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Same System, Different Outcomes: Comparing the Implementation of Dual Nationality Treaties in East Germany and China

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Abstract

Since 1955, one important trend regarding dual nationality was observable in East Germany and the People's Republic of China (PRC): the official rejection of dual nationality itself. While East Germany's effort in preventing dual nationality was motivated by the socialist nationality principles of its Eastern European allies, the PRC's effort was aimed at ending its diplomatic isolation in the Southeast Asian region. In both states, bilateral treaties were preferred over national legislation in overcoming dual nationality. This article compares the implementation of a single nationality principle through bilateral treaties and suggests that the PRC's effort was unsuccessful because it was confronted with unfavourable international circumstances compared to East Germany.

THE COLD WAR, WHILE PERPETUATING THE DIVISION BETWEEN the two Germanies and the two Chinas, created common ground between East Germany and the People's Republic of China (PRC). The developments regarding citizenship in East Germany were paralleled by those of the PRC. Both the socialist states of the German Democratic Republic (GDR) and the PRC showed a similar hostility towards dual nationality in line with the trends in their approaches to nationality in the 1950s. Convergence occurred during the Cold War in restricting dual nationality. Multiple allegiances were incompatible with the principle of the classic nation states of one person, one nationality. In Joppke's words, 'This logic was empirically reinforced, in the high age of nationalism, by the fact of warfare being a national way of interstate relations' (Joppke 2010, p. 47).

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Dual nationality was generally rejected by socialist states. The constitutions of the socialist states and bilateral treaties on dual nationality among the socialist states prohibited dual nationality by prohibiting their citizens from becoming the citizens of another state (Sipkov 1962; Gelberg 1966; Ginsburg 1983). Dual nationality has been traditionally viewed with disfavour. For sovereign nation states, it is a 'constant source of international tension' (Spiro 1997, p. 1414). In times of international conflict, dual nationality was linked to direct national security threats and dual nationals were linked to potentially subversive activists (Spiro 1997, p. 1419). Dual nationality has been prohibited on the grounds of protecting state interests against treason and espionage. States demanded exclusive loyalty to avoid conflicting citizens' obligations, which could cause potential harm to interstate relations (Faist *et al*. 2008, p. 100).

Interestingly, in the case of both the PRC and East Germany, these socialist states did not resort to national legislation to regulate the dual nationality status of their nationals.[1] Since most cases of dual nationality were caused by the difficulties encountered by overseas nationals in renouncing their German or Chinese nationality, both East Germany and the PRC were convinced that a more effective means of preventing dual nationality could only be achieved through bilateral treaties (Riege 1982, pp. 309–10; De Padua 1985, pp. 259, 263). East Germany, following the example of the Soviet Union, concluded a series of dual nationality treaties with countries in the socialist bloc, while the PRC invited Southeast Asian countries to solve the problems of overseas Chinese through the conclusion of comparable treaties (Riege & Kulke 1980, pp. 57–8; Abraham 2008, pp. 61–2).

Prior to the citizenship reforms in the 1950s, the citizenship laws of East Germany and the PRC were characterised by citizenship rivalry, which in turn resulted in a competitive nationality policy for overseas Chinese and ethnic Germans abroad.[2] Both West and East Germany in their 1949 Constitutions claimed that there was only one German nationality (though the GDR had never claimed to be the sole representative). Neither the FRG nor the GDR formulated a new citizenship law. The Nationality Law of the German Empire and States of 22 July 1913 remained in force in both German states (Krajewski & Rittstieg 1996, p. 360; Hilf 2004, p. 1086). Similarly, the Republic of China (Taiwan) and the People's Republic of China (China) also claim all Chinese, including those in their rival states, as their citizens based on the 1909 Imperial Nationality Law (Shao 2009, pp. 5, 19). Maintaining ties with them through dual nationality served as a legitimisation device for the rival states. By bestowing citizenship based on the descent line, the problematic phenomenon of dual nationality arises for Germans abroad and overseas Chinese (Gu 1995, p. 2). However both socialist states took a similar turning point in their dual nationality principles towards the end of the 1950s: that dual nationality must be avoided.

This article undertakes a comparative study of the issue of dual nationality. On the one hand, the two cases lend themselves readily to comparative analysis, since, for the best part

[1] In this article, the choice of the term 'citizenship' or 'nationality' is influenced by the official terms used by the German and Chinese governments. 'Citizenship' was the official term employed by the GDR government (citizenship of the GDR), while 'German nationality' was used by the Federal Republic of Germany (FRG) in its official documents. The choices of terms have not been consistent in Chinese usage. 'ROC citizenship' is more commonly used in the Taiwanese vocabulary nowadays, rather than the previous term 'ROC nationality'. Once the PRC enacted its own nationality law, 'PRC nationality' became commonly used.

[2] The Chinese population abroad is often referred to by the PRC as 'overseas Chinese' (*huaqiao*) whereas the German population abroad is referred to as 'Germans abroad' (*Auslandsdeutsche*).

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of the post-war period in question here, the histories of both states were characterised by the existence of rival states. On the other hand, amid the complexity there are numerous and significant points of differences as well as similarities. The article firstly outlines some conditions for the comparison of East Germany and the PRC. It then examines the national and international circumstances that triggered the onset of the new single nationality policy. Facing the same problem of diplomatic isolation, the states adopted the same solution: bilateral dual nationality treaties. The issues confronted by the respective governments during the implementation of the treaty system are discussed. Finally, the article discusses why the implementation of a similar treaty system resulted in very different outcomes for both the socialist states.

The case for comparative studies

In reforming their dual nationality policies, East Germany and the PRC shared three similarities. Firstly, the turning point was brought about by the challenges of international development and diplomatic isolation. Both socialist states suffered from diplomatic isolation and were prevented from resolving the status of their overseas nationals in the non-recognising states. They revised their pre-war dual nationality principles with the purpose of reinforcing their state sovereignty (in the case of East Germany) and establishing diplomatic relations (in the case of the Chinese) (Metzler 2001, p. 6; Shu 2007, p. 512). This explains why bilateral treaties were looked upon as the ideal solution, compared to national legislations. The former had far-reaching political effects in terms of interstate rivalry in divided nations.

A bilateral treaty had the character of a state treaty.It signified the mutual recognition among the signatory states of their state sovereignty (Lauterpacht 2013, pp. 375, 378). The contracting states of dual nationality treaties only recognised the nationality laws of the divided state with which they signed the treaty. In the European communist bloc the signatory states of bilateral nationality treaties with the GDR only recognised the East German nationality law. In fact, the GDR concluded treaties with the communist states in order to prevent its citizens from claiming the benefits of German nationality (Hofmann 1998, pp. 159–60). Similarly under the Sino–Indonesia Treaty, only PRC nationality was recognised by Indonesia for the local Chinese, and the jurisdiction of the ROC was denied. Moreover, dual nationals of divided states in a third state could only choose a nationality which was recognised by the third state. Chinese in Indonesia, for example, were to choose between PRC nationality and Indonesian nationality (Suryadinata 1976, pp. 785–86).

The second significant similarity was the shared goal of integration. The initialisation of the treaty system was motivated by the need to regulate the status of a large number of overseas nationals. Both states sent out a clear message to their nationals: choose the citizenship of their country of origin or the citizenship of their country of permanent residence. Like the GDR, the PRC encouraged its dual nationals to choose the nationality of their countries of domicile. It would better serve the interests of the individual if the dual nationals concerned chose the nationality of the states with which they were most closely affiliated. Thus, the interests of their citizens were the foremost consideration in determining the choice of citizenship. In this respect, both states respected the free will of their citizens to choose a nationality and adopted the similar principle of 'free choice' in their dual nationality treaties (Riege 1982, p. 312; Suryadinata 2005, p. 53; Liu 2011, p. 822).

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Thirdly, their dual nationality policies were also driven by an ideological motive, with the intention of bringing their overseas nationals into the sphere of socialism. As Ginburgs reminds us, in the option system, the dual nationals involved not only made a choice between the citizenship of a socialist state and the citizenship of a capitalist state but 'also a choice of social systems' (Ginsburgs 1964, p. 1172). Although the GDR criticised West Germany's nationality policy, which aimed at winning individuals away from socialism and bringing them into the sphere of West German influence, it can be suggested that East Germany's dual nationality treaty also resulted in a similar outcome. By concluding citizenship treaties with other socialist states, GDR citizens could only choose between East German citizenship and the citizenship of the respective socialist state (Riege 1982, p. 309). The situation in the Chinese case was more subtle. Though the Chinese government encouraged those who chose to remain as Chinese nationals not to interfere in the politics of their country of residence, the Chinese Communist Party (CCP) continued to support the communist activities of the country. From the Chinese perspective, respecting the citizenship of a third state did not oblige the government to discontinue its support for the communist cause (Leong 1987, p. 1110).

Although both countries sought a similar solution of bilateral dual nationality treaties, their adoption led to contrasting results. While the treaty system was successfully implemented in Eastern Europe, the Chinese experience in Southeast Asia was more problematic. In explaining the failure of the Chinese dual nationality system, the PRC was confronted with unfavourable international circumstances compared to East Germany, though both states were experiencing diplomatic isolation.

Problems of dual nationality during diplomatic isolation

Though sharing a common goal, each country faced different problems. East Germany was overwhelmed with dual nationality problems caused by mass escape to West Germany. Meanwhile, the PRC was troubled by complications in diplomatic relations stemming from the presence of a huge number of overseas Chinese in non-communist states. There were at least three citizenship-related problems faced by the communist states by virtue of non-recognition of their governments on the world scene. These problems—the non-recognition of their citizenship, the denial of their diplomatic protection in a third state, and the difficulties of registration of their nationals—were all logical consequences of the citizenship competition from their rival state (Plock 1986, p. 200).

Without diplomatic relations and consulate offices in these countries, the PRC and East Germany had difficulty winning the loyalty of overseas Chinese and ethnic Germans abroad. By contrast, their rival states, which were recognised by most countries, were able to establish consulate offices and thus enjoyed a more advantageous position (Gu 1995, p. 84). For a period of 25 years, GDR citizenship was considered invalid in non-socialist countries. This non-recognition was reinforced through the implementation of West Germany's Hallstein Doctrine in 1955. In accordance with principles of foreign policy, diplomatic relations were to be severed with countries recognising East Germany (Nebow & Henderson 2006, pp. 48–9). Countries recognising West Germany accepted its claim to offer diplomatic protection to GDR citizens in a third country. The citizens were given the right to choose between the two German states for diplomatic protection. The FRG 'open-door policy' was accepted by most non-communist countries without causing many problems (Simma 1985 pp. 114–15).

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GDR citizens claimed German nationality as soon as they crossed the border into the FRG or as soon as they entered a FRG embassy. They were exempted from the normal procedure of applying for asylum or naturalisation. The granting of automatic nationality as a right to all Germans greatly challenged the legitimacy of the GDR (Frey 1987, p. 20). It was possible for individuals to possess both German passports. There were cases in capitalist countries where GDR citizens sought a FRG passport through West German representatives. On the other hand, German nationals could submit applications for FRG passports through the East German representative in socialist states and were registered as such. In countries where there were no GDR diplomatic or consular missions, citizens could not register and might not be granted legal protection. Complications arose when a person wanted to remain a citizen of the GDR and the state of residence did not recognise the GDR passport.[3]

In terms of the registration of German nationals, East Germany faced many problems even in socialist states although GDR citizenship was recognised as such in these states. There was a clear demarcation between German nationals and citizens of the GDR. In Poland and the Czechoslovak Socialist Republic, both of which had a large number of German nationals, these nationals, for political reasons, decided not to apply for a GDR passport even though GDR passports were relatively easy to acquire in the socialist countries. In Hungary, Romania and Bulgaria, German nationals acquired FRG passports from the French embassy, which functioned on behalf of the FRG.[4]

Since the possession or acquisition of a second nationality did not contradict the nationality law of the GDR, its possession had to be regarded as lawful. However, it was not in the interest of a socialist state, when its own citizens possessed foreign passports, especially the passports of capitalist states. By holding a second passport, these citizens might bypass certain legal provisions in the GDR. A forcible confiscation of foreign passports would have no influence on the possession of foreign nationality. The problem, in the opinion of the Ministry of Foreign Affairs' (*Ministerium für Auswärtige Angelegenheit*—MfAA), could only be solved by addressing the issue of dual nationality.[5]

Moreover, dual nationality, in the GDR's view, did not bring any benefits. The GDR's policy concerning its nationals in other socialist countries was aimed at addressing the actual needs of its dual nationals. In contrast, nationality policies in the capitalist countries were aimed at winning individuals away from socialism and bringing them into the sphere of West German influence. The GDR welcomed the act of its citizens in identifying with their country of residence, since dual nationals were increasingly associated with the political, economic and cultural life of their host country. In Poland, German citizens who married Polish citizens would register at the Consulate in Wroclaw and request that their children not be registered

[3] Bundesarchiv Berlin-Lichterfelde (hereafter, BABL), DO 1/7570, *Entwurf der konsularischen Praxis der DDR bei der Behandlung von Bürgern beider deutscher Staaten, die sich zeitweilig oder ständig im Ausland aufhalten*, 16 June 1960, p. 12.

[4] BABL, DO 1/7570, *Entwurf der konsularischen Praxis der DDR bei der Behandlung von Bürgern beider deutscher Staaten, die sich zeitweilig oder ständig im Ausland aufhalten*, 16 June 1960, pp. 10–1.

[5] Politisches Archiv des Auswärtigen Amts (hereafter, PAAA), Ministerium für Auswärtige Angelegenheit (hereafter, MfAA), C 1900/72, *Einschätzung der doppelte Staatsbürgerschaft sowie des Erwerbs und Besitzes fremder Paßdokumente von Pohner, Ministerium für Auswärtige Angelegenheiten, Abteilung Konsularische Angelegenheiten*, Sektion I, 26 February 1962, p. 20.

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as GDR citizens. This was a welcome development, according to the GDR, one which served to strengthen and improve citizens' lives in the context of social life in Poland.[6]

There was monitoring of the number of dual nationals in the GDR, that is, people who possessed a foreign citizenship in addition to the citizenship of the GDR. The number of persons concerned was very small. On 31 March 1959 there were only 265 dual nationals abroad; no exact number of dual nationals in the GDR could be determined by the local authorities. This figure rose only imperceptibly after 1959. In the view of the MfAA, the consular offices of the embassies and consulates should first focus on determining and registering the number of persons with dual nationality living permanently in their host country and the number of foreign persons with German nationality.[7]

The PRC was also faced with diplomatic isolation and economic blockade during the early period of the Cold War. In order to compete with the Republic of China (ROC), the newly established communist regime found it necessary to win the loyalty of overseas Chinese and make them identify with their government rather than with that of the ROC. Hence, a more competitive nationality law that recognised dual nationality was adopted (Liu 2008, p. 133). Possession of dual nationality led to practical problems in Southeast Asian countries. Firstly, it led to unwanted Chinese interference in local politics. This was clear when the ROC in 1947 and the PRC in 1953 planned to hold elections overseas to select representatives to their respective legislative bodies (Hara 2003, p. 102). The attempts provoked negative responses from Southeast Asian governments who regarded these as a violation of their sovereignty. The British colonial administration in Malaya strongly opposed such elections and asked the Chinese government to suspend them. The Thai government also issued a stern warning in October 1947, stating that those who participated would be punished. As a result of opposition from many Southeast Asian countries, the overseas election was cancelled officially in February 1948 (Hara 2003, p. 80).

The PRC followed suit when it announced its intention in 1953 to hold overseas elections to select 30 delegates to the National People's Congress. The British were once again confronted with the old dilemma of interference from the Chinese government in local sovereignty. Secondly, the possession of Chinese nationality was seen as a liability for overseas Chinese. Their loyalty was questioned, their access to local nationality was restricted and they faced discrimination as they were often associated with the communist activities in their adopted lands. The promotion of the pro-communist stance among overseas Chinese presented a sensitive problem when many Chinese were suspected of participating in communist guerrilla warfare in their country of residence (Liu 2008, p. 133). Though the PRC sought to maintain the allegiance of all Chinese, as reflected in the slogan, 'once a Chinese always a Chinese', they realised that it was unrealistic (De Padua 1985, p. 258). In practical terms, it would result in the discriminatory treatment of their overseas nationals in their host countries. Theoretically, such a strong claim would be a source of tension in the relationship between China and other

[6] PAAA, MfAA, C 1901/72, *Schreiben an Konsularabteilung Sektion 3 von Fritzche, Leiter der Konsularabteilung MfAA. Betr: Fragen der doppelten Staatsbürgerschaft,* 17 July 1960, pp. 1–2.

[7] PAAA, MfAA, C 1900/72, *Entwurf zur Regelung des Problems der doppelten Staatssangehörigkeits von Böhm, MfAA an Genossen König*, 31 July 1959, pp. 1–2.

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countries and lead to complications in foreign relations.[8] The regime had come to realise that its dual nationality policy hindered it from establishing diplomatic relations with Southeast Asian countries. While PRC foreign policy after 1949 had been guided by its anti-capitalist position, and the overseas Chinese were utilised to spread communist revolution to the Third World countries, by the 1950s the PRC was more interested in establishing good relations with them (Choe 2006, pp. 96–7).

Sharing the same objective as East Germany, the PRC also resorted to the same solution of intergovernmental agreements. Bilateral treaties were utilised because amending their pre-war nationality laws was unfeasible as both the socialist regimes still identified themselves as the legitimate successors of Germany and China. Besides this, dual nationality treaties served to reinforce their states' legitimacy and sovereignty. The jurisdiction of the rival states over their nationals in a third state could be effectively denied if the proposed treaty were concluded with the third state.

The changing nationality policies of the socialist states

Restricting dual nationality: the task of the East German citizenship committee

Following the resolution of the Foreign Affairs Committee of 20 August 1959, the MfAA together with the Ministry of the Interior were instructed to prepare a draft nationality law for the *Sozialistische Einheitspartei Deutschlands* Politburo.[9] One of their tasks was to determine whether the new GDR citizenship should prohibit dual nationality. During the deliberations of the GDR Citizenship Committee, the members shared the goals of the socialist bloc in restricting dual nationality. The Committee strongly advocated intergovernmental agreements in developing proposals for a new citizenship law of the GDR. According to international practice, a person with dual nationality could only belong to the state in which he or she permanently resided, and only in this one state were they entitled to exercise their rights and fulfill their obligations. This 'effective nationality' principle, emphasising the nationality of the country of permanent residence, was not a complete solution to the problem of dual nationality. It was therefore considered more effective to solve the problem of dual nationality through national legislation and international agreements.[10]

The MfAA suggested two ways of restricting or eliminating dual nationality, namely through national legislation and by concluding treaties for the regulation of questions of dual nationality. The GDR citizenship law (based on the 1913 citizenship law) only

[8] The United Kingdom National Archives (hereafter, TNA), Foreign Office (hereafter, FO) 371/127427, Far Eastern Department: China (hereafter, FC) 1821/1 Despatch from D.C. MacGillivray, Commissioner General for the United Kingdom in Southeast Asia, Singapore, 10 December 1956, available at: http://www.archivesdirect.amdigital.co.uk.ezp.lib.unimelb.edu.au, accessed 2 November 2011.

[9] BABL, DO 1/7570, *Schreiben von Schwab, Botschafter und Stellv. des Ministers an den Minister des Innern, Karl Maron,* 16 February 1960.

[10] BABL, DO 1/7595, *Vorschläge zur Einschränkung der Doppelstaatsbürgerschaft in der DDR, Ministerium für Auswärtige Angelegenheit, Abteilung Konsularische Angelegenheiten Bericht Staatsbürgerschaft Interessenwahrnehmung*, 16 May 1962, pp. 3–4.

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eliminated dual nationality in cases of the acquisition of another nationality abroad or acquisition of GDR citizenship through naturalisation.[11] Other restrictions did not exist. Each child of GDR citizens acquired, regardless of birth, the citizenship of the GDR. Acquisition of dual nationality at birth was by far the most common way of becoming a dual citizen. For the time being, the applicable GDR citizenship law contained no possibility of limiting the number of dual nationals created this way. According to the GDR foreign missions, 350 people were registered as dual nationals in 1962. This was exclusive of children who had only one parent with GDR citizenship.[12]

The large number of cases of dual nationality also resulted from illegal emigration. In the GDR, there was no regulation by which a citizen of the GDR who crossed the border would lose their German nationality. Since no refugee from the GDR had been deprived of GDR citizenship, they were dual nationals, legally speaking, as they also possessed West German identity documents. To prevent the further proliferation of dual nationals as a result of illegal emigration, it was thought advisable that the new citizenship law would deem illegal exit from the GDR as grounds for the withdrawal of GDR citizenship.[13]

However, dual nationality could not be prevented completely by national legislation alone. A unilateral nationality law could not affect those dual nationals with permanent residence abroad. Multilateral agreements would be necessary for the final settlement of questions of dual nationality. Due to the similarities among the socialist countries in terms of population policy and the common desire to solve the problem of dual nationality, the MfAA proposed examining the possibility of a multilateral convention between the GDR and all socialist states (see Table 1).[14]

Since 1956, most socialist countries (except East Germany, North Vietnam and Cuba) had concluded conventions for the regulation of questions of dual nationality based on the free will of the persons concerned to choose a nationality. The number of dual nationals was growing continuously and was projected to increase as the associated population movements continued to rise. On 30 June 1965, 322 dual nationals were registered by foreign missions of the GDR, compared to 257 people in 1959 (see Table 2).[15]

Following the recommendation of the Citizenship Commission, a new East German citizenship law, *Staatsbürgerschaftsgesetz* (StBG) was promulgated on 22 February 1967.

[11] PAAA, MfAA, C 1900/72, *Einschätzung der doppelte Staatsbürgerschaft sowie des Erwerbs und Besitzes fremder Paßdokumente von Pohner, Ministerium für Auswärtige Angelegenheiten, Abteilung Konsularische Angelegenheiten*, Sektion I, 26 February 1962, p. 9.

[12] PAAA, MfAA, C 1900/72, *Einschätzung der doppelte Staatsbürgerschaft sowie des Erwerbs und Besitzes fremder Paßdokumente von Pohner, Ministerium für Auswärtige Angelegenheiten, Abteilung Konsularische Angelegenheiten*, Sektion I, 26 February 1962, p. 3.

[13] PAAA, MfAA, C 1900/72, *Einschätzung der doppelte Staatsbürgerschaft sowie des Erwerbs und Besitzes fremder Paßdokumente von Pohner, Ministerium für Auswärtige Angelegenheiten, Abteilung Konsularische Angelegenheiten*, Sektion I, 26 February 1962, pp. 17–8.

[14] PAAA, MfAA, C 1900/72, *Einschätzung der doppelte Staatsbürgerschaft sowie des Erwerbs und Besitzes fremder Paßdokumente von Pohner, Ministerium für Auswärtige Angelegenheiten, Abteilung Konsularische Angelegenheiten*, Sektion I, 26 February 1962, pp. 18–9.

[15] PAAA, MfAA, C 1900/72, *Zu den Perspektivaufgaben des MfAA—Lösung von Problemen der doppelten Staatsbürgerschaft mit sozialistischen Staaten*, 9 November 1965, p. 23.

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TABLE 1
DUAL NATIONALITY TREATIES CONCLUDED AMONG THE SOCIALIST STATES

Treaties	*Date*
PRC–Indonesia	22 April 1955
USSR–Yugoslavia	22 May 1956
USSR–Hungary	24 August 1957 and 21 January 1963
USSR–Romania	4 September 1957
USSR–Albania	18 September 1957
USSR–Czechoslovakia	5 October 1957
USSR–Bulgaria	12 December 1957
USSR–North Korea	16 December 1957
USSR–Poland	21 January 1958 and 31 March 1965
Bulgaria–Hungary	27 June 1958
Bulgaria–Romania	24 September 1959
Hungary–CSSR	4 November 1960
Hungary–Poland	5 July 1961
Poland–CSSR	17 May 1965

Source: MfAA, C 1900/72, *Zu den Perspektivaufgaben des MfAA—Lösung von Problemen der doppelten Staatsbürgerschaft mit sozialistischen Staaten*, 9 November 1965, p. 23.

TABLE 2
STATISTICS OF FOREIGN-REGISTERED CITIZENS OF THE GDR AT THE FIRST HALF YEAR OF 1965 (30 JUNE 1965)

States	*Total*	*Men*	*Women*	*Dual nationals*
Bulgaria	179	34	145	40
Republic of China	8	5	3	–
Czechoslovakia	693	289	404	95
Yugoslavia	15	9	6	1
Cuba	4	–	4	–
Poland	797	283	514	276
Romania	33	10	23	2
Hungary	208	46	162	54
USSR	105	15	90	56
United Arab Republic	21	1	23	30
Total	2,006	692	1,374	554

Source: BABL, VDS 148/65, DO 1/7594, *Anlage von Ministerium für Auswärtige Angelegeheit an Ministerium des Innern*, 28 September 1965.

The 1967 citizenship law provided for the conclusion of treaties to regulate the question of dual nationality with the socialist states.[16] The prospect of concluding bilateral treaties was further endorsed by the Council of Ministers on 22 November 1968 and the State Council on 30 December 1968.[17]

Dual nationality treaties had far-reaching political significance. They signified the full sovereignty of both countries in the area of nationality legislation. The dual nationality treaty signed between the GDR and other socialist states served to remind the FRG that East

[16] Article 3 (3), *Gesetz über die Staatsbürgerschaft der Deutschen Demokratischen Republik (StBG) vom 20 Februar 1967* (The Citizenship Act of the GDR, 20 February 1967), available from *Volkskammer der Deutschen Demokratischen Republik, 4. Wahlperiode, Drucksache Nr. 78.*

[17] BABL, DA 5/1043, *Beschluss über die Ratifikation des Vertrages vom 12 November 1975 zwischen der DDR und der Volksrepublik Polen zur Regelung von Fällen der doppeten Staatsbürgerschaft*, 16 January 1976.

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Germany had the sovereign right to decide on the nationality of its own citizens, including the right to determine the procedures under which cases of dual nationality could be prevented. As it was the sovereign right of each state to regulate its own nationality law, the GDR regarded the act of West Germany, which claimed citizens of other countries as its own citizens, as illegal. The treaties thus served to challenge West German jurisdiction (German Demokratic Republic 1969, p. 544). In the socialist states which recognised the GDR, Germans could either choose East German nationality or the nationality of another contracting state in accordance with the treaties concluded. In all socialist countries, applications for discharge from the citizenship of the GDR were registered. Proper registration of nationality effectively prevented the unauthorised acquisition of the nationality of the FRG.[18]

In this respect, bilateral treaties reinforced the function of East German citizenship. Citizenship of the GDR was an expression of the sovereignty and statehood of the GDR. With the emergence of two German states with different social systems, there were two German citizenships: a socialist citizenship of East Germany and a capitalist nationality in West Germany.[19] GDR citizenship was formulated to deny the West German claim to sole representation. As Palmowski suggests, the laws were 'originally constructed ex *negativo*, in relation to the FRG, and they were firmly rooted in the political context of the 1960s' (Palmowski 2008, p. 76).

Abandoning dual nationality: the PRC's pledge at the Bandung Conference

The PRC was ready to give up its dual nationality claim in 1954. In Zhou Enlai's statement to the National People's Congress on 23 September 1954, he announced that China was prepared to settle the question of dual nationality of the overseas Chinese in the first instance with Southeast Asian countries that had already established diplomatic relations with China. If the PRC relinquished its claim to the overseas Chinese, it would be against its constitutional provisions which pledged to safeguard the interests of overseas Chinese and the ROC could rightfully claim to be the sole representative of the Chinese. However, gaining diplomatic recognition and establishing good relations with neighbouring countries were key priorities of the foreign policy of the CCP.[20]

The Bandung Conference occupied a decisive position in China's international diplomacy in her bid to normalise relations with neighbouring states while defeating international isolation (Chen 2008, p. 153). As stated by See and Acharya (2008a, p. 5), a key accomplishment of the Conference was 'the consensus that differing political systems and ideologies should not be the basis for exclusion from international cooperation'. It was in this capacity that George M. Kahin described the Asian–African Conference as the 'détente between the Communist and non-Communist worlds' (Kahin 1956, p. 2).

[18] BABL, DO 1/14239, *Stellungnahme zum Schreiben des MfAA, Betr: der Berichte einiger Auslandsvertretungen der DDR zur praktischen Abwicklung des Staatsbürgerschaftswechsels*, 19 November 1979, p. 5.

[19] BABL, DO 1/7570, *Prinzipien für die Erarbeitung eines Gesetzes über die Staatsbürgerschaft der DDR, Die Arbeitesgruppe des Ministerium für Aüswärtige Angelegenheit und Ministerium des Innern für die Erarbeitung des Staatabürgerschaftsgesetzes der DDR*.

[20] TNA, FO 371/115192, FC 1823/38, Despatch from British Embassy, Peking to Foreign Office on 'The Sino–Indonesian Treaty on Dual Nationality', 13 May 1955.

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During the Afro–Asia Conference in Bandung, Zhou Enlai offered the Southeast Asian nations an opportunity to solve their dual nationality problem concerning local Chinese residents. The Chinese Premier made the following commitment in his April 1955 speech:

> The problem of dual nationality is something which is left behind by the Republic of China. At present, Chiang Kai-shek is still using some overseas Chinese to carry out subversive activities against the country of their residence. The People's Republic of China, however, is ready to solve the problem of dual nationality of overseas Chinese with the governments of countries concerned. (Ambedkar & Divekar 1964, p. 15)

The PRC was willing to abandon its dual nationality claim, provided that the country involved concluded a formal treaty recognising the PRC as the sole Chinese government. Among the Southeast Asian countries, only Burma and Indonesia had diplomatic relations with communist China, and only Indonesia responded to the suggestion, which led to the signing of the Sino–Indonesia Dual Nationality Treaty in April 1955 (Fitzgerald 1972, pp. 107–9). Special focus is given to the Indonesian case since there were more than two million Chinese living in Indonesia. Dual nationality was widespread among Indonesian Chinese, who had acquired Indonesian nationality by birth under the Dutch Nationality Act of 1910 while maintaining their Chinese nationality (Gelberg 1966, p. 107).

With the conclusion of the treaty, the PRC was expected to gain significant political advantages. The treaty effectively ignored the Republic of China's claim to the Chinese in Indonesia. The Indonesian Chinese could not claim ROC nationality in Indonesia since the Indonesian government only recognised PRC nationality. If the ROC nationals did not opt for either PRC nationality or Indonesian nationality in two years' time, they were to be considered by the Indonesian Government as PRC citizens on the basis of paternal nationality. Local opinion, especially from religious parties, was hostile towards the treaty as it gave official status to the Chinese who would cease to be aliens and henceforth have equal privileges with native Indonesians. The native business community opposed the granting of commercial benefits. This opposition led to a delay in ratification, which was finally passed by the Indonesian Parliament in December 1957.[21]

Article I of the Treaty required those who had both Indonesian nationality and PRC nationality to choose freely between them.[22] Dual nationals reaching 18 years of age were to choose one of the two nationalities within a two-year period after the ratification (Article II). Those who did not specify nationality within the time frame would be deemed to have the nationality of their father (Article V). The nationality of minors was to be decided by their parents. Upon reaching the age of majority, they were to choose their nationality within one year (Article VI). The treaties concluded between Eastern European states and the Sino–Indonesia treaty provided for the avoidance of dual nationality based on the principle of free choice. In the case of the non-exercise of the option, the former treaties determined the choice of citizenship based on the permanent place of residence whereas the Sino–Indonesia treaty assigned the choice based on the nationality of the father (Gelberg 1966, p. 107).

[21] TNA, FO 371/133444, FC 1601/1, Despatch from British Embassy, Djakarta, 2 January 1958.

[22] 'Sino–Indonesia Treaty on Dual Nationality Question', *Hsinhua News Agency*, 26 April 1955, available from TNA, FO 371/115192, FC 1823/35.

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After the signing of the Sino–Indonesian Treaty in 1955, Zhou Enlai reaffirmed the PRC's single nationality policy in a speech to the overseas Chinese community in Indonesia on 4 June 1956. He reassured the overseas Chinese that the Chinese consulates would fully support them should they choose Indonesian nationality for their own benefit. The PRC understood that some overseas Chinese might be worried about the critical opinions from their community if they chose Indonesian nationality. They might be despised by the overseas Chinese for having forgotten about their motherland. The PRC totally rejected this view. There were also worries that different nationalities within a family would cause difficulty if the overseas Chinese wanted to return to China in the future. The Chinese premier gave assurances that travelling in and visiting China was possible (Zhou 2005, p. 19).

> If there were a lot of overseas Chinese choosing Indonesian nationality, our People's Republic of China consulates will not say no or make it difficult for them. But we must clarify that we cannot say to overseas Chinese that we do not want them anymore. Definitely we cannot say such words. The choice of nationality is an individual choice. … For those willing to choose Indonesian nationality, we encourage them. For those willing to choose the Chinese nationality, we welcome them. (Zhou 2005, p. 20)

Zhou Enlai stressed that the ministers and senators of Chinese descent in Indonesia were definitely of Indonesian nationality. The PRC would not recognise their dual nationality. It would not be reasonable to allow dual nationality among them either. Recognising their dual nationality status meant not respecting the Indonesian nation, people and government (Zhou 2005, p. 19).

During the ratification of the Sino–Indonesia Treaty in the Standing Committee of the National People's Congress on 30 December 1957, Zhou Enlai reiterated the PRC nationality policy in the following terms: first, the principle of free choice—overseas Chinese were to choose freely between the two nationalities; second, the principle of non-interference—those choosing local nationality should not interfere in the politics of China and those choosing to remain as Chinese nationals should not involve themselves in local politics; and third, the principle of recovering lost nationality—overseas Chinese who lost their Chinese nationality were allowed to recover their nationality, but this was not encouraged (Zhou 2005, p. 26).

The premier of the PRC recognised that a change of China's perception on overseas Chinese was necessary. Since overseas Chinese had migrated abroad, mixed marriages and assimilation had taken place. It was no longer reasonable to claim their loyalty (Zhou 2005, p. 27). Encouraging overseas Chinese to take up local nationality brought practical benefits to them—in preventing discrimination or unequal treatment and allowing them to take part in local politics or economic activities without limitation. Understandably, some citizens might not agree completely with the new policy. The Chinese premier believed that the PRC should prioritise the interests of overseas Chinese: he said, 'we should not make a decision based on emotional factors but on rationality' (Zhou 2005, p. 28).

While Beijing had singled out a clear policy for its dual nationality issue—the overseas Chinese were encouraged either to take up the local nationality or retain their PRC nationality—Taipei was still reluctant to sever its ties with its overseas nationals (Damm 2007, p. 85). The ROC objected to the Sino–Indonesian Dual Nationality Treaty and

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accused the communist regime of using overseas Chinese nationality as a bargaining chip to establish diplomatic relations with Southeast Asia (Fitzgerald 1972, p. 110). The Koumintang government stated that the treaty would not affect the status and rights of those who had acquired the nationality of the ROC in accordance with the Law of Nationality. Cheng Yin-Fun, Chairman of the Overseas Affairs Commission (Formosa) on the Sino–Indonesia Dual Nationality Treaty, made the following statement on 3 May 1955:

> The Government of the Republic of China would not recognise the validity of the aforesaid treaty as affecting the legal status of the Chinese nationals residing in Indonesia. … The Government of the Republic of China will do its utmost to uphold the rights and privileges of each of its citizens abroad, whether or not it maintains any diplomatic relationship with the local government. (Ambedkar & Divekar 1964, p. 239)

Since the ROC and Indonesia did not have any diplomatic relations, ROC nationals could not claim any consular protection from the ROC. To prevent this case of statelessness as a result of non-recognition of the ROC nationality, consular service on behalf of the ROC could be given by a third country which had diplomatic relations with the host country. According to international law, the overseas Chinese in Indonesia who did not choose Indonesian or PRC nationality could seek the help of a third country's consulate for registration and issuance of ROC documents. Only with proper registration could they keep their ROC nationality and claim diplomatic protection (Qiu 1966, pp. 149–50).

The Kuomintang government did not deny the effectiveness of the principle of *jus soli* of the host country, but recognised that all Chinese born abroad had the nationality of the host country. At the same time, the ROC also requested that the host country not deny the effectiveness of its *jus sanguinis* principle and recognise Chinese children born abroad as Chinese nationals. If the overseas Chinese applied for protection from ROC foreign consuls, the ROC had the right to intervene. Once they were back in the ROC, they lost their *jus soli* nationality and resumed their Chinese nationality. If they left for a third country, the decision to renounce or preserve their second nationality was left up to them (Qiu 1966, p. 148).

Implementing the dual nationality treaties

The GDR and the successful implementation of treaties with Eastern bloc countries

The first dual nationality treaty concluded by the GDR in 1969 was taken at the initiative of the USSR. The USSR Embassy in West Germany had earlier asked the MfAA whether the GDR was prepared to solve the problem of dual nationality by undertaking an agreement at governmental level. The MfAA and the Ministry of Justice proposed that it should be concluded in the form of a treaty under international law since the regulation of questions of dual nationality was closely connected with the exercise of state sovereignty.[23]

[23] BABL, DO 1/14157, *Beschluss des Staatsrates der DDR über den Abschluß eines Staatsvertragen zwischen der DDR und der UdSSR sowie zwischen der DDR und anderen sozialistischen Staaten zur Regelung von Fragen der doppelten Staatsbürgerschaft*, 7 May 1968.

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The main concerns and objectives of the treaty were to eliminate existing double nationality and to prevent the emergence of dual nationality in the future, which resulted mainly through descent. It regulated the nationality status of adults and also of children of parents with the nationalities of both communist states. In 1969, there were 529 GDR citizens, including 500 minors, who possessed the nationality of the USSR.[24] According to the principle of 'free choice' adopted by the treaty, people possessing the citizenship of the GDR and the USSR could voluntarily choose one of the two citizenships.[25] The decision had to be made within a period of one year after the treaty entered into force (Article 2 (1)). Persons who had not made a declaration in favour of any nationality after the stipulated period were considered nationals of the state in which they had their current residence (Article 3 (1)).

The contracting states were obliged by Article 13 to make the granting of nationality to citizens of the other state dependent on the citizens acquiring discharge from their nationality. The choice of the nationality for minors who were born prior to the enforcement date could be made by the parents within one year. Minors, upon turning 14, could make their choice of nationality with the consent of their parents (Article 4 (1)). For children born after the enforcement date, the decision was made by the parents alone (Article 4 (2)).

The principle of voluntariness only applied to the parents. The treaty was based on the assumption that the child was regarded as a person with only one nationality since his or her birth, even though in reality both citizenships had been acquired. Even if there was no consensus in the choice of nationality for their children or there was no joint decision by the parents, dual nationality would not occur. The treaty's regulation only permitted one nationality for every case. In cases of children born with dual nationality, the nationality of such children would be determined either by the principle of territoriality or the principle of descent, according to the terms of the treaty of the respective states (Riege 1982, pp. 311–17).

Prior to any decision on nationality, the right of residence in the partner country would not be affected. Once they had chosen the nationality of the other state, they were considered foreigners in their country of residence. In the words of Herbert Otto, a member of the GDR constitutional and legal committee, 'these citizens were not regarded and treated as second-class citizens, as is the case with the large number of guest workers exploited by the West German corporations' (German Demokratic Republic 1969, p. 544).

While the GDR was keen to make an arrangement for the approximately 2,000 dual GDR–Austrian citizens, the Austrian side was not willing to negotiate. A treaty was prepared with Austria, but Austria withdrew from the negotiations in July 1969, probably under pressure from the FRG, since such an agreement would be seen as *de facto* recognition of East Germany.[26] This raised the question whether all treaties of this nature should have the character of a state treaty. Herbert Grünstein, the East German state secretary, suggested that in every case a treaty would be advisable because it affected the sovereignty and the nationality law of the GDR.

[24] BABL, DA 1/6933, *Stenographisches Protokoll Sitzung des Ausschusses für Auswärtige Angelegenheiten der Volkskammer der DDR in Berlin*, 21 August 1969, p. 41.

[25] Article 1 of the *Gesetz über den Vertrag vom 11 April 1969 zwischen der Deutschen Demokratischen Republic und der Union der Sozialistischen Sowjetrepubliken zur Regelung von Fragen der doppelten Staatsbürgerschaft*, available from *Volkskammer der Deutschen Demokratischen Republic, 5. Wahlperiode, Anlage zur Drucksache Nr. 62*, BABL, DA 5/930.

[26] BABL, DA 1/6933, *Stenographisches protokoll Sitzung des Ansschusses für Auswärtige Angelegenheiten der Volkskammer der DDR in Berlin*, 21 August 1969, pp. 44–45.

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> We are of the opinion that through a state treaty the sovereignty rights of our republic will be acknowledged properly, because questions of nationality are issues of sovereignty in every state. For example, in the USSR, the Presidium of the Supreme Soviet as a matter of principle decides on the discharge from nationality. And in our case the Council of Ministers (GDR) decides every case of dismissal of nationality and naturalisation. This alone demonstrates that a question of sovereign rights is involved, which cannot be settled by a simple agreement.[27]

Following the successful completion of a treaty with the USSR, the GDR concluded a second treaty of a similar type with the People's Republic of Hungary and a third treaty with Bulgaria. The protocol of the agreement between the GDR and Bulgaria was formulated to meet specific Bulgarian concerns. Bulgaria requested the right for Bulgarian children born in the territory of the GDR to apply for dismissal from the citizenship of the GDR. No Bulgarian child who (after entry into force of the Bulgarian nationality law of 7 October 1969)[28] was born in the territory of the GDR acquired the nationality of Bulgaria due to the Bulgarian prohibition against dual nationality.[29] In 1969, over 566 GDR citizens were registered by the state bodies as having Bulgarian nationality.[30]

This treaty was based on the same principle as the GDR–USSR treaty. The treaty between the GDR and the USSR served as a framework for the conclusion of further treaties with other socialist countries. In the period between 1969 and 1979, the GDR signed treaties regulating questions of dual nationality with the USSR, Hungary, the People's Republic of Bulgaria, Czechoslovakia, Poland, the People's Republic of Mongolia and the Socialist Republic of Romania (see Table 3).[31]

As evaluations were being carried out with individual treaty partners in the 1970s and 1980s by the Minister of Interior, the results of the enforcement of the treaties showed that a large percentage of dual nationals opted for the citizenship of the GDR. For dual nationals residing on the territory of the GDR, 8,335 persons (71.6%) decided in favour of the citizenship of the GDR and 3,305 persons (28.4%) made a decision in favour of the nationality of the contracting states (see Table 4). For dual nationals residing in the territory of the contracting states, 827 made the declaration for GDR citizenship and 175 chose another nationality (see Table 5).[32]

The implementation of the treaties went smoothly without any major complications. There were a relatively high number of cases in which no declaration was made about the choice of citizenship. This was most probably either because the parents had not reached a consensus about the choice of citizenship for their child, or the parents were divorced or not married,

[27] BABL, DA 1/6933, *Stenographisches protokoll Sitzung des Ansschusses für Auswärtige Angelegenheiten der Volkskammer der DDR in Berlin*, 21 August 1969, p. 45.

[28] Citizenship Law of Bulgaria, 8 October 1968, available at: http://www.legislationline.org/documents/action/popup/id/6198, accessed 10 September 2015.

[29] BABL, DA 5/930, *Protokoll zum Vertrag zwischen der DDR und der Volksrepublik Bulgarien zur Regelung von Fragen der doppleten Staatsbürgerschaft. Entwurf des Beschlussess des Staatsrates der DDR über die Ratifikation des Vertrages zwischen der DDR und der Volksrepublik Bulgarien zur Regelung von Fragen der doppleten Staatsbürgerschaft. Nr. IV 1/72*.

[30] BABL, DA 5/932, *Stenographische Niederschrift der 2. Sitzung des Staatsrates der DDR*, 3 March 1972.

[31] BABL, DO 1/14172, *Ministerium des Innern, Information über die Durchsetzung der Verträge der DDR mit sozialistischen Staaten zur Regelung von Fragen der doppelten Staatsbürgerschaft sowie über die Verminderung der Staatenlosigkeit*, 24 September 1979, p. 1.

[32] BABL, DO 1/14172, *Ministerium des Innern, Information über die Durchsetzung der Verträge der DDR, mit sozialistischen Staaten zur Regelung von Fragen der doppelten Staatsbürgerschaft sowie über die Verminderung der Staatenlosigkeit*, 24 September 1979, p. 3.

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TABLE 3

Dual Nationality Treaties Concluded between the GDR and the Socialist States

Treaties	*Date*
GDR–USSR	11 April 1969
GDR–Hungary	17 December 1969
GDR–Bulgaria	1 October 1971
GDR–Czechoslovakia	11 October 1973
GDR–Poland	12 January 1975
GDR–Mongolia	6 May 1977
GDR–Romania	20 April 1979

Note: The GDR concluded bilateral dual nationality treaties with all the socialist states with the exception of Albania, Yugoslavia and North Korea.
Source: Hecker (1991, p. 36).

TABLE 4

The Outcomes of Nationality Decisions of Dual Nationals Residing on the Territory of the GDR (as of 31 December 1978)

	For persons who were born prior to the agreement		*For children who were born prior to the agreement*		*Total*		*Declarations and statements*	
Treaty	*By declara tions*	*By state ments*	*By declara tions*	*By state ments*	*By declara tions*	*By state ments*	*Overall*	*%*
GDR	281	480	311	411	592	891	1,483	72.6
USSR	293	17	236	15	529	32	561	27.4
GDR	142	227	864	2,196	1,006	2,423	3,419	70.0
Hungary	274	9	117	29	1,431	38	1,469	30.0
GDR	44	235	117	203	161	438	599	81.4
Bulgaria	27	10	93	7	120	17	137	18.6
GDR	28	185	62	130	90	315	405	57.1
CSSR	150	3	140	11	290	14	304	42.9
GDR	625	977	357	452	982	1,429	2,411	74.3
Poland	515	17	261	41	776	58	834	25.7
GDR	3	5	–	–	3	5	8	100
Mongolia	–	–	–	–	–	–	–	–
GDR	1,123	2,109	1,711	3,392	2,834	5,501	8,335	71.6
Contracting states	1,259	56	1,887	103	3,146	159	3,305	28.4

Source: BABL, DO 1/14172, *Ministerium des Innern, Information über die Durchsetzung der Verträge der DDR mit sozialistischen Staaten zur Regelung von Fragen der doppelten Staatsbürgerschaft sowie über die Verminderung der Staatenlosigkeit*, 24 September 1979.

or the question of permanent residence of the family, especially in young marriages, had not yet been confirmed.[33]

[33] BABL, DO 1/14172, *Ministerium des Innern, Information über die Durchsetzung der Verträge der DDR, mit sozialistischen Staaten zur Regelung von Fragen der doppelten Staatsbürgerschaft sowie über die Verminderung der Staatenlosigkeit*, 24 September 1979, pp. 3–4.

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TABLE 5
THE OUTCOMES OF NATIONALITY DECISIONS OF DUAL NATIONALS RESIDING OUTSIDE THE TERRITORIES OF THE GDR (AS OF 31 DECEMBER 1978)

Treaty	*For persons who were born prior to the agreement by declaration*	*For children who were born prior to the agreement by declaration*	*Total*	*%*
GDR	30	199	229	97.9
USSR	3	2	5	2.1
GDR	55	362	417	75.4
Hungary	9	127	136	24.6
GDR	56	38	94	97.9
Bulgaria	2	–	2	2.1
GDR	23	22	45	100
CSSR	–	–	–	–
GDR	32	7	39	54.9
Poland	30	2	32	45.1
GDR	3	–	3	100
Mongolia	–	–	–	–
GDR	199	628	827	82.5
Contracting states	44	131	175	17.5

Source: BABL, DO 1/14172, *Ministerium des Innern, Information über die Durchsetzung der Verträge der DDR mit sozialistischen Staaten zur Regelung von Fragen der doppelten Staatsbürgerschaft sowie über die Verminderung der Staatenlosigkeit*, 24 September 1979.

The PRC and the key issues of implementing its nationality treaty

While East Germany found its own alliances in nationality cooperation in the socialist sphere of influence, the PRC was without any collaborative partner either in the socialist world or the Asian region. From the very beginning Chinese efforts were made difficult by its lack of support. Though the Chinese government's single nationality policy would solve the problem of overseas Chinese in their adopted states, its method of implementation was not looked upon favourably.

The governments could not see any rationale for concluding a formal treaty if the PRC was willing to allow dual nationals freedom of choice. They were not convinced of the value of the treaty in return for the recognition of communist China (Fitzgerald 1972, p. 112). Only Indonesia responded to the PRC's call. From the British perspective, the Sino–Indonesian Treaty did not benefit Indonesia at all. After the option system was introduced, the PRC continued to offer diplomatic protection and intervened on behalf of those who opted for Chinese nationality in Indonesia. In contrast to the pre-treaty period, dual Chinese–Indonesian nationals were treated solely as Indonesian citizens in their host country.[34]

The option system, suggested by the Chinese Premier in 1955, was seen by the British as neither feasible nor realistic. According to the system, a change in a person's nationality status was only possible after the person concerned had registered their options with the appropriate authorities. The treaty resulted in the majority of the overseas Chinese exclusively being deemed Chinese since local Chinese who did not exercise their right to choose automatically inherited the PRC nationality attributed to their fathers.[35]

[34] TNA, FO 371/133444, FC1601/3, Minutes from Colonial Office to Mr Marshall, 13 February 1958.

[35] TNA, FO 371/121007, FC 1823/55, Despatch from A. M. MacKintosh, Office of the Commissioner-General for the United Kingdom in Southeast Asia, 8 September 1956, p. 1.

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According to the British, the PRC's efforts were not far-reaching enough. Progress could only be achieved through an amendment to the Chinese nationality laws to take into consideration the principles of *jus soli* and to limit the principle of *jus sanguinis*. Zhou Enlai could have undertaken more far-reaching measures to prohibit dual nationality by, for example, Westernising the nationality law. One simpler solution would have been providing for the automatic loss of nationality for all children born outside China and doing away with the system of options. Under this solution the first generation of immigrants would still be dual nationals, but their descendents would be exclusively the nationals of their host countries.[36]

Though a dual nationality treaty had been concluded with Indonesia, the future of overseas Chinese there was not secured. The overseas Chinese community in Indonesia lost their livelihood when the Indonesian government passed a decree revoking the trade licences of all alien retailers in rural areas in May 1959. These persecutions continued even after the ratification of the Treaty took place in January 1960 despite strong Chinese protests.[37] Three million overseas Chinese were affected by the new law and those affected sought to leave Indonesia. The PRC stated that it was willing to repatriate 600,000 Indonesian Chinese to the mainland by 1960.[38] In the first six months of 1960, there had been a mass evacuation of over 40,000 Chinese to the mainland.[39]

The British assessment of the Sino–Indonesian Treaty was right. The treaty provided privileged treatment to Indonesian Chinese in terms of the acquisition of Indonesian nationality. Under the treaty, the Chinese could opt for Indonesian nationality without going through the process of naturalisation, unlike other foreigners. This special treatment for the Chinese contradicted the principle of equality as other foreigners needed to go through naturalisation. This constituted one of the reasons for the unilateral termination of the treaty by Indonesia in 1969 under the new government. The Sino–Indonesia Treaty was only implemented for nine years before it was terminated following the ending of diplomatic relations with the PRC in October 1967, because of the alleged role of the PRC in the 1965 coup. From 1969 the Chinese could no longer choose to become Chinese nationals in Indonesia due to the absence of the relevant Chinese authorities (Suryadinata 1976, pp. 782–83). In 1967, out of three million ethnic Chinese, 1,500,000 opted for Indonesian nationality, 250,000 opted for PRC nationality and 1,250,000 were stateless. From the viewpoint of the Indonesian government, Taiwan nationals were stateless since they held the nationality of an unrecognised state (Suryadinata 1976, pp. 785–86).

The prospect of concluding dual nationality treaties with non-recognising states

It was doubtful whether a non-socialist government would be willing to conclude a dual nationality treaty with the GDR since the majority of dual nationals resided on the territory

[36] This solution would not work if *jus sanguinis* was the method of passing on citizenship in the host countries. If this were the case, many people would have been stateless as the children would not have acquired local nationality, nor would they have acquired Chinese nationality. Despatch from A. M. MacKintosh, 8 September 1956, pp. 2–3.

[37] TNA, FO 371/150512, FC 1822/14, Despatch from Foreign Office, 31 March 1960.

[38] TNA, FO 371/150512, FC 1822/9, *The Times*, 4 February 1960.

[39] TNA, FO 371/150513, FC 1822/19, Despatch from Michael Stewart, the office of H.B.M, Chargé d'Affairs, Peking, 22 August 1960, p. 1.

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of the GDR and such a treaty would mainly benefit the GDR.[40] Moreover, the relevant non-socialist countries had to be prepared to accept as a prerequisite the principle of equal sovereignty and to respect the law of the GDR as a basis for determining the citizenship of the GDR.[41] There were only 1,340 citizens in the GDR who were also citizens of a non-socialist state. It must be assumed that the actual number was larger, since it could not be ruled out that there were citizens of the GDR who did not register.[42]

Meanwhile, the number of GDR citizens residing in the territories of non-socialist states and obtaining the nationality of non-socialist states was also very small. Firstly, a significant proportion of citizens of the GDR who had left the country for non-socialist states with the approval of the GDR had been released from the nationality of the GDR. Secondly, all citizens of the GDR and their descendants who had left the GDR before 21 December 1980 without the permission of the GDR automatically lost the citizenship of the GDR. Thirdly, the number of GDR citizens who lived in non-socialist states and had been granted permission to acquire the additional nationality of a non-socialist state was extremely small.[43]

The GDR, therefore, had no compelling reason to conclude treaties with the non-socialist states regulating the question of dual nationality. The GDR was not willing to sign any treaties without being recognised as a sovereign state. The existence of dual nationality did not seem to cause any disadvantages to the GDR because, pursuant to the provisions of nationality law of the GDR, GDR citizens possessing another nationality could not assert any rights and obligations towards the GDR. Most importantly, the number of citizens in the territory of the GDR who also had the nationality of non-socialist states was relatively low (see Table 6). The GDR was only interested in dual nationality treaties with the states of Austria, Switzerland, France, the Netherlands and Italy.[44]

The issue of mutual recognition prevented any prospects of cooperation between East Germany and capitalist states in field of nationality. In the Chinese case, recognition was not the most important issue to the Southeast Asian governments. The underlying issue was that of the state interests. Following the announcement of Zhou Enlai's offer, the British Colonial Office considered the implications of any negotiation with the Chinese government with reference to the overseas Chinese in the British territories such as Malaya, Singapore, Hong Kong, Sarawak, Brunei and Mauritius. However, the Colonial Office did not think that the PRC would take such an action. It was also unlikely that the Colonial Office would enter

[40] BABL, DO 1/14239, *Standpunkt zum Abschluß von Verträgen zwischen der DDR und nichtsozialistischen Staaten zur Regelungen von Fragen der doppelten Staatsbürgerschaft, von Stellvertreter des Ministers an Minister des Innern und Chef der DVP Genossen Armeegeneral Dickel*, 17 February 1986, p. 20.

[41] BABL, DO 1/14239, *Standpunkt zum Abschluß von Verträgen zwischen der DDR und nichtsozialistischen Staaten zur Regelungen von Fragen der doppelten Staatsbürgerschaft, von Stellvertreter des Ministers an Minister des Innern und Chef der DVP Genossen Armeegeneral Dickel*, 17 February 1986, p. 14.

[42] BABL, DO 1/14239, *Standpunkt zum Abschluß von Verträgen zwischen der DDR und nichtsozialistischen Staaten zur Regelungen von Fragen der doppelten Staatsbürgerschaft, von Stellvertreter des Ministers an Minister des Innern und Chef der DVP Genossen Armeegeneral Dickel*, 17 February 1986, p. 4.

[43] BABL, DO 1/14239, *Standpunkt zum Abschluß von Verträgen zwischen der DDR und nichtsozialistischen Staaten zur Regelungen von Fragen der doppelten Staatsbürgerschaft, von Stellvertreter des Ministers an Minister des Innern und Chef der DVP Genossen Armeegeneral Dickel*, 17 February 1986, p. 5.

[44] BABL, DO 1/14239, *Standpunkt zum Abschluß von Verträgen zwischen der DDR und nichtsozialistischen Staaten zur Regelungen von Fragen der doppelten Staatsbürgerschaft, von Stellvertreter des Ministers an Minister des Innern und Chef der DVP Genossen Armeegeneral Dickel*, 17 February 1986, p. 26.

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TABLE 6
NUMBERS OF GDR CITIZENS WHO POSSESSED THE NATIONALITY OF A NON-SOCIALIST STATE (AS OF 31 DECEMBER 1985)

Non-socialist states	*Total*
Austria	563
Switzerland	226
France	143
The Netherlands	90
Italy	74
Algeria	43
Greece	32
The United Kingdom	30
Belgium	23
Denmark	17
Syria	16
Iraq	8
Chile	6
Brazil	5
Norway	5
USA	5
Spain	4
Finland	3
Cyprus	2
Others	45
Total	1,340

Source: BABL, modified from DO 1/14239, von Stellvertreter des Ministers des Innern und Chef der DVP Genossen Armeegeneral Dickel, Standpunkt zum Abschluβ von Verträgen zwischen der DDR und nichtsozialistischen Staaten zur Regelungen von Fragen der doppelten Staatsbürgerschaft, 17 February 1986.

into negotiations. The British policy in Malaya and Singapore was one of integration. If most of the local Chinese opted for Chinese nationality and remained aliens, it would hamper the nation-building efforts in their host country.[45]

In Burma, for example, the British encouraged the government to facilitate the assimilation of overseas Chinese through naturalisation. Since overseas Chinese would not be satisfied with the position of second-class nationality in Burma, they had a choice between either continuing to give their allegiance to Beijing or continuing to give their allegiance to the ROC, although the latter was now restricted to Taiwan, or accepting assimilation.[46] However, assimilation was difficult as the Burmese government was suspicious of both the Koumintang and Communist supporters. The British believed facilitating naturalisation 'gives probably the best hope of keeping the uncommitted away from the Communists'.[47] Neither the Americans nor the British were in favour of overseas Chinese supporting the cause of Beijing and giving their allegiance to the communist Chinese government.[48]

[45] TNA, FO 371/115192, FC 1823/38, Parliamentary Questions by Mr Sorenzen to the Colonial Office, 28 April 1955.

[46] TNA, FO 371/121003, FC 1823/5, Despatch from L.C.W. Figg, 24 May 1956.

[47] TNA, FO 371/121003, FC 1823/5, Despatch from the British Embassy, Rangoon to Landymore, 26 March 1956.

[48] While the British also rejected the idea of giving allegiance to the Nationalist government, the United States seemed to support the Nationalist views of nationality. TNA, FO 371/121003, FC 1823/5, Despatch from J. Murray, 13 April 1956.

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Furthermore, the legal status of the British territories and the associated problems of differing nationality laws made it impossible to apply the provisions of the Indonesian Treaty. Before the British territories achieved full independence, they were not able to conclude such a treaty on their own. The treaty provided for the establishment of Chinese consulates in Indonesia for the purposes of registering the overseas Chinese. The British did not want to take the risk of allowing the PRC to establish their consulates in the British Territories which might be used for propaganda and subversion.[49]

With regard to Singapore the idea of a treaty on the national status of Chinese was not looked upon favourably. The Chinese in Singapore were either British subjects by virtue of their birth in the British colony or alien Chinese if they were new immigrants. If a treaty were to be concluded, the right of option would have to be granted to all Chinese. Automatic acquisition of British nationality was not favoured by the Colonial Office. Alien Chinese wishing to opt for British nationality had to go though the normal procedure of naturalisation.[50]

Conclusion of such a treaty would be complicated in the Federation of Malaya as a result of the ambiguous national status of the Chinese and the colonial status of the territory. The status of the Federation of Malaya nationality had no international significance, as Malaya was still under British rule. The Chinese in Malaya who were not British subjects had no other nationality apart from their Chinese nationality. Should they choose to renounce their Chinese nationality, the only possible choice of nationality was British nationality or Malayan nationality. From the British point of view, there would be no justification for conferring British nationality automatically on these Chinese without having them go through the normal procedure of naturalisation. Thus the local Chinese would be confronted with difficult choices: being an alien in Malaya; choosing British nationality, with which they had no connection and for which they might not qualify; or choosing Malayan nationality, which was not internationally recognised.[51]

Zhou Enlai's policy, not unsurprisingly, did not gain much attention among the Chinese in the Federation. The local Chinese were more concerned with their future status in the independent Malaya. They sought liberalisation of the Malayan nationality law to enable more Chinese to become Malayan citizens. The treaty would serve no purpose if they failed to secure their full rights as citizens in Malaya. They might become second-class Malayan citizens if they renounced Chinese nationality before securing their status. The PRC policy only mattered after the nationality law of Malaya had clarified the status of the Chinese.[52]

The negotiations seemed unlikely to benefit any party. It was not likely that the Malayan government would welcome the negotiations since they meant granting nationality to the (alien) Chinese community. The local population opposed the granting of nationality to Chinese on the basis of their questionable loyalties. The Malayan authorities would no longer be able to deport the Chinese if they were no longer aliens. Even if Her Majesty's government and the PRC were to conclude the treaty, the Nationalist government would not recognise it

[49] TNA, FO 371/115192, FC 1823/38, Parliamentary Questions by Mr Sorenzen to the Colonial Office, 28 April 1955.

[50] TNA, FO 371/115192, FC 1823/38, Despatch from MacKintosh, Colonial Office to Tomlinson, 27 July 1955, on a paper prepared by Secretaries for Chinese Affairs in Singapore and the Federation of Malaya.

[51] TNA, FO 371/115192, FC 1823/38, Despatch from MacKintosh, Colonial Office to Tomlinson, 27 July 1955, on a paper prepared by Secretaries for Chinese Affairs in Singapore and the Federation of Malaya.

[52] TNA, FO 371/127427, FC 1821/1, Savingram from High Commissioner for the Federation of Malaya to Secretary of State for the Colonies, 10 December 1956.

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and would assert its pressure over the overseas Chinese to oppose the treaty. Based on these justifications, the High Commissioner for Malaya recommended that,

> The conclusion seems to be at the present time that it would be unwise for Her Majesty's Government to embark on any negotiations with the Chinese Government regarding the national status of the overseas Chinese in the Federation of Malaya and Singapore. So far there is no sign of any local desire whether by Chinese or by Malays for such negotiation to take place.[53]

There were two options available for Malaya, as well as for other Southeast Asian governments: maintaining the *status quo* or signing the treaty with China. Since Malaya would not gain any benefits from the treaty, Malaya might as well maintain its *status quo* with the continuation of dual nationality.

> The continuation of dual nationality gives Malaya the best of both worlds. She can continue her efforts at nation-building free from overt Chinese interference with the dual nationals and, at the same time, she can deprive any of them who are disloyal to Malaya of their Malayan nationality. On the merits, the Government of Malaya would be well advised to refuse even to discuss this question with the Government of China.[54]

A far better solution to the problem of dual nationality was adopted by Singapore and Malaya. Their nationality legislation provided for the deprivation of nationality from those who claimed Chinese nationality. It should be noted that an oath of allegiance, as in the case of foreigners applying for Singaporean nationality, had no legal effect under Chinese law. However, a Chinese individual would be deprived of Singaporean nationality under the Singapore Nationality Ordinance if he had 'voluntarily claimed and exercised in a foreign country rights available to him under the law of that country, being rights accorded exclusively to its citizens'. This unilateral provision was considered the most effective method by the Colonial Office. It would have the effect of rendering any dual nationality treaty null and void.[55]

In the Federation of Malaya, the Chinese dual nationality claim was solved by prohibiting Chinese dual nationals from exercising their second nationality rights, which were only given to the nationals of the particular country. The 1957 Independence Constitution provided for the deprivation of Federation nationality if the Chinese exercised their rights as Chinese nationals in China. Realising that the Federation could not prevent the *jus sanguinis* claim of the Chinese government, all it could do was to deprive them of their local nationality.[56]

In other words, a citizen of the Federation could retain his or her second nationality. However, the second nationality was frozen. He or she could give up Federation nationality and choose Chinese nationality in the future if he or she wanted to do so. However, until then,

[53] TNA, FO 371/127427, FC 1821/1, Savingram from High Commissioner for the Federation of Malaya to Secretary of State for the Colonies, 10 December 1956.

[54] TNA, FO 371/121006, FC 1823/30, The overseas Chinese: the problem of dual nationality in Malaya by R.W. Scott, 1956, p. 24.

[55] TNA, FO 371/133444, FC1601/3, Minutes from Colonial Office to Mr Marshall, 13 February 1958.

[56] 'Citizens: The New Law', *Straits Times*, 4 June 1957, available at: http://eresources.nlb.gov.sg/newspapers/Digitised/Article/straitstimes19570604-1.2.2.aspx, accessed 14 September 2015.

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he or she could only enjoy the nationality rights of the Federation. Hence, the government did not require the relinquishment of Chinese nationality acquired at birth. But the acquisition of any new nationality by an adult national served as grounds for deprivation of nationality. As far as the Federation was concerned, the 1957 Independence Constitution (Federation of Malaya 1958) had effectively solved the dual nationality problem, even though some of her citizens were still holding another nationality.[57]

Prevention of dual nationality had proven difficult. The PRC's proposal for dual nationality treaties was not well accepted by the governments in the Southeast Asian region. The lack of appeal was not caused by the political pressure imposed by the ROC, but was rather an effect of wrong timing and the absence of diplomatic relations with the majority of Southeast Asian governments. In 1955, most Southeast Asian countries were still under colonial rule. The colonial power, the British, did not foresee any advantages in concluding such treaties, which would only invite unnecessary PRC intervention in the overseas Chinese affairs in their territory.

The strategic means of dual nationality prevention: national legislations in China, bilateral treaties in East Germany

Gelberg suggests that 'the best method of combating dual nationality would be multilateral conventions of a universal character' (Gelberg 1966, p. 93). The function of constitutions or nationality laws is inadequate since the state could not prevent another state from claiming the loyalty of its citizens. The state could not prevent the operation of a foreign nationality law from bestowing an additional nationality on its citizens.

> It is necessary, however, to remember that the municipal law of individual States can only play a limited role in the fight against plural nationality. Often it is necessary to concede to, and sometimes even to approve cases of dual nationality, while adopting the principle of single nationality. … International agreements, bilateral and multilateral, are a considerably more effective weapon in the fight against plural nationality. (Gelberg 1966, pp. 91–2)

The two cases examined show that the implementation of bilateral treaties was not without its own flaws. As long as the socialist state was not recognised, the PRC was denied the possibility of concluding dual nationality treaties with Southeast Asian states, while the GDR only concluded the treaty among the countries of the communist bloc. Compared to the GDR, the population of overseas Chinese was of a much greater size. The PRC, without any official relationships with most of the Southeast Asian states, could not officially resolve the dual nationality status of overseas Chinese. However, the issue of recognition was not the main factor explaining the failure of the treaty system. Rather the failure was caused by the impracticability of the treaty itself.

The Chinese option system provided under its dual nationality treaty proved unfeasible in practice. Its implementation created unnecessary and costly administrative procedures. From the perspective of equal treatment, the option system was seen as problematic. The same

[57] 'Citizenship Laws to Ensure Undivided Loyalty to Malaysia', *Straits Times*, 3 July 1957, available at: http://eresources.nlb.gov.sg/newspapers/Digitised/Article/straitstimes19570703-1.2.81.aspx, accessed 14 September 2015.

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rule did not apply to other nationals, who were in a similar situation. It is argued that a more effective means to solve the problems of dual nationality would be national legislations. The governments of Singapore and the Federation of Malaya, for example, denied the citizenship claim of both Chinese governments through their respective citizenship laws.

Following the failure of its treaty system, the PRC considered reforming its nationality law. The status of overseas Chinese with foreign nationality became much clearer with the formulation of the PRC's first nationality law: they were not PRC nationals (Suryadinata 2005, p. 63). The single nationality principle was formally gazetted into the PRC's first nationality law adopted at the third session of the fifth National People's Congress on 10 September 1980. Article 3 of the law stated: 'The People's Republic of China does not recognise dual nationality for any Chinese nationality'.[58] The Chinese law regarded dual nationals as Chinese nationals alone, thus effectively denying the validity of any foreign nationality in its territory. The PRC only recognised its own nationality to the exclusion of others. Only the PRC nationality had legal standing in China. This is the Chinese government's principle of 'non-recognition' (Ginsburgs 1982, p. 464).

To eliminate dual nationality Articles 5 and 9 of the 1980 law, which have been termed as the 'anti-dual nationality devices', were formulated (Chen 1984, p. 307). Article 5 eliminated dual nationality acquired at birth by stating that a child of overseas Chinese did not have PRC nationality if he or she had acquired foreign nationality by birth.[59] For overseas Chinese living abroad Article 9 prevented cases of dual nationality acquired through naturalisation abroad by stipulating that a Chinese national living abroad lost his or her Chinese nationality automatically if he or she voluntarily acquired foreign nationality.[60]

The law had officially settled the Chinese dual nationality problem. Some overseas Chinese hoped to retain their Chinese nationality after obtaining local nationality. Such a hope was understandable. But to maintain the interests of overseas Chinese in the long run, to facilitate their life and work, and to solve the relationship issues with foreign states friendly to China, Zhou Enlai believed that it would be better to follow the principle of the law. In the future, overseas Chinese and their descendents who returned for permanent residence and wanted to recover their Chinese nationality were permitted to do so (Gazette of the Standing Committee of the People's National Congress 1980, p. 84).

The number of Chinese holding dual nationality would diminish in the future as the PRC recognised the automatic loss of Chinese nationality. The previous laws which attributed nationality to descent alone resulted in the extensive granting of Chinese nationality. The new law restricted those who were eligible for nationality by combining the element of *jus sanguinis* with *jus soli*. It became more difficult for overseas Chinese children to get PRC nationality as a Chinese could only acquire PRC nationality if he or she was born in China and one of his or her parents was a Chinese national (Chen 1984, p. 286).

As a result of a stricter 1980 nationality rule, not all Chinese could claim the rights of Chinese nationality. Only Chinese who possessed Chinese nationality were entitled to the rights of Chinese nationality such as diplomatic protection and political rights. The recipients of such rights were clearly spelled out in the law as those who possess 'Chinese nationality' rather than as 'Chinese'. As a logical consequence, ethnic Chinese without Chinese nationality

[58] The Nationality Law of the People's Republic of China of 10 September 1980 as reprinted in Suryadinata (2005, p. 120).

[59] Article 5 of the The Nationality Law of the People's Republic of China of 10 September 1980.

[60] Article 9 of the The Nationality Law of the People's Republic of China of 10 September 1980.

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could not participate in the Chinese legislative body. Overseas Chinese were no longer represented in the National People's Congress (*Quangguo ren min dai biao da hui*) and the Chinese People's Political Consultative Conference (*Zhongguo ren min zheng zhi xie shang hui yi*) (Pina-Guerassimoff & Guerassimoff 2007, pp. 259–60).

Compared to the Chinese case, East Germany found a promising solution to its dual nationality problems through bilateral treaties. Its effort was made easy since the socialist bloc in the European sphere of influence had successfully developed its respective treaty systems by the 1960s, which rejected the principle of dual nationality. The bilateral agreements were successfully carried out due to the established brotherly and friendly relations between the socialist states, the respect for the principles of sovereign equality, the common interests of overcoming dual nationality and the matching national legal framework in the field of citizenship.[61]

Moreover, Eastern European states had participated in bilateral and multilateral treaties which aimed at the unification of laws in many areas. Citizenship was one of them. In their efforts to harmonise the conflicts of law, these states adopted similar solutions to those already adopted by other socialist states. In the field of citizenship, conflicts in the municipal laws of these countries, which resulted in cases of dual nationality, were solved through bilateral treaties. The prevention of dual nationality was best achieved through the negotiation of treaties since 'reform of the nationality legislation of the individual countries (had) proceeded slowly' (Maggs 1968, p. 123).

In East Germany, the significance of nationality legislations in preventing the occurrence of such cases in the future was relatively limited. Intergovernmental agreements were the preferred choice of action since the 1967 GDR citizenship law did not recognise the automatic loss of nationality upon obtaining a foreign nationality. The difficulty of getting a release from GDR citizenship constituted the reason for dual nationality. To prevent dual nationality the StBG only required that any additional acquisition of a foreign nationality depended on the approval of the GDR. However, in most cases dual nationality occurred among children regardless of whether the child was born within or outside of the territory of the GDR.[62] There was no restriction on the acquisition of another nationality by birth. Every child born to a GDR citizen obtained GDR citizenship through descent.[63] As far as GDR citizenship law was concerned, GDR citizens could not claim any rights of their foreign nationality. Dual nationality did not affect the rights and obligations of a GDR citizen.[64]

The insufficiency of the 1967 law was not the mere result of an oversight in draftsmanship. Rather, the GDR preferred the principle of 'voluntary choice' over the principle of 'the automatic

[61] BABL, DO 1/14239, *Schreiben von Stellvertreter des Ministers an Minister des Innern und Chef der DVP Genossen Armeegeneral Dickel*, p. 9.

[62] The implementing decree of 3 August 1967 on the nationality law further stated that the awarding of GDR citizenship to citizens of other states was dependant on proof of discharge from the previous nationality. BABL, DO1/7773, *Schreiben von Bergmann, Leiter der Hauptabteilung Innere Angelegenheit an Genossen Oberst, Leiter der Hauptabteilung Paß-und Meldewesen*, 6 November 1967.

[63] Article 5, *Gesetz über die Staatsbürgerschaft der Deutschen Demokratischen Republik (StBG) vom 20 Februar 1967*, available at: http://www.chronik-der-mauer.de/material/180382/gesetz-ueber-die-staatsbuergerschaft-der-ddr-20-februar-1967, 14 September 2015.

[64] Article 3 (1), *Gesetz über die Staatsbürgerschaft der Deutschen Demokratischen Republik (StBG) vom 20 Februar 1967*, available at: http://www.chronik-der-mauer.de/material/180382/gesetz-ueber-die-staatsbuergerschaft-der-ddr-20-februar-1967, accessed 14 September 2015.

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loss of previous citizenship through the acquisition of another citizenship'.[65] East Germany disagreed with the latter principle, which was upheld by a number of non-socialist states (and also the Council of Europe's Convention on Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality of 6 May 1963),[66] because the free expression of will in the choice of nationality was substantially limited.[67] All the dual nationality treaties concluded by the GDR guaranteed a complete removal and prevention of the emergence of dual nationality utilising the basic principle of 'voluntary choice'. They emphasised the complete freedom of choice of nationality. None of them contained incomplete solutions.[68]

In accordance with the principle of voluntary choice, dismissal from East German citizenship could only be approved by the Council of Ministers of the GDR once East Germans had acquired the citizenship of another country. Only after the acquisition of the respective citizenship would the certificate of discharge be delivered. If there was no acquisition of the aforementioned citizenship, dismissal from the GDR citizenship would not be effective. This process guaranteed that the concerned citizens could not acquire the nationality of the FRG and thus ensured the realisation of an important political end: the rejection of West Germany's claim to be the sole representative.[69]

Conclusion

The comparison of the two cases reveals significant differences as well as striking similarities. As the discussion above demonstrates, state interests played an important role in determining the means used to achieve the objective of dual nationality prevention. Intergovernmental treaties served as the two-pronged strategy to enable the socialist states to earn recognition for their nationality law and to deny the citizenship claim of their rival state. Though East Germany did not conclude any nationality treaties with the states outside the Soviet orbit, the treaties concluded with socialist states served to remind the international community that the GDR had the characteristics of a state and had the capacity to enter into treaties with a sovereign state. The concluded treaties, however, did not bring about any changes to their international recognition. In other words, the non-recognition of the nationality of the PRC and the GDR meant that their nationals were still confronted with their existing problems.

The competition for state recognition through nationality treaties impeded the realisation of dual nationality prevention. The divided states were prevented from concluding further dual nationality treaties with the non-recognising states. The denial of recognition caused

[65] BABL, DO 1/14239, *Standpunkt zum Abschluß von Verträgen zwischen der DDR und nichtsozialistischen Staaten zur Regelungen von Fragen der doppelten Staatsbürgerschaft,* 17 February 1986, pp. 12–3.

[66] 'European Convention on Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality', Council of Europe, 6 May 1963, ETS No 43, available at: http://conventions.coe.int/Treaty/en/Treaties/Html/043.htm, accessed 14 September 2015.

[67] BABL, DO 1/14239, *Standpunkt zum Abschluß von Verträgen zwischen der DDR und nichtsozialistischen Staaten zur Regelungen von Fragen der doppelten Staatsbürgerschaft, von Stellvertreter des Ministers an Minister des Innern und Chef der DVP Genossen Armeegeneral Dickel*, 17 February 1986, pp. 12–3.

[68] BABL, DO 1/14239, *Standpunkt zum Abschluß von Verträgen zwischen der DDR und nichtsozialistischen Staaten zur Regelungen von Fragen der doppelten Staatsbürgerschaft, von Stellvertreter des Ministers an Minister des Innern und Chef der DVP Genossen Armeegeneral Dickel*, 17 February 1986, p. 6.

[69] BABL, DO 1/14239, *Stellungnahme zum Schreiben des MfAA, Betr: der Berichte einiger Auslandsvertretungen der DDR zur praktischen Abwicklung des Staatsbürgerschaftswechsels*, 19 November 1979, pp. 2–3.

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considerable hardships in implementing their nationality principle since their nationality laws were denied and their diplomatic activities in these countries were absent. Thus the dual nationality status of its citizens in non-recognising states was left unresolved.

Amid the similarities between these two cases, there is one outstanding distinction in terms of the outcome. The treaty system worked well in East Germany but the Chinese model of the treaty system was subject to much criticism. The PRC's experiences were disappointing. In explaining the failure of the system, we need to take into consideration the various unfavourable circumstances confronted by China, compared to East Germany. East Germany already had diplomatic relationships with and consulate offices in Eastern European states before the conclusion of dual nationality treaties. Moreover the socialist states shared the common objective of preventing dual nationality and the common means to achieve the goal. The precedents of such treaties had been well established by the USSR. Thus the GDR's endeavour was made effortless. In contrast, the PRC was trying to set the precedent in the Southeast Asian region, with which she neither had diplomatic relations nor consulate offices to facilitate the implementation. The PRC's single nationality goal was not doubted by the local governments. Indeed the local governments shared a similar aim. The disputable aspect was the means itself.

The option system suggested by the PRC was seen as an impediment to the goal of national integration. The situation remained unresolved until Southeast Asian governments worked out the solution by themselves: amending their nationality law. The governments officially put the policy of non-recognition of dual nationality into a law after taking into consideration that they could not prevent their nationals from retaining their Chinese nationality. The Chinese nationality would still be valid even if the governments refused to recognise it. A more practical solution would be to consider the dual nationals to have lost their nationality if they used the rights of their second nationality or acquired a foreign nationality. This did away with the legal mechanism of having to establish PRC consulate offices. Eventually the PRC also adopted this principle of non-recognition of dual nationality into its first nationality law of 1980.

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