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Elimination of Statelessness – Note prepared by the Secretariat

Topic:
Nationality including statelessness

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ELIMINATION OF STATELESSNESS

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Note prepared by the Secretariat

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1. At the ninth session of the Economic and Social Council, which was held from 5 July to 15 August 1949, the Council considered a Study on Statelessness prepared by the Secretary-General and dealing with the question of displaced persons, refugees and stateless persons.¹ On the basis of the recommendations contained therein, the Council, by resolution 248 B (IX) of 8 August 1949, decided to appoint an *Ad Hoc* Committee which was given the task not only to consider the desirability of preparing a convention on the international status of refugees and stateless persons and, if it considered such a course desirable, draft the text of such a convention, but also to

“(b) Consider means of eliminating the problem of statelessness, including the desirability of requesting the International Law Commission to prepare a study and make recommendations on this subject;”

2. When the *Ad Hoc* Committee on Statelessness and Related Problems held its first session in New York from 16 January to 16 February 1950, the Committee had before it amongst other documents a Memorandum on Elimination of Statelessness prepared by the Secretary-General.² In this memorandum attention was given both to the removal of the causes of statelessness and the reduction of the number of existing stateless persons. With regard to the question of organs to which the preparatory work would be assigned, it was pointed out that the International Law Commission had already included the subject “Nationality, including statelessness” in its provisional list of topics selected for codification, and that it would be quite normal for the International Law Commission to deal with the subject. The Commission could be utilized in two ways. One would be to give it full responsibility for the task, while the alternative method would be to use its services only for the preparation of the draft Conventions. As to the Secretariat, it would appear qualified to undertake only that part of the work which was mainly technical.

3. The *Ad Hoc* Committee considered both the problem of the international status of refugees and stateless persons and the question of means of eliminating statelessness.³ With regard to the first, it prepared a

draft convention relating to the status of refugees and a draft protocol relating to the status of stateless persons. As to the question of elimination of statelessness, the Committee reached the conclusion that it was not practicable for it at the stage to examine it in great detail and to draft a convention on the subject. It discussed, however, the basic causes of statelessness and included in its report a minority proposal (annex V) to serve as a groundwork for drafting a convention on the elimination of statelessness. The Committee as a whole prepared a draft resolution on the basis of which the Economic and Social Council, on 11 August 1950, adopted the following resolution (319 B (XI), section III).

“PROVISIONS RELATING TO THE PROBLEM OF STATELESSNESS

“*The Economic and Social Council,*

“*Recalling* its concern with the problem of statelessness as expressed in its resolution 248 B (IX) of 8 August 1949 in which it established an *ad hoc* committee to study this problem,

“*Having considered* the report of the *Ad Hoc* Committee and its recommendations concerning the elimination of statelessness,

“*Taking note* of article 15 of the Universal Declaration of Human Rights concerning the right of every individual to a nationality,

“*Considering* that statelessness entails serious problems both for the individual and for States; and that it is necessary both to reduce the number of stateless persons and to eliminate the causes of statelessness,

“*Considering* that these different aims cannot be achieved except through the co-operation of each State and by the adoption of international conventions,

“*Recommends* to States involved in changes of territorial sovereignty that they include in the arrangements for such changes provisions, if necessary, for the avoidance of statelessness;

“*Invites* States to examine sympathetically applications for naturalization submitted by stateless persons habitually resident in their territory and, if necessary, to re-examine their nationality laws with a view to

¹ See documents E/1112, E/1112/Add.1.

² Document E/AC.32/4 of 17 January 1950.

³ Report E/1618 of 17 February 1950.

reducing as far as possible the number of cases of statelessness created by the operation of such laws;

"Requests the Secretary-General to seek information from States with regard to the above-mentioned matters and to report thereon to the Council;

"Notes with satisfaction that the International Law Commission intends to initiate as soon as possible work on the subject of nationality, including statelessness, and urges that the International Law Commission prepare at the earliest possible date the necessary draft international convention or conventions for the elimination of statelessness;

"Invites the Secretary-General to transmit this resolution to the International Law Commission."

4. The *Ad Hoc* Committee on Statelessness and related problems held its second session in Geneva between 14 and 25 August 1950. It undertook a revision of the Draft Convention relating to the Status of Refugees and the Draft Protocol relating to the Status of Stateless Persons. No action was taken, however, with regard to the question of elimination of statelessness.

5. In accordance with paragraph 8 of the resolution of the Economic and Social Council of 11 August 1950, the Secretary-General, in a circular letter of 27 September 1950, requested States to provide him with such information concerning statelessness as was mentioned in paragraphs 6 and 7 of the resolution. At the same time the resolution itself was transmitted to the Chairman of the International Law Commission.

⁴ Belgium, Canada, Ceylon, Chile, Ecuador, Greece, India, Israel, Japan (Diplomatic Section of General Headquarters, Supreme Commander for the Allied Powers in Japan), Jordan, New Zealand, Pakistan, Sweden, Switzerland, Union of South Africa, United Kingdom, United States of America.

⁵ Two further replies were received too late for submission to the Council: Ireland (E/1869/Add.17) and Denmark (E/1869/Add.18).

6. Up to 5 March 1951 the Secretary-General had received replies from 17 Governments concerning the problem of statelessness.⁴ These replies (E/1869 and E/1869/Add.1-16) were submitted to the Economic and Social Council⁵ which on 13 March 1951 adopted the following resolution:

"The Economic and Social Council,

"Referring to its resolution 319 B (XI), section III, and,

"Noting that only a limited number of governments have replied to the Secretary-General's inquiry of 27 September 1950,

"1. Requests the Secretary-General to address another communication to governments inviting them to submit their observations at latest by 1 November 1951, and to include in their replies not only an analysis of legal and administrative texts and regulations but of the practical application of those laws and regulations;

"2. Asks the Secretary-General to transmit a consolidated report on the basis of these replies to the Council and to the International Law Commission; and

"3. Decides to defer further discussion of this subject to its fourteenth session."⁶

7. On 5 April 1951 the Secretary-General communicated this resolution to the States concerned stressing the fact that the Council was anxious to receive not only analyses of laws and regulations relating to statelessness but also of the actual application of such law and regulations. Governments were finally asked to forward their observations at the latest by 1 November 1951 so that a consolidated report may be submitted to the fourteenth session of the Economic and Social Council at the beginning of 1952.

⁶ *Official Records of the Economic and Social Council, twelfth session, Resolutions, résolution 352 (XII).*