



CONTENTS

	<i>Page</i>
Agenda item 30:	
Draft Convention on the Nationality of Married Women (<i>continued</i>)	
Article 4	79

Chairman: Mr. Hermod LANNUNG (Denmark).

AGENDA ITEM 33

Draft Convention on the Nationality of Married Women (Economic and Social Council resolution 587 E (XX), A/2944, A/3059, A/C.6/L.372, A/C.6/L.373, A/3154, chap. VII, section IX, para. 541, A/3193, A/C.3/L.513, A/C.3/L.518) (*continued*)

ARTICLE 4

1. The CHAIRMAN invited the Committee to consider article 4 of the draft Convention on the Nationality of Married Women (Economic and Social Council resolution 587 E (XX), annex A).
2. Miss MAÑAS (Cuba) said that in order to avoid any confusion, she was withdrawing the draft resolution which her delegation had submitted to the Sixth Committee (A/C.6/L.372) at the tenth session of the General Assembly. The text in that draft resolution was identical with the one submitted by her delegation to the Commission on the Status of Women, which was reproduced in annex A to Economic and Social Council resolution 587 E (XX).
3. Mrs. NOVIKOVA (Byelorussian Soviet Socialist Republic) said that although her delegation gave general support to the final articles of the draft Convention, article 4 was unsatisfactory in its existing form, as it would prevent a number of States from becoming parties to the Convention. That was particularly undesirable in the case of the Convention under consideration, which was intended to protect the rights of women in all countries. International co-operation should not be restricted in any way, as it would be if the Convention was opened only to the States specified in article 4. Provided that a State concurred in the objectives of the Convention and was willing to accede to it, the fact that it was or was not a Member of the United Nations, a member of a specialized agency or a Party to the Statute of the International Court of Justice was irrelevant. The universality of an international instrument such as the draft Convention should not be impeded by any artificial barriers. Her delegation was therefore submitting an alternative text as an amendment (A/C.3/L.518).
4. Mr. MARRIOTT (Australia) opposed the Byelorussian amendment. If it was adopted, the responsibilities laid on the Secretary-General in paragraph 2

of the same article would be enormously increased; it would then rest with him to determine whether any political entity which wished to sign or accede to the Convention was a State or not. Only the General Assembly should be asked to assume such a heavy responsibility. It was for that reason that the Australian delegation had submitted its amendment (Economic and Social Council resolution 587 E (XX), annex A). He had no objection in principle to States other than the ones mentioned in article 4 of the text before the Committee becoming parties to the Convention, but it was for the General Assembly to decide on their admissibility. Such a procedure was provided for in the Australian amendment. The principle was not new; a similar provision had been included in the Convention on the Prevention and Punishment of the Crime of Genocide, in the Convention on the Political Rights of Women and in article 7 of the draft Convention on the Recognition and Enforcement of Foreign Arbitral Awards, paragraph 1 of which had the same wording as the text in the Australian amendment.

5. Mr. EUSTATHIADES (Greece) said that although he understood the Byelorussian representative's desire for universality, he could not support her amendment.

6. He supported the Australian amendment because, while widening the scope of the draft Convention, it would maintain some connexion between the United Nations and the Contracting States. That was essential, since article 9 of the text before the Committee provided for the settlement of disputes by the International Court of Justice. In addition, what seemed to be a more decisive factor was the practical effects which the adoption of article 4 of the Cuban text, incorporating the Australian amendment, would have on universality. The result would be that only a very small number of Governments would be prevented from becoming parties to the Convention, since it would be open to an overwhelming majority of States, namely, all Member States of the United Nations; all States members of a specialized agency; all States Parties to the Statute of the International Court of Justice; and all States to which an invitation had been addressed by the General Assembly. If the Byelorussian amendment were adopted, various procedural and political difficulties might arise.

7. Mr. BRENA (Uruguay) said that the drafting of article 4 was very broad, since it would admit both present and future members of United Nations bodies. The Byelorussian amendment would extend the scope of the Convention beyond the orbit of the United Nations, and was therefore unacceptable.

8. He supported the Australian amendment, as it recognized the juridical bonds linking all United Nations bodies and would preserve the unity of the United Nations by empowering the General Assembly to decide on the accession of new parties to the Conven-

tion. To go further than that might lead to the disintegration of the United Nations. The aim of the United Nations should be unity through integration.

9. Mrs. KRASSOWSKA (Poland) said that the restriction implied in article 4, paragraph 1, was not consistent with articles 1 to 3 of the draft Convention, which aimed at protecting the rights of women throughout the world. She could not support the Australian amendment, which was little less restrictive than the text before the Committee.

10. The Polish delegation would support the Byelorussian amendment, because it upheld the principle of universality. There were precedents for opening a United Nations instrument to signature by non-member as well as Member States. Under its Constitution, membership of the World Health Organization was open to all States; and similarly the Geneva Conventions relative to the Protection of Civilian Persons in Time of War and to the Treatment of Prisoners of War were open to all Powers.

11. Mr. TSAO (China) was opposed to the Byelorussian amendment because it would permit States which were not sovereign and independent to become parties to the Convention. As there were many political entities which were not sovereign and independent States, the Byelorussian formula would create a dangerous precedent.

12. He supported the first part of the Australian text, since the membership of the specialized agencies was very much larger than that of the United Nations itself, and included virtually all sovereign and independent States. However, he had some misgivings about the last part of the amendment, reading "or any other States to which an invitation has been addressed by the General Assembly of the United Nations". That served no useful purpose and might in the future involve the General Assembly in political disputes. He asked for a separate vote on that part of the Australian amendment.

13. Mrs. MIRONOVA (Union of Soviet Socialist Republics) said that the text of article 4 was unsatisfactory, as paragraph 1 limited the scope of the draft Convention. She did not think it was enough for the Convention to be open to virtually all States; it must be based on the principle of international co-operation, and to be effective, must be universal. She would therefore vote for the Byelorussian amendment and against the Australian amendment.

14. Mr. MAURER (Romania) said that while it could not be asserted that the draft articles which had been approved (A/3059, para. 21) were beyond criticism in every respect, the Romanian delegation did not propose to reopen debate on matters that had already been considered. Such a course would delay the final adoption of a draft instrument which was of such importance, and which represented such an advance, that it should be agreed upon as soon as possible.

15. He felt that article 4 placed an unwarranted limitation on the number of States that could become parties to the Convention. There could be no justification for excluding any States whatsoever from an international instrument which, by the very nature of the rights embodied in it, and because it had been drafted to give effect to an article of the Universal Declaration of Human Rights, should be universally applicable.

16. He therefore supported the Byelorussian amendment.

17. Mrs. ELLIOT (United Kingdom) would vote in favour of the Australian amendment, which followed United Nations practice with regard to multilateral conventions.

18. Proposals similar to the one made by the Byelorussian delegation had been introduced on previous occasions, and had always been rejected, because of the difficulty of determining whether every political entity which might wish to accede was qualified to do so as a sovereign and independent State. In the case in point the problem might become a source of embarrassment to the Secretary-General, as depositary of the Convention. She would therefore vote against the Byelorussian amendment.

19. Mr. BAROODY (Saudi Arabia) observed that the question of restricted participation seemed to arise in connexion with many problems in the United Nations. In the case of the UNICEF Executive Board, it had been decided to limit membership to Member States of the United Nations and members of the specialized agencies on the ground that the Board was a policy-making body and that its purposes would best be served by such a limitation. That argument, however, did not apply to the case in point.

20. He was in a position to take an objective view of the problem, as his Government did not recognize the political entities concerned. The representatives who were most interested in the question had tried to extend the provisions of the draft Convention to women in Non-Self-Governing and Trust Territories; yet the political issue that was being raised would result in discrimination against women in non-member States. But women in non-member States who had contracted marriage with nationals of other countries needed the protection of the Convention to the same extent as other women. In a matter of purely humanitarian significance, the principle of universality should be applied. Some representatives had referred to the additional burden that would be imposed on the Secretary-General if the Byelorussian amendment was adopted; that argument was unfounded, since the Secretary-General was already obliged to deal with *de facto* Governments in connexion with certain problems. The Greek representative's reference to article 9 of the draft Convention was irrelevant, as that article was not acceptable to some delegations, and article 4 could not be made dependent on it.

21. The Australian compromise proposal would be an improvement on the original text, if it was applied in good faith. However, if the current political cleavage in the United Nations continued, the General Assembly would be unlikely to invite the political entities concerned to accede to the Convention; there were already instances of Member States which recognized them as sovereign States, presumably for trade reasons, but voted against their admission to the United Nations. In those circumstances, it was highly probable that many women would be deprived, for political reasons, of the protection afforded by the Convention. The Third Committee should not allow itself to be deflected from its humanitarian purposes by considerations of expediency or political alignments.

22. The Saudi Arabian delegation would vote in favour of the Byelorussian amendment (A/C.3/L.518).

If, as appeared probable, that amendment was rejected, it would vote for the Australian amendment, which, theoretically at least, broadened the provisions of the original text.

23. Miss BERNARDINO (Dominican Republic) said that her delegation's views on the final articles of the draft Convention had already been made known in the Commission on the Status of Women and in the Economic and Social Council. She would therefore confine herself to pointing out that the last phrase of the Australian amendment had been included in the Convention on the Political Rights of Women, which had been signed by forty-two States and ratified by twenty-four.

24. Miss LIMA SCHAUL (Guatemala) said that while her delegation considered that the Convention should apply to as many women as possible, it could not support the Byelorussian amendment (A/C.3/L.518). She would vote in favour of the Australian amendment, which would extend the terms of the Convention to more States than were covered by the original text. Moreover, the provision in question was included in the Convention on the Political Rights of Women and in other instruments concluded under United Nations auspices.

25. Mr. CERNIK (Czechoslovakia) thought that the text of paragraph 1 of article 4 was unsatisfactory, since it would exclude certain States which would be interested in signing the Convention. The purposes of such a restriction could only be political; similar provisions had been adopted, for the same political reasons, in the case of the International Slavery Convention of 1926.

26. He would vote in favour of the Byelorussian amendment, which provided for the necessary universality of application.

27. Mrs. NOVIKOVA (Byelorussian Soviet Socialist Republic) said that some representatives had objected to her delegation's amendment on the ground that it would tend to split States into groups; that argument was unfounded, for the adoption of an amendment based on the principle of universality would on the contrary promote international solidarity.

28. The argument that her amendment would create difficulties for the Secretary-General was also invalid; the procedure proposed was not new, and had given rise to no complications. Women in many countries were deprived of the protection which the Convention would afford them; that situation should be remedied, not perpetuated.

29. It had been alleged that the adoption of the Byelorussian amendment would make it possible for what had been called political entities to become parties to the Convention. Her delegation wished to make it clear that the Byelorussian proposal was aimed at securing the widest participation of sovereign and independent States in the Convention.

30. Mr. VLAHOV (Yugoslavia) said he agreed with the views that had been expressed by the Saudi Arabian representative. The basic issue between the original text and the Byelorussian amendment lay in the question whether participation in the Convention should be restricted to certain States or open to all. The Byelorussian amendment was closest to the funda-

mental United Nations principle of universality, and the Yugoslav delegation would therefore vote for it. However, the difference involved was becoming less important every year, as more countries were being admitted to the United Nations and the specialized agencies; for example, very few countries still remained outside the Universal Postal Union. He would therefore vote in favour of the Australian amendment if it came to the vote, and in favour of the original text if that proved necessary.

31. Mr. BRATANOV (Bulgaria) said that the provisions of a purely humanitarian convention should be universally applicable. The Australian amendment seemed to introduce an unnecessarily complicated procedure; he would therefore vote in favour of the Byelorussian amendment, and appealed to the Committee to support it on humanitarian grounds.

32. Mrs. SHIPLEY (Canada) said that her delegation would support the Australian amendment, because it gave the largest possible number of States the opportunity to accede to the Convention, without placing on the Secretary-General the onus of deciding in doubtful cases whether or not a State was entitled to accede. Moreover, as the Dominican representative had pointed out, there were precedents in other international instruments for the formula in question.

33. She would vote against the Byelorussian amendment.

34. Mrs. BILAI (Ukrainian Soviet Socialist Republic) said that the text of article 4 was restrictive in that it barred some States from acceding to the Convention. The Committee had approved progressive provisions in articles 1 to 3; it should not prevent women in certain countries from enjoying the benefits of those provisions, but should act in accordance with the principle of universality. The fact that the text would apply in its existing form to a large number of States was no excuse for excluding other States. The objection that the Byelorussian amendment might place the Secretary-General in a difficult position was unfounded; other conventions including a similar provision had not proved in any way embarrassing to him, and the draft Convention under consideration, being purely humanitarian, should be opened for signature by all States without exception. She therefore warmly supported the Byelorussian amendment (A/C.3/L.518).

35. Mr. BRENA (Uruguay) remarked that as the text of article 4 permitted accession to the Convention even by States which might become members of a specialized agency in the future, it could hardly be described as restrictive. Furthermore, the Australian amendment would cover the few cases which might be excluded by the text as it stood.

36. His opposition to the Byelorussian amendment was not political. The Latin American countries had been among the first in the world to recognize women's rights. However, legal instruments approved by the United Nations should remain within the United Nations framework.

37. Mrs. MARZUKI (Indonesia) said that her delegation, as it had made clear during an earlier debate, strongly favoured the principle of universality. She would therefore vote for the Byelorussian amendment. If the Australian amendment came to the vote

she would support it, since it represented a satisfactory compromise.

38. Miss MAÑAS (Cuba) strongly supported the Australian amendment; it was an improvement on the original text, and it left the door open to all States that might wish to ratify the Convention in the future. In fact, the Australian amendment met the Byelorussian representative's requirements, for any State which supported the principles of the United Nations would presumably be invited by the General Assembly to accede to the Convention.

39. Mr. MUFTI (Syria) said he was unable to vote for article 4 as it stood because it was restrictive and therefore contrary to the principle of universality, which his delegation had always upheld. The draft Convention dealt with a purely humanitarian subject, and should therefore be open for signature by the largest possible number of States. Furthermore, the text was contrary to existing precedent; earlier conventions dealing with human rights included the provision that any State not a Member of the United Nations or a member of a specialized agency could be invited either by the Economic and Social Council or by the General Assembly to accede. The Australian amendment allowed the latter possibility, and he would accordingly support it. He would also vote for the Byelorussian amendment, which was even more satisfactory since it would permit all States without exception to become parties to the Convention.

40. Mrs. MIRONOVA (Union of Soviet Socialist Republics) said that while the Australian amendment represented a certain improvement on the text of article 4 as it stood, it did not permit all States to accede to the Convention, as did the Byelorussian amendment. Since she saw no reason why any barriers, however small, should be set up to prevent the universal enjoyment of the benefits of the Convention, she would vote for the Byelorussian amendment, but would abstain on the Australian amendment and on the text of article 4 as it stood.

41. Mr. AGOLLI (Albania) said that he would vote for the Byelorussian amendment, since it was in line with the humanitarian and universal character of the draft Convention. He was unable to support the Australian amendment, which did not entirely eliminate the restrictions imposed by the text as it stood.

42. The CHAIRMAN put to the vote the Byelorussian amendment (A/C.3/L.518).

At the request of the representative of Australia, a vote was taken by roll call.

Iraq, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Poland, Romania, Saudi Arabia, Sudan, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Afghanistan, Albania, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Egypt, Hungary, India, Indonesia.

Against: Ireland, Italy, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Peru, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Costa Rica, Cuba, Denmark,

Ecuador, El Salvador, Finland, France, Greece, Guatemala.

Abstaining: Iraq, Israel, Morocco, Nepal, Pakistan, Portugal, Spain, Yemen, Ceylon, Dominican Republic, Ethiopia, Iceland, Iran.

The amendment was rejected by 31 votes to 19, with 13 abstentions.

43. The CHAIRMAN put to the vote the final phrase of the Australian amendment.

The phrase was adopted by 48 votes to 1, with 13 abstentions.

44. The CHAIRMAN put to the vote the Australian amendment as a whole.

At the request of the representative of Saudi Arabia, a vote was taken by roll call.

Venezuela, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Venezuela, Yemen, Yugoslavia, Afghanistan, Argentina, Australia, Austria, Belgium, Brazil, Burma, Canada, Ceylon, Chile, China, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Greece, Guatemala, Iceland, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Luxembourg, Mexico, Morocco, Netherlands, New Zealand, Norway, Pakistan, Peru, Portugal, Saudi Arabia, Spain, Sudan, Sweden, Syria, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: Albania, Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, Hungary, India, Nepal, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

The amendment as a whole was adopted by 52 votes to none, with 11 abstentions.

45. The CHAIRMAN put to the vote the text of article 4, paragraph 2, of the draft Convention (Economic and Social Council resolution 587 E (XX), annex A).

Article 4, paragraph 2, was adopted unanimously.

46. The CHAIRMAN suggested that article 4 as a whole should be taken as adopted.

It was so agreed.

47. Mr. PONCE (Ecuador) thought that article 4, paragraph 2, would have been improved by the insertion, after the word "ratified", of some such phrase as "in accordance with the legal and constitutional procedures of each State". While that idea was implicit in the text of the paragraph as it stood, the fact of giving it explicit expression might have had a favourable psychological effect on Governments, and secured an additional number of ratifications.

48. The CHAIRMAN said that the Ecuadorian representative would be free to propose an amendment to that effect when the text was considered in the plenary meeting of the General Assembly.

49. Mr. BRENA (Uruguay) said he felt the addition would be unnecessary; it was understood that every State would ratify the Convention in accordance with its legal and constitutional procedures.

50. Mr. MUFTI (Syria) supported the Ecuadorian suggestion, for clarity was always desirable in a legal

instrument. Although he had voted for the text of article 4 which had been adopted, his delegation still felt that all the final clauses should be referred to the Sixth Committee for a legal opinion; the Ecuadorian suggestion might be referred to it at the same time.

51. Mr. TSAO (China) said he had voted against the final phrase in the Australian amendment for the

reasons he had explained earlier. However, he had voted for the amendment as a whole because he felt that the final phrase would have no practical effect, and that the rest of the amendment was an improvement on the original text.

The meeting rose at 12.55 p.m.