by 22 votes to 2, with 9 abstentions.

Mr. HERMENT (Belgium), introducing his delegation's amendment (A/CONF.9/L.49), said that the proposed additional paragraph was intended to prevent illegitimate children being placed in a more favourable position than legitimate children.

The additional paragraph proposed by the Belgian delegation was adopted by 12 votes to 2, with 17 abstentions.

Article 5, as a whole, as amended, was adopted by 20 votes to 2, with 11 abstentions.

Article 7 (A/CONF.9/L.55, L.63)

Mr. LEVI (Yugoslavia), introducing his delegation's amendment (A/CONF.9/L.63, first alternative) to article 7 in document A/CONF.9/L.40, recalled that an earlier Yugoslav proposal to delete from article 7, paragraph 4, the word "naturalized" had been rejected at the eleventh meeting of the Committee of the Whole Conference. His new proposal did not place natural-born nationals on the same footing as naturalized nationals, but allowed a State to make reservations respecting the residence abroad of natural-born nationals.

Mr. TYABJI (Pakistan), proposing the deletion of article 7, paragraph 1, recalled that his delegation had submitted a like amendment at the seventh meeting of the Committee of the Whole Conference. Under the law of Pakistan renunciation of nationality was completely voluntary and was not contingent on the acquisition of another nationality. Although there might be some justification for making loss and deprivation of nationality subject to such a condition, he did not see why the condition should be admitted in respect of renunciation. A person would presumably not renounce his nationality unless he were sure of acquiring another.

The PRESIDENT said that, since opinion on the Pakistan proposal would be tested by the vote on paragraph 1, he did not consider the proposal as a formal amendment.

Mr. de la FUENTE (Peru) said he had the same difficulties as the Pakistan representative in accepting the paragraph. Although he understood the spirit in which the paragraph had been drafted, he considered it incompatible with fundamental human freedoms.

He reserved his delegation's position on paragraph 3 of the article. Under Peruvian law, a naturalized national was liable to lose Peruvian nationality if he resided abroad for a period of more than two consecutive years, unless he could show that such residence was due to factors beyond his control and unless he declared his wish to maintain his Peruvian nationality and could show that his vinculum with Peru had not been impaired.

Mrs. TAUCHE (Federal Republic of Germany) pointed out that, while the additional paragraph proposed in the Yugoslav amendment (A/CONF.9/L.63) referred to natural-born persons, and article 7, paragraph 4 (A/CONF.9/L.40) to naturalized persons, there was no provision for persons who had acquired their nationality by marriage, legitimation or option.

She proposed that the word "similar" should be deleted from paragraph 3 and replaced by the word "other". From the paragraph as it stood it was not absolutely clear that States were not prevented from applying other grounds for automatic loss of nationality than those listed.

Rev. Father de RIEDMATTEN (Holy See) proposed that "(a)" should be inserted at the beginning of the present text of paragraph 1 of the article and that a sub-paragraph (b) should be added providing that sub-paragraph (a) would not apply in cases where its application would be inconsistent with articles 13 and 14 of the Universal Declaration of Human Rights.[1/]

He recalled that his proposal to delete article 7, paragraph 1, had been rejected in Committee. He therefore considered it his duty to propose the inclusion of a reference to articles 13 and 14 of the Declaration of Human Rights which were concerned with the right of the individual to leave any country and to seek and be granted asylum. That seemed to him to be the only way of protecting individuals against infringement of their basic liberties. He appealed to all delegations to vote in favour of his proposal; such a vote would be evidence of their sincere humanitarian intentions and would bring prestige to the Conference.

Mr. POPPER (United States of America) associated himself with the delegations of Pakistan and Peru, which could not accept the terms of article 7, paragraphs 1 and 3. Both paragraphs would conflict with existing United States

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1/ Amendment subsequently submitted in writing as document A/CONF.9/L.65.

law, which provided for the formal renunciation of United States citizenship without stipulating that such renunciation was dependent upon the acquisition of another nationality; in addition, the law made provision for loss of nationality in consequence of protracted voluntary residence abroad.

He doubted whether it was desirable to include in an instrument such as the convention a specific reference to the Universal Declaration of Human Rights, which did not possess the force of law.

Mr. HERMENT (Belgium) moved the closure of the debate on article 7, paragraph 1.

After some procedural discussion, Mr. KANAKARATNE (Ceylon), opposing the motion, said that there should be an opportunity for further discussion of the proposal made by the representative of the Holy See.

The motion was rejected by 15 votes to 6, with 11 abstentions.

Mr. LEVI (Yugoslavia) agreed with the United States representative that a reference to the provisions of the Universal Declaration of Human Rights - which had recommending force only - would be out of place in a convention imposing contractual obligations. If however the Holy See's proposal could be redrafted in such a way as to recognize the desirability of observing the principles contained in articles 13 and 14 of the Declaration without giving them the force of obligations he would support the proposal.

Mr. KANAKARATNE (Ceylon) said that delegations should have an opportunity to study the implications of the Yugoslav amendments (A/CONF.9/L.63) since the articles to which they related (7, 8 and 13) were very important. Similarly, the implications of the Yugoslav suggestion for the redrafting of the proposal of the Holy See needed further study. He therefore considered that time would be saved later if further discussion of article 7 and the discussion of article 8 were deferred until the following meeting.

Mr. RIPHAGEN (Netherlands) explained that he had opposed the motion of closure because he saw certain legal difficulties in accepting the amendment proposed by the representative of the Holy See. He agreed with the representative of Ceylon that it would be desirable to defer further discussion of articles 7 and 8.

Mr. FAVRE (Switzerland) expressed surprise at the United States delegation's attitude. Early in the Conference (A/CONF.9/SR.2) that delegation had stated in effect that the convention concerning statelessness was of no interest to the United States and would not be signed or ratified by that country. Now the same delegation stated that article 7 was drafted in terms unacceptable to the United States because it would not be applicable without a change in United States law. Switzerland for its part wished to participate in the common action to reduce statelessness, even if as a consequence a considerable revision of Swiss nationality law had to be contemplated.

Although admittedly the Universal Declaration of Human Rights was not an international convention, it was undoubtedly open to the States to give some of its provisions the force of positive law by embodying them in a convention.

Moreover, he pointed out that certain United States courts had applied some provisions of the Declaration in the same way as provisions of municipal law because they regarded them as expressing general principles of law.

Mr. SCOTT (Canada) agreed with the Ceylonese representative that delegations should have an opportunity to consider at leisure the important amendments to article 7.

He was in sympathy with the purpose of the amendment proposed by the Holy See. Under paragraph 1 of the article a person who wished to become stateless in order to divest himself of a nationality odious to him would be unable to do so. The Ceylonese amendment (A/CONF.9/L.16) intended to solve that problem had been rejected by a narrow margin at the seventh meeting of the Committee of the Whole Conference. He agreed that it was not appropriate to refer to the provisions of the Declaration of Human Rights in a contractual instrument like the convention, but he hoped that, if time were allowed, the amendment of the Holy See could be so revised so as to command wider support.

Mr. KANAKARATNE (Ceylon) moved the adjournment of the debate on articles 7 and 8 under rule 16 of the Conference's rules of procedure.

Mr. POPPER (United States of America), speaking on a point of order, said that before the motion was put to the vote he wished to reply to the statements made by the Swiss representative.

The PRESIDENT drew the United States representative's attention to the strict language of rule 16.

Mr. KANAKARATNE (Ceylon) speaking on a point of order, said that he was prepared to defer his motion in order to allow the United States representative an opportunity to speak.

Mr. POPPER (United States of America) said that the Swiss representative had implied that it was wrong for the United States delegation to state what were its national laws and why it did not favour a particular provision of the convention. It was true that his delegation had, with commendable frankness, stated that the United States did not intend to sign or ratify the convention. That statement did not, however, prevent the United States delegation from expressing its views. Furthermore, his delegation considered itself entirely at liberty to state that certain provisions of the convention conflicted with United States law.

He agreed that United States courts had taken the Universal Declaration of Human Rights into account, but he firmly upheld his earlier statement, the sense of which had been echoed by other delegations. He sympathized with the object of the amendment of the Holy See and hoped that some method could be worked out by which that object could be achieved.

The motion for the adjournment of the debate on articles 7 and 8 was carried by 20 votes to 9, with 5 abstentions.

Rev. Father de RIEDMATTEN (Holy See) explained that he had voted against the motion because he feared that it might be impossible to take into account the suggestions which had been made in time for the following meeting. He appreciated the defence of his amendment by the representative of Switzerland. He was aware of the difficulties of including in the convention references to provisions of the Declaration, but he agreed with the Swiss representative that it was open to the States to give force of law to those provisions by incorporating them in the convention. He did not therefore intend to make any changes in his amendment for the time being but was willing to consider proposals from other delegations.

Article 10

The PRESIDENT drew attention to the text of article 10 in document A/CONF.9/L.40.

Paragraph 1 was adopted by 27 votes to none, with 7 abstentions.

Paragraph 2 was adopted by 24 votes to none, with 8 abstentions.

Article 10 as a whole was adopted by 25 votes to none, with 9 abstentions.

Article 11

The PRESIDENT referred to the text of article 11 in document A/CONF.9/L.40/Add.4.

Mr. HARVEY (United Kingdom) said that the word "agency", which had been used in the original draft of the article, had been replaced by the more general term "body", because it had been felt that in United Nations terminology the word "agency" had acquired a rather restricted and technical meaning.

Mr. JAY (Canada) said his delegation could support the article, but thought that some delegations would find it easier to accept the convention as a whole if the provisions of the article were embodied in a separate protocol or resolution. Provision might be made for reservations under article 13, but delegations did not yet know whether reservations would be allowed under article 13.

Mr. SIVAN (Israel) supported the views expressed by the representative of Canada. A provision of the kind included in article 11 should not be allowed to obstruct the adherence of States which in other respects found the convention acceptable. If an agency and a tribunal were to be established, it was desirable that they should be established under the same instrument, and he thought the best solution would be to attach an optional protocol or resolution to the convention. His delegation was not itself in favour of the establishment of a tribunal, but if some contracting States were prepared to recognize the competence of an agency and tribunal, other States should not stand in their way.

The PRESIDENT, speaking as representative of Denmark, said his delegation would prefer not to reopen the question of the establishment of an agency and tribunal, but would rather leave the matter to be decided by the General Assembly or some other appropriate body.

Speaking as President, he suggested the following procedure for voting on the article. The Conference would first vote on the article on the understanding that no reservations to it would be admissible. If the article was rejected on that understanding, a further vote would be taken on the understanding that reservations would be admissible. If the article was again rejected, the article would lapse, and any proposal regarding the establishment of an agency would have to be embodied in an optional protocol or resolution.

Mr. TSAO (China) said his delegation would vote against article 11 whether or not reservations thereto were admissible.

The PRESIDENT put article 11 to the vote on the understanding that no reservations to it should be allowed.

On that understanding, the article was rejected by 18 votes to 5, with 9 abstentions.

The PRESIDENT put article 11 to the vote on the understanding that reservations should be allowed.

On that understanding, the article was adopted by 15 votes to 5, with 12 abstentions.

The PRESIDENT observed that it was now a drafting question whether to include a provision for reservations in the article itself or in article 13.

Articles 12, 14 and 15

The PRESIDENT drew attention to the text of articles 12, 14 and 15 in documents A/CONF.9/L.40 and L.40/Add.1.

Subject to drafting changes, article 12 was adopted unanimously.

Article 14 was adopted unanimously.

Subject to drafting changes, article 15 was adopted unanimously.

The meeting rose at 12.55 p.m.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE ELEVENTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Thursday, 16 April 1959, at 3.10 p.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 organizations 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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(14 p.)

EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the agenda)

Draft convention on the reduction of future statelessness (A/CONF.9/L.40 and Add 1, 2 and 4 and L.62)

New article on territorial application (A/CONF.9/L.40/Add.1 and A/CONF.9/L.59)

The PRESIDENT invited discussion on the new article on the territorial application of the convention (A/CONF.9/L.40/Add.1).

Mr. GHORBAL (United Arab Republic), introducing the joint amendment submitted by the delegations of Ceylon, India, Iraq, Pakistan and the United Arab Republic (A/CONF.9/L.59), said that the question of the territorial application clause was not a new one for the United Nations. The United Nations Conference on Slavery, 1956, had adopted such a clause[1] and a similar one had been included in the Convention on the Nationality of Married Women, 1957.[2] He considered that those precedents should be followed, and that the Conference should accordingly not adopt the new article.

The text of the joint amendment was the same as that of the United Kingdom proposal (A/CONF.9/L.26), to which the Committee of the Whole Conference had preferred the Belgian text (A/CONF.9/L.29) (see Committee's thirteenth meeting); it attempted to give non-self-governing, trust and other non-metropolitan territories an international personality, which they needed and were yearning for, during the interim period before they reached complete independence and became eligible for membership of the United Nations.

The text adopted in Committee was a retrograde step. The authors of the joint amendment could have made it stronger, but they had been guided by a spirit of conciliation and a desire to bring the Conference to a successful conclusion, and had decided merely to submit a text which had been included in earlier conventions prepared under the auspices of the United Nations.

Mr. TEIXEIRA (Portugal) said that the joint amendment would not make the adoption of the convention any easier for certain States. His delegation preferred the article as adopted in Committee, since it was more elastic.

1/ See Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery, adopted by the United Nations Conference of Plenipotentiaries held at Geneva from 13 August to 4 September 1956 (E/CONF.24/23, article 12).

2/ See General Assembly resolution 1040 (XI), annex, article 7.

He pointed out that the overseas territories of Portugal were provinces of the metropolitan country, and that legislation sometimes had to be amended to take their customs into account. While Portugal might be able to accede to the convention, the latter might not be applicable, without change, to the overseas provinces. He thought the joint amendment could be considered as interfering in the internal affairs of a State, and would oppose it.

Mr. HERMENT (Belgium) recalled that his delegation's proposal (A/CONF.9/L.29) had been accepted by the United Kingdom delegation as an amendment to its proposal (A/CONF.9/L.26) and adopted in Committee. It followed closely the terms of a similar article in the 1954 Convention relating to the Status of Stateless Persons.

Mr. MEHTA (India) recalled that the United Kingdom representative had expressed the view in Committee that the only difference between his delegation's proposal and that of the Belgian delegation was one of form. However, the representative of Argentina had pointed out that there was a difference of substance between the two proposals. When the representative of Pakistan had suggested in Committee that the United Kingdom proposal should be voted on first, as it had been submitted first, the United Kingdom representative had intimated that he had accepted the Belgian proposal and invited support for it.

He was sure that representatives were aware of the feelings of India regarding colonialism in its various manifestations; his delegation was opposed to the perpetuation of any vestige of the discretionary right of reservation of a metropolitan Power in regard to non-self-governing territories. In view of the humanitarian nature of the work of the Conference his delegation had refrained from raising controversial issues and, though not quite satisfied with the text as proposed, which he would have liked to be more binding and precise, his delegation, in a spirit of compromise, had agreed to co-sponsor it so as to avoid lengthy debate on procedural and other aspects and also because the text had been approved for other similar conventions. He hoped that the text now introduced would be accepted in that spirit by other delegations.

Mr. CARASALES (Argentina) recalled the statement he had made in Committee on the United Kingdom and Belgian proposals. He had explained why he preferred the United Kingdom text, which was in closer agreement with the position taken by the General Assembly and by other international conferences.

Without prejudice to the position adopted by his country on the territorial application clause, he would vote in favour of the joint amendment.

Mr. ROSS (United Kingdom) explained that for technical reasons it was necessary for the United Kingdom to have a territorial application clause of one kind or another, and that either the text of the new article or that of the joint amendment would satisfy its constitutional requirements. So far as the United Kingdom was concerned, the two texts differed in form only, since in either case the United Kingdom Government would go through the same procedure of consultation before the convention was applied.

He would prefer the joint amendment, but wished to see the maximum number of States accede to the convention and would not vote in such a way as to make it impossible for other States to accede. His delegation would therefore abstain from voting on the joint amendment; but if that amendment were accepted, it would gladly support the wording adopted by the Conference.

Mr. PAULY (Federal Republic of Germany) said that his delegation would vote for the new article, which would allow his Government to apply the convention to the Land Berlin, whereas the joint amendment would not permit of such action.

Mr. LEVI (Yugoslavia) said that he had voted against both the United Kingdom and the Belgian proposals in Committee, but would vote for the joint amendment since it would delete from the draft convention an article which his delegation could not support.

Mr. JAY (Canada) said that his delegation had been struck by the dignified and statesmanlike manner in which the sponsors of the joint amendment had approached the problem of the territorial application clause and would therefore vote in favour of the amendment.

Mr. HERMENT (Belgium) said that it would be virtually impossible for his Government to apply the provisions proposed in the joint amendment.

Sir Claude COREA (Ceylon), speaking as one of the co-sponsors of the joint amendment, said that the new article had been adopted in Committee by 12 votes to 9 with 11 abstentions. The five States sponsoring the joint amendment had formed the considered opinion that the text adopted in Committee should not become part of the convention because it was at variance with the precedents established by the United Nations, and because it would prevent the question

of statelessness from being dealt with in certain territories for which metropolitan Powers were responsible. The words used in the joint amendment were mandatory ("This Convention shall apply.....") whereas the wording of the article adopted in Committee was not. A metropolitan Power should not have the right to decide whether a convention on statelessness should or should not apply to a non-self-governing territory. It was the duty of the metropolitan Power to ensure that the convention applied to all territories for which it was responsible.

Mr. TYABJI (Pakistan), speaking as a co-sponsor of the joint amendment, could not agree with the representative of Portugal that the amendment constituted interference in the internal affairs of a State. The delegation of Portugal had voted in favour of article 1, paragraph 1, which certainly did constitute such interference. Why then did that delegation object to the joint amendment on that ground?

Referring to the Belgian representative's remarks, he said that the joint amendment would allow any metropolitan Power to decide whether or not to apply the article in question. Besides, it was open to the Belgian Government to make a reservation under article 13.

Mr. HUBERT (France) supported the Belgian representative's views, and pointed out that the question of the territorial application clause had been discussed at great length in Committee. He therefore moved the closure of the debate.

Mr. HERMENT (Belgium) and Mr. de SOIGNIE (Spain) opposed the motion.

The motion for the closure was adopted by 9 votes to 1, with 23 abstentions.

Mr. HERMENT (Belgium), explaining his vote, said that his delegation could not vote for the inclusion of such an article in the convention before the Conference.

Mr. TYABJI (Pakistan) said that his delegation had abstained from voting on the motion for closure.

The PRESIDENT suggested that the joint amendment (A/CONF.9/L.59) be put to the vote twice: first on the understanding that no reservations to its provisions be allowed and then, if it was rejected, on the understanding that reservations would be admissible.

Mr. GHORBALI (United Arab Republic) said that in sponsoring the joint amendment his delegation had considered that no reservations should be allowed to the proposed article.

Sir Claude COREA (Ceylon) said he could not support the procedure suggested by the President since it might complicate matters.

Mr. TYABJI (Pakistan) said that if the joint amendment was adopted, any delegation which had reservations on the proposed new article could raise them when the general question of reservations was dealt with in article 13.

Mr. CARASALES (Argentina) suggested that it might be advisable for the Conference to vote first on whether reservations to the proposed new article should be allowed.

The PRESIDENT put to the vote the joint amendment (A/CONF.9/L.59) on the understanding that no reservations to its provisions would be admissible.

At the request of the representative of Pakistan a vote was taken by roll-call.

Luxembourg, having been drawn by lot by the President, was called upon to vote first.

In favour:	Pakistan, Turkey, United Arab Republic, Yugoslavia, Ceylon, China, India, Iraq.
Against:	Luxembourg, Netherlands, Panama, Portugal, Spain, Belgium, France, Federal Republic of Germany, Liechtenstein.
Abstaining:	Norway, Peru, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Argentina, Austria, Brazil, Canada, Chile, Denmark, Holy See, Indonesia, Israel, Italy, Japan.

On that understanding, the joint amendment was rejected by 9 votes to 8, with 17 abstentions.

The PRESIDENT put the joint amendment to the vote on the understanding that reservations to its provisions would be admissible.

At the request of the representative of Pakistan a vote was taken by roll-call.

Peru, having been drawn by lot by the President, was called upon to vote first.

In favour: Peru, United Arab Republic, Yugoslavia, Argentina, Brazil, Canada, Ceylon, Chile, China, India, Indonesia, Iraq, Pakistan, Panama.

Against: Portugal, Spain, Belgium, France, Federal Republic of Germany, Liechtenstein, Luxembourg.

Abstaining: Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Austria, Denmark, Holy See, Israel, Italy, Japan, Netherlands, Norway.

On that understanding, the joint amendment (A/CONF.9/L.59) was adopted by 14 votes to 7, with 13 abstentions.

Mr. PUSHE-FOX (United Kingdom) pointed out that the adoption of the new article would necessitate a consequential amendment to article 15 on denunciations, in order to provide for the case where the convention ceased to apply to a non-metropolitan territory.

The PRESIDENT suggested that the United Kingdom representative should submit a suitable amendment to the Drafting Committee.

New article (Saving clause) (A/CONF.9/L.40/Add.2)

The PRESIDENT invited comments on the new article in document A/CONF.9/L.40/Add.2.

Mr. LEVI (Yugoslavia) pointed out that the new article was linked with articles 7 and 8, and suggested that debate on it should be deferred until those articles had been dealt with.

It was so agreed.

New draft article on the effect of the convention (A/CONF.9/L.40/Add.4, L.60)

The PRESIDENT invited the Conference to consider the new draft article on the effect of the convention (A/CONF.9/L.40/Add.4) and the United Kingdom delegation's amendment thereto (A/CONF.9/L.60).

Mr. HARVEY (United Kingdom), introducing part 1 of his delegation's amendment (A/CONF.9/L.60) pointed out that under article 1, paragraph 4, as adopted,[3/] the contracting Parties were, subject to a number of conditions,

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3/ The reference to article 1, paragraph 3, in the new article should be construed as a reference to article 1, paragraph 4, see document A/CONF.9/L.62.

obliged to confer nationality on persons who had been unable to acquire the nationality of the country of their birth because they had passed the age for lodging an application or had not fulfilled residence or certain other conditions.

When the Committee had discussed the text of article 1, paragraph 4, it had been thinking mainly of the future. The Conference now had to decide how the convention would apply to persons born before its entry into force; and it seemed unreasonable to oblige States to confer nationality under article, 1, paragraph 4 on persons who had been unable to acquire the nationality of their country of birth because they were over age at the time of the entry into force of the convention. If it were mandatory to confer nationality on such persons, the whole effect of article 1 would be distorted: for the primary, rather than the residual, responsibility would be placed on countries granting nationality under paragraph 4. To avoid such a consequence, his delegation proposed the insertion of the words "not more than twenty-five years" after the words "applying to persons born" in paragraph 2 of the new article.

Mr. JAY (Canada) recognized that the intention of the United Kingdom amendment was to assist countries which in practice applied article 1, paragraph 4 but did not wish to impose the conditions contained in paragraph 5.

However, the amendment might well create more difficulties than it removed. Under the terms of article 1, paragraph 5, read in conjunction with paragraph 4, States had a right to make the grant of nationality subject to the condition of an age limit, which was to be not less than twenty-three years. The United Kingdom amendment raised the age limit to twenty-five years, which would put a number of countries in a difficult position.

Mr. HARVEY (United Kingdom) confirmed that the object of his delegation's amendment was to assist countries granting nationality under article 1, paragraph 4, without imposing the conditions contained in paragraph 5.

The PRESIDENT announced that discussion of the new draft article on the effect of the convention and the United Kingdom amendment thereto was closed.

He put to the vote part 1 of the United Kingdom amendment (A/CONF.9/L.60) to the new article on the effect of the convention (A/CONF.9/L.40/Add.4).

Part 1 of the United Kingdom amendment was rejected by 7 votes to 6 with 16 abstentions.

Mr. HARVEY (United Kingdom) said that, in view of the rejection of part 1 of his delegation's amendment, he would withdraw part 2.

The PRESIDENT then put to the vote the new article on the effect of the convention (A/CONF.9/L.40/Add.4).

The new article was adopted by 16 votes to none, with 11 abstentions.

New draft article on the settlement of disputes (A/CONF.9/L.40/Add.4)

The PRESIDENT invited the Conference to consider the new draft article on the settlement of disputes (A/CONF.9/L.40/Add.4).

Mr. CARASALES (Argentina) said that his Government would wish to enter reservations to the new article and asked the Conference to admit the right of contracting Parties to make reservations to the new article, as well as to article 11 and to the territorial application clause. The common element of the three articles in question was that none of them related to the substance of the convention.

The reservations which his government wished to make were not of a general character; they would be confined to a few cases.

Sir Claude COREA (Ceylon) observed that opinions were divided on the submission of disputes of all kinds to the International Court of Justice. He thought it would be better to omit the new article from the convention altogether.

Mr. VIDAL (Brazil) seconded the remarks of the Argentine representative concerning the admissibility of reservations.

Mr. BACCHETTI (Italy) also considered that reservations to the new article should be allowed.

The PRESIDENT put to the vote the new article on the understanding that reservations to the article would not be admissible.

On that understanding the article was rejected by 17 votes to 10, with 5 abstentions.

The PRESIDENT then put to the vote the new article on the understanding that reservations thereto would be admissible.

On that understanding the new article was adopted by 21 votes to 1, with 9 abstentions.

Article 7 (A/CONF.9/L.40) (resumed from the previous meeting)

The PRESIDENT invited the Conference to consider the text of article 7 and amendments thereto.

Paragraph 1 (A/CONF.9/L.16, A/CONF.9/L.65)

Sir Claude COREA (Ceylon) re-submitted part 1 of his delegation's amendment to paragraph 1 (A/CONF.9/L.16).

Rev. Father de RIEDMATTEN (Holy See) said that he would ask for a vote on his delegation's amendment (A/CONF.9/L.65) only if that of Ceylon were rejected. The purpose of his delegation's amendment was to ensure that persons not wishing to retain their existing nationality should have a legal basis for exercising their rights under articles 13 and 14 of the Universal Declaration of Human Rights.

Mrs. TAUCHE (Federal Republic of Germany) asked whether the amendment submitted by Ceylon implied that persons would be allowed to renounce their nationality if they became or wished to become stateless.

Mr. HERMENT (Belgium) thought that that would appear to be the implication of the amendment.

Sir Claude COREA (Ceylon) disagreed. According to his delegation's amendment, renunciation would not entail loss of nationality until a second nationality had been acquired.

Mr. SCOTT (Canada) thought that the amendment referred only to renunciation in the cases in which it normally occurred, namely where application was being made for a second nationality.

The PRESIDENT announced that the discussion of paragraph 1 and the amendments thereto was closed. He put to the vote the amendment submitted by Ceylon (A/CONF.9/L.16).

The amendment was rejected by 15 votes to 13, with 6 abstentions.

The PRESIDENT then put to the vote the amendment submitted by the delegation of the Holy See (A/CONF.9/L.65).

The amendment was adopted by 14 votes to 5, with 12 abstentions.

Paragraph 2

Mr. BACCHETTI (Italy) thought that the words "is assured of acquiring" were too imprecise for a legal document.

Mr. SIVAN (Israel) said that it was essential to retain the words in question, or words of similar meaning. He proposed the words "has been accorded assurance of acquiring".

Mr. FAVRE (Switzerland) thought that the words "is assured of acquiring" were sufficiently precise. Similar language was used in article 42 of the Swiss Nationality Act.

Mr. ROSS (United Kingdom) and the PRESIDENT, speaking as the representative of Denmark, agreed with the Swiss representative.

The proposal of the representative of Israel that the words "is assured of acquiring" be replaced by the words "has been accorded assurance of acquiring" was adopted.

The PRESIDENT announced that discussion of paragraph 2 was closed. He put to the vote article 7, paragraph 2 (A/CONF.9/L.40) as amended.

Paragraph 2, as amended, was adopted by 23 votes to none, with 7 abstentions.

Paragraph 3 (A/CONF.9/L.63)

Mr. LEVI (Yugoslavia) thought that the Conference would save much time in its discussion of paragraph 3 and the possibility of reservations thereto, if it were first to consider and vote upon the first alternative in his delegation's amendment (A/CONF.9/L.63).

Mr. TYABJI (Pakistan) said that his delegation, considering that reservations to paragraph 3 should be allowed, would re-submit the proposal which it had made in Committee for the addition, at the end of paragraph 3, of the words "provided that he has complied with the procedure prescribed by the national law of the Party" (A/CONF.9/L.17).[4/]

The PRESIDENT drew attention to a proposal by the Federal Republic of Germany that the word "similar" be replaced by the word "other".

Mr. ROSS (United Kingdom) said that the proposed amendment would have a far-reaching effect on articles 5 and 6.

Mr. TYABJI (Pakistan), thought that the expression "other ground" was ambiguous; moreover, the convention was not intended to be a panacea for

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4/ See discussion at tenth meeting of the Committee of the Whole Conference.

statelessness. The very title of the Conference suggested the possibility of a more restricted goal. His delegation would be obliged to vote against the proposed amendment.

The PRESIDENT, speaking as the representative of Denmark, thought that the object of the amendment proposed by the Federal Republic of Germany would be accomplished by article 9 (A/CONF.4/L.40/Add.2).

Mrs. TAUCHE (Federal Republic of Germany) pointed out that article 9 forbade deprivation of nationality on specifically "racial, ethnic, religious or political grounds". There were many other conceivable grounds for automatic loss of nationality, and the purpose of her delegation's amendment was to ensure that States did not unduly restrict the sense of article 7.

Mr. RIPHAGEN (Netherlands) said that although he was sympathetic towards the idea which the delegation of the Federal Republic of Germany had in mind, the legal implications of the amendment needed careful study, and his delegation would therefore hesitate to vote for it.

Mr. PAULY (Federal Republic of Germany) said that various grounds for loss of nationality were enumerated in articles 5 and 9 as well as in article 7, paragraph 3. If it could be said that the list was exhaustive, the amendment would not be necessary. But other possible grounds were conceivable, and it would be as well to be on the safe side and cover all eventualities.

Mr. RIPHAGEN (Netherlands) suggested that the principle underlying the amendment proposed by the Federal Republic of Germany might be better applied by amending article 9, which was wider in scope than article 7.

Mrs. TAUCHE (Federal Republic of Germany) said that the incorporation of her delegation's amendment in article 9 would not serve the purpose intended. Article 9 dealt with deprivation of nationality, not with automatic loss.

The PRESIDENT, speaking as the representative of Denmark, said that the scope of article 7, paragraph 3, and of the provisions of paragraphs 4 and 5 referred to therein, was restricted to the effect of absence from the country on nationality. The idea behind the amendment submitted by the Federal Republic of Germany was excellent; but if it was to be embodied in the text, it should not be slipped in unobstrusively, but should be put in the form of a general rule.

Mr. PAULY (Federal Republic of Germany) welcomed the President's suggestion. The point might be made by adding a new paragraph to article 7, with the same wording as paragraph 3, except that the words "on the ground... similar ground" would be replaced by the words "on any other ground".[5/]

Mr. HERMENT (Belgium) pointed out that the proposed change would affect the provisions of article 4 in a way which many countries would find undesirable. The Belgian delegation would therefore vote against the amendment.

The PRESIDENT, reverting to the Yugoslav delegation's amendment concerning reservations to paragraph 3 (A/CONF.9/L.63), said that a better solution might be to add a suitable sentence to paragraph 4.

Mr. SCOTT (Canada) sympathized with the Yugoslav delegation's concern for the question on reservations. Unfortunately, however, the Yugoslav position was broader than his own delegation could accept. He would therefore abstain from the voting on the particular amendment, but would support the Yugoslav amendment to article 8.

The PRESIDENT put to the vote article 7, paragraph 3, as set out in document A/CONF.9/L.40.

Paragraph 3 was adopted by 24 votes to 1, with 8 abstentions.

Mr. SIVAN (Israel) explained that in voting for the paragraph his delegation interpreted it as referring to loss of nationality as distinct from deprivation, which was dealt with in article 8.

The PRESIDENT put the Yugoslav amendment (A/CONF.9/L.63) to the vote.

The Yugoslav amendment was rejected by 16 votes to 6, with 9 abstentions.

Paragraph 4

Paragraph 4 was adopted by 14 votes to 2, with 13 abstentions.

Paragraph 5 (A/CONF.9/L.55)

Mr. IRGENS (Norway), introducing his delegation's amendment (A/CONF.9/L.55), explained that under the terms of paragraph 5 as it stood, some residence qualification could be imposed. It was anomalous that the

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5/ An amendment based on this idea was circulated (A/CONF.9/L.67) but withdrawn at the next meeting (q.v.).

children of the persons concerned should retain their nationality while they themselves could not.

Mr. SCOTT (Canada) said that his delegation would ask for a separate vote on the words "who has never resided therein". Canada had reserved its position on that point in Committee. The principle of the paragraph was clear and acceptable: a person born outside the country of his nationality should either reside in the country or should register. In Canada, such a person was given the choice of residing in the country or making a declaration of nationality.

Mr. VIDAL (Brazil) associated himself with the view expressed by the Canadian representative. The paragraph as it stood was not acceptable. His Government could not agree that a person who had never lived in Brazil and did not even speak Portugese could possess Brazilian nationality simply by registering.

The PRESIDENT, speaking as the representative of Denmark, said that in his delegation's opinion, jus sanguinis alone was no more adequate as a qualification than jus soli. Denmark was liberal in its attitude towards such matters, but States should have some power to prevent meaningless anomalies such as could arise. He would therefore support the Norwegian amendment.

Mr. VIDAL (Brazil) formally proposed the insertion of the words "residence or" before the word "registration", and the deletion of the words "who has never resided therein".

Mr. IRGENS (Norway), replying to a question by Mr. RIPHAGEN (Netherlands), explained that the essential purpose of the amendment was that States should be at liberty to treat the children of persons liable to lose their nationality in the same way as the persons themselves.

Mr. SCOTT (Canada) welcomed the Brazilian amendments, which he thought would help to increase the number of accessions to the Convention. The present wording gave the advantage to States which were not liberal in granting nationality.

The PRESIDENT, speaking as the representative of Denmark, supported the Brazilian representative's amendments.

The oral amendments to article 7, paragraph 5, proposed by the representative of Brazil were adopted by 15 votes to 6, with 12 abstentions.

The Norwegian amendment (A/CONF.9/L.55) was rejected by 7 votes to 6, with 19 abstentions.

Paragraph 5, as amended, was adopted by 15 votes to 2, with 15 abstentions.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE TWELFTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Friday, 17 April 1959, at 10 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 organizations 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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(11 p.)

ADOPTION OF REPORT ON CREDENTIALS (A/CONF.9/L.66)

The PRESIDENT invited the Conference to vote on the report on credentials (A/CONF.9/L.66). He pointed out that Luxembourg should be added to the countries listed in sections A.1 and B and deleted from the list in section A.

Mr. ROSS (United Kingdom) stated that his delegation would vote for the adoption of the report only on the grounds that the credentials were in order, and its vote would not necessarily imply recognition of each of the authorities by which the credentials had been issued.

Mr. MEHTA (India) said his delegation would vote for the adoption of the report on the same understanding.

Section A. was adopted by 30 votes to none, with 2 abstentions.

Section B. was adopted by 28 votes to none, with 3 abstentions.

EXAMINATION OF THE QUESTION OF THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS (item 7 of the agenda) (A/CONF.9/L.40 and Add.1 to 5) (resumed from the previous meeting)

Article 7 (resumed from the previous meeting and concluded)

The PRESIDENT drew attention to the joint amendment (A/CONF.9/L.68) submitted by the delegations of the Federal Republic of Germany and the United Kingdom. The amendment previously submitted by the Federal Republic of Germany (A/CONF.9/L.67) had been withdrawn.

Mr. HARVEY (United Kingdom) said he had been impressed by the arguments of the representative of the Federal Republic of Germany in favour of the need for a further paragraph in article 7. The joint amendment, which he formally moved, contained a residuary provision against loss of nationality rendering a person stateless, to cover cases not expressly covered by the convention.

Mrs. TAUCHE (Federal Republic of Germany), supporting the United Kingdom representative, gave an illustration of the circumstances in which the provision would operate. If a State enacted a law providing that persons sentenced to a term of imprisonment of more than three years would lose their nationality, such a law would be admissible under article 7 unless the proposed new paragraph 6 were added. Article 8 as adopted in Committee (A/CONF.9/L.40/Add.3) laid down that deprivation of nationality was not permissible except in the cases mentioned in paragraph 2 of that article. There was no such general provision in article 7. The adoption of the joint amendment would thus close a gap in the provisions of the convention.

Mr. FAVRE (Switzerland) supported the joint amendment but thought that the reference to paragraph 1 was superfluous.

Mr. SIVAN (Israel) said he would vote for the joint amendment on the assumption that article 7 dealt only with loss of nationality by automatic operation of law.

Rev. Father de RIEDMATTEN (Holy See) supported the amendment but agreed with the Swiss representative that the reference to paragraph 1 was superfluous.

Mr. HERMENT (Belgium) proposed that the words "in paragraphs 1, 4 and 5 of this article" in the joint amendment be replaced by the words "in this article"

Mrs. TAUCHE (Federal Republic of Germany) and Mr. HARVEY (United Kingdom accepted the Belgian amendment.

The joint amendment as so amended was adopted by 18 votes to none, with 11 abstentions.

Article 7 as a whole as amended was adopted by 17 votes to none, with 12 abstentions.

Mr. HELLBERG (Sweden) explained that, although he had previously voted against article 7, paragraph 3, he had found it possible to vote in favour of article 7 as a whole because of the adoption of the Brazilian amendment to paragraph 5 at the previous meeting.

Article 8

Mr. BERTAN (Turkey) said that the idea underlying his delegation's amendment (A/CONF.9/L.64) to paragraph 1 of the article (A/CONF.9/L.40/Add.3) was that a State could take punitive action against a resident national without resorting to the extreme measures of depriving him of his nationality.

Mr. de la FUENTE (Peru) reserved his delegation's position on paragraphs 1 and 2 because they conflicted with certain provisions of the Constitution of Peru.

Mr. HERMENT (Belgium) asked whether it was the intention of the Turkish delegation's amendment to limit the application of paragraph 1, or whether it was not rather its intention to limit the application of the provisions of paragraph 2.

Sir CLAUDE COREA (Ceylon) thought that the effect of the Turkish amendment would be to nullify, so far as resident nationals were concerned, the conditions set out in the article as a whole.

Mr. ROSS (United Kingdom) agreed with the representative of Ceylon. He failed to see why a distinction should be made between resident nationals and

nationals residing abroad. The latter might well suffer greater hardship if deprived of their nationality. No such distinction had been made by the International Law Commission.

The PRESIDENT said he understood the Turkish amendment to mean that the power vested in the State by virtue of a reservation formulated under article 8, paragraph 2 should, so far as resident nationals were concerned, be exercisable only in the cases mentioned in paragraph 2(a)(i) and (ii) and in paragraph 2(b)(iii) and (iv). For the purpose of obtaining the Conference's decision on that interpretation the simplest procedure would be to put each of the clauses of the paragraph to the vote separately, construed to mean that the particular provision applied only to persons resident arroad. Accordingly, that was the procedure he proposed to follow.

Mr. BERTAN (Turkey) confirmed the President's interpretation of the intention of the amendment.

Mr. JAY (Canada) said that he had no strong views on the question so far as paragraphs 2(a)(i) and 2(b)(iv) were concerned, but was opposed to such a limitation in the case of paragraphs 2(a)(ii) and 2(b)(iii).

Mr. SIVAN (Israel) said that a person might take on oath of allegiance to a foreign country while resident in his home country; such conduct surely deserved deprivation of nationality even more than if the oath were taken abroad.

Mr. RIPHAGEN (Netherlands), replying to the representative of Canada, thought that the grounds in paragraphs 2 (a)(i) and (ii) were similar in nature, since both involved the formation of a strong connexion with a foreign Government. It would be strange if the Conference decided to confine the application of one of the grounds to persons resident abroad.

Mr. JAY (Canada) agreed that there was some connexion between the two provisions. He failed, however, to see the relevance of the place of residence to paragraphs 2(a)(ii) and 2(b)(iii).

Mr. BACCHETTI (Italy) said he could not support the Turkish amendment. He did not see what difference it made whether a person serving a foreign government was resident in his own country or not. It was easy to imagine cases in which such service could be performed in the home territory, for example by persons employed in a foreign embassy. The Turkish amendment would prevent such persons being deprived of their nationality.

Mr. BERTAN (Turkey) said that there were many circumstances in which a national resident in his home country might enter the service of a foreign Government; he might, for example, take employment with a State-operated airline.

Since it was always possible to take other action against resident nationals, he did not think an express provision was necessary empowering the State of nationalit to deprive a resident national of that nationality. His delegation's amendment would avoid the creation of statelessness in such cases.

Mr. LEVI (Yugoslavia) thought that the President's interpretation of the Turkish amendment was not supported by the actual text of the amendment.

Mr. VIDAL (Brazil) recalled that in Committee (twelfth and fourteenth) meetings) the Turkish delegation had attached particular importance to the problem of military defaulters resident abroad. The voting procedure would, he thought, accordingly be simplified if the phrase "when abroad" were added to the Turkish amendment to sub-paragraph 2(a)(iii).

The PRESIDENT, in keeping with the procedure he had outlined, put to the vote the interpretation that paragraph 2(a)(i) should apply only to persons residing abroad.

That interpretation was rejected by 11 votes to 7, with 15 abstentions.

The PRESIDENT put to the vote the interpretation that paragraphs 2(a)(ii) should apply only to persons resident abroad.

That interpretation was rejected by 11 votes to 4, with 19 abstentions.

Mr. BERTAN (Turkey) said that so far as paragraph 2(b) was concerned, his delegation wished the interpretation to apply only to sub-paragraph (iv).

The interpretation that the sub-paragraph should apply only to persons resident abroad was rejected by 13 votes to 6, with 13 abstentions.

The PRESIDENT asked whether the Turkish amendment for the addition of a new sub-paragraph (2)(a)(iii) was intended to apply to all deserters or only to deserters residing abroad.

Mr. BERTAN (Turkey) replied that it would only apply to deserters residing abroad for the reasons of principle which he had explained before. Although the amendment seemed to extend the catalogue of exceptions to the rule stated in paragraph 1, full protection against arbitrary administrative action was given by the provision in paragraph 3 that no administrative action would become final unless confirmed by a completely independent andimpartial body.

Mr. JAY (Canada) supported the Turkish amendment, on the understanding that it applied only to deserters resident outside their country. He could do so because it would now be in the form of a permissible reservation. He moved the closure of the debate.

The motion for the closure was carried by 23 votes to none, with 6 abstentions.

The Turkish amendment for the addition of a new sub-paragraph 2(a)(iii) was rejected by 8 votes to 5, with 17 abstentions.

The PRESIDENT invited the Conference to consider the Yugoslav amendment (A/CONF.9/L.63) for the insertion of a new sub-paragraph in paragraph 2(a).

Mr. LEVI (Yugoslavia) drew attention to the fact that his delegation had submitted alternative amendments to article 8. A great deal had been heard during the Conference about the need to do as much as possible to reduce future statelessness, but when individual articles were being discussed, even those delegations which had placed so much emphasis on the reduction of statelessness had insisted on inserting restrictions. If there was a real desire to reduce statelessness, the Conference should vote for the second alternative proposal by the Yugoslav delegation, to delete paragraphs 2 and 3, and thereby exclude all reservations, but although that would be ideal, he would not press that alternative.

Mr. JAY (Canada) said that he wholeheartedly supported the first Yugoslav alternative. The Yugoslav Government undoubtedly had a serious problem, and had given it expression in an amendment which was not likely to upset the central purpose of the Convention. He could the more readily support the amendment as it was now placed in the context of reservations.

The PRESIDENT pointed out that the consequence of adopting the first Yugoslav alternative would be, for the purposes of paragraph 2, to place the case of natural-born nationals on the same footing as that of nationals other than natural-born nationals. He put the amendment to the vote.

The Yugoslav amendment to paragraph 2(a) was rejected by 10 votes to 8, with 10 abstentions.

The PRESIDENT drew attention to the Yugoslav amendment (A/CONF.9/L.63) for the insertion of a new sub-paragraph in paragraph 2(b).

Mr. WILHELM-HEININGER (Austria) recalled that the Austrian oral amendment referring to a "serious crime", to the Drafting Committee's text for an additional sub-paragraph to article 1, paragraph 2, (A/CONF.9/L.42) had been rejected at the eighth plenary meeting. The Yugoslav amendment to article 8, paragraph 2(b) seemed to be based on considerations similar to those underlying the earlier Austrian amendment.

The Yugoslav amendment to paragraph 2(b) (A/CONF.9/L.63) was rejected by 13 votes to 10, with 11 abstentions.

At the request of the representative of Yugoslavia a vote was taken by roll-call on the second alternative Yugoslav amendment for the deletion of paragraphs 2 and 3.

The United Arab Republic having been drawn by lot was called upon to vote first.

In favour:	Yugoslavia, Austria, Belgium, Denmark, Israel.
Against:	Brazil, Chile, India, Italy, Portugal, Spain.
Abstaining:	United Arab Republic, United Kingdom of Great Britain and Northern Ireland, Argentina, Canada, Ceylon, China, France, Federal Republic of Germany, Holy See, Indonesia, Iraq, Japan, Liechtenstein, Luxembourg, Netherlands, Norway, Pakistan, Panama, Peru, Sweden, Switzerland, Turkey.

The second alternative Yugoslav amendment to article 8 (A/CONF.9/L.63) was rejected by 6 votes to 5, with 22 abstentions.

Mr. RIPHAGEN (Netherlands) said that the object of paragraph 2(b)(ii) was to stipulate that, before a State could deprive a person of its nationality on the grounds mentioned, the commission of a treasonable or disloyal act must have been proved by judicial process and also to take into account the law of some countries under which judgements could not be given by default in such cases. The word "accused" was, however, too vague; presumably it meant an official accusation publicly announced. Accordingly, he suggested that the words "officially and publicly" should be inserted after the word "person".

Mr. JAY (Canada) said that he had no intrinsic objection to the Netherlands suggestion, but in practice Governments might take different views. In Canada, for instance, the accusation need not necesarily be made public. A person accused of a treasonable or disloyal act had to be legally charged and the notification sent to his last-known address. The essential was that the accusation should be in legal form.

Mr. SIVAN (Israel) thought the sub-paragraph was unsatisfactory, because it would be hard to ascertain the reason for the person's failure to return for trial. It would be too drastic to deprive a person of his nationality if he was prevented from defending himself against such a charge. There should be provision for due process, and it should be left to each country to

decide what steps should be taken to bring the charge to the knowledge of the person concerned. The depriving authority should have at least the assurance that a disloyal act had been committed and the person concerned should at least be aware that he had been charged with such an act. Some such wording as "duly charged with such an act and failing, with such knowledge, to return for trial" might be suitable.

Sir Claude COREA (Ceylon) said that, though admittedly the word "accused" was vague, it was qualified by the reference to a "trial". The wording suggested by the Netherlands' representative was not wholly satisfactory since the intention of the provision was that the person concerned should be charged in a court of law.

Mr. JAY (Canada) said that since he would have to abstain from voting on the article for other reasons, he had some reluctance in arguing against the defects of the amendments to that particular sub-paragraph. Nevertheless, he felt bound to do so. Despite possible drafting changes the difficulty still remained how the charge would be brought to the knowledge of the person concerned. In some circumstances it would be physically impossible for a State to know whether the person concerned had in fact been notified. The idea of publicity could not be entertained, since it would mean that a State might have to advertise in every paper in the world and even then might not be sure that the person concerned would see the advertisement. The essential point however, was not the service of notice of the accusation but the person's failure to return to the country of nationality.

Mr. ROSS (United Kingdom) said that the amendment proposed by the Netherlands representative seemed to be based on two considerations, the first being that a person should not be deprived of his nationality merely because some government department had fabricated a groundless charge against him, and the second that if a charge was brought against a person by due process of law, that person should not be deprived of his nationality on account of the charge without his having knowledge of the charge.

So far as the first point was concerned, the difficulty was to find a form of words which would not conflict with the different national systems of law. He was not sure, for example, whether such phrases as "legally cited" or "duly charged with" were compatible with United Kingdom law, which did not provide for the

institution of legal proceedings against a person who was outside the jurisdiction of the court but merely empowered a warrant to be issued for his arrest when he did return. He would therefore prefer the phrase "officially accused".

So far as the second point was concerned, he observed that in some cases there might be no means of bringing the charge to the knowledge of the person involved, who might have gone into hiding. In any case, a safeguard was provided by paragraph 3, under which a person could bring his case before an independent tribunal even if he did not return to the country whose nationality he was in danger of losing. So far as the second point was concerned, therefore, he did not think any amendment of the text as it stood was required.

Mr. PAULY (Federal Republic of Germany) proposed that the whole of paragraph 2 should be replaced by the following text:

> "at the time of signature, ratification or accession, any Contracting State may reserve the right to make exceptions to paragraph 1 of the present article, even though the person concerned would as a consequence become stateless, for imperative reasons based on its national law in force at the time of its signature, ratification or accession."

Paragraph 2 as it stood was very complicated and contained a list of grounds for deprivation of nationality which parliaments would find very unpresentable. To public opinion, which was under the impression that the purpose of the convention was to achieve the reduction of statelessness, the list would look positively ugly. Far from tending to reduce statelessness, the paragraph as it stood might have the effect of increasing it.

His delegation realised however, that some Governments would be unable to accept the convention unless it contained some provision for deprivation of nationality; but for that purpose a reference to existing municipal law would be enough, and a list of grounds was unnesssary. The aim should be, as in other conventions such as those prepared by the Council of Europe, to "freeze" the present legislative situation. That was the purpose of his delegation's amendment. The Federal Republic of Germany was in a favourable position to propose such a radical solution because, since its national law contained no provision for deprivation of nationality, it had no direct interest in paragraph 2 and could act with complete impartiality.

If the Conference was unable to adopt the solution he had proposed, his delegation would have to reconsider its earlier position with regard to the Yugoslav proposal concerning the reservations clause, article 12 (A/CONF.9/L.51).[1/]

Mr. BACCHETTI (Italy) said his delegation could not accept the amendment proposed by the Federal Republic of Germany. Article 8 as it stood was far from satisfactory, but at least it represented a compromise. "Freezing" the present legislative situation would not improve matters.

Mr. LEVI (Yugoslavia) moved the closure of the debate on the amendment proposed by the delegation of the Federal Republic of Germany.

The motion was carried by 23 votes to 1, with 6 abstentions.

The amendment proposed by the Federal Republic of Germany was not adopted, 11 votes being cast in favour and 11 against, with 9 abstentions.

Mr. RIPHAGEN (Netherlands) proposed formally that article 8, paragraph 2(b) (ii), be relaced by the following text:

> "having been convicted of a treasonable or disloyal act or, in the case of a person who is in a foreign country, having been officially accused of such an act, and, having been duly notified (légalement cité) of such an accusation, failing to return for trial."

The phrase "duly notified of such an accusation" would mean that the contracting party concerned had done everything in its power to serve notice of the accusation on the person in question, not that the accused person must necessarily have received the notice.

The Netherlands amendment was adopted by 13 votes to none, with 17 abstentio

Mr. JAY (Canada) said he had voted for the amendment on the understandi that the phrase "duly notified of such accusation" was to be interpreted in the manner described by the Netherlands representative.

Mr. TYABJI (Pakistan) proposed that sub-paragraph 2 (b)(iii) be amended to read:

> "having broken his oath of allegiance or having made a declaration of allegiance to a foreign country".

Mr. JAY (Canada) said he could not accept the amendment proposed by the representative of Pakistan. There was a distinct difference between the positive

1/ For relevant discussion see eighteenth and nineteenth meetings of the Committee of the Whole Conference.

act of breaking the oath of allegiance to the country of nationality and taking an oath or making a declaration of allegiance to another country.

Mr. TYABJI (Pakistan) submitted the following revised amendment:

"having taken an oath, or made a declaration of allegiance to a foreign country, or having otherwise broken his oath of allegiance to the Contracting State concerned, or".

The revised Pakistan amendment to paragraph 2 (b)(iii) was rejected by 9 votes to 6, with 14 abstentions.

The PRESIDENT put article 8, paragraph 1, to the vote.

Paragraph 1 was adopted by 16 votes to none, with 10 abstentions.

The meeting rose at 1.20 p.m.

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UNITED NATIONS CONFERENCE ON THE
ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE THIRTEENTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Friday, 17 April 1959, at 3.10 p.m.

President:	Mr. LARSEN (Denmark)
later:	Mr. CALIARI (Panama)
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 organizations 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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(13 p.)

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

Draft convention on the reduction of future statelessness (A/CONF.9/L.40 and Add.1 to 6)

Article 8 (A/CONF.9/L.72)

The PRESIDENT invited the Conference to continue its consideration of article 8, paragraph 2 (A/CONF.9/L.40/Add.3) and the amendment thereto submitted by the Brazilian delegation (A/CONF.9/L.72).

Mr. VIDAL (Brazil) said that the sole purpose of his delegation's amendment to paragraph 2 and the consequential amendment to paragraph 3 (A/CONF.9/L.72) was to avoid the use of the word "reservation" in any of the substantive articles of the convention. All delegations were agreed that to admit reservations to substantive articles destroyed the integrity of and weakened the convention.

Since the idea of reservations to article 8 had emanated from the delegation of the Holy See, he asked that delegation whether the Brazilian amendment was acceptable.

Msgr FERROFINO (Holy See) said that the Brazilian amendment was completely acceptable to his delegation.

The PRESIDENT, speaking as representative of Denmark, suggested that, to eliminate all possibility of doubt, the words "notwithstanding that he would thereby be rendered stateless" be added at the end of the Brazilian amendment to paragraph 2.

Mr. HARVEY (United Kingdom) suggested that the words "any or all of" be added between the words "specify that" and the words "the following" in the Brazilian amendment to paragraph 2.

Mr. VIDAL (Brazil) agreed to the addition of the words suggested by the Danish and United Kingdom representatives.

With those additional words the Brazilian amendment to paragraph 2 and the consequential amendment to paragraph 3 (A/CONF.9/L.72) were adopted by 16 votes to 3, with 10 abstentions.

Mr. BACCHETTI (Italy) and Mr. LEVI (Yugoslavia) expressed the view that the deletion of all reference to "reservations" in article 8 might have the effect of reopening the discussion of the question of reservations to article 8 under article 13.

The PRESIDENT then put to the vote separately each sub-paragraph of paragraph 2, as amended.

Paragraph 2(a)(i) was adopted by 10 votes to 1, with 14 abstentions.

Paragraph 2(a)(ii) was adopted by 13 votes to 3, with 12 abstentions.

In connexion with paragraph 2(b)(i), Mr. JAY (Canada) wished to place on record that he understood the term "false representation or fraud" to include the concealment or withholding of material information.

Paragraph 2(b)(i) was adopted by 11 votes to none, with 14 abstentions.

In regard to paragraph 2(b)(ii), Mr. SIVAN (Israel) asked for a separate vote on the words "having been convicted of a treasonable or disloyal act" and on the words "or, in the case of a person accused of such an act who is in a foreign country, failing to return for trial".

The words "having been convicted of a treasonable or disloyal act" were adopted by 17 votes to 1, with 14 abstentions.

Mr. SIVAN (Israel) wished it to be understood that in his delegation's interpretation the word "convicted" meant convicted by final judgement. The word "conviction" might have different meanings in different systems of law but, in Anglo-Saxon law, a conviction was valid only until quashed.

Sir Claude COREA (Ceylon) took the view that the addition of the words "by final judgement" was unnecessary. The word "conviction" was normally taken to mean "conviction after allowing for appeal".

Mr. WEIS (Office of the United Nations High Commissioner for Refugees), speaking at the invitation of the President, pointed out that the word "convicted" was also used in articles 1 and 4 of the draft convention. Would the Israel representative's interpretation of the word apply in those cases too?

The PRESIDENT suggested that the representative of Israel might prepare for inclusion in the Final Act of the Conference a statement to the effect that, wherever the word "convicted" appeared in the convention, it meant "convicted by final judgement".

It was so agreed.[1/]

The second part of paragraph 2(b)(ii), ("or in the case of a person accused of such an act who is in a foreign country, failing to return for trial") was adopted by 11 votes to 3, with 18 abstentions.

1/ cf draft resolution embodying this interpretation submitted by delegation of Israel (A/CONF.9/L.75).

Paragraph 2(b)(iii) was adopted by 14 votes to none, with 16 abstentions.

Paragraph 2(b)(iv) was adopted by 8 votes to 2, with 20 abstentions.

Mr. BACCHETTI (Italy) suggested that the final words of paragraph 2(b)(v) "or he has no effective connexion with that State", be deleted. In any case, he asked for a separate vote on those words.

His reasons for objecting to those words were, firstly, that the naturalized person was adequately protected by the time limit on residence abroad prescribed in the first part of the sub-paragraph, and secondly that the words "effective connexion" were too vague to be included in a legal document. If the contracting party were permitted to decide what constituted an effective connexion, it would have unlimited discretion to deprive naturalized persons of their nationality on the grounds of residence abroad for an excessive period.

Mr. de la FUENTE (Peru) said he could not accept the time limit of seven years for residence abroad. Under Peruvian law, a naturalized person might be deprived of his nationality after residence abroad for a consecutive period of two years, unless he could prove that the residence abroad was due to circumstances beyond his control.

Mr. SIVAN (Israel) disagreed with the Italian representative. Some States insisted that naturalized persons residing abroad should register with the foreign missions of the country whose nationality they had acquired by naturalizati others did not. The reference to the "effective connexion" was intended to apply to persons having acquired by naturalization the nationality of countries which did not give their nationals an opportunity to declare their wish to retain their nationality by periodic registration.

He would point out to the Italian representative that the concept of "effective connexion" was well known in international law, and should not give rise to difficulties of interpretation. In his delegation's view, "effective connexion" might mean the retention of a home or the ownership of property by the naturalized person in the country of his nationality, or possibly the fact that the naturalized person had close relations still living there.

He hoped that the words "or he has no effective connexion with that State" would be retained in the text finally approved by the Conference, for they would give persons residing abroad for a consecutive period of more than seven years an opportunity to retain their nationality, even if they were not required to register periodically.

The PRESIDENT then put to the vote paragraph 2(b)(v), without the words "or he has no effective connexion with that State".

Paragraph 2(b)(v), without those words, was adopted by 12 votes to 1, with 17 abstentions.

The PRESIDENT then put to the vote the question whether the words "or he has no effective connexion with that State" be included in the provision.

That question was decided in the negative by 14 votes to 4, with 11 abstentions.

The PRESIDENT announced that the representative of the Federal Republic of Germany had just submitted an amendment proposing that article 8, paragraph 2, be replaced by the following paragraph:

> "2. Notwithstanding paragraph 1 of this article, at the time of signature, ratification or accession, any Contracting State may specify any or all of the grounds admitted by the existing legislation for depriving a person of his nationality which will be maintained".

Mr. PAULY (Federal Republic of Germany) said that the amendment was somewhat similar to that which his delegation had introduced at the previous meeting and which had then failed of adoption. The amendment he was now submitting was made necessary by the adoption of the Brazilian amendment to article 8, paragraph 2 (A/CONF.9/L.72).

The PRESIDENT said he took it that the "existing legislation" referred to in the amendment meant the legislation existing at the time of the adoption of the convention and not at the time of its signature, ratification or accession. If so, then the new amendment was in fact different to that submitted by the Federal Republic of Germany at the previous meeting. On that assumption, he ruled that the amendment could be introduced without a two-thirds majority vote.

Mr. PAULY (Federal Republic of Germany) said that the President's interpretation was correct.

Sir Claude COREA (Ceylon) agreed that the amendment of the Federal Republic of Germany was made necessary by the adoption of the Brazilian amendment.

Mr. HERMENT (Belgium) said that he could not support the amendment.

Mr. ROSS (United Kingdom) said that the amendment was substantially identical with one which had been discussed at the previous meeting.

The PRESIDENT, speaking as representative of Denmark, pointed out that if the amendment of the Federal Republic of Germany was adopted it would lead to inequality between States. The Danish delegation would therefore vote against it.

Mr. BACCHETTI (Italy) said that his delegation would vote against the amendment since it upset the balance of the convention, and might induce certain States to change their nationality legislation in a way which would be less favourable to the individual.

Mr. LEVI (Yugoslavia) said that he could not agree with the Danish representative, and considered that the amendment submitted by the Federal Republic of Germany would make the convention more balanced. He would therefore vote for it.

Mr. de la FUENTE (Peru) also supported the amendment and moved the closure of the debate.

The motion was carried by 23 votes to none, with 4 abstentions.

The PRESIDENT put the amendment submitted by the Federal Republic of Germany to the vote.

At the request of the representative of Peru, a vote was taken by roll-call.

Portugal, having been drawn by lot by the President, was called upon to vote first.

In favour: Portugal, Spain, Turkey, Yugoslavia, Argentina, Canada, Ceylon, Dominican Republic, Federal Republic of Germany, Holy See, India, Indonesia, Iraq, Pakistan, Panama, Peru.

Against: Switzerland, Belgium, Denmark, France, Israel, Italy, Japan, Liechtenstein, Luxembourg, Netherlands, Norway.

Abstaining: Sweden, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, Austria, Brazil, Chile, China.

The amendment was adopted by 16 votes to 11, with 7 abstentions.

The PRESIDENT said that the Conference had adopted an amendment which would permit States which had a "nationality deprivation" clause in their legislation to maintain such a clause even though it created statelessness. The amendment might also compel other States to impose a system which was not in conformity with their existing law governing the acquisition of nationality. In the circumstances it would be impossible for him to continue to act as President of the Conference. He therefore called on the First Vice-President to take the chair.

Mr. Calamari (Panama), First Vice-President took the chair.

The PRESIDENT said that the meeting would be suspended in order that he might request Mr. Larsen (Denmark) to resume his functions as President of the Conference. He felt that all considered that he had presided over the meetings in an excellent manner and with sincerity and sympathy.

Mr. FAVRE (Switzerland) said that on the resumption of the meeting the Conference should consider whether the vote on the amendment submitted by the Federal Republic of Germany was final, since in his opinion its submission had required a two-thirds majority.

Mr. LARSEN (Denmark) said that the Danish delegation did not challenge the ruling of the Chair that a two-thirds majority had not been necessary for the purpose of the submission of the amendment in question.

Mr. HERMENT (Belgium) and Mr. ABDEL MAGID (United Arab Republic) shared the Danish representative's view.

Mr. BACCHETTI (Italy) said that the convention would have little meaning if all States were left free to deprive their nationals of nationality when they saw fit. The Italian Government would not be able to accede to such a convention.

The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m., Mr. Calamari (Panama) in the Chair.

Mr. ROSS (United Kingdom) said he believed that if the amendment submitted by the delegation of the Federal Republic of Germany were put to the vote again, a number of delegations would vote differently. As a first step, the Conference should have an opportunity of expressing its mind again on that important issue. He therefore moved formally, under rule 23 of the rules of procedure, that discussion of the amendment in question be reopened.

Mr. JAY (Canada) said that though the amendment submitted by the delegation of the Federal Republic of Germany had come as a surprise to his delegation, he had been compelled by the instructions of his Government to vote in favour of it. He realized that the adoption of the amendment as drafted weakened to some extent the convention as an instrument for the reduction of statelessness. At that juncture, he thought that the only course which might result in the adoption of an effective convention would be to adjourn the debate

on article 8 until the fourteenth meeting and to establish forthwith an informal committee to draft a new text of paragraph 2 which would not do violence to the sense of the convention to the same extent as the amendment submitted by the delegation of the Federal Republic of Germany, and which would at the same time meet the legitimate demands of a larger number of States. He moved the adjournment of the discussion on article 8.

Sir Claude COREA (Ceylon) opposed the United Kingdom representative's motion for a reopening of discussion of the amendment submitted by the Federal Republic of Germany. When the amendment had been submitted, the President had ruled that it constituted a new proposal and not a request for the reconsideration of the proposal which the delegation of the Federal Republic of Germany had submitted at the twelfth meeting: and the Conference in its turn had adopted the amendment by the normal procedure of a majority vote. He could not see any grounds whatsoever for reopening discussion of the amendment.

Mr. LEVI (Yugoslavia) also opposed the United Kingdom motion, though he welcomed the suggestion of the Canadian representative for the establishment of a small committee to draft a more generally acceptable text for paragraph 2. His delegation was always prepared for compromise, but not compromise attained under pressure.

Mr. JAY (Canada) pointed out that he had moved the adjournment of the discussion on article 8, and he believed that under rule 19 of the rules of procedure, read in conjunction with rule 16, his motion took precedence over that of the United Kingdom.

Mr. ROSS (United Kingdom) opposed the Canadian motion for the adjournment of the debate on article 8. Discussion of paragraph 2 of the article had shown that, while some countries wished to maintain their existing laws on the deprivation of nationality, others wished to circumscribe, or restrict, future action of States in that respect. He doubted if any discussions by an informal committee would result in compromise. He merely asked that a further vote be taken on the Conference's decision to adopt the amendment submitted by the Federal Republic of Germany, and that the Conference should then proceed with its business. Some delegations took the view that it would not be worth while to continue the Conference's work if the amendment submitted by the Federal Republic

of Germany was irrevocably adopted. His delegation, on the other hand, did not regard article 8 as one of the essential articles of the convention, and was quite prepared to proceed with the discussion of the remaining articles.

Mr. HERMENT (Belgium), opposing the Canadian motion, said that even if a compromise text were to be drafted by an informal committee by the next meeting, opinions would then undoubtedly be divided again in the plenary.

Mr. RIPHAGEN (Netherlands) and Mr. de la FUENTE (Peru) supported the Canadian motion, considering that no possibility of a compromise should be overlooked.

The Canadian motion for the adjournment of the debate on article 8 until the fourteenth meeting was adopted by 15 votes to 12, with 3 abstentions.

The PRESIDENT then asked the Conference whether it wished to establish forthwith an informal committee to prepare a more generally acceptable text of paragraph 2 for consideration at the fourteenth meeting.

Sir Claude COREA (Ceylon) argued that the immediate establishment of an informal committee was excluded by the rules of procedure. Consideration of a new text for paragraph 2 by an informal committee would in effect amount to reconsideration of the amendment submitted by the Federal Republic of Germany and adopted by the Conference. The United Kingdom delegation had moved that discussion on that amendment be reopened but, since the Canadian motion for the adjournment of the debate on article 8 had been carried, the United Kingdom motion could not be voted upon until the fourteenth meeting.

Mr. LARSEN (Denmark) proposed the inclusion in the convention of a new article providing that "a Contracting State may at the time of signature, ratification or accession make a reservation to the effect that the provisions of article 1 to 4 shall only apply if these provisions are already contained in its national law at the date when the convention is signed".

Mr. RIPHAGEN (Netherlands) suggested that the Conference proceed to consideration of article 9.

Mr. LAVRE (Switzerland) thought that, for the moment, the Conference had lost the atmosphere of serenity and detachment which it needed for the consideration of the remaining articles of the convention. He could not believe, for instance, that the Danish representative's proposal was made with serious intent.

He therefore urged the adoption of the Canadian suggestion for the establishment of an informal committee to discuss ways and means of escaping from the present impasse.

After further discussion Mr. CARASALES (Argentina) proposed formally that the Conference should adjourn for a short while and should, on the resumption, proceed to consider article 9 and other provisions of the draft convention which still remained to be discussed.

The proposal was adopted by 23 votes to none, with 6 abstentions.

The meeting was suspended at 5.40 p.m. and resumed at 6 p.m.

Article 9 (A/CONF.9/L.40/Add.2)

Mr. SCOTT (Canada) pointed out that the word "Party" should be replaced by "Contracting State".

With that change, article 9 was adopted by 29 votes to 1, with 3 abstentions.

Article 6 (A/CONF.9/L.40/Add.2, L.34 and L.69)

Mr. ROSS (United Kingdom), introducing his delegation's amendment to article 6 (A/CONF.9/L.69), said that it was a formal amendment, to make it clear that article 6 applied both to automatic loss and to deprivation of nationality of the person concerned.

Mr. SIVAN (Israel) submitted the Israel delegation's amendment to article 6 which he had proposed earlier in Committee (A/CONF.9/L.34).

He considered that it was excessive to extend the benefit of article 6 to children who had themselves ceased to be normally resident of the country concerned. Where the parents had ceased to be nationals and the children had ceased to be normally resident in the territory of the contracting State, the latter should not be debarred from depriving such children of its nationality.

Mr. ROSS (United Kingdom), replying to a question by Mr. de SOIGNIE (Spain), said that the effect of article 6, as modified by the United Kingdom amendment, would be that if a person was deprived of his nationality because he had obtained it by fraud and if, as a consequence of that deprivation, his son would, under the law of the country concerned, lose his nationality also, that law would have to be amended to provide that, if the son had no other nationality, he would not lose his nationality. If the child's nationality had been obtained by fraud, he would be liable to separate deprivation proceedings under article 8.

Mr. LEVI (Yugoslavia) recalled that it had been suggested at an earlier meeting that article 6 should become article 8, and no decision had yet been taken on that suggestion. If article 6 did become article 8, he could not support the United Kingdom amendment. However, if article 6 was placed after article 9 then the Yugoslav delegation would be able to support that amendment.

The United Kingdom amendment was adopted by 16 votes to 1, with 12 abstentions.

The amendment proposed by the delegation of Israel was rejected by 15 votes to 4, with 12 abstentions.

Article 6, as amended, was adopted by 23 votes to none with 9 abstentions.

New article (Saving clause) (A/CONF.9/L.40/Add.2) (resumed from the eleventh meeting and concluded)

Mr. LEVI (Yugoslavia) said that, since the new article was bound up with article 8, it should be dealt with after article 8 had been discussed.

Mr. LARSEN (Denmark), supported by Mr. TSAO (China) argued that some provision such as was embodied in the new article was needed, irrespective of the fate of article 8. It would therefore be better to discuss it at once, and to consider later at what point in the convention it should be inserted.

Mr. LEVI (Yugoslavia) asked for clarification as to the effect of the new article on the right of a contracting State to make reservations.

Mr. LARSEN (Denmark) said that the right to make reservations would not be impaired. The essential purpose of the new article was to ensure that ratification of the convention would not prevent a contracting State from applying subsequent national legislation more conducive to the reduction of statelessness than the terms of the convention itself.

The new article (A/CONF.9/L.40/Add.2) was adopted by 27 votes to none, with 4 abstentions, subject to drafting changes.

New paragraph to be added to article 15 (A/CONF.9/L.71)[2/]

Mr. BUSHE-FOX (United Kingdom) said that the new clause was a desirable addition to the convention, since it provided some machinery by which a non-metropolitan territory to which the convention had become applicable could, on attaining independence in nationality matters, withdraw from it.

2/ Article 15 as contained in document A/CONF.9/L.40 was adopted at the tenth plenary meeting, subject to drafting changes.

Mr. RIPHAGEN (Netherlands), comparing the proposed new paragraph with the territorial application clause as adopted at the eleventh meeting (A/CONF.9/L.70/Add.10) proposed that the words "if such consent is required by the constitutional laws or practices of the Contracting State or of the non-metropolitan territory" be inserted after the words "with the consent of the territory concerned".

Mr. ABDEL MAGID (United Arab Republic) said he had no serious objection to the Netherlands proposal, though since article 15 was consecutive upon the territorial application clause, the new text was acceptable as it stood.

Mr. CARASALES (Argentina) pointed out that, under the territorial clause as adopted, contracting States ratifying the convention would automatically extend its scope to non-metropolitan countries for whose international relations they were responsible. The Netherlands proposal would make it possible for a State to exclude a non-metropolitan territory from the scope of the convention. He would therefore vote against it.

Mr. LARSEN (Denmark) suggested that the words "paragraph 2 of" should be inserted in the first line of the paragraph under discussion, after the words "with the provisions of". As the text stood, it would apply both to self-governing and to non-self-governing territories - which was surely not the intention.

Sir Claude COREA (Ceylon) pointed out that the new paragraph was not concerned with the provisions of the territorial application clause already adopted, but endeavoured to rectify an apparent omission with a view to safeguarding non-metropolitan territories. He questioned the advisability of restricting the scope of the new provision by adding the words suggested by the Danish representative.

Mr. BUSHE-FOX (United Kingdom) agreed with the remarks of the representative of Ceylon concerning the limiting effect of the words "paragraph 2 of".

Mr. CARASALES (Argentina) formally proposed the addition of the words "paragraph 2 of", subject to withdrawal of his proposal if the Netherlands amendment were not adopted.

Mr. ROSS (United Kingdom) said that two types of non-metropolitan territories were envisaged in the territorial application article. Paragraph 2 dealt with territories already competent to enact their own nationality legislation and gave them the possibility of not acceding to the convention. The new paragraph would provide similar safeguards in the case of other territories governed by paragraph 1 which at any future time became competent to enact their own legislation. It would also provide for subsequent denunciation in both types of cases. The proposed restriction in the wording was therefore not desirable. For similar reasons, he deprecated the Netherlands amendment.

Sir Claude COREA (Ceylon) said that in the light of the United Kingdom representative's explanation he was now convinced that the addition of the words "paragraph 2 of" might be detrimental to countries in the process of constitutional development.

Mr. RIPHAGEN (Netherlands) withdrew his proposal.

The PRESIDENT called for a vote on the new paragraph (A/CONF.9/L.71), on the assumption that the Argentine amendment had been withdrawn along with that of the Netherlands.

The new paragraph (A/CONF.9/L.71) was adopted by 15 votes to none, with 14 abstentions.

The meeting rose at 7 p.m.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE FOURTEENTH PLENARY MEETING

held at the Palais des Nations, Geneva,
on Saturday, 18 April 1959, at 10 a.m.

President:	Mr. CALAMARI (Panama)
later:	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 organizations 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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(18 p.)

RESUMPTION OF THE CHAIR BY MR. LARSEN (DENMARK)

Mr. LEVI (Yugoslavia), supported by the PRESIDENT, proposed that Mr. Larsen (Denmark) be invited to resume the chair.

The Yugoslav proposal was adopted by acclamation.

Mr. Larsen (Denmark) resumed the chair.

The PRESIDENT explained that he had vacated the chair at the previous meeting because he had not felt capable of offering any solution to the difficulties that had suddenly arisen, and of leading the Conference to a successful conclusion.

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

Draft convention on the reduction of future statelessness (A/CONF.9/L.70 and Add. 1 to 16) (continued)

Article 8 (A/CONF.9/L.40/Add.3, L.76)(resumed from the previous meeting)

The PRESIDENT recalled that at the previous meeting the Conference had adopted an amendment submitted by the Federal Republic of Germany to article 8, paragraph 2. He now understood that a number of delegations were anxious that that decision should be reconsidered.

Mr. JAY (Canada) said that three delegations which had voted in favour of the amendment submitted by the Federal Republic of Germany, three which had voted against it and one which had abstained had met informally the same evening in an endeavour to find, in a completely dispassionate atmosphere, a compromise solution to the question which had aroused so much emotion at the previous meeting. The results of their endeavours were embodied in the amendment (A/CONF.9/L.76) submitted jointly by the delegations of Canada and the United Kingdom. Its object was to limit the scope of the German amendment, while still meeting the needs of the countries which had supported the latter, by introducing in paragraph 3 the words "of national security and public order" (ordre public). A provision had also been included requiring the grounds on which a State reserved the right to deprive a person of its nationality to be specified at the time of signature, ratification or accession, in order that the position of individual States would be known to all Parties to the convention. At the end of paragraph 4 provision was made for the submission of cases to a completely independent and impartial body. It had not been considered suitable

to treat the ground mentioned in article 7, paragraph 4, as adopted by the Conference (A/CONF.9/L.70/Add.13) and the ground of false representation or fraud, as reservations, and those two grounds were specifically mentioned in paragraphs 2(a) and 2(b) of the joint amendment.

Since it was undesirable to enumerate the "reserved" grounds, the general formula of "national security and public order" was employed. Those words were intended to cover all the grounds listed in the draft of article 8 as approved by the Committee of the Whole Conference (A/CONF.9/L.40/Add.3), as well as the grounds proposed by the representatives of Yugoslavia and Turkey (A/CONF.9/L.63 and L.64). Any delegation which thought that formula was not sufficiently clear could state its interpretation before the Conference, and, provided that no new point of substance was introduced and that no opposition to the interpretation was expressed, the formula would be deemed to admit the interpretations so given. He hoped that, if the Conference voted to reconsider its decision on the German amendment, delegations would recognize that the joint amendment was in harmony with the aims of the convention and at the same time met the needs of individual countries.

He moved under rule 23 of the rules of procedure, that the decision on the amendment submitted by the Federal Republic of Germany be reconsidered.

Mr. TYABJI (Pakistan) said that it had been obvious for some time that the Conference was divided into two groups, one consisting of the delegations which supported the inclusion of amendments suitable to their national circumstances, and the other of those which desired a general reservation clause in order to accommodate as many countries as possible. In general, the wishes of the first group had prevailed, but the consequence had been to jeopardize the success of the Conference. The Pakistan delegation had refrained from taking up an extreme position on articles 1 and 4, although it would have preferred the International Law Commission's draft of those articles. On the other hand, minor amendments proposed by his delegation had been rejected. Since it was clearly impossible to produce an ideal convention at the present juncture, it seemed preferable to adopt provisions which would permit as many countries as possible to ratify. A convention acceptable to only a small number of States, on the other hand, though perhaps superior, would in practice remain a dead letter.

Mr. GAERTE (Federal Republic of Germany) said it was precisely in order to further a compromise solution that his delegation had submitted its amendment at the previous meeting. In the same spirit he now supported the Canadian motion for the reconsideration of the decision on that amendment.

Mr. VIDAL (Brazil) said that he would support the Canadian motion, although he had abstained from voting on the German amendment at the previous meeting.

Mr. de la FUENTE (Peru) opposed the Canadian motion because the German amendment had been adopted after a full and satisfactory discussion.

Sir Claude COREA(Ceylon), also opposing the Canadian motion, said the German amendment had been discussed and adopted in an atmosphere of calm and decorum.

The PRESIDENT said that since two delegations had spoken against the motion, he must put it to the vote in accordance with rule 23.

At the request of the representative of Peru a vote was taken by roll call. Liechtenstein, having been drawn by lot, was called upon to vote first.

In favour: Liechtenstein, Luxembourg, Netherlands, Norway, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, Yugoslavia, Austria, Belgium, Brazil, Canada, Denmark, France, Federal Republic of Germany, Holy See, Japan.

Against: Pakistan, Peru, United Arab Republic, Ceylon, Indonesia, Iraq.

Abstaining: Panama, Portugal, Spain, Turkey, United States of America, Argentina, Chile, China, India, Italy.

The motion for reconsideration was carried by 17 votes to 6, with 10 abstentions.

Mr. JAY (Canada), formally introducing the joint Canadian and United Kingdom amendment (A/CONF.9/L.76), said that he hoped it would be possible to confine discussion to the elucidation of the meaning of the amendment in the way he had previously outlined.

Mr. BERTAN (Turkey) considered that the words "public order" had no recognized legal meaning; he was unable to accept the amendment, which went far beyond the special grounds which the Turkish delegation had wished to include in the article.

Mr. BESSLING (Luxembourg) said that the introduction of the phrase "national security and public order" would weaken the convention. The phrase might well be interpreted in different ways by successive governments. If it were added to the convention States would in effect be free, in reliance on an expression that was indefinable in legal terms, to deprive a person of his nationality in virtually any circumstances. He thought that both the German amendment and the joint amendment opened the door to such malpractices.

Mr. HERMENT (Belgium) said that the countries which had opposed the German amendment were those with the greatest number of stateless persons in their territories. The Canadian representative had said that all grounds of deprivation mentioned in earlier drafts of article 8 would be covered by the joint amendment. The ground of manifest unworthiness, which was much more serious than a number of others, was not, however, covered, and his delegation would not be able to vote in favour of the joint amendment if it denied to the State the possibility of making a reservation concerning that ground.

Mr. HILBE (Liechtenstein) agreeing with the representatives of Luxembourg and Belgium, said he opposed the joint amendment for the same reasons as those for which he had voted against the German amendment.

The PRESIDENT pointed out that if the joint amendment were rejected the German amendment would be a part of the convention.

Sir Claude COREA (Ceylon) said he could not agree that the joint amendment was equivalent to the German amendment; the force of the latter had been weakened in the new draft. He had been most impressed by the arguments put forward at the previous meeting by the representative of the Federal Republic of Germany. Those arguments had led to the adoption of the amendment, and he did not think that they had lost their validity. Some delegations, including his own, had adopted a consistent line from the beginning of the Conference, but had had to yield to the majority as far as articles 1 and 4 were concerned; he thought it was only just that their views should be reflected in article 8.

He asked whether he was right in interpreting paragraph 3 of the joint amendment to mean that a State could specify any grounds for deprivation recognized in its national law, and whether a State would have the right to

specify grounds for deprivation that might be introduced into its national law after the date to be indicated at the end of paragraph 3.

Since public order could be regarded as included in the concept of national security it would be preferable to delete the words "public order" in paragraph 3 and replace them by the words "the interests of the State". It would also be preferable to end paragraph 3 at the words "(ordre public)" and delete the rest of the paragraph.

Mr. ROSS (United Kingdom) explained that the joint amendment attempted to preserve the principle of the German amendment. The phrase "national security and public order" was used in article 31 of the Convention on the Status of Stateless Persons; the French expression ordre public had been added in brackets because its connotation was a little different from and perhaps a little wider than that of the English expression.

Replying to the representative of Ceylon, he said that under the joint amendment as it stood it would not be possible for a State to introduce new grounds for deprivation of nationality after the date to be indicated at the end of paragraph 3. He could not accept the suggestion that the words "interests of the State" should replace the words "public order", since all national legislation purported to be in the interests of the State. Nor could he accept the suggestion that the concluding words of paragraph 3 should be omitted. Their omission would involve a substantive departure from the provisions of the German amendment. It might be difficult for a State at the time of signature to specify all the grounds it desired, but it would have good time to review the question before ratifying the convention.

Mr. FAVRE (Switzerland), speaking as the representative of a country of asylum which was keenly interested in any efforts to reduce statelessness, said that the Swiss delegation had agreed that the conditions to which the acquisition of nationality by application could be subordinated should be defined explicitly and exhaustively in the convention, and had opposed all proposals which would have conferred on the State discretionary power to lay down those conditions.

In the debate on article 8, it had stated that Switzerland did not agree to even a single person being deprived of his nationality if as a consequence that person might become stateless. It had voted against all amendments that tended to enlarge the right of the State to create new cases of statelessness. It had

abstained in the vote on the article as a whole in Committee because, even though it considered the reasons, expressed in the article, for which a person could be deprived of his nationality to be very wide, it nevertheless had no intention of challenging the right of jus soli States to get rid of persons who had acquired the nationality of such States solely in virtue of the accident of birth in their territory. And, consistently with that attitude, it had voted against the amendment submitted by the Federal Republic of Germany, which had destroyed the balance of the draft convention by giving the State discretionary power to define the reasons for depriving a person of his nationality.

The joint amendment, however conciliatory the intentions of the sponsors, did not restore that balance. On the contrary, it vested in the State a competence as general as the amendment of the Federal Republic had done to reserve all the reasons for depriving a person of his nationality that were recognized by the law of the State. The "public order" clause could hardly be regarded as limiting that competence, since it was the law of each State which defined the exigencies of public order; consequently, the door was left wide open for the creation of cases of statelessness. In the resulting legal situation, the State of birth which, by reason of the strict terms of article 1 would be compelled to admit an undesirable person to citizenship, would have the power to rid itself of that same person the very next day under the wide powers conferred on the State in the matter of deprivation of nationality. It might legitimately be asked whether a system so devised really took any account of the circumstances of stateless persons or of the purpose of the convention, which was to reduce statelessness.

The Conference should recognize that the turn taken by its discussions had disclosed very serious differences of opinion which could not be removed merely by adopting a makeshift text. The duty of the Conference was not just to find a majority to outvote a minority: its duty was to establish an international instrument that would secure world-wide acceptance.

The reasons for the Conference's difficulties were apparent. It had begun its deliberations on the basis of the International Law Commission draft, well-balanced, technically uniform and, so to speak, all of a piece. But discussion had disclosed demographic and political factors for which the Commission's draft

had not made sufficient allowance, and that was why the draft had been changed almost out of recognition. The provisions now before the Conference should, before being finally adopted, be subject to thoughtful study and searching analysis, and the Conference should not adopt the convention until it was convinced that it achieved as fully as possible the aim set for it by the General Assembly. Self-respect demanded that the Conference should perform that task conscientiously and should not shirk the difficulties.

The question then inevitably arose whether it was not indispensable that the Conference should adjourn, and should not resume and complete its work until after a thorough study of the whole subject in the light of a report by independent experts, in the calmer atmosphere appropriate to the drafting of an international instrument. If the Conference agreed that that was the proper course, it might adopt a resolution asking the General Assembly of the United Nations to reconvene it for the purpose of completing the task it had begun. He would be glad to hear the views of other delegations on his suggestion.

Mr. CARASALES (Argentina) moved the closure of the debate.

Mr. HERMENT (Belgium) said that the issues were too important to be left without further discussion.

Mr. BEN-MEIR (Israel) opposed the motion for closure as he wished to make a statement regarding his delegation's interpretation of the expression "national security and public order".

The Argentine motion for the closure was rejected by 11 votes to 4, with 17 abstentions.

Mr. BEN-MEIR (Israel) said he wished to put on record his delegation's interpretation of "ground of public order" as covering residence abroad for not less than seven consecutive years, accompanied by the establishment of an effective link with another State.

Mr. BERTAN (Turkey) supported the Swiss representative's suggestion, since the discussions had shown that the situation was not yet sufficiently mature for a satisfactory convention to emerge. A vote on the joint amendment would not satisfy most delegations.

Mr. HUBERT (France) said that he had been much impressed by the Swiss representative's suggestion. The Conference had great responsibilities to the

United Nations and to public opinion, and the expression of moral courage would be to adjourn rather than to adopt an unsatisfactory convention.

Mr. CORIASCO (Italy) supported the views expressed by the Swiss and the French representatives.

Sir Claude COREA (Ceylon) said the Swiss representative's suggestion brought out into the open what had been latent for several days. The Conference should not be ashamed of failing to work out in hardly more than three weeks a convention on a subject which had engaged the attention of the International Law Commission for three years. It would be better to reconsider the convention on some other occasion than to issue an unsatisfactory document which might meet very serious criticism both from United Nations bodies and from other quarters.

Mr. JAY (Canada) said that the Swiss representative's suggestion deserved very careful consideration. It should, however, be made clear that, although the suggestion had been put forward immediately after the submission of the joint amendment, the latter had not provoked it. The joint amendment had been an attempt, not to terminate the Conference, but to save as much of it as could be saved.

Mr. FAVRE (Switzerland) said he entirely agreed and paid a tribute to the Canadian delegation's comprehension, throughout the Conference for the problems of States of asylum. He had certainly not put forward his suggestion because of the attitude of either the Canadian or the United Kingdom delegation. He now formally moved that the Conference resolve to adjourn and request the United Nations Secretariat to make arrangements for reconvening it when the time was ripe.

Mr. WILHELM-HEININGER (Austria) proposed that the Conference should immediately proceed to discuss article 13.

Mr. TYABJI (Pakistan) observed that, had the German amendment not been adopted, the Conference would have reached a successful conclusion. He opposed the adjournment.

Mr. GAERTE (Federal Republic of Germany) said that it was normal procedure for a Conference dealing with a complicated convention and unable to complete its work within three or four weeks to adjourn and to reconvene some months later. The German amendment had not been the reason for the adjournment,

but it had had the merit of bringing to the surface profound disagreements which had been lurking beneath the surface from the very beginning. He supported the Swiss delegation's motion for the adjournment.

Mr. LIANG, Executive Secretary, said that, as the representative of the Secretary-General, he must point out that the Conference could not be reconvened automatically. The General Assembly had discussed the convening of the Conference as early as 1954, but the conditions laid down by it had not been fulfilled until 1958. That alone showed that to convene a conference under contemporary conditions was no easy task. The General Assembly would have to be requested to reconvene the Conference and, owing to its very heavy agenda, might be unable to take a decision on the matter for some time. The experience of the Codification Conference of The Hague, 1930, convened by the League of Nations, should be borne in mind. That Conference had achieved certain results on the subject of nationality, but had not adopted any text on the subjects of territorial waters and State responsibility. The League had never considered reconvening that Conference, and nearly thirty years had elapsed before the United Nations had given those topics its attention. As an alternative, the Conference might consider that the convention would not be entirely useless if one particular article were omitted. There was no reason why the Conference should not preserve the results of several weeks of arduous negotiation. Agreement had been reached on certain important aspects of the reduction of statelessness. There was no need for undue pessimism; to attempt to unify the public law of the States, for example, the laws of nationality, was an extremely complex and arduous task. An effort should be made to preserve what had been gained, since it might never be recaptured.

Mr. JAY (Canada) said that, before reaching a final decision on the adjournment, the Conference should first decide whether the General Assembly should be asked to convene a new conference or a further session of the present Conference. The latter course would be preferable, since it would then be possible to proceed on the basis of the work already completed, though, of course, any delegation would be free to propose that the discussion on any of the articles adopted by the present Conference should be reopened. While realizing the financial and other difficulties militating against a further conference, he thought that, if a sound resolution were drafted, it should not be too hard to find space and time for a further conference within a year.

Mr. TSAO (China) said it was most important that the Conference should keep in mind its primary purpose - the reduction of future statelessness for humanitarian reasons. Some form of compromise was inevitable, and any such compromise would benefit stateless persons. It was with that idea in mind that the Chinese delegation had participated in the Conference, and, although it had pressed its own views on certain aspects of the convention, it had always tried to accommodate the views of other delegations.

Some delegations felt that the present text was too liberal, others that it was too restrictive, so that a further compromise was required. Article 8 was the only important article still left to be dealt with. The Conference should therefore first vote on the joint amendment, dispose of the formal clauses and then vote on the convention as a whole. The Chinese delegation would probably vote for it, not because every article represented the position of its own Government, but because the articles represented an attempt at compromise. In fairness to the stateless persons themselves, the Conference should continue.

Mr. HERMENT (Belgium) said he agreed with the Executive Secretary that the work already done should not be jettisoned; it could be used as a basic document for a second session of the present Conference.

Mr. TYABJI (Pakistan) said that the Executive Secretary's statement had confirmed his view that the Conference should continue. The only important article outstanding was article 8. A vote had already been taken on paragraph 1. The German amendment to paragraph 2 had been adopted, and even if that was no longer generally acceptable an alternative existed in the joint amendment. Paragraph 3 should not cause much difficulty as it had already been discussed. All that would then remain for debate would be article 13 concerning reservations.

The PRESIDENT said that at the previous meeting he had vacated the chair precisely in order to avoid the present position, since he had been convinced that if the Conference continued as if nothing had happened with regard to article 8, delegations might very well either vote against the convention or propose that the Conference be adjourned and that it be left to some other conference to conclude the business on which four weeks had already been spent. The object of his action had been to oblige the Conference to reconsider its decision on article 8, paragraph 2. It would be most regrettable

if the Conference broke up without completing its work. It might well be preferable to adopt a convention without an article on deprivation of nationality which some delegations strenuously opposed than to achieve nothing at all. It was no secret that the General Assembly had decided to convene the Conference only with great hesitation and that it had taken some years for twenty States to decide to participate. It would be most unsatisfactory if the Conference broke up without having made some contribution to remedying the plight of stateless persons. The Conference should therefore carefully weigh the motion for the adjournment. It might perhaps not be of vital importance if no article was included dealing with deprivation of nationality, since there would undoubtedly be many countries in which that problem created few difficulties.

Mr. LEVI (Yugoslavia) moved the suspension of the meeting.

The motion was carried by 16 votes to 4, with 12 abstentions.

The meeting was suspended at 12.25 p.m. and resumed at 12.55 p.m.

Mr. LEVI (Yugoslavia) said that when the informal group had agreed on the terms of the joint amendment (A/CONF.9/L.76), it had agreed that the question of article 8 should be reopened by a vote on the joint amendment. It was his understanding that delegations voting for the joint amendment would be voting for its substitution for the German amendment to paragraph 2 adopted at the previous meeting, while those who voted against would be voting against the inclusion of any article 8. The convention could perfectly well be adopted without that article. A similar development had occurred at previous international conferences, the Conference on the Law of the Sea, for example.

Mr. HERMENT (Belgium) pointed out that if article 8 were deleted, the principle laid down in article 1 would also have to be deleted. The Conference had no time left to discuss article 13, to which there might be many amendments. The Swiss delegation's motion for the adjournment of the Conference should be put to the vote.

Mr. MIMOSO (Portugal) supported the Swiss delegation's motion. The convention was a legal document which needed balance, and it would lack that balance if it did not contain an article on the subject of deprivation of nationality. If it were adopted in an incomplete state, it would not be ratified.

Mr. RIPHAGEN (Netherlands) said that there was no possibility of finishing the work at that meeting and, many delegations would be unable to attend any further meeting. A great deal of work had been required on the International Law Commission's draft and not enough time had been allowed.

Mr. CARASALES (Argentina) said that he would vote against the Swiss delegation's motion. The Conference had been working for nearly four weeks and had adopted a number of articles, which represented progress towards its objective, even if they were not satisfactory to all delegations. The Argentine delegation had not been in favour of some articles, particularly article 1, but it had never contemplated proposing the adjournment of the Conference merely because its proposal concerning one article had been rejected. The General Assembly had already prepared its calendar of conferences for some time ahead and, if the Conference adjourned without completing its work, it might find great difficulty in reconvening. It had been stated that the discussion on all articles could be reopened at another conference. If that were the case, the Argentine delegation would almost certainly wish to reopen the discussion on the International Law Commission's draft of article 1 and would not be ready to compromise a second time.

Mr. de la FUENTE (Peru) wholeheartedly supported the Argentine representative. He would vote against the Swiss delegation's motion.

Mr. WILHELM-HEININGER (Austria) again proposed that the Conference should proceed to discuss article 13 forthwith.

The PRESIDENT said that he would consider the Swiss delegation's motion as a procedural motion. Its adoption would amount to a statement by the Conference that it had been unable to draft a convention. The officers would report on what had occurred at the Conference, since there would be no final act. The texts which had been provisionally adopted would be reproduced, so that some at least of the results of the Conference's work would not be wholly lost.

Mr. VIDAL (Brazil) said that, in view of the adoption of the Canadian delegation's motion for the reconsideration of the decision on the German amendment, he would submit the original Brazilian amendment (A/CONF.9/L.72) as an amendment to that amendment.

Mr. JAY (Canada) apologised for putting forward the idea that the discussion on all articles already adopted might be reopened at a further conference. He feared it would look like an underhand way of avoiding the application of the two-thirds majority rule. The Conference had already stretched the rules of procedure in an attempt to achieve a text which would be more acceptable than the text for article 8, paragraph 2, adopted at the previous meeting. The vote for reconsideration had, however, been understood by him as permitting the discussion of only one amendment, namely that submitted by Canada and the United Kingdom. Even if that amendment were adopted, delegations could still vote against the article as a whole. He would support the Swiss delegation's motion provided only that it was made clear in a resolution conveying the sense of the Conference to the General Assembly, on what basis the work of the Conference would be continued.

Sir Claude COREA (Ceylon) questioned whether the Conference was competent to adjourn. It had been convened by the Secretary-General of the United Nations on the authority of the General Assembly to do certain work in a certain time. All that it could do was to adopt a resolution that it had been unable to complete its work in time and recommend that it be reconvened.

Mr. LIANG, Executive Secretary, said that there was no legal obstacle to the Conference's deciding to adjourn or reporting that it could not discharge its task. There was a precedent in what happened at the Conference on the Law of the Sea. Adjournment had been suggested with a resumption to discuss the question of the breadth of the territorial sea, but the Conference had finally decided to submit a resolution to the General Assembly reporting what had been accomplished and requesting a second conference. The General Assembly had decided to convene a second conference. The present Conference's legal competence to adjourn was not in question, but merely the possibility of resuming the session or holding another conference.

Mr. LEVI (Yugoslavia) demanded that the joint amendment be put to the vote.

Mr. FAVRE (Switzerland) explained that it had been his intention that the resolution to be addressed to the General Assembly should express the intention of the Conference to continue and finish its work on the articles not yet completed. When reconvened, the Conference could decide whether the completed

articles needed review. The essential was, however, a careful and skilled examination of the work already done; if necessary, experts outside the United Nations might be consulted and possibly the International Law Commission might be asked for its views. He assured the Argentine representative that the Swiss motion for the adjournment had not been put forward because any Swiss proposal had been rejected. It was not Switzerland that had injected polemics into the discussion. The sole purpose of the proposed adjournment was to allow time for the expert scrutiny he had suggested; it was not an attempt to reconcile opposing groups, but rather to seek a solution acceptable to all which could be presented as the law of the international community.

The PRESIDENT called for a vote on the motion for the adjournment of the Conference.

At the request of the representative of Pakistan, the vote was taken by roll-call.

Yugoslavia, having been drawn by lot, was called upon to vote first.

In favour: Austria, Belgium, Canada, France, Italy, Liechtenstein, Netherlands, Portugal, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland.

Against: Yugoslavia, Argentina, Brazil, Chile, China, Denmark, India, Israel, Pakistan, Panama, Peru.

Abstaining: Ceylon, Federal Republic of Germany, Holy See, Indonesia, Iraq, Japan, Luxembourg, Spain, Sweden, United Arab Republic, United States of America.

The motion was not adopted, 11 being cast in favour and 11 against with 11 abstentions.

The PRESIDENT said that since the Conference had been convened for a period ending 17 April, since many delegations could not remain at the Conference any longer and since the result of the vote had been so close, it would be very difficult to assume that the Conference was able to continue, as even those who most urgently wished it to do so would have to agree. When eleven delegations no longer showed any interest, and another eleven had voted for the adjournment, while several had already left, a conference could hardly take any valid decisions.

Mr. JAY (Canada) said that, although he agreed entirely with the President's statement of the position, he felt bound to point out that, on a strict construction of rule 35 of the rules of procedure, the motion for the adjournment had been rejected. He was prepared to abide by that rule.

Mr. RIPHAGEN (Netherlands) said that it would be futile to attempt to continue unless a reasonable majority wished to do so.

Mr. TYABJI (Pakistan) said he could see no reason for adjourning. Not much time would be required to deal with the joint amendment and article 13.

Mr. LEVI (Yugoslavia) said that the Conference should respect the rules of procedure and vote immediately on the joint amendment.

The PRESIDENT observed that if most of the delegations were absent, it was very difficult for the chair to decide whether the Conference would, legally, be the same Conference as that convened by the General Assembly.

Mr. ROSS (United Kingdom) said that although he had some doubts as to whether the President's interpretation of the result of the vote was technically correct, a second vote on the question of the termination of the Conference could undoubtedly be taken without the need for a two-thirds majority. And the result of such a vote might very well be different in the light of the discussion which had taken place after the first vote. He therefore formally proposed that the Conference be now terminated.

The PRESIDENT doubted whether the Conference could continue with any prospect of producing anything that Governments could conscientiously sign. Any further proceedings would be merely formal debates, which would be meaningless to the United Nations and to public opinion.

Mr. RIPHAGEN (Netherlands) proposed that the United Kingdom procedural motion be put to the vote immediately.

Mr. LEVI (Yugoslavia) insisted on compliance with the rules of procedure and asked the President to announce the result of the vote which had already been taken.

The PRESIDENT replied that, from a formal and legal point of view, the Conference had decided to continue its work, but there were cogent reasons for thinking that, in view of the result of the vote, it might be necessary and desirable for the Conference to reconsider that decision. He put the United Kingdom proposal to the vote.

At the request of the representative of Pakistan, the vote was taken by roll-call.

The United States of America, having been drawn by lot, was called upon to vote first.

In favour: Yugoslavia, Austria, Belgium, Canada, Denmark, France Federal Republic of Germany, Italy, Liechtenstein, Luxembourg, Netherlands, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland.

Against: Pakistan

Abstentions: United States of America, Argentina, Brazil, Ceylon, Chile, China, Holy See, India, Iraq, Israel, Japan, Panama, Peru, United Arab Republic.

The United Kingdom proposal was adopted by 17 votes to 1, with 14 abstentions.

FINAL RESOLUTION

The PRESIDENT asked the Conference to vote on the draft of a final resolution[1/]. He wished to make it clear that the draft resolution was not sponsored either by the chair or by the Danish delegation, but represented the sense of the meeting.

Mr. LIANG, Executive Secretary, thought the phrase "competent organs of the United Nations" was too vague. In the interest of future work, the resolution should be addressed to the General Assembly, since the latter had called the Conference.

Mr. JAY (Canada) suggested that the Secretariat should be asked to make any technical improvements, such as drafting an appropriate preamble.

Mr. LIANG, Executive Secretary, said that the operative paragraph would be sufficient. He pointed out, however, that it was hardly frank to say that the Conference had been unable to complete its work owing to lack of time; the divergence of views on an important matter had been the crux of the difficulty.

The PRESIDENT said that the officers of the Conference would assume the responsibility for final drafting. He put the draft resolution to the vote.

1/ The text of the draft resolution was substantially the same as that finally adopted, which is reproduced in document A/CONF.9/L.77.

The draft resolution, subject to drafting changes, was adopted by 24 votes to none, with 8 abstentions.

The PRESIDENT suggested that the Executive Secretary should be asked to take the necessary steps to keep the provisional results of the Conference among the records of the United Nations, since they might be very useful to the present Conference if reconvened or to any further conference which the General Assembly might convene.

It was so agreed.

The PRESIDENT expressed the hope that, after the proceedings which had just taken place, there would be a better understanding of the step he had taken in offering his resignation; he had clearly foreseen what would happen when a proposal had been adopted that had upset all the results so far obtained. It had proved virtually impossible to bridge the gap between the two basic philosophies represented at the Conference, and he had been unable to see any way out, except by a somewhat dramatic step to force the Conference to realize the need to compromise. He had thought that the joint amendment submitted by Canada and the United Kingdom (A/CONF.9/L.76) might provide a solution which, while not satisfying any Government, would have given some satisfaction to stateless persons.

He declared the Conference closed.

The meeting rose at 2.20 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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11 October 1961
ENGLISH
ORIGINAL: FRENCH

UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS*

SUMMARY RECORD OF THE FIFTEENTH PLENARY MEETING

Held at Headquarters, New York,
on Tuesday, 15 August 1961, at 3.20 p.m.

CONTENTS

Opening of the second part of the Conference by the representative of the Secretary-General

Election of the President

Election of the Vice-Presidents

Organization of work

Acting President:	Mr. STAVROPOULOS	Legal Counsel (representative of the Secretary-General)
later,		
President:	Mr. RIPHAGEN	Netherlands
Executive Secretary:	Mr. LIANG	Director of the Codification Division, Office of Legal Affairs

* The records of the first part of the United Nations Conference on the Elimination or Reduction of Future Statelessness, held in Geneva from 24 March to 18 April 1959 were issued under the document symbols A/CONF.9/SR.1-14 and A/CONF.9/C.1/SR.1-20.

OPENING OF THE SECOND PART OF THE CONFERENCE BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

The ACTING PRESIDENT declared the second part of the United Nations Conference on the Elimination or Reduction of Future Statelessness open, and extended a welcome on behalf of the Secretary-General to the representatives who had come to continue the work begun at Geneva in March and April 1959. He said that the Secretary-General attached the highest importance to the work of the Conference. From the humanitarian standpoint, statelessness had to be eliminated so far as possible, for it deprived the individual of the dignity attaching to the status of citizen; from the legal standpoint, the problem was one which affected the domestic law of States, constitutional law and both public and private international law.

The Conference had a highly complex task before it, and should exercise caution in proposing any changes to the provisions adopted by the earlier meetings of the Conference in 1959. The main problem for the current part of the Conference was that of reconciling the legitimate aspirations of individuals with the no less legitimate concern of States to strengthen order within the international community.

The agenda, the rules of procedure and the organization of work of the second part of the Conference were the same as for the first part, but there were slight changes in the representation of States. Although the 1959 Conference had adopted no Convention, it had done important work, the results of which could be seen in document A/CONF.9/12. The articles already adopted testified to the spirit of concession and goodwill which participants in that Conference had shown.

In his opinion, the examination of article 8, concerning deprivation of nationality, should be given priority. The text of that article had occasioned complicated discussions in 1959 and in the end no decision had been taken, so Governments had been asked for their observations on the question of deprivation of nationality; those observations were contained in documents A/CONF.9/10 and Add.1, 2 and 3. Those new documents should clarify the problem and facilitate the task of the Conference, which none the less should not lose sight of the fact

(The Acting President)

that its main goal was to reduce cases of statelessness. If the Conference were unable to agree on any of the texts proposed for article 8 in 1959, it could adopt a text and leave it open for States to enter reservations, but on condition that such reservations were of limited scope. Article 8 should not be assigned undue importance, for it had to be borne in mind that the Convention, even if it contained no provisions on that particular point, would still be of very great value from both the humanitarian and the legal standpoints. Moreover, the article in question concerned only one cause of statelessness and could apply only to a relatively limited number of cases.

He concluded by expressing the hope that the participants in the Conference would show a spirit of co-operation and would succeed in adopting a Convention.

ELECTION OF THE PRESIDENT

The ACTING PRESIDENT, recalling that the President and Vice-Presidents of the Geneva Conference would not be taking part in the work of the second part of the Conference, invited representatives to submit nominations for the office of President of the Conference.

Mr. McILQUHAM-SCHMIDT (Denmark) proposed the candidature of Mr. Riphagen (Netherlands).

Mr. Riphagen (Netherlands) was elected President.

The PRESIDENT thanked the Conference for the honour which it had just conferred on him, and expressed the hope that the Conference would complete the difficult task which was awaiting it.

ELECTION OF THE VICE-PRESIDENTS

The PRESIDENT invited representatives to submit nominations for the offices of Vice-Presidents.

Mr. QUINTERO (Panama) proposed the candidature of Mr. Amado (Brazil).

Mr. ROSS (United Kingdom) proposed the candidature of Mr. Malalasekera (Ceylon).

Mr. Amado (Brazil) and Mr. Malalasekera (Ceylon) were elected Vice-Presidents of the Conference.

Mr. AMADO (Brazil), Vice-President, thanked members of the Conference for the confidence which they had placed in him and assured them that they would have his full co-operation.

Mr. MALALASEKERA (Ceylon), Vice-President, said that he was very touched by the honour which the Conference had done to his country and himself by electing him Vice-President, and assured members of his complete impartiality.

ORGANIZATION OF WORK OF THE CONFERENCE

The PRESIDENT expressed the view that, since it was a question of completing a task begun in 1959, it would be well to resume the work at the point where it had been interrupted at Geneva - in other words, to continue the examination of article 8 of the Convention, which had been adopted by the Committee of the Whole but not by the Conference. He asked delegations having any proposals or amendments to submit to give them to the Execttive Secretary of the Conference as soon as possible.

Mr. JAY (Canada) asked to which text such amendments would apply. He recalled that both texts proposed at Geneva for article 8 had been much debated, and he thought that if another impasse was to be avoided it would be preferable to try to present entirely new proposals which would better reflect the general consensus.

The PRESIDENT, summing up the situation as he saw it, said that the Conference had before it the text of article 8 as adopted by the Committee of the Whole, certain amendments to that text which the Conference had adopted, and a motion to reconsider the question. Thus, representatives could either submit amendments to the text of the Committee of the Whole or, as the Canadian representative had proposed, introduce entirely new proposals more in keeping with the general view. The discussion of the article would certainly show in what it would be possible to reach a compromise solution.

Mr. FAVRE (Switzerland) supported the Canadian representative's suggestion. The Geneva Conference had become deadlocked over article 8, for, after the adoption of the amendment of the Federal Republic of Germany to the text of the Committee of the Whole, it had finally been proposed that that amendment be reconsidered, since differences of opinion had still seemed too substantial. As the discussion thus remained open, the best course would seem

(Mr. Favre, Switzerland)

to be to invite delegations to submit new written proposals. Once those proposals had been examined by the Conference, a working group could be set up to draft a single text harmonizing the different trends reflected in the proposals.

Mr. AMADO (Brazil), Vice-President, thought that the method suggested by the Canadian and Swiss representatives was very sensible. There had, indeed, been many abstentions in the decisions taken at Geneva on article 8. Such abstentions were of course quite understandable, for even where a State was anxious to combat the scourge of statelessness it could not lightly take decisions which threatened to conflict with its domestic legislation. In such cases, however, the solution was not to abstain but to look for an area of agreement. The Conference should therefore attempt to work out a compromise text. There was in fact no reason to be pessimistic, for, as the representative of the Secretary-General had pointed out, great progress had been made during the first part of the Conference. Thus countries applying the principle of jus sanguinis had come closer to the position of those practising jus soli, and the latter countries had agreed to extend the principle of jus domicilii to a degree that could not have been hoped for before the 1959 Conference. It was therefore not unreasonable to believe that delegations would in the same manner reach agreement on article 8.

Mr. MAURTUA (Peru) said that the debate should rest on a legal basis and act as a new point of departure for the elaboration of the Convention. The text worked out at Geneva had not been approved because the principles proposed had not merited adoption by the Conference. It was therefore necessary to return to the original basis of discussion, which was article 8 of the draft prepared by the International Law Commission.

Rev. Father de RIEDMATTEN (Holy See) shared the view of the Peruvian representative. The reason why there had been so many abstentions at the Geneva Conference was that members had had to pronounce on hastily presented texts and on oral amendments on which it had been impossible to reach agreement.

It was important, in his view, that delegations should submit their proposals and amendments in writing, so that the debate might proceed in an orderly fashion

(Rev. Father de Riedmatten, Holy See)

and that a working group, if set up, might have a solid basis for discussion. In that way the abstentions which had frustrated the Geneva Conference could be avoided.

The PRESIDENT recalled that the Geneva Conference had taken as the basis for its discussion article 8 of the draft prepared by the International Law Commission, which appeared on page 13 of document A/CONF.9/12. As no other text had been adopted, that of the International Law Commission remained the basic document. The Conference also had before it the amendment to article 8 submitted jointly by Canada and the United Kingdom (A/CONF.9/L.76), which had not been put to the vote.

Mr. MAURTUA (Peru) wished to inquire, since some representatives had not been at the Geneva Conference, whether the text which was to serve as the basis for the discussion of article 8 would be open to general substantive debate.

He furthermore considered that the joint Canadian and United Kingdom amendment should be subjected to fresh examination.

The PRESIDENT said that each delegation would have an opportunity to state its view on all the questions covered by article 8, whether in respect of the draft prepared by the International Law Commission or of the joint amendment to the article. The Conference still had both texts before it; they remained valid because article 8 had been left in abeyance.

Mr. STAVROPOULOS (Legal Counsel) said he was not certain that article 8 of the draft prepared by the International Law Commission was still before the Conference, for the Committee of the Whole had not accepted it. The Conference had before it the draft adopted by the Committee of the Whole (A/CONF.9/L.40/Add.3), as amended by Brazil, the Netherlands and Italy. As to the amendment of the Federal Republic of Germany, a motion to reconsider it had been adopted at Geneva. The Conference also had before it the amendment submitted jointly by Canada and the United Kingdom. From the procedural point of view, the International Law Commission's draft article 8 no longer existed. Delegations could of course, if they wished, reintroduce the substance of that article as their own proposal, but the amendments they proposed should be in respect of the text adopted by the Committee of the Whole, as amended, and of the text of the joint amendment.

The PRESIDENT suggested that, in order to facilitate the proceedings, proposals should be submitted in the form of complete texts of article 8.

The meeting rose at 4.25 p.m.

UNITED NATIONS

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE SIXTEENTH PLENARY MEETING

Held at Headquarters, New York,
on Wednesday, 16 August 1961, at 3.15 p.m.

CONTENTS

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.80) - Article 8 of the Draft Convention

President:	Mr. RIPHAGEN	Netherlands
Secretariat:	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.80)

Article 8 of the Draft Convention

The PRESIDENT invited the representative of the United Kingdom to present his delegation's amendment (A/CONF.9/L.80).

Mr. ROSS (United Kingdom) said that he first wished to make a few general remarks on article 8 and its place in the Convention. As the representative of the Secretary-General had said on the previous day, that place was only a secondary one. For the article did not cover either of the main causes of statelessness, i.e. either birth in such circumstances that the child acquired neither the nationality of its parents nor that of the country in which it was born, or the automatic loss of nationality because the person concerned had committed certain acts or had neglected to take the necessary steps to retain his nationality. The first case was dealt with in articles 1 to 4 and the second in article 7 of the Convention.

The case provided for in article 8 was a somewhat infrequent one - first because many countries did not have the power to deprive an individual of his nationality or, if they did, were ready to give it up, and secondly, because that power could often only be exercised in the case of naturalized persons, who represented but a small proportion of the population. Of all the Governments which had submitted observations, only six had the power to deprive natural-born citizens of their nationality. Moreover, the conditions in which nationality could be withdrawn were nearly always carefully defined by law. Finally, cases in which the State used its powers in the matter were rather rare: the United Kingdom, in fact, had used them only ten times during the past twelve years. Thus, even if article 8 were deleted altogether, the Conference, by adopting articles 1, 4 and 7, would have accomplished the main part of its task.

None the less the Conference still had the duty of doing its utmost to eliminate that minor cause of statelessness as well. The difficulty in that respect arose from differences in the provisions of national laws. Some countries considered that the State should never deprive an individual of his nationality

(Mr. Ross, United Kingdom)

and that, once it had agreed to confer its nationality upon a person by naturalization, it should accept the risk of having possibly made a mistake. Others, on the other hand, attached much importance to the right to deprive of his nationality a person whose conduct was incompatible with his duty of loyalty towards his country, or who had broken all links with that country. If therefore agreement was to be reached, the States in the first category should not object to those in the second retaining at least some of the powers which they considered necessary. In return, the States in the second category should ask themselves seriously whether they could not give up some of their powers when the exercise of such powers would lead to statelessness. In that respect it was encouraging to note that several Governments had shown themselves ready to make concessions (cf. A/CONF.9/10 and Add.1 to 3). The United Kingdom, for instance, would be ready to stop exercising its rights in the case of naturalized persons who had been sentenced for serious offences not involving loyalty or had lived abroad for more than seven years without maintaining effective contact with the United Kingdom.

With regard to the actual text of article 8, the first part of the Conference had considered that the International Law Commission's draft was too restrictive. A revised text, adopted by the Committee of the Whole (A/CONF.9/L.40/Add.3), had also been abandoned in the end because there was a risk, in theory at least, that it would increase rather than reduce the number of cases of statelessness; for while it compelled certain Contracting States to give up some of their rights, it gave others the possibility of extending their powers in the matter, within the fairly broad limits of the article's provisions. An amendment by the Federal Republic of Germany had encountered serious objections since it required no sacrifice on the part of any State. A compromise solution had been presented by Canada and the United Kingdom on the last day, but owing to lack of time the Conference had been unable to study it thoroughly enough to be able to take a decision on it.

The new United Kingdom proposal (A/CONF.9/L.80) was also a compromise, based on the observations submitted by Governments (A/CONF.9/10 and Add.1 to 3). It

(Mr. Ross, United Kingdom)

retained the idea underlying the Federal Republic of Germany's amendment in that, with two exceptions, it admitted no grounds for deprivation other than those already specified in the current law of the Contracting States. On the other hand, it attempted to overcome the objections raised to the German amendment by restricting the causes for deprivation of nationality to certain well-defined categories.

The two exceptions were the subject of paragraphs 2 and 3. Paragraph 2 covered the case of an individual who secured the nationality of a State by fraud. In some countries, naturalization obtained by such means was considered null and void. It would seem wrong to prevent the Government of such a country from adopting legislative provisions expressly prescribing that, in case of fraud, the State could deprive the guilty person of his nationality.

Paragraph 3 arose logically from the provisions of paragraphs 4 and 5 of article 7. The cases covered by those paragraphs led to the automatic loss of nationality; there was all the more reason why they should also be able to lead to deprivation.

Paragraphs 4 and 5 of article 8, which were the most important, specified the circumstances in which the nationals of a country, whether naturalized or not, could be deprived of their nationality. It would be noted that the grounds for deprivation were wider in the case of naturalized persons (paragraph 4) than in that of other citizens (paragraph 5). That was partly because naturalized persons represented a much smaller group of the population, and partly because it seemed normal to demand more of them than of native-born nationals of the country.

With a view to obtaining the largest measure of concurrence, the definitions appearing in those two paragraphs had been drafted in fairly general terms, and certain refinements which could be found in the initial drafts but appeared unlikely to result in any appreciable reduction in the number of cases of statelessness had been dropped. As the representative of the Secretary-General had said on the previous day, it would be unfortunate if a "perfectionist" attitude were to prevent the Conference from achieving good results.

Finally, he wished to stress that the amendment submitted by his delegation was merely a hastily drafted text in which the Conference would no doubt be able to make constructive changes.

Mr. AMADO (Brazil), Vice-President, paid tribute to the United Kingdom delegation for trying to draft a text which would bring divergent views into line. That text took into account the difficulties encountered by certain countries like Brazil which wanted to contribute to the reducing of statelessness but which were sometimes prevented from doing so by the provisions of their Constitutions. It should not be forgotten that while a State could easily change its laws, it could amend its Constitution only to the extent permitted by the Constitution itself.

With regard to the restrictions on deprivation of nationality, there appeared to be two lines of thought: first, that advanced by the delegation of the Holy See, whereby exceptions to the rules of the Convention should be specified, at the time of ratification, in the form of reservations entered by the Contracting Parties; secondly, that of certain countries which thought that such reservations should be specified in the actual text of the Convention. Brazil preferred the latter solution.

Rev. Father de RIEDMATTEN (Holy See) said that, in the view of his delegation, it would be preferable for the Convention to make no provision for deprivation of nationality; instead, States could be given an opportunity to submit reservations on specified grounds which should be held to a minimum. At Geneva, the Holy See had submitted an amendment which had greatly influenced the text finally adopted. The essential point was that, instead of citing the permissible grounds for deprivation of nationality, the Convention should indicate those reservations which States would be entitled to make.

The Holy See would of course be willing to agree to a more restrictive approach, if that met with the agreement of the Conference.

Mr. VAN SASSE VAN YSSELT (Netherlands) asked for clarification with regard to paragraph 4, which in actual fact applied to naturalized persons. In the Netherlands, no distinction was made between naturalized persons and other nationals so far as deprivation of nationality was concerned. Since the United Kingdom amendment appeared to make a distinction between the two cases, it was surprising to find mention of paragraph 5 in paragraph 4 when, according to the latter paragraph, the only grounds on which a naturalized person could be deprived of his nationality were those recognized by national law.

(Mr. Van Sasse Van Ysselt, Netherlands)

He also wished to observe that the subject under discussion did not concern those naturalized persons who accepted duties in a foreign country which were not inconsistent with their duty of loyalty. He would like to know whether an action of that kind would also constitute grounds for deprivation of nationality.

Finally, it appeared to him that paragraph 5 (c) duplicated paragraph 5 (d).

Mr. YINGLING (United States of America) said that, in paragraph 4, the words "grounds recognized by the national law in force on the ... September 1961" seemed to imply discrimination against new States. Also, he did not see what was meant, in paragraph 6, by "a completely independent and impartial body". He wondered whether the reference was to a national authority or to an international body such as the International Court of Justice.

Replying to the Netherlands representative, Mr. HARVEY (United Kingdom) said that paragraph 5 had a limiting effect on the general statement of permitted grounds of deprivation contained in paragraph 4. The grounds on which nationals other than naturalized persons could be deprived of their nationality were limited to the cases enumerated in sub-paragraphs (a), (b), (c) and (d). On the other hand, in its application to naturalized persons, paragraph 4 applied without limitation of the general grounds for deprivation of nationality, since it seemed reasonable that a more exacting standard should be applied in the case of a naturalized person.

In reply to the United States representative's question concerning paragraph 6, he said that it was difficult to provide a precise definition for the independent and impartial body mentioned in that paragraph. It was his delegation's view that the body in question would be a court or other authority provided for under national law, and not an international body.

A problem admittedly existed with regard to countries which attained independence after the Convention's entry into force; its solution could be entrusted to a working group, which could be instructed to draft provisions applicable in such cases.

Mr. AMADO (Brazil), Vice-President, observed that, in those countries where there was separation of powers, it was the Judicial Power which was the

(Mr. Amado, Brazil)

symbol of impartiality. In Brazil, the cases to which paragraph 6 applied were covered by special legislation; the court of first instance of the place of residence of the person concerned had jurisdiction in actions for the revocation of nationality acquired by naturalization, and they could be instituted at the request of the Minister of Justice or the Minister of the Interior, or on the basis of information supplied by any private individual.

Mr. JAY (Canada) commended the United Kingdom delegation for the expedition with which it had submitted a text that could provide a basis for the discussion of article 8. His delegation, like the others attending the Conference, was unable to make any specific comments on the amendment for the moment. Representatives must have an opportunity for detailed study of the various texts submitted to them; it should be borne in mind that the confusion amid which the Geneva Conference had ended had been largely due to lack of time.

For the present, he wished to raise the question whether it was desirable to refer, in paragraph 5, to the individual's duty of loyalty to the State of which he was a national. Cases could arise where a person was deprived of his nationality even though he had done nothing inconsistent with that duty of loyalty; for example, a person in full possession of his physical and mental faculties could decide to renounce his nationality; the State of which he was a national should then have the right to take the necessary steps to comply with his wishes. The Canadian delegation intended to propose the addition, to paragraph 5 of the United Kingdom amendment, of relevant provisions which would not nullify the existing text.

Mr. MAURTUA (Peru) said that he shared the view of the Brazilian delegation with regard to paragraph 6, which seemed to raise doubts concerning the jurisdiction of institutions existing in certain countries. The cases to which the paragraph in question applied should be submitted to either an administrative or a judicial authority. Hence, the term "independent body" should be replaced by "competent legal authority" or simply "competent authority".

Mr. TSAO (China) pointed out that Chinese law made no provision for deprivation of nationality and that, in China, no person had ever been deprived

(Mr. Tsao, China)

of his nationality as a penalty. Nevertheless, his delegation recognized the value of article 8 and hoped that the Conference would reach agreement on it.

Two factors had to be considered in examining the question of deprivation of nationality. On the one hand, since the primary objective of the Conference was to effect the greatest possible reduction in statelessness, the provisions governing deprivation of nationality should be drafted with the maximum of precision. On the other hand, grounds on which persons could be deprived of their nationality were provided under the law of certain countries. If the Convention was to be fully effective, it must be ratified by as many States as possible; hence it must contain provisions which were in line with national law, provided, of course, that they were reasonable. The problem, therefore, was to strike a balance between the primary objective sought by the Convention, on the one hand, and the national law of States, on the other. The draft submitted by the United Kingdom was extremely useful in that connexion; his delegation might wish to comment on it in greater detail after having had an opportunity of examining it, but desired to assure the Conference that any measure designed to reduce the causes of statelessness would receive its support. At the same time, as the Secretary-General's representative had very rightly pointed out in his opening statement, the Conference should not attach undue importance to article 8.

He wished to conclude by formally requesting the Secretariat henceforth to prepare a Chinese text of any article adopted by the Conference.

The PRESIDENT said that the Secretariat would comply with the Chinese representative's request.

Mr. WIRJOPRANOTO (Indonesia) said that he considered the United Kingdom amendment to be of the utmost importance, and agreed with the Canadian representative that delegations must have time to study it very closely before taking a stand on the matter. It would, in particular, be helpful if they could consult their Governments. On the whole, his delegation endorsed the United Kingdom amendment, but it might have further observations to make.

He wished to point out that the Indonesian Government had adopted, three years earlier, a new Nationality Act which was designed to avoid cases of dual nationality.

/...

Mr. CALDARERA (Italy) said that he too planned to examine the United Kingdom amendment in greater detail with a view to determining to what extent it was compatible with Italian law. A basic objective of Italian law was the avoiding of cases of statelessness. Furthermore, article 14 of the Italian Nationality Act placed stateless persons on an equal footing with nationals in all matters relating to civil rights and military duties.

The United Kingdom amendment could be said to follow the text adopted by the Committee of the Whole at Geneva, but it contained provisions applying solely to nationals other than naturalized persons and thus drew a clear distinction between that type of national and nationals by naturalization.

Furthermore, paragraph 2 was unnecessary, for if the Government of a State discovered that a person had obtained the nationality of that State by fraud it would, as a matter of course, annul the grant of nationality.

He shared the view of the Peruvian delegation with regard to paragraph 6; the body referred to in that paragraph could be either a judicial or an administrative authority, depending on the legislation of the country concerned.

The meeting rose at 4.40 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE SEVENTEENTH PLENARY MEETING

Held at Headquarters, New York,
on Thursday, 17 August 1961, at 10.35 a.m.

CONTENTS

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.80) (continued)

President:	Mr. RIPHAGEN	Netherlands
Secretariat:	Mr. STAVROPOULOS	Legal Counsel, Representative of the Secretary-General
	Mr. LIANG	Executive Secretary of the Conference

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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.80) (continued)

Article 8 of the Draft Convention (continued)

Mr. HUBERT (France) thought that, on the basis of a first reading of the United Kingdom amendment to article 8 of the proposed Convention (A/CONF.9/L.80) and of the discussions of the preceding meeting, that amendment might lead to a solution of the problem before the Conference.

It was true that a Convention would be useful even if it contained no clause concerning deprivation of nationality; the United Kingdom representative had quoted figures showing that, during the past twelve years, only ten cases of deprivation of United Kingdom nationality had rendered the person concerned stateless, and the figures in France for that period were similar. The omission of such a provision would not of itself deprive the Convention of effectiveness, but the failure of the Conference to agree on a question of undoubted importance woule be unfortunate psychologically.

The two criteria governing the drafting of an article relating to deprivation of nationality were that it should be effective and that it should be acceptable to the greatest number of Governments represented at the Conference or of those which might later wish to accede to the Convention. The most radical solution would obviously be a complete prohibition of deprivation, but no clause to that effect would have any chance of being accepted by any substantial number of States. On the other hand, a right of reservation at the time of signing, ratifying or acceding might be granted to all States, but that would lead to too wide a variation in the grounds for deprivation adopted by various countries. The only realistic solution was to retain certain grounds for deprivation, but to limit them to a reasonable number. That was what the United Kingdom delegation, in submitting its amendment, had aimed at. Some delegations, including his own, would naturally have observations to make with regard to the United Kingdom draft, and he reserved the right to speak accordingly at a later stage. In general, however, he thought the grounds mentioned in the United Kingdom amendment were serious ones, and his delegation could therefore accept that amendment as a basis for discussion.

(Mr. Hubert, France)

The Canadian representative had said that the grounds mentioned in paragraph 4 of the United Kingdom amendment were too indefinite; but if the Conference hoped to reach agreement it must eschew over-rigid provisions; some flexibility was essential. Moreover, the freedom of action of Contracting States would not be unlimited; action under paragraph 4 must be taken under the legislation which was in force and which was specified at the time of signature, ratification or accession, and under paragraph 6 such action could be submitted to an independent and impartial body for authorization.

Mr. ROSS (United Kingdom) thought that he should clarify his delegation's intentions as expressed in paragraphs 4 and 5 of the amendment, which were to be read together. Paragraph 4 related to all nationals, whether natural-born or naturalized; while paragraph 5 referred only to nationals other than naturalized persons and restricted the grounds of conduct inconsistent with the duty of loyalty more precisely, under four heads. That distinction had been made because it appeared, from their observations contained in documents A/CONF.9/10 and Add.1 and 2, that some Governments wished to have wider powers in respect of naturalized citizens, whereas the powers available under paragraph 5 should be sufficient in the case of natural-born nationals.

Mr. DARON (Belgium) thanked the United Kingdom representative for his clarification of paragraphs 4 and 5 of the amendment, which had caused some concern to his delegation. He would have preferred a text which made no distinction between the treatment of naturalized persons and that of other nationals, but he would leave that point aside for the time being. In general, the United Kingdom amendment might be acceptable to the Belgian delegation.

Mr. JAY (Canada), supported by Mr. AMADO (Brazil), suggested that those delegations, including his own, which still had difficulty in accepting the United Kingdom amendment should meet informally and try to reach agreement on the minimal changes required to make the amendment acceptable to the Conference as a whole, and that further discussion of the amendment should be deferred until such a meeting had taken place.

It was so decided.

The PRESIDENT suggested that the Conference should discuss some other points of the work awaiting completion, referred to in document A/CONF.9/12.

It was so decided.

Final provision of the Draft Convention

The PRESIDENT invited the Conference to consider the proposed text of the final provision of the Convention (A/CONF.9/12, paragraph 23), and pointed out that the French text, as contained in that document, was not in conformity with the English text; a corrected version of the French text would be issued.

Mr. HUBERT (France), commenting that representatives would sign the Convention on behalf of their respective States and not of their Governments, proposed, solely in the interests of legal accuracy, that the words "the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments" should be replaced by the words "the undersigned Plenipotentiaries have signed this Convention".

Mr. YINGLING (United States of America) pointed out that the draft final provision mentioned "the non-member States referred to in article 12". He questioned the aptness of the drafting of article 12, paragraph 2 (c), which referred to "any State to which an invitation to sign or to accede may be addressed by the General Assembly of the United Nations"; and he suggested that the words "may be", in the English text, should be replaced by the word "is".

Mr. TSAO (China) said that the text of the final provision, as adopted by the Committee of the Whole, contained several blanks. The date and place could not be filled in at the present stage, but the names of the five official languages of the United Nations could be inserted in the space before the word "texts".

Mr. JAY (Canada) said that, before taking a position on the suggestion made by the representative of France, he would like to know what had been the practice in drafting similar United Nations Conventions in the past, and whether such Conventions had mentioned Governments or States. There might be legal niceties concerning the manner in which plenipotentiaries were appointed, and he would like to know the implications.

Mr. ROSS (United Kingdom) thought that the word "Governments" had been introduced to conform with two precedents, namely the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons.

Mr. LIANG (Executive Secretary) agreed that the formula was in conformity with that used in those two Conventions. He did not have before him the dossier of all precedents, but could supply it if the Conference so desired. His personal opinion was that it made little difference which formula was used, since a representative signing on behalf of a Government also signed, from another point of view, on behalf of the State.

Mr. YINGLING (United States of America) said that the final clauses of treaties generally provided for signature on behalf of Governments. However, the question was more one of style than one of substance since, in the last analysis, the treaties became binding on States. The States were represented by Governments which, in turn, were represented by delegates.

Mr. HUBERT (France) agreed that there was no great difference in substance; however, he preferred a reference to States. He recalled the classic distinction between formal and simplified acts or instruments. Under the French Constitution, for example, Treaties were negotiated and signed by or on behalf of the Head of State, whereas agreements in simplified form were negotiated and signed by or on behalf of the Government and did not require ratification by the Head of State. In both cases, however, the State was committed. He was not convinced by the fact that certain precedents which took no account of that distinction might be invoked; on the contrary, he thought that such errors should not be repeated.

Mr. JAY (Canada) said that in his country some distinction was made between the Government and the Head of State, so far as the conclusion of treaties was concerned. His delegation would prefer to see the final provision refer to Governments.

The PRESIDENT said that, since the procedure varied from country to country, it might be preferable, for practical reasons, not to modify the existing wording of the draft final provision.

Mr. MAURTUA (Peru) suggested that the Conference might wish to consider the desirability of providing for the delivery of certified copies of the Convention to interested specialized agencies. He wished to know what was the practice generally followed in that regard.

The PRESIDENT said he believed that the specialized agencies would take formal note of the adoption of any Convention which concerned them. He understood, however, that it was not the practice to send them certified copies.

Mr. LIANG (Executive Secretary) said that the specialized agencies had been invited to send observers to the Conference. The specialized agencies would certainly take note of any Convention which was signed, but he did not believe there was any requirement to send to them certified copies of the present Convention, which was open for signature by States alone and which would not be binding on any specialized agency. The Office of the High Commission for Refugees was represented at the Conference, but the action which that Office might take in relation to the Convention was a matter which concerned it alone.

Mr. MAURTUA (Peru) said that he did not wish to make any formal proposal, and had raised the matter only in view of the status which an invitation to the Conference appeared to confer upon any interested specialized agency invited to attend. Some difference might conceivably arise between an agency concerned with the subject-matter of the Convention and a signatory State which it held not to be complying with the Convention's provisions.

Mr. JAY (Canada) suggested the substitution of the word "authentic" for the word "authoritative" in the draft final provision, as the former adjective was more commonly used in treaties.

Mr. ROSS (United Kingdom) said that there had no doubt been sound reasons for the substitution of "authoritative" for "authentic". He suggested that no hasty decision should be taken either on that point or on the question of providing for signature on behalf of States.

On the question of languages, the Conference ought not to ignore the arguments for specifying only English, French and Spanish texts as authoritative or authentic. The same three languages had been specified in the case of the Convention relating to the Status of Stateless Persons, and only English and French had been specified in the case of the Convention relating to the Status of Refugees. The greater the number of authoritative texts, the greater would be the possibility of differences of interpretation. Moreover, only draft texts in English, French and Spanish had been discussed during the Conference.

Mr. TSAO (China) was surprised that there should be any objection to providing for texts in the five languages which were not only the official languages of the United Nations but also those of the present Conference, as specified in the rules of procedure (A/CONF.9/2). His delegation was the only Chinese-speaking delegation attending the Conference and had therefore, in a spirit of co-operation, refrained from insisting on the preparation of Chinese texts of all proposals submitted. However, it expected to see a Chinese text of the draft Convention before it was opened for signature and before the final act was approved. In that connexion, the Conference might wish to consider the desirability of taking measures to ensure the uniformity of the various texts.

Mr. YINGLING (United States of America) said that the word "authentic", and not the word "authoritative", should be used in the final provision since the latter should specify what texts of the Convention were actually agreed upon. The texts derived their authoritativeness only through the signature and adoption of the Convention.

Mr. JAY (Canada) expressed appreciation of the co-operative attitude shown by the Chinese delegation, and supported its proposal in favour of texts in the five official languages.

The PRESIDENT said that since, under article 12, the Convention would be open for signature on behalf of a great number of States, it appeared desirable to have texts in the five languages proposed. However, the Conference did not need to take a decision on that point immediately.

Mr. LIANG (Executive Secretary) said that the final provisions contained in the Handbook of Final Clauses (ST/LEG.6) all contained the word "authentic". He did not immediately recall the reason for the substitution of the word "authoritative" during the first part of the Conference.

With regard to the question of signature on behalf of Governments or on behalf of States, it was clear that the practice varied, but, as the United States representative had pointed out, in the last analysis States were involved.

Mr. ROSS (United Kingdom) suggested that, since no decision was yet being taken on the points under discussion, it might be desirable to refer them to an ad hoc committee or to the Drafting Committee which had been established at Geneva.

Rev. Father de RIEDMATTEN (Holy See) proposed that the points raised in connexion with the final provision (A/CONF.9/12, paragraph 23) should be referred to the Drafting Committee.

It was so decided.

Article 18 of the Draft Convention

The PRESIDENT invited comments on the International Law Commission's draft article 18, which the Committee of the Whole had agreed should be deleted.

Mr. ROSS (United Kingdom) recalled that the reason for the deletion had been that provision for registration was made in the Charter.

Mr. YINGLING (United States of America) contended that, although Article 102 of the Charter provided for the registration of treaties with the Secretariat, draft article 18 was not necessarily redundant because it specified that the Convention was to be registered on the date of its entry into force.

Mr. ROSS (United Kingdom) was inclined to think that the point was adequately covered by the words "as soon as possible" in Article 102 of the Charter.

Mr. LIANG (Executive Secretary), commenting that Article 102 emphasized the obligation of the parties to hand in agreements for registration, considered that it would have been more accurate to quote, as the reason for the deletion of article 18, the regulations adopted by the General Assembly for the registration and publication of treaties and international agreements, which did provide that all such agreements should be automatically registered by the Secretariat (United Nations Treaty Series, Volume 76, 1950, page XXII). It would be useful if that matter also could be considered by the Drafting Committee.

Mr. JAY (Canada) said he would agree to the Drafting Committee tackling the question provided that further discussion could take place later, since

(Mr. Jay, Canada)

matters of substance were involved. There was, however, some justification for regarding draft article 18 as redundant. The purpose of the registration of treaties was to ensure that they were open knowledge. That purpose had been accomplished in other articles, particularly article 17.

Mr. YINGLING (United States of America) agreed that the question was one of substance and not simply of drafting, but felt that draft article 18 should be retained. Anyone who had experience of the registration of bilateral treaties knew that there was considerable flexibility in the interpretation of "as soon as possible". What the International Law Commission had desired was that the Convention, immediately upon its coming into effect, should be published so that the world at large should know what its effect was.

Mr. MAURTUA (Peru) was in favour of retaining draft article 18. His delegation regarded such a clause as an affirmation of an important basic idea - the public character of treaties, as against secret diplomacy.

Mr. CALDARERA (Italy) also favoured the retention of draft article 18.

Mr. ROSS (United Kingdom) pointed out that the Convention, as so far agreed, was not to enter into force until two years after the date of the deposit of the sixth instrument of ratification or accession (draft article 14). That would be the point at which the Convention would require registration under draft article 18; but under Article 102 of the Charter it would be registered before then. Since there appeared to be a formal proposal that draft article 18 should be included in the Convention, he proposed that the word "on" in that draft should be replaced by "not later than".

Mr. STAVROPOULOS (Representative of the Secretary-General) said that technically no agreement could be registered before the date on which it came into force. The United Kingdom amendment would seem to imply that the Convention could be registered before its entry into force.

Mr. YINGLING (United States of America) said that his delegation would prefer it to be explicitly stated that the Secretary-General must register the Convention immediately it came into force - in case the regulations were changed.

Mr. JAY (Canada) thought that the Conference should consider what the normal United Nations practice was. There might be a difference between a multilateral convention and the kind of treaty envisaged under Article 102 of the Charter. The Convention would already be deposited with the Secretary-General. If, as the Representative of the Secretary-General had said, it would automatically be registered when it entered into force, draft article 18 was redundant.

Rev. Father de RIEDMATTEN (Holy See) inquired whether there was any precedent for the wording proposed.

Mr. STAVROPOULOS (Representative of the Secretary-General) explained that at one time the regulations had not stipulated that the Secretary-General could register treaties ex officio and the matter had been left for decision in individual treaties. A difficulty had arisen when the provision had been omitted in one treaty, and the General Assembly had therefore decided to make it a duty for the Secretary-General to register treaties deposited with the United Nations. From that point of view, an article of the kind proposed was redundant. However, if the United States representative wished to provide for the contingency of a change in the regulations, there was no objection to the article's retention.

In reply to a question from Mr. ROSS (United Kingdom), he said that a treaty could not be an effective treaty until it had entered into force; hence it could not be registered before it came into force.

Mr. YINGLING (United States of America) wished the record to show that his delegation disagreed with the United Kingdom's interpretation of Article 102 of the Charter. That Article could not apply until the treaty had entered legally into force; before that, the treaty was simply a draft.

THE PRESIDENT invited the Conference to vote on the United Kingdom amendment to replace the words "on the date of its entry into force" by "on a date not later than that of its entry into force".

The amendment was rejected by 11 votes to 2, with 14 abstentions.

The PRESIDENT then put to the vote the proposal that article 18 be inserted in the Convention.

The article was adopted by 16 votes to 2, with 9 abstentions.

Mr. JAY (Canada) wished to make it clear that he had voted against draft article 18 simply because he believed it to be redundant, bearing in mind the earlier articles which had already been agreed.

Mr. AMADO (Brazil) explained that he had abstained from voting because, although the question was covered by the Charter, it was particularly important, in view of Article 102, paragraph 2 of the Charter, for treaties to be registered so that they could have their full effect.

Draft resolutions adopted by the Committee of the Whole

The PRESIDENT asked the Conference to turn to the two draft resolutions adopted by the Committee of the Whole and revised by the Drafting Committee (A/CONF.9/12, page 19).

Mr. VAN SASSE VAN YSSELT (Netherlands) commented that if the first draft resolution were accepted, many cases of dual nationality would arise.

Mr. DARON (Belgium) proposed that discussion of that resolution be postponed.

It was so decided.

The PRESIDENT suggested that discussion of the second draft resolution, proposed by Denmark, should also be postponed as it had a bearing on article 8.

It was so decided.

Proposed new article to follow article 4 of the Draft Convention

The PRESIDENT asked whether the sponsor of the proposed new article to follow article 4 wished it to stand.

Mr. GREEN (Denmark) stated that he would prefer discussion of the article in question to take place the following week.

Draft resolutions submitted but not discussed

The PRESIDENT inquired whether the two draft resolutions submitted but not discussed (A/CONF.9/12, page 20) were still before the Conference.

Mr. SIVAN (Israel) asked that the Israel resolution be regarded provisionally as still before the Conference, pending a decision on article 8, paragraph 5 (d) concerning conviction as proposed by the United Kingdom (A/CONF.9/L.80).

Mr. IRGENS (Norway) stated that there had been no change in his delegation's opinion concerning the Norwegian resolution.

The meeting rose at 12.45 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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11 October 1961

ORIGINAL: ENGLISH

UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE EIGHTEENTH PLENARY MEETING

Held at Headquarters, New York,
on Friday, 18 August 1961, at 10.30 a.m.

CONTENTS

Examination of the question of the elimination or reduction of future statelessness (A/CONF.9/10 and Add.1 to 5, A/CONF.9/11, A/CONF.9/12; A/CONF.9/L.80) (continued)

President:	Mr. RIPHAGEN	Netherlands
Secretariat:	Mr. SANDBERG	Assistant Director, Codification Division, Office of Legal Affairs Acting 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.80) (continued)

Article 8 of the Draft Convention (continued)

Mr. ILHAN-LUTEM (Turkey), stressing that article 8 was the crucial point of the proposed Convention, deplored the fact that so few States were attending the second part of the Conference. As the representative of France had said, the principle of acceptability was as important as that of effectiveness. The ideal way of reducing statelessness would be to induce the States Members of the United Nations to make the necessary changes in their national legislation, because the effectiveness of the Convention would depend on the number of States acceding to the Convention and ratifying it. The problem of securing changes in national law had been clearly stated by the representative of the United Kingdom, Sir Gerald Fitzmaurice, in the Sixth Committee of the General Assembly in 1954 (A/C.6/SR.397). Success depended largely on the extent to which such a Convention was likely to be generally accepted, and previous attempts at codifying international law in general had shown that no principle could be regarded as generally recognized unless it had been approved by at least two-thirds of the Members of the United Nations. It was to be hoped that the second part of the Conference would prove more fruitful than the first.

A draft law on nationality was at present pending before the Constituent Assembly of Turkey. Since those who had drafted it were aware of the evils resulting from statelessness, they had introduced provisions which were far more liberal than the previous ones.

Commenting that the amendment to article 8 submitted by the Federal Republic of Germany (A/CONF.9/SR.13, page 5) appeared to have been ignored although it had received a majority of 16 votes, he stated that his delegation would have preferred a comprehensive rule incorporating all the different grounds for deprivation of nationality. At least fifteen grounds had been mentioned in the memorandum prepared by Mr. Kerno (A/CN.4/66), and seven in "A Study of Statelessness" prepared by the Secretariat. It might therefore be preferable to concentrate on one key principle in the definition of nationality, which was the attachment of a person to his country. For instance, the report prepared by

(Mr. Ilhan-Lutem, Turkey)

Mr. Manley O. Hudson (A/CN.4/50, page 6) had quoted the following definition: "Nationality is the status of a natural person who is attached to a State by the tie of allegiance". Still another definition had been given by the International Court of Justice in the Nottebohm case: "Nationality ... constitutes a translation into juridical terms of the individual's connexion with the State which has made him its national" (ICJ Reports 1955, page 23). The importance of the principle that there should be a link between countries and the individuals to whom they granted their nationality had also been emphasized by Professor François, of the Netherlands, in the International Law Commission (Yearbook of the International Law Commission, 1953, Vol. I, page 184).

He welcomed the fact that the United Kingdom amendment (A/CONF.9/L.80) accepted that basic principle. The amendment was a useful basis for work, despite certain ambiguities, particularly in its paragraph 4. If agreement was reached on the various grounds mentioned in its paragraph 5, it might not be necessary to stipulate a date in paragraph 4. In any case he would suggest that a Contracting State ought to be able to give effect to a law passed subsequent to that date, provided that such law did not incorporate grounds for deprivation less favourable to individuals than those incorporated in the legislation existing at the date proposed.

He agreed with the view, already expressed during the discussion, that the number of cases of statelessness was not likely to be greatly increased under article 8. That fact might make it easier to arrive at an acceptable formula.

Mr. SIVAN (Israel) said that, in view of the indeterminate position in which article 8 had been left in 1959, all States should now make an effort to reconcile their previously conflicting views and discover a suitable text. The United Kingdom proposal contained in document A/CONF.9/L.80 was a valuable contribution to that end.

The text adopted by the Committee of the Whole (A/CONF.9/12, paragraph 12) and the text submitted by the representative of the Federal Republic of Germany (ibid., paragraph 17) differed, in that the former attempted a detailed definition and delimitation of the grounds justifying deprivation of nationality in regard both to non-naturalized and naturalized nationals, whereas the latter sought to reserve, without definition or categorization, all existing powers of deprivation which a State might wish to specify at the time of signature,

(Mr. Sivan, Israel)

ratification or accession. His own delegation had supported the former text as a minimum but none the less substantial contribution towards achievement of the aims of the Conference, in particular the restricting, so far as possible, of fresh cases of statelessness.

Consequently, the Israel delegation welcomed the fact that, at least as far as natural-born nationals were concerned, the United Kingdom text reverted to the idea of specifically defined grounds of deprivation. It was therefore prepared to regard that text as the Conference's working paper in the matter.

His delegation favoured the adoption of a similar approach to the problem of naturalized nationals since, in principle, it should be no more difficult to define acts "inconsistent with loyalty" in their case than in the case of natural-born nationals, as had been done in paragraph 5 of the United Kingdom text. Like the Belgian representative, he favoured similar treatment for both categories of nationals. Consequently, while he had no objection to paragraphs 1, 2 and 3 of the United Kingdom text, he believed that paragraph 4 required further consideration, particularly in view of the extreme generality of the phrase "grounds of conduct inconsistent with the duty of loyalty owed to the State". The conception of "conduct inconsistent with the duty of loyalty" seemed even wider and more imprecise than "acts against national security" and could well cover quite trivial acts which, while theoretically incompatible with the duty of loyalty, did not prejudice any grave interest of the State, let alone its security. There might be many definitions of the expression "duty of loyalty"; and he was sure that the United Kingdom delegation, in using that formula, had had no intention of encourabing the possibility of deprivation of nationality for non-substantial acts not capable of prejudicing the security or serious interests of the State. The wording should make that fact perfectly clear.

With regard to paragraph 5, sub-paragraph (d), of the United Kingdom text, which related to nationals other than naturalized persons, he felt that not any and every act "against national security" should be regarded as sufficient ground for depriving a natural-born national of his citizenship. There was a great variety of minor infringements of security regulations which could scarcely be placed in that category. The power of deprivation should be admitted only in the case of "acts seriously prejudicial to national security".

The provision concerning the person accused of such an act who was in a foreign State and failed to return for trial required strengthening in three respects. First, the person accused should be formally charged with the offence; secondly, he should be duly notified of the accusation - in which connexion the Netherlands text reproduced in paragraph 14 of document A/CONF.9/12 would be worth reconsidering; and thirdly, account should be taken of the existence or absence of cause for not returning to stand trial.

His delegation would also like to reinforce the wording of paragraph 6 of the United Kingdom text, by inserting in it an express requirement for "due process of law" providing for the submission of applications for deprivation to a judicial body or, if - but only if - such a provision were incompatible with the legal system concerned, alternatively to some other completely independent and impartial tribunal.

His delegation might, in due course, submit amendments to clarify the issues he had raised.

Article 12

The PRESIDENT drew attention to the obvious need to amend article 12, paragraph 1, in view of the circumstances in which the Conference was currently meeting. The Drafting Committee might be asked to make the necessary changes in the paragraph.

Mr. ROSS (United Kingdom) had no objection to the matter being taken up by the Drafting Committee, since no question of substance was involved. However, since from the procedural standpoint such action would involve reconsideration of a text adopted at Geneva, he formally proposed that the question of article 12, paragraph 1, should be reopened for discussion.

Mr. SIVAN (Israel) thought that a simple reference of the matter to the Drafting Committee would suffice, since only consequential changes, without reconsideration of substance, were involved.

Mr. ROSS (United Kingdom) said that he would prefer such a simple reference and would not press his motion for the reopening of discussion if it was not required.

Mr. HEIMSOETH (Federal Republic of Germany) suggested that article 12 as a whole might need review by the Drafting Committee, given for instance the United States representative's suggestion (A/CONF.9/SR.17, page 4) that in article 12, paragraph 2, sub-paragraph (c) the words "may be" should be replaced by the word "is".

After a procedural discussion in which Mr. ROSS (United Kingdom), Mr. SIVAN (Israel), Mr. JAY (Canada), Mr. TSAO (China) and Mr. HEIMSOETH (Federal Republic of Germany) took part, the PRESIDENT suggested that the text of article 12, as adopted, should be referred to the Drafting Committee for such revision as the latter deemed necessary, and that the question of formal reconsideration of the article did not at present arise.

It was so decided.

The meeting rose at 11.10 a.m.

UNITED NATIONS

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE NINETEENTH PLENARY MEETING

Held at Headquarters, New York,
on Monday, 21 August 1961, at 10.20 a.m.

CONTENTS

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.80, A/CONF.9/L.82) (continued)

President:	Mr. RIPHAGEN	Netherlands
Secretariat:	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.80, A/CONF.9/L.82) (continued)

Article 8 of the Draft Convention

Mr. JAY (Canada) said that the Canadian amendment (A/CONF.9/L.82) should be regarded merely as a working paper and that his delegation would be ready to accept any suggestions which appeared to it to be useful.

Several delegations which were of opinion that the United Kingdom amendment (A/CONF.9/L.80) did not in all respects meet the actual situation existing in certain countries, and which realized that it would be inexpedient for each State to submit proposals containing its own views, had joined the Canadian delegation in drawing up the new amendment circulated as document A/CONF.9/L.82. The essential idea underlying article 8 was the philosophic conception of citizenship, a notion which each State interpreted in its own way in accordance with differing historical, geographic or demographic principles. If the final text of the article did not take into account the particular circumstances of each Contracting State, there was a danger that all the work done at the Geneva Conference would prove fruitless. To avert that risk, the delegations of Brazil, Yugoslavia, the United Arab Republic, Turkey, Pakistan and Canada had formed a working group. They had also foreseen the day when a large number of countries not represented at the Conference would wish to adhere to the Convention - a development which they very much hoped would come about; they had therefore sought to submit a text which would be acceptable to those countries also, and thus ensure that the Convention would so far as possible be of a universal nature.

He wished to point out, in the first place, that the new text (A/CONF.9/L.82) made no distinction between naturalized persons and natural-born citizens; it also restricted the grounds on which a naturalized person could be deprived of his nationality. Furthermore, it involved the deletion of paragraph 3 of the United Kingdom amendment, which repeated what had already been stated in paragraphs 4 and 5 of article 7 as adopted by the Geneva Conference. Moreover, in order to prevent statelessness arising out of mere carelessness or ignorance of the law,

(Mr. Jay, Canada)

paragraph 3 (b) of the Canadian amendment provided that a person could be deprived of his nationality only if he had given formal evidence of his determination to repudiate his allegiance to the Contracting State.

To a large extent, paragraph 4 and the first part of paragraph 5 of document A/CONF.9/L.82 followed the United Kingdom text. No date had been mentioned in paragraph 5, because the countries which would become independent in the more or less remote future had been borne in mind. On the other hand, a new idea had been put forward in the second sentence of paragraph 5: each Contracting State would be free to alter its legislation on citizenship at any time, provided that it did not introduce grounds for deprivation which were more extensive than those specified at the time of signature, ratification or accession.

Mr. FAVRE (Switzerland) noted that the wording of the Canadian amendment (A/CONF.9/L.82) was more restrictive than that of the United Kingdom amendment (A/CONF.9/L.80), and that no delegation had submitted an amendment under which States were given powers to deprive persons of their nationality wider than those contained in the United Kingdom proposal. Most States had preferred to await developments; so far as his own country was concerned, Swiss legislation did not in any circumstances allow a citizen to be deprived of Swiss nationality acquired by him on valid grounds, if that would result in his becoming stateless, and constitutional provisions relating to deprivation of nationality were therefore not of direct interest to it. Nevertheless, he did not think that too much importance was being attached to article 8; it was to be expected that States whose nationality could be acquired easily through the operation of jus soli should desire to retain some control in the interest of their security and their cohesion.

He expressed his appreciation of the efforts made by delegations such as those of the Netherlands, Canada and the United Kingdom to understand the position of States which were countries of refuge or asylum. Nevertheless, he regretted the failure to adopt the proposal submitted by France at Geneva, under which it was provided that the grant of nationality would be subject to the person concerned not having given evidence of his manifest unworthiness. He could not help thinking,

(Mr. Favre, Switzerland)

too, that it was unfair to force persons to adopt a nationality which they did not desire, and unreasonable to oblige a State to admit a person who could not be assimilated.

Neither Switzerland, which in a few years had witnessed the arrival on its territory of thousands of refugees, nor the other States of asylum could afford to adopt towards refugees an attitude of such generosity that it might be a source of danger. Accordingly Switzerland's aim was to reduce the number of cases of statelessness by a policy of assimilation, in so far as the requirements of its security and of international order would allow.

After drawing a parallel between jus sanguinis countries, where legislation prevented cases of statelessness from arising, and the jus soli States which were able to absorb more easily persons of diverse origins and thus made a great contribution to the reduction of statelessness, he pointed out that many States which were the countries of origin of refugees who were stateless in fact or in law were not represented at the Conference. It was therefore reasonable to suppose that the purpose of the Conference was to establish standards of a general nature such as would characterize a real law of international application, rather than to seek to achieve a compromise between the views of the States represented at it.

In his view, moreover, there was a danger that, if a long list of cases in which persons could be deprived of their nationality were drawn up, it would produce an unfortunate impression in a Convention which was intended to reduce statelessness.

The system adopted by the Committee of the Whole at Geneva, which gave the Contracting State the right to derogate from the rule of article 8, paragraph 1, by making a reservation at the time of signature, ratification or accession, seemed more suited to the character of a Convention on the reduction of statelessness than the system advocated by the United Kingdom and Canada, which proposed to rely on a State's law on nationality. His delegation would prefer it if the text of article 8 did not contain vague and general terms such as "loyalty" or "activities prejudicial to national interest".

In conclusion, he formally proposed the establishment of a working group which would draw up a text meeting the proposals and suggestions made up to then, and which would be requested to report to the Conference as soon as possible.

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Mr. IRGENS (Norway) recalled that, as stated in the observations transmitted to the Secretariat by the Norwegian Government (A/CONF.9/10, page 9), Norwegian legislation contained no provision for deprivation of nationality. As however his delegation recognized that many States had compelling reasons for requesting the inclusion of a provision on that subject in the Convention, it hoped that it would be possible to work out a compromise text, to which it wished to contribute.

While it was still too early for a detailed discussion of the amendments which had been submitted, he already considered, after perusal of the United Kingdom amendment, that paragraph 5 (c) might be amended, at the proper time to read: "being convicted of assisting an enemy State in time of war".

Rev. Father de RIEDMATTEN (Holy See) said that the humanitarian considerations which had led his delegation to take part in the Conference had not made it lose sight of the need to be realistic. It was that latter consideration which had impelled it at Geneva, in 1959, to support the text adopted by the Committee of the Whole and even to help in evolving its final form, since the more categorical draft of the International Law Commission had been unable, as the debates had shown, to gain enough votes to make the Convention a useful instrument for stateless persons. The discussions held thus far since the resumption of the Conference had confirmed the differences of views which had appeared at Geneva, and had thrown more light on the reasons underlying them. He regarded as very constructive the United Kingdom and Canadian proposals (A/CONF.9/L.80 and 82), which would enable the Conference to move forward once more. If the participants believed that it would serve a useful purpose to combine those two proposals with that presented by the Holy See in 1959 whereby at the time of signature, ratification or accession a State could reserve the right to deprive a person of its nationality on certain grounds - which could be those listed in the Canadian or the United Kingdom draft - he would be prepared to re-introduce an amendment to that effect. He was aware that many Governments disliked the principle of reservations and he was certainly not seeking to obtain a majority vote in support of that principle. His intention, like that of the United Kingdom and Canada, was solely to facilitate the work of the Conference.

(Rev. Father de Riedmatten, Holy See)

One reason why he continued to regard the procedure of reservations as the best was that if the Conference - which was supposed to be striving to eliminate, or at least reduce, statelessness - gave the impression that it was consecrating grounds for deprivation of nationality in international law, the public, and especially the persons concerned, might feel that it had failed to achieve its objective. As he had pointed out at Geneva, that was an extremely important point, and one which could hardly be over-emphasized.

He was aware that the delegations which had submitted amendments were motivated by the desire to obtain as many signatures as possible for the Convention. As the Swiss representative had rightly stated, however, the Conference should avoid formulae couched in too general terms, which some States might one day regard as sanctioning the adoption of legislative measures calculated to create new sources of statelessness. The idea of a working group seemed excellent, but it would doubtless be well to postpone its establishment until all the delegations had expressed their views on the Canadian and United Kingdom proposals, so that the working group might have full information on which to suggest a compromise solution.

Mr. ROSS (United Kingdom) agreed with the representatives of Switzerland and the Holy See that it would undoubtedly be regrettable if the provisions of article 8 could encourage the adoption of retrograde measures. At the same time, it would certainly be a mistake to embody in that article important statements of principle which might prevent many countries from signing the Convention and might therefore jeopardize the application of the much more important provisions of articles 1, 4 and 7. If practical results were to be obtained, article 8, without being too general, must be acceptable to the largest possible number of countries.

Two efforts had been made to achieve that objective, but the time had not yet come for a detailed examination of the respective merits of the Canadian and the United Kingdom amendments. That responsibility could be assumed by the working group, the creation of which he supported.

Meanwhile, he wished to make a few observations regarding the Canadian amendment (A/CONF.9/L.82). He wondered whether the proposed deletion of paragraph 3 of the United Kingdom amendment (A/CONF.9/L.80) would really serve

(Mr. Ross, United Kingdom)

a useful purpose. As he had pointed out earlier, it seemed illogical and even unfair to prevent a State from repealing a law providing for the automatic loss of nationality, in the circumstances set out in article 7, paragraphs 4 and 5, in order to replace it by a law providing for deprivation of nationality. Such a change would in fact be a step forward, since instances of deprivation of nationality would inevitably become fewer as soon as deprivation required a positive act by the State in each case. Again, the cases covered by paragraph 3 (a) and (b) of the United Kingdom draft differed from those covered by the last phrase of paragraph 3 (b) of the Canadian amendment: according to the United Kingdom draft, loss would result from negligence by the persons concerned, whereas under the Canadian text they would have to give some formal evidence. That difference might be very important for certain States.

He also wondered whether the abolition of the distinction between naturalized persons and natural-born citizens might not give rise to difficulties, particularly in the case of such countries as Argentina. Many States, of course, had much wider powers with regard to naturalized persons. He would like to hear the opinions of delegations concerned in that connexion.

The wording of paragraph 3(d) of the Canadian amendment might be improved. The provisions of that paragraph should be construed in the light of the introductory sentence, and were therefore not as broad as they might appear at first glance. For example, they would apparently not apply to financial operations contrary to the national interest.

Referring to paragraph 5 of the Canadian draft, he said that the insertion of a fixed date was essential. For it was important to show that the derogations from the general rule stated in the first paragraph of the article were allowed only because of the difficulties involved in repealing the laws in force, but that legislators were expected to adopt a more liberal attitude in the future.

Mr. LUTEM (Turkey) supported the Canadian amendment but thought that the United Kingdom and Canada, as well as any delegations which wished to submit amendments, should now endeavour to arrive at a joint text acceptable to the greatest possible number of States.

Mr. SIVAN (Israel) announced that his delegation too had submitted amendments.

Mr. VAN SASSE VAN YSSELT (Netherlands) said that, while the Canadian amendment was a constructive effort, he nevertheless had one comment to make. In his country, a person entering the service of another State lost Netherlands nationality merely by application of the law. In Canada and the United Kingdom, deprivation of nationality in such cases could only result from a decree or judgement. Therefore, before the decision was taken, the person concerned could, without there being any subsequent possibility of expelling him, return to the country he had betrayed because, in the absence of a special agreement, no State was required to accept a person who had been the subject of such a measure. It would therefore be desirable for the Canadian amendment to include a paragraph 6 under which the provisions of paragraphs 3 to 5 would apply by analogy in cases of deprivation through application of the law.

He furthermore felt that the words "not less favourable" in paragraph 5 of the Canadian text were not very well chosen and were even ambiguous; the State should be allowed simply to provide "new" grounds for deprivation.

Mr. MAURTUA (Peru) considered that both paragraph 3 of the text proposed by the United Kingdom (A/CONF.9/L.80) and the Canadian amendment had omitted something, because there was no mention of deprivation of nationality by cancellation of naturalization in the case of persons who had performed military service in a foreign army. He recalled that, as a result of various negotiations, the countries of Latin America had adopted the Act of Montevideo, under which such a measure, which had been initially adopted and extended during the war to prevent acts of subversion and espionage, was permitted. He hoped that the Conference might consider including in the text of the Convention a provision covering such cases, as that would enable all States having such a provision to sign the Convention.

Mr. WEIDINGER (Austria) said that under the provisions of the Austrian Nationality Act of 1945 any person, without exception, who entered the civil service of a foreign State or performed his military service in the armed forces of a foreign State lost Austrian nationality. However, the Minister of the Interior of the Federal Republic of Austria would be prepared to submit an amendment to that Act providing that an Austrian national who voluntarily entered the service of a foreign State would lose his nationality only if he did not leave the service of the foreign State by a prescribed date.

(Mr. Weidinger, Austria)

The 1950 General Administrative Procedures Act provided for a second possibility of loss of nationality, in that it authorized the competent authority automatically to reopen naturalization proceedings whenever the naturalization decision had been obtained by fraudulent means.

His delegation was pleased to note that the amendments submitted by the United Kingdom (A/CONF.9/L.80) and by Canada (A/CONF.9/L.82) took into account those two grounds for deprivation of nationality, and it hoped that they would be included in the Convention.

With regard to the provisions of article 8 as a whole, he felt that paragraph 1 should indicate that the Contracting States would not deprive any person of his nationality if such deprivation would render him stateless.

In order to ensure equality among States and a well-balanced Convention, the grounds for deprivation should not be set forth in the text of the Convention as provisions of positive law. It should rather be possible for them to be the subject of reservations by any of the Contracting States. He therefore considered it desirable to delete paragraph 4 of the United Kingdom amendment and to include in paragraph 5 of the same amendment the grounds applicable to both naturalized and natural-born citizens.

The provisions of paragraphs 1, 2, 3 and 6 of the United Kingdom amendment were acceptable to his delegation.

Austria was also prepared to accept paragraphs 3 and 4 of the Canadian amendment, but, just as it could not accept paragraph 4 of the United Kingdom text, it was unable to support paragraph 5 of the Canadian amendment.

Mr. JAY (Canada) supported the Swiss representative's suggestion that a working group should be established for the purpose of considering the texts submitted by delegations.

The Canadian amendment (A/CONF.9/L.82) had been prepared in the light of a study of various national legislations and of particular cases which had been reported, and he hoped that it might satisfy the majority of States.

Since it was undesirable to take into account the individual interests of each country as to develop too general a formula, he suggested that delegations

(Mr. Jay, Canada)

which wished to know whether the Canadian amendment applied to their particular case should request information on the subject. The Conference should be called upon to give a decision only in extreme cases.

He did not quite see why some delegations were opposed to listing the grounds for deprivation of nationality in the text of the Convention and preferred that reservations should be specified at the time of ratification.

Mr. LUTEM (Turkey) proposed that the United Kingdom and Canadian delegations should together form a working group in which all delegations desiring to do so could participate.

Mr. MAURTUA (Peru) said that paragraph 1 of the United Kingdom amendment (A/CONF.9/L.80) implied that the State concerned should first determine what would be the situation of a person who might be made stateless in the event of his being deprived of his nationality. He therefore wondered what a State which simply applied a constitutional provision could do.

He approved the establishment of a working group, which should begin by studying the United Kingdom and Canadian proposals.

Mr. HELLBERG (Sweden) said that, since the Swedish Nationality Act did not provide for deprivation of nationality, his delegation had no difficulty in accepting the text of article 8 as adopted by the Committee of the Whole. He did, however, appreciate the difficulties encountered by certain countries, and he would be prepared to agree that States whose legislation contained grounds for deprivation should be allowed to make reservations.

Rev. Father de RIEDMATTEN (Holy See) formally proposed that paragraph 1 of the United Kingdom amendment (A/CONF.9/L.80) should be replaced by paragraphs 1 and 2 of article 8 as adopted by the Committee of the Whole (A/CONF.9/12).

Mr. CALDARERA (Italy) supported the proposal of the representative of the Holy See. In addition, he would like some clarification of the meaning of the word "pension" in paragraph 3, sub-paragraph (a), of the Canadian amendment (A/CONF.9/L.82). The expression "activities seriously prejudicial to national security" in sub-paragraph (d) of the same paragraph appeared to him difficult to define.

(Mr. Caldarera, Italy)

In Italy, a judgement depriving a person of his nationality could be made the subject of an appeal to an administrative or judicial tribunal which gave full guarantees of impartiality. For that reason he could accept paragraph 6 of the United Kingdom amendment (A/CONF.9/L.80).

Rev. Father de RIEDMATTEN (Holy See) pointed out, in clarification of his proposal, that paragraph 1 of the Committee of the Whole's text laid down an obligation that was absolute in view of the fact that it did not include the words "subject to the provisions of this article". Paragraph 2 provided for the possibility of reservations - which might be those set forth in the United Kingdom and Canadian amendments - being made at the time of ratification of the Convention.

Establishment of a working group

The PRESIDENT, recalling the Swiss representative's proposal that a working group should be set up and taking into account the comments which had been made during the meeting, proposed the establishment of a working group consisting of the representatives of Brazil, Canada, France, Israel, Norway, Switzerland, Turkey and the United Kingdom. Representatives of other countries who so desired could also take part in its work. He himself intended to do so.

It was so decided.

The meeting rose at 12.15 p.m.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE TWENTIETH PLENARY MEETING

Held at Headquarters, New York,
on Wednesday, 23 August 1961, at 3.20 p.m.

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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.80, L.81, L.82, L.83, L.84, L.85 and L.86) (continued)

President:	Mr. RIPHAGEN	Netherlands
Secretariat:	Mr. STAVROPOULOS	Legal Counsel, Representative of the Secretary-General
	Mr. LIANG	Executive Secretary of the Conference

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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.80, L.81, L.82, L.83, L.84, L.85 and L.86) (continued)

Announcement of the President to the Conference

The PRESIDENT said that he had been asked by International Social Service to bring to the attention of the Conference a resolution which had been adopted by the VIIIth International Conference of Non-Governmental Organizations interested in Migration at its session on 9 August 1961. After expressing best wishes for the success of the present Conference, the resolution continued thus:

"Urges that any Convention adopted by the Conference will lead to real progress in reducing statelessness further than by the practices already adopted;

"Urges further that the Convention will include provisions for de jure or de facto stateless children to acquire nationality so that a new generation of stateless persons will not be created."

Article 8 of the Draft Convention (continued)

In view of the fact that a new draft text of Article 8 had been prepared by the Working Group appointed by the Conference (A/CONF.9/L.86), Rev. Father de RIEDMATTEN (Holy See), Mr. HUBERT (France), Mr. SIVAN (Israel), Mr. JAY (Canada) and Mr. HARVEY (United Kingdom) withdrew their delegations' amendments in respect of article 8 (A/CONF.9/L.84, L.85, L.83, L.82 and L.80 respectively) and indicated their willingness to use document A/CONF.9/L.86 as the working paper.

Mr. HARVEY (United Kingdom), speaking as the Rapporteur of the Working Group, emphasized the spirit of conciliation which had informed its discussions. The aim had been to produce a draft which would reflect the main trends of thought represented at the Conference. Hence those taking part had borne in mind not only their own views and problems but also those of other States participating in the Conference, and, indeed, those of other States not represented at it. The Group, having ascertained the general feeling of its members through a discussion of the main points arising under article 8, had appointed a sub-group to draw up a draft text. The Group as a whole had then considered the text and made some improvements. The final text had won general acceptance in the Working Group.

(Mr. Harvey, United Kingdom)

Paragraph 1 set out the basic principle of article 8. Paragraph 2 dealt with what might be termed "technical exceptions". Since article 7 entitled a State to provide in its legislation for automatic loss of citizenship in the cases which the article mentioned, it was only logical that it should also be allowed to deprive a person of his nationality in those cases. Under the system of automatic loss of nationality more persons lost their nationality than under the system of deprivation, where each case was decided on its merits. Deprivation was only to be exercised in accordance with a procedure established by law (paragraph 5). With regard to paragraph 2 (b), some legal systems stipulated that where nationality was obtained fraudulently it was void ab initio; since the nationality was never acquired, there could be no question of deprivation. Under other systems the nationality was held to be granted until the person was specifically deprived of it. The sub-paragraph would cover the case of a country which might in the future wish to change from the former system to the latter, i.e., that of formal deprivation proceedings.

Paragraph 3 covered non-technical exceptions to the principle. There had been considerable discussion as to whether or not separate grounds of deprivation of nationality should be applied to natural-born and to naturalized persons. The feeling of the Group had been that the distinction was not a happy one, and it had concluded that it was unnecessary to grant extended grounds for deprivation in the case of naturalized persons. Hence the grounds mentioned applied to both types of cases. The effect of the article was to "freeze" the grounds of deprivation at the date on which the State acceded to the Convention, and to limit them to certain specified types. Paragraph 4 provided that, while the grounds could not subsequently be extended, certain modifications and improvements could be made.

There had been no dissent from the view expressed in paragraph 5 that anyone deprived of his nationality should have an opportunity to submit his case to an independent and impartial body, although details of procedure would naturally vary from State to State.

Mr. ILIC (Yugoslavia), giving his delegation's views on the problems covered by article 8, said that it was important for the Conference to bear in mind the two aspects of the question, viz. the rights and obligations of the individual person, and the rights and obligations of the State, which protected

(Mr. Ilic, Yugoslavia)

the interests of the community. Linked with the citizen's right of nationality were certain obligations to the community; similarly, linked with the State's obligations towards its citizens was the right to require the fulfilment of certain obligations.

In the case of a person living in the territory of the State of which he was a national, the only grounds for deprivation of nationality were misrepresentation or fraud in obtaining naturalization. That did not really represent an exception to the rule, since it would merely entail an administrative measure designed to correct a previous error. The fact that a person was living within the jurisdiction and power of the State in question meant that other forms of sanction were available to the State; hence there was in that case no justification for deprivation of a validly held nationality.

Adequate grounds for deprivation of nationality could only arise in the case of a person residing abroad, outside the jurisdiction of the State concerned. His delegation therefore recognized only two genuine cases in which deprivation was justified:

(a) that of a person residing abroad and engaging in activities against the national interest of his State;

(b) that of persons residing abroad for a long period who had ceased to perform their obligations as citizens and had failed to register at the time prescribed by the law of their State.

The latter case was simply the recognition de jure of a situation de facto.

In conclusion, he said that his delegation would make every effort to co-operate in arriving at a satisfactory text for article 8, despite the fact that several of the grounds mentioned in document A/CONF.9/L.86 were not, in Yugoslavia, considered valid. He would have to request a separate vote on several of the paragraphs in the document.

Mr. JAY (Canada) said that his delegation's position was more than covered by the draft of article 8 produced by the Working Group. The text as a whole took into account considerations which were of great importance to certain countries, and he hoped that similar conferences in the future would bear in mind

(Mr. Jay, Canada)

the way in which agreement had been achieved and, in particular, the specific suggestion made by the representative of Yugoslavia.

His delegation could, therefore, accept the Working Group's text; but he wished to draw attention to one element which did not reflect the normal approach to matters covered by international Conventions of the kind now under consideration. Paragraph 3 would lay on any Government wishing to accede to the Convention and to avail itself of the rights conferred by article 8 the duty of specifically declaring its desire to retain the right to deprive a person of his nationality on certain grounds; in the view of his delegation, the same legal effect would be achieved if that requirement were omitted. The approach differed from that adopted in the case of other articles; if there was some justification for such an approach in the case of article 8, the same would apply to the articles already adopted, but it was obviously not possible to reopen discussion of the latter. His delegation felt quite strongly on the point but, unless there was a majority opinion in favour of pressing the matter to a vote, he would not take the initiative, lest it should impede progress in the work of the Conference; he would, however, support any proposal to delete the words in question. He had been very impressed by the way in which other delegations had tried to meet the point of view of countries like Canada, for which article 8 had special significance.

He understood that the whole text of article 8 would be referred to the Drafting Committee; and he suggested that the word "déchéance" in the French text of paragraph 4 should be replaced by the word "privation", which would be more in harmony with the verb "priver" used throughout the text.

Mr. MALALASEKERA (Ceylon) expressed his delegation's appreciation of the great effort made by the Working Group to draft article 8 in a form likely to obtain the widest measure of support. However, he regretted that, on the instructions of his Government, he was unable to accept the Group's text of article 8, for the following specific reasons:

(1) Paragraph 2 (a) provided that a naturalized person might lose his nationality if he had resided abroad for a period of not less than seven consecutive years specified by the law of the Contracting State and had failed to declare his

(Mr. Malalasekera, Ceylon)

intention to retain his nationality. The Ceylon Citizenship Act specified a period of five years, and Ceylonese legislation made no provision for a declaration of intention to retain nationality. A basis for agreement could be reached if the reference to a specified number of years were deleted and States were permitted to take into consideration absence over a period of years, without mention of the exact number. His delegation would also ask for the exclusion of any reference to a declaration of intention to retain nationality.

(2) The Ceylon Citizenship Act made no provision for the submission to tribunals of cases referred to in paragraph 5, with the exception of cases coming under sections 22 (1) (d) and (e) of the Act (A/CONF.9/10/Add.3, page 5).

Unless the Working Group's draft could be broadened so as to cover those two points, his delegation could not support it. In view of the obvious difficulties in establishing criteria for deprivation of nationality, it would be more profitable to concentrate on seeking a very wide and general formula, under which States would have freedom of action to legislate on the subject. His delegation approached the question in the same spirit as that in which it had objected to some of the articles already adopted, in particular articles 1, 4 and 7, which he would have liked to see reopened for full discussion at the second part of the Conference. The only practical approach would be to recognize the principle of the right of States to apply their citizenship laws and to assume that they would be applied with a sense of international responsibility. An important principle was involved. Ceylon had no problem of statelessness, and was a democratic country in which the interests of the individual were considered paramount and were adequately safeguarded by judicial and other methods. At the same time, Ceylon wished to uphold the right of every State to defend its vital interests - a right which necessarily implied the ability to withhold or to take away, from an individual the attributes of nationality if and when circumstances warranted such action. Moreover, unless the Convention was so drafted that many countries could ratify it, it might be still-born for want of a sufficient number of ratifications.

Mr. TSAO (China) said that the text of article 8 produced by the Working Group evidenced a commendable spirit of compromise. On the one hand, it listed certain permissible grounds for deprivation of nationality; on the other hand, it established the principle that Contracting States should not deprive persons of their nationality if such deprivation would render them stateless. His delegation appreciated the difficulties of drafting the article, and considered that the text represented a balanced approach which it could accept in general, subject to any further improvements which the Conference might wish to make.

He had one minor doubt concerning the use of the word "emoluments" in paragraph 3 (a) (i); the Canadian draft (A/CONF.9/L.82) had used the words "pay or pension", and he wondered whether the word "emoluments" in English and French was meant to cover precisely pay or pension or, if not, what it did in fact cover. He raised the point only because he wished to be sure of the precise meaning in various languages.

Mr. VAN SASSE VAN YSSELT (Netherlands) said that his delegation, although the Working Group's text of article 8 did not satisfy it in every respect, was prepared to accept that text in a spirit of co-operation.

Mr. YINGLING (United States of America) commented that the word "emoluments" was used in United States legislation in a broader context than that of pay or pension, and meant any kind of reward, including payment in cash or in kind or a benefit of any nature. For the present purposes, he considered it a better term than "pay or pension".

He did not wish at that stage to indicate his delegation's attitude to the Working Group's text as a whole, since there had not been enough time for its study; but he would like to raise some minor points for clarification, and in respect of drafting. He wondered whether there would be any difference in the meaning of paragraph 3 if the introductory words of paragraph 3 (a), reading "inconsistent with his duty of loyalty to the Contracting State", were deleted. The concept of the "duty of loyalty", as there stated, was not clear to him. Secondly, in his opinion the word "declaration", in paragraph 3 (b) of the English text as drafted, did not necessarily mean a declaration of

(Mr. Yingling, United States)

allegiance or any other specific type of declaration. He suggested that the meaning would be clearer if the first two commas were omitted and the wording amended to read "that the person has taken an oath or made any other formal declaration of allegiance ...". Finally, there might be some inconsistency between the words "or given definite evidence of his determination to repudiate his allegiance to the Contracting State", in paragraph 3 (b), and the text of article 7 as adopted at the first part of the Conference.

The PRESIDENT suggested that the second point raised by the United States representative might be referred to the Drafting Committee; the other points were substantive ones, which the United Kingdom representative would perhaps be able to clarify.

Mr. HARVEY (United Kingdom) agreed with the United States representative's view that the word "emoluments" meant more than merely "pay or pension". It might be argued that the latter excluded certain forms of payment.

The Working Group had attached considerable importance to the inclusion, in paragraph 3 (a), of the words "inconsistent with his duty of loyalty to the Contracting State", which acted as a limitation on the provisions immediately following them. There might be cases of services, rendered to another State, which no one could expect to be considered possible grounds for deprivation of nationality - such as humanitarian services in the event of shipwreck. The intention was to make it quite clear that the services contemplated were of the type inconsistent with the duty of loyalty. The words in question also provided protection for the individual in a number of possible cases - where, for instance, he was subjected to force majeure, or was insane and not responsible for his actions.

Mr. CALDARERA (Italy) commended the Working Group for its efforts which had resulted in a text that was generally acceptable to his delegation. In connexion with the Yugoslav representative's remarks concerning naturalization obtained by misrepresentation, he wondered whether the Convention should not perhaps establish some form of prescription in regard to acquired nationality.

He believed that definition of the term "emoluments" could be left to the discretion of the States concerned.

(Mr. Caldarera, Italy)

In his view, there would in all cases exist some court or body competent to give the fair hearing called for in paragraph 5 of the new draft article 8.

The Ceylonese representative's reference to paragraphs 4 and 5 of article 7 led him to inquire whether he was right in assuming that that article, like the other articles adopted at Geneva, could not now be reconsidered.

Mr. MALALASEKERA (Ceylon) thought that, under the Conference's rules of procedure, any article adopted at Geneva could be reopened for discussion by decision of the appropriate majority.

Mr. MAURTUA (Peru) regarded the draft article 8 prepared by the Working Group as a positive step forward, but felt that it attached undue importance to article 7, paragraphs 4 and 5. In his view, sub-paragraphs (a) and (b) of paragraph 3 of the new article 8 were more fundamental. He did not, however, propose any specific amendment in that connexion.

In paragraph 3, sub-paragraph (a) (ii), the expression "seriously prejudicial" required some clarification or definition. He thought that the three grounds for deprivation listed in sub-paragraph (b) of the same paragraph could not be regarded as distinct alternatives. The mere taking of an oath was scarcely an adequate ground in itself, as oath-taking was a very common and frequently a purely administrative formality.

In order to avoid many reservations with respect to article 8, he believed that the latter should expressly permit deprivation of nationality in the case of military service performed for another State. The concept of "rendering services" was not clear, and in that connexion he wondered what, under sub-paragraph (a) (i), the position of honorary consuls would be.

It was necessary to bear in mind, in connexion with the grounds for deprivation mentioned in sub-paragraph (a) (ii), that "conduct prejudicial to the vital interests of the State" would normally give rise to penal sanctions, and that deprivation of nationality would only be an accessory penalty imposed in the case of persons who were not natural-born citizens.

It might prove difficult for some delegations to accept paragraph 5, as certain countries regarded courts of law as an integral, not an independent, part of the machinery of the State.

Mr. YINGLING (United States of America) felt that the requirement imposed by paragraph 5 was unduly restrictive on Contracting States. In his own country, for example, a person taking an oath of allegiance to another State automatically lost United States citizenship. However, if such a person was deprived of a right which he would enjoy as a citizen, such as the right to hold a passport he could contest the denial of that right in the courts. The possibility of such a hearing, his delegation considered, was all that was required.

Mr. HARVEY (United Kingdom), speaking as Rapporteur of the Working Group, pointed out that paragraph 5 of document A/CONF.9/L.86 referred to the exercise of a power of deprivation, which was a formal act by the State. It did not refer to automatic loss of nationality, which might occur without the knowledge of the State concerned. The paragraph did not call for a court hearing in the case of automatic loss of nationality, but only where a positive initiative was taken by the State. The Working Group considered the provision an important one, and presumed that the court referred to would always take into account the particular circumstances of the case involved.

The Group had intended the term "services", in paragraph 3, sub-paragraph (a) (i), to include military service. Such service, rendered to another State, could clearly be regarded as inconsistent with the duty of loyalty.

Mr. VAN SASSE VAN YSSELT (Netherlands) said that the power of deprivation mentioned in paragraph 5 referred to the nationality legislation of a country, as a whole. What the paragraph made conditional was the exercise of that power. He believed that a procedure such as that described by the United States representative was regarded by the Working Group as meeting the requirements which the latter had laid down in the paragraph.

Mr. FERREIRA (Argentina) complimented the Working Group on the contribution it had made to the progress of the Conference's work. His delegation nevertheless had to express certain reservations concerning the Group's new text of article 8. In view of the provisions of his country's nationality legislation (A/CONF.9/10/Add.1, page 2), his delegation did not consider it appropriate for article 8 not to provide separately for natural-born and for naturalized citizens.

(Mr. Ferreira, Argentina)

The alien who acquired the nationality of a State gained certain rights, but he also assumed certain obligations, and failure to carry out those obligations should be mentioned in the article as a permissible ground for deprivation of nationality.

The meeting rose at 4.50 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE TWENTY-FIRST PLENARY MEETING

Held at Headquarters, New York,
on Thursday, 24 August 1961, at 10.30 a.m.

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Article 8 of the Draft Convention (continued)

President:	Mr. RIPHAGEN	(Netherlands)
Secretariat:	Mr. STAVROPOULOS	Legal Counsel, Representative of the Secretary-General
	Mr. LIANG	Executive Secretary of the Conference

PRESENTATION OF CREDENTIALS

The PRESIDENT, referring to rule 3 of the rules of procedure, invited representatives who had not yet submitted their credentials to do so without delay, so as to enable the President and the Vice-President to present their report to 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.86-L.87) (continued)

Article 8 of the Draft Convention (continued)

The PRESIDENT drew the attention of the Conference to the Yugoslav amendments to article 8, the text of which had just been circulated (A/CONF.9/L.87).

Mr. HEIMSOETH (Federal Republic of Germany) thanked the members of the Working Group for having drafted, in a true spirit of compromise, a new text for article 8. German law had no provision for the deprivation of nationality, even where the result would not be to render the person concerned stateless. That principle was, indeed, enshrined in the Fundamental Law. For that reason the delegation of the Federal Republic of Germany would have preferred to see article 8 limited to the provisions of paragraph 1. Being, however, aware of the difficulties of certain States which would find themselves unable to adhere to the Convention if provision was not made for at least some grounds for deprivation of nationality, it was ready, in a spirit of conciliation, to accept the text prepared by the Working Group (A/CONF.9/L.86).

His delegation thought, however, that that article was very elastic as it stood, and would be unable to agree to any further extension of the grounds for deprivation. He recalled in that connexion the observations made on the previous day by certain delegates who had expressed their inability to accept the draft because it did not coincide with certain provisions of their own nationality legislation; and he stressed that articles 1 and 4 of the Draft Convention would necessitate very substantial amendments to the German nationality legislation. He therefore hoped that other Governments, taking account of the humanitarian principles underlying the drafting of the Convention, would likewise see their way, in the interests of stateless persons, to amending certain provisions of their legislation.

Mr. HARVEY (United Kingdom) supported the text of article 8 as drafted by the Working Group. It was a compromise text which represented a happy medium between the extreme views. If any one of its provisions were amended, the balance would necessarily be upset and the Conference would find itself back where it had been previously. The United Kingdom, for its part, could have accepted a more restrictive article because, as its observations addressed to the Secretary-General (A/CONF.9/10, page 19) showed, it was ready if necessary to abandon some of the few grounds for deprivation of nationality existing in its national law. The new amendments revealed that the position of Yugoslavia was somewhat similar to that of the United Kingdom in that a more restricted article 8 would be acceptable to that country. Nevertheless, as had already been said, if the Convention was to be generally acceptable, each State should take account not only of its own difficulties and problems but also of those of other States. He therefore hoped that the Yugoslav amendments merely reflected Yugoslavia's desire to see its views formally entered in the records and that Yugoslavia would not press them to a vote if, as was likely, they did not meet with general approval.

Mr. AMADO (Brazil) said that his delegation, in coming to New York to take part in the work of the Conference, had been motivated, as at Geneva in 1959, by that same desire for international co-operation which - so far as statelessness was concerned - his country had already repeatedly demonstrated in its capacity both as member of the International Law Commission and as signatory to the Convention relating to the Status of Stateless Persons. That international attitude merely reflected Brazil's liberal legislation in that field, and the feelings of the Brazilian people.

On the subject of nationality, Brazilian legislation was very elastic, combining the jus soli and jus sanguinis principles in such a way as to ensure the complete elimination of statelessness at birth. Thus, persons born abroad of a Brazilian father or mother automatically acquired Brazilian nationality. Likewise, the only exception to the jus soli principle was the case of the children born in Brazil of alien parents who were in the service of their Government, e.g., the children of diplomats. Nor did Brazil contribute to the creation of cases of statelessness after birth since, with two exceptions to which he would refer later on, Brazilian nationality, once acquired, could not be lost by reason either of marriage with an alien or of residence abroad, or on any other grounds. In brief, loss of nationality was very rare in Brazil, and when it did occur a remedy at law was always available to the person concerned.

(Mr. Amado, Brazil)

What, however, made Brazil's position particularly delicate was that the few restrictions to the rule enunciated in article 8, paragraph 1, were enshrined in the Constitution and that it would perforce be a difficult matter to amend them.

With reference to the actual text of article 8, he congratulated the members of the Working Group, who had endeavoured to find a solution that would be acceptable to as many States as possible. Like the Canadian representative however (A/CONF.9/SR.20), he would have preferred it had the passage beginning with the words "if at the time of signature" and ending with "at that time" not been included in paragraph 3. He regarded that requirement as proof of grave mistrust towards States. Moreover, as the Argentine representative had said on the previous day, it was hardly conceivable that a State would agree to freeze its legislation and amputate its power to enact laws. The passage in question did not add anything to the effectiveness of the text, and Brazil had many misgivings about accepting it.

With regard to paragraph 3 (b), it was not clear to him how a person who had taken an oath, or made a formal declaration, of allegiance to another State could become stateless. It seemed to him that, in a case of that kind, such a person would acquire the nationality of the State to which he had sworn allegiance.

His final criticism of the Working Group's text related to paragraph 5. There again, one could see evidence of mistrust in the words "a court or other completely independent and impartial body". In Brazil, the whole procedure involving withdrawal or annulment of nationality was supervised by the courts. He wondered whether that system offered sufficient safeguards of impartiality, or whether what was envisaged was the creation of a new body to deal with such cases.

Despite those various objections which it had deemed it its duty to state, his delegation, in an endeavour to show maximum co-operation, would spare no effort in associating itself with the other delegations in the constructive spirit which had determined the calling of the Conference.

Mr. HELLBERG (Sweden) said that his Government had no difficulty in accepting article 8, since Swedish legislation contained no provision for deprivation of nationality.

Obviously the Conference, in the interests of the stateless persons, sought to make the Convention as restrictive as possible. In those circumstances it was likely that all States would be unable to adhere to it immediately. That, in particular, would be true of Sweden. However, as its representatives had already stated at Geneva, Sweden would be unsparing in its efforts to improve the lot of stateless persons, in line with the principles enunciated in the Declaration of Human Rights; it would, in particular, amend its nationality legislation on certain major points, in order to be able to adhere to the Convention at a later date.

Mr. DARON (Belgium) explained that the reason why his delegation had not submitted an amendment to the text prepared by the Working Group was that it did not wish to see article 8, which was of relatively secondary importance, endanger the future of the Convention as a whole. Belgium had already said that the Convention would be highly useful even if it did not contain an article on that point. What it would have liked was that the instrument should not, in any case, contain a clause entitling a Contracting State to deprive an individual of his nationality. After the discussions at Geneva, it had realized that that wish was impracticable and it was not therefore hostile, in principle, to the adoption of provisions entitling certain States to become parties to the Convention without in the process having to amend their legislation to an extent which they did not regard as feasible. It was indeed a fact that a theoretically perfect text which would be unacceptable in practice would be of no use to stateless persons.

In that spirit, Belgium could have accepted the provisions of paragraph 3, even though they were somewhat too general, had not the original idea of freezing the legislation at a date other than that of signature, ratification or accession been abandoned. Under the new text of paragraph 3, countries which had no provision for deprivation of nationality except in certain well-defined cases would, before becoming parties to the Convention, amend their legislation in a more comprehensive sense, by availing themselves of all the provisions of paragraph 3 (a) and (b). His delegation could not support that paragraph, which is both incompatible with the instructions it had received and inconsistent with the aim of the Conference, namely the elimination of statelessness.

Mr. ILIC (Yugoslavia), introducing his delegation's amendments (A/CONF.9/L.87), said that they were based on the principles which he had described the previous day.

Paragraph 1 proposed the deletion of paragraph 2 (a) of the Working Group's text, which was unnecessary since the case in question was already provided for under article 7.

Paragraphs 2 and 3 aimed at restricting the grounds for deprivation of nationality. The Convention had a humanitarian goal - the avoiding of statelessness - and should therefore permit deprivation only when no other sanction was possible.

Paragraph 4 proposed the deletion of certain words which appeared to cast doubt on the impartiality of the competent body. The very wording of the rest of the article indicated that justice would be administered impartially.

In Yugoslavia statelessness did not exist, and the only cases of deprivation of nationality were those provided for in paragraph 3 of the Yugoslav amendments. His delegation had submitted those amendments in the same spirit of co-operation in which, at Geneva, it had voted for a text that accorded neither with its principle nor with the laws of its country. It regretted that it could not accommodate the representative of the United Kingdom by refraining from having the amendments put to the vote: they represented the maximum compromise which it could accept.

Mr. YINGLING (United States of America) wondered whether paragraph 5 was a clear enough reflection of the thinking which the Working Group had tried to express. He considered that it had been the Group's idea, not to compel a State to act through judicial channels when it proposed to deprive an individual of his nationality, but rather to give the person concerned the opportunity of opposing that intention, as soon as he learnt of it, by taking the matter to a Court or any other impartial authority.

Mr. JAY (Canada) said that Canadian law provided for deprivation of nationality in the following cases only: fraudulent acquisition of nationality, irrefutable treason, repudiation of nationality for reasons of conscience and acquisition of a different nationality. Most of the provisions which the

(Mr. Jay, Canada)

Conference proposed to include in article 8 were therefore of no direct interest to Canada. Indeed, the great majority of States applied rules much less severe than those before the Conference. The Working Group had found itself faced with almost insurmountable difficulties; yet it had succeeded in drafting a text, general in scope, which took into account the considerations of special concern to the different countries. In those circumstances he found it difficult to understand why the Yugoslav delegation should have deemed it necessary to submit amendments (A/CONF.9/L.87) which, on the whole, were more restrictive than the text prepared by the Working Group. It went without saying that Yugoslavia's case was taken into account in the latter text. That was why, while prepared to accept in substance the provisions of paragraph 3 (b) of the Yugoslav amendment, he would have to vote against paragraph 2 of that amendment.

With regard to the United States representative's suggestion that the word "completely" be deleted from paragraph 5 of the English text prepared by the Working Group (A/CONF.9/L.86), he felt that the word was a deliberate pleonasm designed to place the accent on the protection of the individual. He would therefore abstain if the United States suggestion were put to the vote.

Finally, while the Canadian delegation keenly regretted the inclusion in paragraph 3 of a phrase which testified to a certain mistrust of Contracting States, it would submit no amendment to the text prepared by the Working Group.

Mr. ILIC (Yugoslavia) explained that the amendments tabled by his delegation were not of direct concern to his own country but stemmed from the desire for a Draft Convention which would be approved by the majority of the States.

Rev. Father de RIEDMATTEN (Holy See) asked the representative of Yugoslavia whether he did not think that his amendments might, in fact, make the Convention less easily acceptable.

Mr. ILIC (Yugoslavia) said that the Yugoslav amendments were based on principles much broader than those underlying the Working Group's text. The Yugoslav amendments, for instance, did not permit deprivation of nationality in the case of an individual who had served another State. Furthermore, paragraph 3 (b) of those amendments, which fixed fifteen years as the length of time during which an individual had to have resided abroad before he could be deprived of his nationality, was very liberal.

(Mr. Ilic, Yugoslavia)

Deprivation of nationality was a step to which the State should resort only when it had no other means of sanction, as happened in the case of individuals living abroad. In the case of persons living within its territory the State could apply other sanctions, such as deprivation of civil rights.

Rev. Father de RIEDMATTEN (Holy See) considered that paragraph 3 (b) of the Yugoslav amendment dealt with cases which were too specific. In his view, the provisions of paragraph 3 (b) of the text prepared by the Working Group, though broader in scope, met fully the points to which the Yugoslav delegation attached importance.

Mr. SIVAN (Israel) said that the text prepared by the Working Group reflected the desire of all members of the Group to find compromise provisions that would reconcile all points of view. It was both flexible and restrictive, although it took into account the demands of the different States. He would therefore ask the representative of Yugoslavia not to insist on restrictions which were not necessary to his country. For its part, Israel would support the text presented by the Working Group because it was based on humanitarian standards which Israel regarded as just. In order to abide by it, his country was ready to make any necessary changes in its own laws.

Knowing the spirit which had guided the representatives who, like himself, had served on the Working Group, he did not think that any feeling of mistrust should be read into the provision of paragraph 3 which stipulated that a declaration specifying the grounds for deprivation must be made at the time of signature, ratification or accession. Paragraph 3 listed all cases in which deprivation of nationality was authorized. Whether or not States took those cases into account would depend upon whether or not they were provided for in their national law. In view of the imperative terms of paragraph 1, it seemed only rational to specify, in paragraph 3, that the only countries which could apply the derogations authorized would be those which had made a declaration to that effect. It was thus a question in no way of mistrust, but of logic.

In conclusion, he would ask members of the Conference not to depart from the text proposed by the Working Group, as otherwise they would risk adopting a standard that would be out of keeping with their goal.

Mr. YRJÖ-KOSKINEN (Finland) said that the concept of deprivation of nationality was unknown to Finnish legislation. A Finnish citizen could lose his nationality on grounds similar to those covered by paragraph 3(b) of the United Kingdom amendment (A/CONF.9/L.80) only if he acquired another nationality. His delegation would have preferred to see the principle of deprivation of nationality excluded, States which wanted to retain it being permitted only to formulate reservations. However, in order not to hamper adoption of the Convention, the Finnish delegation would not submit any amendment to the Working Group's text.

Mr. IRGENS (Norway) said that his delegation would vote in favour of the Working Group's text, although it would have preferred it to consist of paragraph 1 only.

Mr. MAURTUA (Peru) considered that the full implication of the word "emoluments", in paragraph 3 (a) (i) of the Working Group's text, had not been taken into account. An individual residing abroad might well receive money as remuneration for technical services, for example, or under social security. In such cases the individual's duty of loyalty towards the State of which he was national was not in question. It would not be the same if the person concerned received emoluments for political or military reasons. Such a distinction was established in paragraph 3.

Furthermore, he could not accept the wording of paragraph 3 (b). In his country, the renunciation of one nationality came before the acquisition of a new nationality. The provisions of paragraph 3 (b) would tend to increase the number of cases of statelessness, since an individual who had taken an oath of allegiance to another State in order to become naturalized would find himself stateless until he had obtained his new nationality; the case would moreover still if naturalization were then refused him. He therefore proposed that paragraph 3 (b) should be worded as follows: "that the person has taken an oath of political allegiance to another State or, apart from such cases as are provided for in law, has made a declaration of allegiance to another State".

Mr. HARVEY (United Kingdom) said that the Working Group had realized that, in some cases, the fact that a person received emoluments from a foreign State should not be used as a pretext for the State of which he was a national to deprive him of his nationality. Naturally, item (i) was to be read in the context of sub-paragraph (a), and the person in question could be deprived of his nationality only if, inconsistent with his duty of loyalty, he received emoluments.

The case that the representative of Peru had in mind in connexion with the oath of allegiance taken to a foreign State was very rare. Besides, it was obvious that, before depriving the person in question of his nationality, the competent authorities of the State concerned would give due consideration to the circumstances in which the declaration of allegiance had been made. The Peruvian representative might have supposed that those countries whose national legislation laid down that the provisions of any international convention to which they acceded formed an integral part of that legislation would be obliged to deprive persons of their nationality in the circumstances set out in article 8. But it should be stressed that paragraph 3 of article 8 related to grounds for deprivation of nationality already existing in the national law, and that, moreover, the Geneva Conference in 1959 had adopted an article stipulating that the Convention should not be construed as affecting any provisions more conducive to the reduction of statelessness which might be contained in the law of any Contracting State now or hereafter in force or in any convention, treaty or agreement between two or more Contracting States (A/CONF.9/12, page 11).

Mr. AMADO (Brazil) said that the adoption of article 8 presented the Brazilian delegation with a problem of conscience. It was not that Brazilian law concerning loss of nationality was incompatible with paragraph 3 of the Working Group's draft; a Brazilian lost his nationality only if he acquired that of another State by voluntary naturalization or if he accepted a mission, employment or pension from a foreign State without the authorization of the President of the Republic of Brazil; and a naturalized Brazilian lost his nationality only if his conduct was contrary to the national interest. However, the Brazilian delegation found it difficult to reconcile article 8 with article 1 of the Convention, which did not lay down that exceptions must be specified by States at the time of

(Mr. Amado, Brazil)

ratification, signature or accession. Nevertheless, in spite of its doubts, the delegation of Brazil supported the Working Group's draft as a whole and would vote in its favour if it was put to the vote. He hoped that the vote would take place soon since article 8, however important, only constituted a very small part of the Convention.

Finally, he paid tribute to those delegations which, like those of Sweden and Israel, had informed the Conference of the intention of their Governments to bring their legislation into line with article 8.

Mr. LUTEM (Turkey) said that he also would vote for the compromise text submitted by the Working Group, although some of its provisions were foreign to Turkish law. The delegation of Turkey shared the view of the Canadian representative regarding the introductory part of paragraph 3. It also supported the amendment to paragraph 5 submitted by the delegation of the United States.

Rev. Father de RIEDMATTEN (Holy See) paid tribute to the delegations of Brazil and Canada which, despite their reservations, had expressed their intention of voting for the Working Group's draft. That attitude testified to their desire to reach a solution acceptable to the greatest possible number of States.

The wording of paragraph 3, which partly reproduced the text adopted by the Committee of the Whole at Geneva and which had been resubmitted by the delegation of the Holy See during the discussions of the Working Group, in no way implied mistrust of States. It took account of a de facto situation without passing judgement.

In reply to a request from Mr. MAURTUA (Peru) for some clarification regarding paragraph 4 of the text submitted by the Working Group, Mr. JAY (Canada) said that, while it was true that the wording of that paragraph was based on paragraph 5 of the amendment submitted by his delegation (document A/CONF.9/L.82), the draft of which it was a part had been submitted jointly and not by the Canadian delegation.

/...

(Mr. Jay, Canada)

In drawing up paragraph 4, the Working Group had had in mind the unlikely situation of a Government, after becoming a party to the Convention, wishing to recast its laws on nationality completely. When drafting the articles regarding deprivation of nationality, the Government in question might wish to adopt the same provisions as had existed in earlier legislation. Its right to promulgate new laws containing grounds for deprivation of nationality might then be disputed. Paragraph 4 eliminated the possibility of such dispute, since any country becoming a party to the Convention would retain the right to promulgate new legislation in the future and to maintain therein the provisions by which it had been bound at the time of its accession to the Convention.

Mr. MAURTUA (Peru) asked whether, after its accession to the Convention, A state would be able to promulgate new legislation concerning nationality more favourable than that in force at the time of accession.

Mr. JAY (Canada) replied that, according to his delegation's interpretation, paragraph 4 gave States the right to take new measures relating to deprivation of nationality provided that they were not less favourable than those in force at the time the Convention was signed.

Mr. FAVRE (Switzerland), supported by Mr. YINGLING (United States of America), observed that paragraph 4 constituted a source of confusion and expressed an idea which was obvious. It therefore had no place in an international convention and ought to be deleted.

Mr. JAY (Canada) said that he had made it clear in the Working Group that his delegation did not oppose deletion of the paragraph.

Mr. LUTEM (Turkey) stated that his delegation had favoured the insertion of paragraph 4 in the Working Group's draft, but would not insist on its retention.

Mr. HARVEY (United Kingdom) said that his delegation was among those which considered that paragraph 4 could be eliminated; however, certain States attached great importance to that paragraph which, in their view, indicated the way in which the Conference interpreted article 8 as a whole. Perhaps those States would be content with registering their views with regard to paragraph 4 in the summary records.

Mr. MAURTUA (Peru) considered that the words "not less favourable" seemed to prejudice the freedom of States to legislate in the future. The evolutionary process of law in general reflected the major transformations taking place in the juridical conscience of nations, and must not be paralysed. The matter was too importance for States to be content with having their views reported in the summary records of the Conference.

Mr. FAVRE (Switzerland) proposed the deletion, in the English text of paragraph 5, of the word "completely" and of the words "and impartial"; the French text should be likewise amended to read: "devant une juridiction ou un autre organisme indépendant". As the Brazilian representative had pointed out, it must be assumed that any State which had set up an independent organ for ruling on cases covered in article 8 had taken the necessary steps to ensure that the organ was impartial.

In reply to the Peruvian representative's request for clarification regarding the expression "vital interests of the State" in paragraph 3, sub-paragraph (a) (ii), he explained that it was true that the expression could be interpreted in different ways depending on the philosophical concepts of the person and the State. In the mind of the authors of the draft, the essential function of the State consisted in safeguarding its integrity and its external security and in protecting its constitutional foundations. It was acts prejudicial to that function which could justify deprivation of nationality.

On a procedural point, he asked whether the Working Group's draft would be put to the vote as a whole. The very existence of the Yugoslav amendments suggested that it would be logical to vote separately on each of the provisions.

Finally, he formally proposed the deletion of paragraph 4 of the text submitted by the Working Group.

The PRESIDENT felt that the Working Group's draft formed a whole, since it constituted a compromise between all the schools of thought. It would therefore seem to him preferable to put it to the vote as a whole; delegations could, however, by invoking the rules of procedure, request a separate vote whenever they deemed it necessary.

Mr. JAY (Canada) said that he would prefer the Working Group's draft to be voted on as a whole. He repeated his appeal to the Yugoslav representative to withdraw his amendments; he would be obliged to vote against those amendments if they were put to the vote. He reserved the right to speak again in the event that the Working Group's draft was voted on by division.

The meeting rose at 12.40 p.m.

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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..

CONTENTS

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)

President:	Mr. RIPHAGEN	Netherlands
Secretariat:	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. WALKE (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.

(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 CAPPA (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.

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. FAVRE (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 were 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.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE TWENTY-THIRD PLENARY MEETING

Held at Headquarters, New York
on Friday, 25 August 1961, at 10.30 a.m.

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Secretariat:	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) (continued)

Article 13 (A/CONF.9/12, paragraph 21)

The PRESIDENT recalled that at Geneva article 11, the article containing the Territorial Application clause and the article on the Settlement of Disputes had been adopted subject to the right of States Parties to enter reservations in regard to them.

He asked whether the Conference was ready to agree that those three articles should be the only ones to which reservations could be made in virtue of article 13.

Mr. FERREIRA (Argentina) said that, during the first part of the Conference, his delegation had requested the deletion of paragraph 2 of article 13. Argentina had compelling constitutional and other reasons for retaining the possibility of making reservations, although in that country's case such reservations would relate only to minor points. The fear had been expressed that reservations might serve as loop-holes. That fear was, however, unfounded since Governments which did not wish to respect the Convention would simply refrain from signing it. Without wishing to make a formal proposal, he expressed the hope that the participants would be able to agree on a sufficiently broad wording for article 13, so as to permit the Convention to receive the greatest possible number of signatures.

Mr. HARVEY (United Kingdom) wished to explain his Government's position regarding reservations. When drafting the most important articles of the Convention - articles 1, 4, 7 and 8 - delegations had sought to strike a balance between two aims: the drawing up of an ideal Convention to which few States would subscribe, and the preparation of a Convention which all States would sign but which would be very exiguous in content. A certain balance had been achieved, and it would therefore be inappropriate to authorize States to make reservations to the articles which he had mentioned.

Mr. HUBERT (France) concurred fully in the view expressed by the United Kingdom representative; it was France's tradition to permit as few reservations as possible to any legal instrument. The body of rules constituting the present Convention represented a balance which would inevitably be upset if some States were able to avoid applying those rules. The French delegation could not agree that reservations to articles 1 to 10 should be allowed; of the other articles, it considered that only the three mentioned could be subject to a right of reservation; otherwise, the adoption of the Convention would amount to the meaningless acceptance of a flimsy text.

Mr. ILIC (Yugoslavia) recalled that at Geneva his delegation had submitted an amendment to article 13. Yugoslavia's position had not changed.

Mr. WALKE (Pakistan) said that, while supporting the arguments advanced by Argentina, the Pakistan delegation would not insist on the deletion of paragraph 2 of article 13.

Mr. JAY (Canada) thought that it would be unwise to authorize an unlimited number of reservations. Article 13 might take two different forms: either it could stipulate that reservations would be allowed only in respect of article 11 and of the articles on Territorial Application and the Settlement of Disputes; or it could provide that reservations to articles 1 to 10 would not be permitted, in which case it would be implied that reservations to the remaining articles could be made. For its part, the Canadian delegation did not wish article 13 to enable States to enter reservations in respect of articles 1 to 10.

Mr. MAROM (Israel) said that he would like the possibilities of entering reservations to be as limited as possible, in order that the Convention should not be robbed of all value. Although it might be possible to speak of a compromise between idealism and a sense of what was practical, as the United Kingdom representative had indicated, the Convention seemed rather to favour those States which wished to retain extensive powers with regard to deprivation of nationality. He drew attention to the observations submitted by the United Nations High Commissioner for Refugees (A/CONF.9/11) and observed that in

(Mr. Marom, Israel)

order to improve the lot of stateless persons, the International Law Commission had incorporated, in article 11 of its draft, provisions stipulating that the Contracting Parties undertook to establish an agency to act on behalf of stateless persons, as well as a tribunal which would be competent to decide any dispute between them concerning the interpretation or application of the Convention. The same article would also have stipulated that Contracting States agreed that any such dispute not referred to the tribunal would be submitted to the International Court of Justice. While the Conference at Geneva had made no provision for a special tribunal, it had adopted an article providing that States would promote the establishment of a body to which a person claiming the benefit of the Convention might apply for the examination of his claim; but it had decided that that article should be subject to a right of reservation. It had taken the same course with respect to the new article on the settlement of disputes. As a consequence, stateless persons could not hope to enjoy real international protection. While not suggesting in any way the reopening of the discussion on any article finally adopted at Geneva, the Israel delegation would like it to be laid down, in article 13 of the Convention, which had not been finally adopted at Geneva, that the article relating to the settlement of disputes was not to be subject to a right of reservation. In that way, stateless persons, who were assured of certain safeguards on the national level under the last paragraph of article 8, would also be assured of protection by an international organ. The Israel delegation urged other delegations to keep in view the humanitarian purposes of the Convention, which was designed to protect the rights of individuals, and consider carefully the possibilities of providing individuals with international safeguards for their rights under the Convention.

Mr. YINGLING (United States of America) felt that it would be as unwise to allow no reservations as to allow too many. He therefore proposed that reservations to certain articles should be permitted and that it should be stipulated, in paragraph 2 of article 13, that no other reservations would be admissible "except with the consent of all Parties to the Convention".

Mr. AMADO (Brazil) explained that the States of Latin America had, with regard to reservations, an attitude totally different from that which the United States representative had just expressed. It would therefore be difficult for them to accept that representative's suggestion.

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Mr. MAURTUA (Peru) said that article 13 in the International Law Commission's draft did not satisfy the delegation of Peru, since it did not contain provisions calculated to eliminate the conflicts to which the Convention's application might give rise. It would be preferable to stipulate, in that article, that the option of submitting disputes to the International Court of Justice should be the subject of an agreement between the Contracting Parties. Articles 5 and 8 also contained some defects. In those circumstances, and if the Convention was to have any practical value, States must be allowed the possibility of making reservations.

Mr. TSAO (China) did not think that it would be possible to reconsider the articles which the Geneva Conference had adopted and whereby it had accepted the possibility of reservations being made. The discussion could now bear only on those articles to which the Geneva Conference had not stated whether reservations would be admissible.

In reply to a question from the Rev. Father de RIEDMATTEN (Holy See), the PRESIDENT said that paragraph 1 of article 13 would not be put to the vote as the Committee of the Whole at Geneva had not approved it.

Mr. JUSUF (Indonesia) proposed the deletion of paragraph 2 of article 13.

Mr. JAY (Canada) said that there were no grounds for reconsidering paragraph 1 of article 13 since the Geneva Conference had decided not to adopt it - unless, of course, it was formally reintroduced into the discussion. As for the Indonesian proposal, it did not seem to him admissible, since the Geneva Conference had decided to accept reservations with respect to the three articles already mentioned. Finally, the suggestion made by the United States representative raised problems of a practical nature.

Mr. SIVAN (Israel) shared the doubts expressed by the Canadian delegation regarding the United States representative's suggestion. It was difficult to see when and by what procedure it would be possible to obtain the agreement of the Contracting Parties.

Mr. TSAO (China) wondered whether the International Law Commission's draft of article 13 could be used as a basis for the Conference's discussions. At the present stage, the Conference could only decide on the principle of reservations and leave it to the Drafting Committee to prepare a text in line with that decision. The United States proposal also seemed to require some elucidation.

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Mr. YINGLING (United States of America) said that he had not intended to question the Geneva decisions regarding the three articles subject to reservations. He had merely proposed that no other reservation to the Convention should be permitted without the consent of all the Contracting Parties. The application of such a provision involved no difficulty: any country wishing to become a Party to the Convention would merely have to notify the depositary of the Convention to that effect, supplying a list of its reservations. The depositary would then transmit them to the Contracting Parties and the latter would state their views.

Mr. JAY (Canada) thought that the United States representative's proposal might complicate the Convention's implementation, since it implied that every State must be in possession of the views of all the other Contracting States on each reservation.

Mr. HARVEY (United Kingdom) agreed with the representative of Canada. He also thought that it would be difficult to make reservations to the substantive articles of the Convention, certain provisions of which - e.g. paragraphs 1 and 2, and paragraphs 4 and 5, of the first article - were closely interconnected.

In order to accede to the Convention, the United Kingdom was ready to amend its nationality laws. But the inclusion in the Convention of a provision permitting reservations in a general way would detract from the effectiveness of the instrument and would compel the United Kingdom delegation to re-examine its position. In fact, he very much doubted whether his country would be able to accede to a Convention of doubtful effectiveness.

Mr. POHRIS (Federal Republic of Germany) expressed his agreement with the representative of the United Kingdom.

Mr. LUTEM (Turkey) observed that the United States proposal was in line with the classic theory of reservations, that the Latin American countries were flatly opposed to that theory, and that Canada likewise did not approve it. He therefore thought that the Conference should either hand the question over to a Working Group for solution, or agree that reservations could be made only to the three articles in question (article 11, the Territorial Application clause and the Settlement of Disputes article).

The PRESIDENT considered that the Conference should decide what reservations should be permitted, without establishing any system for applying the reservations.

Mr. YINGLING (United States of America), referring to the remark made by the representative of Turkey, said that in tabling his proposal it had in no way been his intention to support the classic theory of reservations or to take a purely juridical stand. The Conference could make any provisions concerning reservations it saw fit. He merely thought that accession to the Convention, even when accompanied by reservations, provided such reservations were not nullifying, was better than no accession.

Mr. JUSUF (Indonesia) said that the very fact of States being able to make reservations might well encourage them to become Parties to the Convention. However, since the representative of Canada considered his proposal to be inadmissible, he was ready to change it: he would base himself on Indonesian law, which aimed at preventing statelessness and permitted deprivation of nationality only in cases where such nationality had been acquired by means of a false declaration or by fraud. He therefore proposed that paragraph 2 of article 13 should be drafted as follows:

"Other reservations are admissible in so far as they do not increase statelessness in the future."

Mr. MAURTUA (Peru) said that his delegation would vote for the Indonesian amendment, since the possibility of entering reservations would make it easier for States to accede to the Convention. If there were no reservations, what could a State do if its national laws contained provisions contrary to those of the Convention?

The United States proposal, it seemed to him, would paralyse the process of ratification. He therefore considered that the task of drafting the article with a view to reconciling the various points of view should be entrusted to a Working Group.

Mr. JAY (Canada) supported the suggestion of the representative of China that the Conference should decide principles only and let the Drafting Committee put them into words. That Committee could use, as a basis, article 42 of the Convention relating to the Status of Refugees.

Mrs. BERNARDINO-CAPPA (Dominican Republic) said that, if article 13 were put to the vote immediately, her delegation would have to abstain. She supported the Peruvian representative's suggestion that a Working Group be set up to draft an article which would take into account the different views and would be acceptable to the majority.

Rev. Father de RIEDMATTEN (Holy See) said that his delegation would have to abstain when the question of reservations was put to the vote. He asked delegations in favour of the possibility of entering reservations to accept a formula which would not compromise the work so far accomplished.

Mr. AMADO (Brazil) did not think there would be much point in setting up a Working Group at that particular stage of the discussion, especially since the need for permitting reservations in a multilateral Convention was not open to question.

The PRESIDENT, in the absence of any formal proposal for the establishment of a Working Group, put the amendment proposed orally by Indonesia to the vote.

The Indonesian amendment was rejected by 16 votes to 6, with 7 abstentions.

The PRESIDENT then put to the vote the amendment submitted by the United States delegation.

The United States amendment was rejected by 11 votes to 3, with 15 abstentions.

The PRESIDENT then put to the vote article 13 as a whole.

Article 13 was adopted by 16 votes to 2, with 11 abstentions.

Article 16 (A/CONF.9/12, paragraph 22)

Mr. WALKE (Pakistan) wondered whether, given the provisions of the first paragraph of article 13 as just adopted, the wording of paragraph 1 (b) of article 16 should not be changed.

The PRESIDENT said that the Drafting Committee could take any necessary action to that end.

Mr. HARVEY (United Kingdom) thought that paragraph 2 of article 16 should be changed, to the effect that the Secretary-General would take the action indicated when six States which had entered no reservations to article 11 had deposited their instruments of ratification or accession.

Mr. TSAO (China) pointed out that, in the English text, different words were used in article 11 and in article 16 to designate the body whose establishment was to be discussed by the General Assembly. The Drafting Committee could perhaps remedy that.

Mr. JAY (Canada) said that, whatever his delegation's opinion on the formal declaration called for in paragraph 3 of article 8, it would still be logical to stipulate that the Secretary-General should communicate the names of the States making such a declaration, so that all States would know what the position was.

The PRESIDENT said that the Secretary-General would give full information to all States.

Mr. SIVAN (Israel), referring to the remark just made by the representative of the United Kingdom, proposed that the words "at the latest" be deleted from paragraph 2.

Mr. YINGLING (United States of America) entirely agreed with the representative of Israel. The Secretary-General could do nothing before the Convention had entered into force.

Mr. WALKE (Pakistan) also thought that the words "at the latest" should be deleted. Contrary to the views of the United Kingdom representative, on the other hand, he considered that the Secretary-General could perfectly well take the action called for in paragraph 2 even if only two or three of the six States which had deposited their instruments had made no reservations to article 11.

The PRESIDENT put to the vote article 16, which would be transmitted to the Drafting Committee.

Article 16 was adopted by 26 votes to none, with 2 abstentions.

Preamble (A/CONF.9/12, paragraph 26)

Mr. SIVAN (Israel) proposed that an additional paragraph reading "Mindful of article 15 of the Universal Declaration of Human Rights" should be inserted after the paragraph of the preamble beginning with the word "Acting". The provisions of that article, which he read out, seemed to him to fit in quite naturally in the preamble of the Convention under consideration.

Mr. HARVEY (United Kingdom) said that he did not think that article 15 (2) of the Universal Declaration of Human Rights was relevant to the subject with which the Conference was concerned. The Convention did not deal in any way with the right to change nationality and, with regard to deprivation of nationality, article 8 of the draft provided that that should not be an arbitrary act. Besides, as had already been said, even the question of deprivation of nationality was not one of the essential provisions of the Convention. Article 15 (1) of the Declaration was very broad in its scope and was pertinent by reason of the fact that statelessness was regarded as an evil. The purpose of the Convention as a whole was to combat that evil to the fullest possible extent, as indicated in the second paragraph of the preamble. It was not therefore necessary to repeat that. Furthermore, the provisions of the Universal Declaration of Human Rights should be interpreted subject to article 30 of that instrument. He did not think that a useful purpose would be served by unnecessarily lengthening the preamble the provisions of which would carry all the more weight the briefer they were.

Mr. SILVAN (Israel) recalled that the text of the preamble as proposed by the International Law Commission was much fuller than the text under consideration. He himself had been under the impression that certain delegations at Geneva had thought that, since the Conference had departed so far, in the substantive articles, from the International Law Commission's text, it would be cynical to retain its long preamble which enunciated many lofty ideals. The Conference had, however, gone to the other extreme. Reverting to article 15 of the Universal Declaration of Human Rights, he said that he regarded it as the fons et origo of the conclusion of the Convention and, as such, as the explanation of the second paragraph of the present preamble.

It had been pointed out that the right to change nationality was outside the scope of the Convention. Nor was it the main subject of article 15 of the Universal Declaration of Human Rights; furthermore, articles 1 and 8 of the Convention recognized that right. For all the foregoing reasons, he hoped that the Conference would agree without a vote to include in the preamble a reference to article 15 of the Declaration.

Mr. JAY (Canada) feared that a reference to article 15 of the Declaration might induce stateless persons to place greater hopes in the Convention than was warranted since, unfortunately, the Conference was dealing with an incomplete text and all stateless persons would not benefit by it.

Mr. YINGLING (United States of America) said that he too did not think that it was desirable to refer to article 15 of the Declaration. Some provisions of the Convention were incompatible with that article and, moreover, the Declaration did not have force of law. It was therefore pointless to refer to it.

Mr. MAURTUA (Peru) also recalled that the Universal Declaration of Human Rights was not binding on States. Other instruments, which would have force of law, such as, for instance, the draft covenants on human rights, were needed to enforce the provisions of the Declaration. A reference to article 15 would imply that the Convention provided for the ways and means of putting that article into effect. In that respect the Convention would then seem to be patently incomplete.

Mr. TSAO (China) recalled that, in resolution 896 (IX), the General Assembly had asked Governments whether they thought that they should conclude a convention on the elimination or the reduction of statelessness, and that they had chosen the latter alternative. It followed that the second paragraph of the preamble was concerned with the reduction of statelessness. That paragraph constituted a step forward in its context but, were it to be read in conjunction with article 15 of the Universal Declaration of Human Rights. it might seem disappointing. That was why, while appreciating the lofty motives behind the Israel representative's proposal, he did not think that it was desirable to adopt it.

Mr. SIVAN (Israel), noting that many delegations were opposed to his proposal, said that he would not press it to a vote.

Mr. HARVEY (United Kingdom) stressed that his delegation, too, fully appreciated the reasons which had prompted the Israel proposal. It fully supported the principle, and the only reason why it had been unable to support the proposal itself was that it thought that a reference to article 15 would be out of place in the preamble as it stood.

The PRESIDENT put the preamble as a whole to the vote.

The preamble was adopted by 28 votes to none, with 1 abstention.

Title of the Convention (A/CONF.9/12, paragraph 25)

The PRESIDENT put the title of the Convention to the vote.

The title was adopted unanimously.

Draft resolutions

The PRESIDENT drew the attention of the Conference to the first draft resolution in document A/CONF.9/12, paragraph 27.

Mr. DARON (Belgium) recalled that his delegation had submitted that draft resolution at Geneva for purely humanitarian ends. To illustrate its usefulness, he said that Belgium which had only 9,000 de jure stateless persons had over 70,000 persons who were officially recognized as refugees by the Office of the United Nations High Commissioner for Refugees. His delegation thought that the Conference could not ignore those persons and pressed for the adoption of the draft resolution which, in practice, was concerned exclusively with the children of refugees.

Mr. JAY (Canada) wondered whether the text of the resolution would not be better without the phrase "not enjoying the protection of a government" which was not very clear and could apply to persons in very different circumstances and not only to refugees.

Mr. YINGLING (United States of America) pointed out that, even should a government refuse protection to an individual, there was nothing to prevent another State from granting him its nationality. There was nothing in the Convention prohibiting having more than one nationality.

Mr. HARVEY (United Kingdom) pointed out that cases of de facto statelessness were both numerous and diverse and difficult to establish. The Convention dealt with the rights, strictly speaking, of easily identifiable persons. However much one might wish to ensure that as many persons as possible should acquire effective nationality, he doubted whether the detailed provisions of the Convention, even when given a generous interpretation, could be applied in

(Mr. Harvey, United Kingdom)

the case of persons who were stateless de facto. No one could say at a person's birth whether or not he would enjoy the protection of his government in later years. It was also conceivable that a person having dual nationality lost one nationality without it being known whether he would be refused the benefits of the other; in such a case it was a moot point whether article 7 or article 8 was to be applied. Another hypothetical case was that of a child who was protected at birth by the State whose national he was but who could find himself deprived of that protection at the age of ten and regain it at the age of eighteen. How could the provisions of articles 1 and 4 be applied to him? In view of that multiplicity of difficulties, he feared that, although the circumstances of persons who were stateless de facto were a matter of the greatest concern, the terms of the proposed resolution were inappropriate in relation to the Convention.

Mr. DABON (Belgium) said that his delegation had not overlooked the problems just outlined by the United Kingdom representative. It should not, however, be forgotten that the text under consideration had been submitted as a draft resolution and not as an article of the Convention.

Furthermore, in the attribution of nationality, Belgian legislation took account of the status of a person who was stateless de facto. Thus, a Belgian woman who would normally have acquired her husband's nationality, retained Belgian nationality on marrying a person regarded as a refugee, because the view of the authorities was that otherwise she would have no effective nationality.

Mr. WEIS (Office of the United Nations High Commissioner for Refugees) said that the United Nations High Commissioner for Refugees attached particular importance to the object of the draft resolution under consideration. In that context he drew the attention of the Conference to the observations submitted by the High Commissioner in document A/CONF.9/11.

The scope of the provisions of the Convention, in particular of articles 1 to 4, was not clearly defined, since their application depended on the fact that the persons concerned would otherwise be stateless. Very often it was difficult to determine a person's nationality or lack of nationality. Similarly, the distinction between persons who were stateless de jure and those who were stateless de facto was hard to determine. The international instruments relating to refugees, be it the Statute of the Office of the United Nations High Commissioner for Refugees or the Convention relating to the Statute of Refugees, did not distinguish between those who were considered de jure or de facto stateless. /...

(Mr. Weis , Office of the United Nations High Commissioner for Refugees)

To enable the refugees within the competence of the United Nations High Commissioner and, particularly, those refugees' children, to benefit from the provisions of the Convention, it was desirable that the term "statelessness" should be interpreted as broadly as possible and, consequently, that persons who were stateless de facto should be regarded as stateless de jure.

That was why the Office of the United Nations High Commissioner, prompted by the desire that the application of the Convention should enable as many persons as possible to acquire an effective nationality, was very anxious to see the Conference support the draft resolution which had been submitted to it.

The meeting rose at 1.10 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

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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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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)

President:	Mr. RIPHAGEN	Netherlands
Secretariat:	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

(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 becaus 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".

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

(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.

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.

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UNITED NATIONS CONFERENCE ON THE ELIMINATION OR REDUCTION OF FUTURE STATELESSNESS

SUMMARY RECORD OF THE TWENTY-FIFTH PLENARY MEETING

Held at Headquarters, New York,
on Monday, 28 August 1961, at 10.50 a.m.

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Report on credentials made by the President and the Vice-Presidents (A/CONF.9/L.94)

Adoption of Convention (A/CONF.9/L.92)

Approval of the Final Act of the Conference (A/CONF.9/L.91)

Closing of the Conference

President:	Mr. RIPHAGEN	Netherlands
Secretariat:	Mr. STAVROPOULOS	Legal Counsel, Representative of the Secretary-General
	Mr. LIANG	Executive Secretary of the Conference

REPORT ON CREDENTIALS MADE BY THE PRESIDENT AND THE VICE-PRESIDENTS (A/CONF.9/L.94)

Mr. WIRJOPRANOTO (Indonesia) said that, on instructions from his Government, his delegation was not prepared to accept the credentials produced by the delegation of China and Formosa, because his Government recognized the Government of the People's Republic of China in Peking as the only representative of China.

Mr. SAFWAT (United Arab Republic) and Mr. ILIC (Yugoslavia) raised similar objections concerning the credentials of China.

Mr. YINGLING (United States of America) said that the question had been decided when the invitations had been issued; it was the representative of the Government of the Republic of China who had been seated at the Conference. So far as his Government was concerned that was the lawful Government of China.

Mr. MALALASEKERA (Ceylon), while accepting the report on credentials, stated that he wished to reserve his Government's position concerning the credentials of the representatives of China.

Mr. TSAO (China) regretted that certain observations had been made concerning his delegation's status at the Conference. The Government which he had the honour to represent was the only legitimate Government of China and was so regarded by the United Nations. It represented China as a whole at all international conferences. The communist régime of Peiping was the creation of a foreign Power and had been imposed on the Chinese people against the latter's will. The present Conference had been convened by the United Nations; the opinions expressed by any particular delegation had no effect on the legal status of his own delegation which was participating in the Conference. His delegation regarded such observations as politically unsound and not legally binding.

Mr. HARVEY (United Kingdom) said that his delegation had approved the report solely on the basis that the credentials, considered as documents, were in order. That approval did not necessarily imply recognition of each authority by whom the credentials were issued.

The report was adopted, subject to the observations made.

/...

ADOPTION OF CONVENTION (A/CONF.9/L.92)

The PRESIDENT put the Convention as a whole to the vote.

The Convention was adopted by 21 votes to none, with 7 abstentions.

Mr. HUBERT (France) said that an unfailing spirit of understanding and compromise had enabled the Conference to reach reasonable conclusions and to adopt wise and well-balanced solutions for the complex and delicate problems before it. His delegation had been glad to contribute to the success of the Conference's work. As it had indicated in 1959, the French delegation did not agree entirely with some features of the provisions which had been accepted at the previous session. Nevertheless it considered that the text adopted was on the whole such as to permit of clear, if limited, progress towards the objective of eliminating statelessness. Hence, while reserving its Government's decision concerning signature of the Convention, it had voted in favour of the Convention as a whole.

Mr. LUTEM (Turkey) said that his delegation had voted for the text of article 8 in a spirit of compromise, because under that text the essential principles of loyalty and of the vital interests of the State were recognized. However, as some of the articles accepted during the first part of the Conference went only half-way to meet the exigencies of his country's legislation, his delegation had abstained in the vote on the Convention as a whole. Although it took the view that the regulation of nationality questions was essentially a domestic concern, it had participated in the Conference because it recognized that the matter was also one of international importance. States were so closely interconnected by economic and social ties that nationality had to be easily ascertainable. Statelessness disturbed international relations, was a burden on States, and was an intolerable condition for individuals. He paid a tribute to the impartiality and understanding shown by the President in his conduct of the Conference.

Mr. DARON (Belgium) observed that paragraphs 1 and 2 of article 5 were not quite consistent with each other. Paragraph 1 mentioned "recognition" as one of the cases where consequent loss of nationality "shall be conditional upon possession or acquisition of another nationality". But under paragraph 2, a

(Mr. Daron, Belgium)

"recognition of affiliation" might entail loss of nationality, and consequently statelessness; in which case the State concerned should provide the child in question with an opportunity to recover that nationality. The inconsistency arose because the word "recognition", in paragraph 1, had not been deleted at Geneva. It was the Belgian Government's intention to give full effect to paragraph 2.

Mr. MALALASEKERA (Ceylon) said that he had abstained from voting on the Convention as a whole because it contained articles which involved too many restrictions on the sovereignty of States. In particular, his delegation had been unable to accept article 8. Nevertheless, it was glad to have been able to participate in the work of the Conference.

Mr. MAURTUA (Peru) said that the Conference had proved fruitful, notwithstanding the difficulties created by its division into two parts, and the fact that some of the provisions of the Convention as adopted might affect the legislation and policies of States. His delegation had made detailed comments on some of the articles which had been adopted, but had voted in favour of the Convention as a whole, desiring to contribute as much as possible towards the achievement of the Conference's objectives. However, its vote was without prejudice to the action which the Peruvian Government might eventually take with regard to ratification of the Convention.

Mr. WALKE (Pakistan) said that his delegation had voted in favour of the Convention as a whole on the same understanding as with regard to article 8. The text constituted a good compromise, which should serve to reduce future statelessness. His delegation's vote did not commit his Government to ratification of the Convention, but the Government of Pakistan would certainly give serious consideration to the possibility of acceding to it.

Mr. ILIC (Yugoslavia) said that his delegation had abstained in the vote, as it considered the provisions of the Convention to be too restrictive. It would have preferred the adoption of more liberal provisions.

Mr. WIRJOPRANOTO (Indonesia) said that his delegation agreed fully with the purpose of the Conference, and had participated in the latter both at Geneva and in New York. However, it regretted that it could not fully support the Convention which had been drawn up, and had therefore had to abstain in the vote upon it. Article 7, paragraphs 3, 4 and 5, and article 8, paragraph 2 (a), were unsatisfactory from his delegation's point of view, as they conflicted with Indonesian legislation. The excessive rigidity of article 17, paragraph 2, was a further obstacle to his delegation's approval of the text.

Adoption of the Convention nevertheless constituted a useful first step, and his Government would take a position on the matter after it had subjected the text to careful study.

Mr. FERREIRA (Argentina) said that his delegation had abstained in the vote, for reasons which it had indicated earlier. Statelessness created no major problems so far as his country was concerned, and stateless persons could obtain Argentine nationality without any particular difficulty. His Government would give serious consideration to the possibility of Argentina's acceding to the Convention at some future date.

Mr. HERRERA-CABRAL (Dominican Republic) said that his delegation had voted in favour of the adoption of the Convention, the provisions of which did not conflict with the Dominican Republic's Constitution. However, he wished to point out that certain international obligations assumed by the American States might be thought to conflict with the Convention in some measure. Furthermore, certain of the Convention's provisions might be deemed to impose simultaneously on two or more American States the obligation to grant their nationality to a stateless person. His country would do its utmost to ensure that the Convention was fully implemented.

Mr. YINGLING (United States of America) regretted that his delegation had been unable to vote in favour of the Convention as a whole. It might have felt able to approve article 8, had the latter not carried forward certain provisions of article 7 approved at the first part of the Conference. Many of the provisions of article 7 were much more detailed and restrictive than was necessary to accomplish the main purpose of the Convention. He foresaw that the rigid and inflexible

(Mr. Yingling, United States)

attitude adopted by the Conference towards reservations would prove to have been short-sighted; many more Governments might have become parties to the Convention if they could have made reservations on comparatively minor matters.

However the United States recognized the great importance of reducing future statelessness, and would carefully consider whether it might be able to become a party to the Convention at a later date.

APPROVAL OF THE FINAL ACT OF THE CONFERENCE (A/CONF.9/L.91)

The PRESIDENT said that the blank space appearing after the first sentence of paragraph 23 of the draft Final Act (A/CONF.9/L.91) had been intended to contain the titles of the resolutions adopted by the Conference. However, since those resolutions had no titles, the words "the following" in the sentence in question should be replaced by the word "four", and the sentence should end with a full stop.

Rev. Father de RIEDMATTEN (Holy See) remarked that, in the case of other similar Conventions, the resolutions adopted by conferences had appeared in the Final Act itself, and not in annexes. Although he would prefer the texts of the resolutions to be included in the Final Act, so that they might become more widely known, he would not make a formal proposal to that effect unless he found evidence of support from other delegations.

The PRESIDENT pointed out that there were precedents for publishing resolutions as an annex to the Final Act of a conference.

The Final Act of the Conference was approved unanimously.

CLOSING OF THE CONFERENCE

Mr. FAVRE (Switzerland), speaking on behalf of the delegations participating in the Conference, thanked the President, the Legal Counsel, the Executive Secretary and the staff of the Office of Legal Affairs who had contributed to the success of the Conference.

Delegations had worked in a constructive spirit and there had been no real clash of opinion, but rather a search for solutions to the problem of reducing future statelessness. Article 8 of the Convention had engaged the particular

(Mr. Favre, Switzerland)

attention of the Conference, and the text as approved should be acceptable to most States. It might appear surprising to introduce into such a Convention provisions under which a person could be rendered stateless; but, if the text was read as a whole, it would be seen that article 8 restricted the right of States to take action independently of the international community. The adoption of the Convention would encourage changes in national legislation concerning statelessness, and would provide real guidance. The concern which had been felt when the first part of the Conference had adjourned without adopting a Convention had proved groundless, and it would have been a mistake to produce a hurried text which would not have been satisfactory to States.

The PRESIDENT thanked the Conference for the kind words which the representative of Switzerland had spoken on its behalf. The fact that the Conference had succeeded in drawing up a Convention on a very difficult problem of such great humanitarian import must be a source of much satisfaction to all. Most of the Convention had been prepared at the first part of the Conference, and his task had been rendered pleasant and easy by the general desire to reach reasonable conclusions and to take account of the views of other delegations.

The President declared the Conference closed.

The meeting rose at 11.35 a.m.