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Comments by Governments on the Draft Convention on the Elimination of Future Statelessness and on the Draft Convention on the Reduction of Future Statelessness

Topic:
Nationality including statelessness

Extract from the Yearbook of the International Law Commission:-
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"*Resolves* to ask the Secretary-General to take such steps as he may deem appropriate in order to establish a closer co-operation between the International Law Commission and the Inter-American bodies whose task is the development and codification of international law."

VI. Representation at the General Assembly

78. The Commission decided that it should be represented at the ninth session of the General Assembly by its Chairman, Mr. A. E. F. Sandström, for purposes of consultation.

VII. Date and place of the seventh session of the Commission

79. The Commission decided, after consulting the Secretary-General in accordance with the terms of article 12 of its Statute and receiving the views of the latter, to hold its next session in Geneva, Switzerland, for a period of ten weeks beginning on 20 April 1955.

ANNEX

Comments by Governments on the draft Convention on the Elimination of Future Statelessness and on the draft Convention on the Reduction of Future Statelessness, both prepared by the International Law Commission at the fifth session in 1953 [10]

1. Australia

LETTER FROM THE PERMANENT DELEGATION OF AUSTRALIA TO THE UNITED NATIONS

[*Original: English*]
[*30 June 1954*]

Article 1. The Australian Nationality and Citizenship Act confers Australian citizenship (and therefore British nationality) at birth upon persons born in Australia, which for this purpose includes all the Territories, other than Trust Territories. The only exceptions to this rule are:

(i) Children born here whose fathers are the diplomatic representatives of other countries. This exception had always existed in the common law of England until the statutory provision was made and it is universally accepted in the international sphere;

(ii) Children born of enemy-alien fathers in enemy-occupied territory. This has had no practical significance in Australia.

Article 2. The Australian Act has no corresponding provision but there would seem to be no serious objection to such provision being made, subject to safeguards, ensuring that we would be able to demand proof that a person claiming to have acquired citizenship under this heading was in fact a foundling.

Article 3. The Act provides that birth on a ship or aircraft shall be equivalent to birth in the country in which the ship or aircraft is registered. This is in effect identical with article 3.

Article 4. A child born outside Australia in wedlock of an Australian father, or out of wedlock to an Australian mother becomes an Australian citizen upon registration of the birth at an Australian Consulate. This meets the objects of article 4.

Article 5. 1. Changes in personal status, such as marriage and the other matters mentioned in article 5, paragraph 1, have not of themselves any effect upon the Australian citizenship of the person concerned.

2. The loss of Australian citizenship by a spouse does not of itself entail loss of citizenship by the other spouse. So far as children are concerned our Act generally observes the principle of article 5, paragraph 2, but the Minister in depriving a person of Australian citizenship has power to direct that that person's children also shall cease to be Australians, whether they have another nationality or not. We have here a conflict of two principles—the desirability of avoiding statelessness and of ensuring that young children should have the same national status as their responsible parent. It is the Australian Government's view that each case of this kind requires individual consideration, and that the Minister should therefore retain the discretionary power which he already has, to direct that the children shall cease to be Australian citizens or remain such, according to circumstances. If such deprivation were to result in the child being stateless this would weigh heavily in favour of the child being allowed to retain Australian citizenship.

Article 6. 1. The only case in which Australian citizenship may be renounced by a person not already having another nationality is that where a person became an Australian citizen involuntarily whilst still a minor, through the naturalization of his or her parents; upon reaching twenty-one years of age such a person may renounce Australian citizenship whether or not he has another nationality. Again there is a conflict of principles—however desirable it may be to avoid statelessness, it is also desirable that anyone who was involuntarily naturalized as a child should not be forced to retain Australian citizenship against his will when he reaches manhood. Again the practical implications are very slight—more so because it is obviously unlikely that anyone would renounce Australian citizenship if he or she had no other nationality and no opportunity of acquiring one. The view of the Australian Government is that the existing law should stand.

2. The Act accords with article 6, paragraph 2.

3. The Act runs counter to article 6, paragraph 3, in that naturalized or registered Australian citizens who remain absent from Australia for over seven years without giving notice of intention to retain Australian citizenship automatically cease to be citizens. The notice is expected to be given annually but the Minister liberally administers a discretionary power to permit notice to be given at such other intervals, during the seven years, as he thinks fit. The Australian Government's view is that it is undesirable in principle that any person who remains absent from Australia for so long, without retaining the very slight interest in Australian citizenship required to give annual notice of intention to retain it, should retain it. It will be a rare case in which the person concerned thus becomes stateless—usually he will be found to have returned to the country of his birth to retire on savings made in Australia, and he will usually still have, or will have taken steps to reacquire, the citizenship of his native country. Experience during and after the last war showed that such people will regain interest in Australian citizenship and British nationality only when war or some other emergency makes it expedient. Embarrassing problems can arise for overseas posts if Australian

[10] See *Official Records of the General Assembly, Eighth Session, Supplement No. 9* (A/2456).

citizenship is retained indefinitely by such people, and the existing law on the point was introduced as recently as 1949 to eliminate such problems.

Article 7. The Act empowers the Minister to deprive any person of Australian citizenship who acquired that status by naturalization or registration and who has been disloyal, became naturalized by fraud, was not of good character when granted naturalization or has been sentenced to imprisonment for twelve months or more within five years after naturalization. This power of deprivation is not limited to persons who have another nationality, and in this respect the Act conflicts with both of the alternative articles. The Australian Government's view is that the power should not be limited as contemplated by the article. It will be observed that deprivation can be effected only in very grave circumstances. In addition the Minister must give the person concerned an opportunity to appeal to a special judicial committee appointed by the Governor General, before making an order of deprivation (except in the case where a court of law imposes a sentence of twelve months' imprisonment or longer, within five years after naturalization). It would appear to be out of the question that a person should be able to escape deprivation solely because he has no other nationality in addition to Australian citizenship.

Article 8. Our Act is in accordance with this article.

Article 9. In the event of this article having any application in Australia at some future time, its principles would be observed, as far as can be foreseen.

Article 10. There would be no objection to this article so far as Australia is concerned.

Unless, therefore, article 5, paragraph 2, article 6, paragraphs 1 and 3, and article 7 are altered to give effect to the Australian comments on these articles, the Australian Government, in the event of the conventions being adopted by the General Assembly, could only consider ratifying them if variations can be and are made to the articles mentioned to meet Australian objections.

2. Belgium

LETTER FROM THE MINISTRY FOR FOREIGN AFFAIRS OF BELGIUM

[*Original: French*]
[*22 February 1954*]

It appears difficult to accept the principle laid down in article 1 of the drafts whereby a child who would otherwise be stateless acquires at birth the nationality of the State in whose territory he is born.

The Belgian Legislature had adopted this principle in 1909 when it enacted a provision to the effect that a child born in Belgium of parents not possessing a specified nationality was to be a Belgian national. The application of the principle proved disappointing. The attitude of a large number of persons born of parents who had allegedly lost their nationality showed quite clearly, especially during the 1914-1918 War, that such loss of nationality was purely a matter of form.

Moreover, it seems hardly conceivable that a State, by allowing the automatic acquisition of its nationality, should endorse measures—often arbitrary measures—whereby foreign Governments deprive persons of nationality.

It would be more appropriate to offer a child who is within the terms of article 1 the opportunity of *acquiring* the nationality of the country in whose territory he was born, by means of an option subject to certain residence qualifications and to the production of satisfactory evidence of suitability by the applicant.

Article 2 of the two drafts does not call for comments.

There are also no comments on article 3, which lays down expressly the still quite vague principles concerning the territoriality of ships and aircraft.

Article 4 gives rise to certain reservations, for the principle of the *jus sanguinis materni* appears to be highly debatable so far as the nationality of *legitimate* children is concerned.

A child whose father is stateless and whose mother possesses a specified nationality should have the possibility either of acquiring by option the mother's nationality or of following the father's status if the latter voluntarily acquires a nationality.

Article 5, paragraph 1, of the two drafts gives rise to reservations with respect to the nationality of children born out of wedlock who are recognized.

If, for the reasons mentioned in the comments on article 1 of the drafts, the benefit of *jus soli* ought not to be extended to the legitimate child of a stateless person, *a fortiori* a child born out of wedlock who has not been recognized and who *jure soli* possesses a specified nationality should follow the status of the person with respect to whom relationship is duly proved by recognition, even though as a consequence he loses the nationality which he possessed as an unrecognized illegitimate child without acquiring a new one. Here again, the child should have the possibility either of acquiring by option the nationality of his country of birth or of benefiting by the collective effect of the naturalization of the person with respect to whom relationship is proved.

For article 7 of the drafts only the minimum formula is acceptable.

Moreover, in exceptional cases, the Parties should be empowered to deprive their nationals of nationality, subject to the safeguards mentioned, but it should not be stipulated that such nationals must have entered or continued voluntarily in the service of a foreign country *"in disregard of an express prohibition of their State"*.

There are no objections to article 8 except that the term "political grounds" should be more clearly defined, for, if activities designed to overthrow the State or its institutions are involved, such grounds could obviously give rise to proceedings for deprivation of nationality.

Article 10 provides for the establishment of an agency to act on behalf of stateless persons before an arbitral tribunal.

It should be pointed out in connexion with the proposed agency that political refugees, many of whom are in fact, if not in law, stateless, enjoy the protection of the United Nations High Commissioner for Refugees.

Furthermore, the granting of nationality is a matter for the exclusive jurisdiction of the State and cannot depend on decisions by a supra-national tribunal.

Accordingly, the establishment of a new agency within the framework of the United Nations does not appear desirable, especially if it is considered that its function would involve virtual intervention in a matter which, by its very nature, is essentially within the domestic jurisdiction of a State, which is expressly safeguarded by a provision of the United Nations Charter (Article 2, paragraph 7).

3. Canada

NOTE FROM THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS OF CANADA

[*Original: English*]
[*1 June 1954*]

Although Canadian legislation contains provisions for loss and deprivation of citizenship, which in some instances might result in statelessness, there have been changes in the legislation leading to a reduction in the causes of statelessness, with particular reference to married women and minor children.

Whilst agreeing that the reduction of statelessness is a commendable goal, nevertheless, it is considered that there exist cases in which deprivation of citizenship is not unwarranted or unjustified. For this reason Canada could not accept article 7 of the draft Convention on the Elimination of Future Statelessness which is considered to be much too broad.

With the exception of articles 4, 6 and 7 the articles of the proposed Convention on the Reduction of Future Statelessness present no problems with regard to contemporary Canadian legislation.

Article 4. The first three articles of the Convention aim at the extension as far as possible of the rule of *jus soli* in the acquisition of nationality. As the Convention, however, would apply in this respect only between the parties to it, article 4 attempts to supplement the coverage of the three preceding articles by attempting to extend the rule of the *jus sanguinis* to persons born in the territory of the States which would not be parties to this Convention. The principle would not present any difficulty, provided it included certain qualifications.

According to Canadian legislation a person born out of Canada acquires the Canadian nationality of his father only if the birth be properly declared to a representative of the Canadian Government. Moreover, the child acquires the Canadian nationality of his mother only if he be born out of wedlock. It is not felt that these qualifications which attach to the *jus sanguinis* in Canadian law would result in the foreign-born children of Canadian citizens becoming stateless. This would occur only if they were born in countries where the *jus soli* would not apply to offspring of foreigners. It is thought that there would be few countries where such would be the law. In any event, statelessness in such countries would result from indifference or negligence on the part of the parents. In this regard it should be noted that in special cases the period of two years within which registration must normally be made, may be extended. In the circumstances, it is considered, that article 4, as drafted, would imply an unnecessary and undue extension of the principle of the *jus sanguinis*.

Article 6. In cases where another nationality has not been acquired, mere renunciation does not carry loss of Canadian citizenship. However, provision exists whereby revocation of citizenship may follow upon renunciation.

Paragraph 3 runs counter to Canadian legislation inasmuch as it opposes loss of nationality on the mere grounds of "departure, stay abroad, failure to register or any other similar ground when statelessness is to ensue". The Canadian Citizenship Act provides for the loss of Canadian nationality by a naturalized citizen in cases of prolonged absence from Canada when substantial connexion has not been maintained. It is not considered that the provisions are unreasonable since they provide for loss of Canadian citizenship only in cases where marked indifference towards such citizenship has been manifested and where presumably the persons involved would be more interested in acquiring another nationality.

Article 7. Paragraph 1 of this article in its present form would not be acceptable to the Canadian Government since Canadian legislation includes other grounds for deprivation of nationality by way of penalty.

The existing Canadian legislation regards the following acts as grounds for revocation of citizenship:

(*a*) Renunciation;

(*b*) Foreign naturalization or allegiance;

(*c*) Prolonged absence;

(*d*) Trade with an enemy;

(*e*) Fraudulent naturalization;

(*f*) Disaffection or disloyalty.

Of these (*a*) (*b*) (*c*) and (*e*) are not considered to be deprivation by way of penalty. In renunciation and foreign naturalization of allegiance, the person concerned has voluntarily manifested a desire to divest himself of his previous citizenship; in the case of prolonged absence, except in extenuating circumstances for which provision is made, the behaviour of a naturalized citizen implies renunciation; in the case of fraudulent naturalization, revocation does not constitute a penalty, but a mere statement of the fact that naturalization, having been vitiated by fraud is null and void; "trade with an enemy" would fall within the article as presently worded; "disaffection or disloyalty" might or might not. It is not thought that statelessness should be avoided at all costs and the Canadian Government would be reluctant to abandon its right to deprive disloyal, naturalized citizens of their Canadian nationality by way of penalty.

Paragraph 2 of article 7 would raise a further difficulty in that it requires that "the deprivation shall be pronounced by a judicial authority acting in accordance with due process of law". Revocation in Canada follows due process of law but is not pronounced by a judicial authority. It is ordered by the Governor-in-Council as the constitutional authority entrusted with the exercise of royal prerogatives, of which revocation of citizenship is one.

4. Costa Rica

COMMENTS TRANSMITTED BY A LETTER FROM THE PERMANENT DELEGATION OF COSTA RICA TO THE UNITED NATIONS, DATED 26 JANUARY 1954

[*Original: Spanish*]

The background of the subject has been duly examined, and the reports by Mr. Hudson, assisted by Dr. Kerno, studied, together with the well documented report submitted by Dr. Córdova as special rapporteur. In addition, careful thought has been given to the weighty opinion of the commission, which approved both draft conventions for submission to Governments for their comments, after some members of the Commission had expressed the opinion that the problem of statelessness could only be solved by the adoption of the draft Convention on the Elimination of Future Statelessness, while others felt that the draft Convention on the Reduction of Future Statelessness at present offered the practicable solution of the problem.

Likewise, the Commission's view that it is essential to eliminate or to reduce future statelessness by international agreement appears very reasonable, as does its opinion that one of the two draft conventions ought eventually to become part of international law. Accordingly, the two draft conventions were transmitted to the Economic and Social Council.

After studying the two draft Conventions—that referring to the "elimination of future statelessness", and that dealing with the "reduction of future statelessness"—this Office considers the latter more suitable, because it contains a better explanation of the ideas underlying the principles set forth in articles 1 and 7 of both drafts.

The recommended Convention contains provisions relating to nationality acquired at birth, presumptions, birth on ships, special conditions in a number of States, renunciation of nationality, penalties; racial, religious and political grounds; transfer of territories, changes in personal status, special agencies and doubtful cases.

The efforts made along the lines described reflect a profoundly humanitarian spirit, are furthering one of the fundamental principles of the Universal Declaration of Human Rights and tend to remove difficulties between States.

The establishment of the proposed special agency to act on behalf of stateless persons, and the establishment of a tribunal, within the framework of the United Nations, to decide upon complaints presented by the said agency are also desirable steps.

The second draft Convention, therefore, forms a sound basis for dealing with the problem, though, of course, when once it becomes operative some of its provisions may require adjustment in the light of experience and of new principles of international law.

5. Denmark

LETTER FROM THE MINISTRY FOR FOREIGN AFFAIRS OF DENMARK

[*Original: English*]
[*23 April 1954*]

Article 1 of both draft Conventions. Article 1 of the draft Convention on the Elimination of Future Statelessness and paragraph 1 of article 1 of the draft Convention on the Reduction of Future Statelessness establish the principle of *jus soli* for persons who would otherwise become stateless; this principle is at variance with Danish law on nationality which adheres to the principle of *jus sanguinis* from which only one exception has been made, viz., Act of 27 May 1950, article 1, paragraph 2, which lays down that a legitimate child born in the State of Denmark whose mother is Danish shall acquire Danish nationality by birth if the child's father is stateless or if the child does not by birth acquire the father's nationality.

Provisions similar to those laid down in paragraph 2 of article 1 of the draft Convention on the Reduction of Future Statelessness making the preservation of nationality dependent on certain conditions are not prescribed in connexion with paragraph 2 of article 1 of the Danish Nationality Act; consequently, there are no provisions granting a child the nationality of one of his parents if he loses his nationality; *cf.* paragraph 3 of the draft Convention on the Reduction of Future Statelessness which, incidentally, goes beyond the principle of descent established in Danish law in that it does not distinguish between children born in or out of wedlock.

Article 2 of both draft Conventions. As a foundling acquires the nationality of the State in whose territory it is found, this provision, in conjunction with article 1, is in conformity with the rules laid down in paragraph 2 of article 1 of the Danish Nationality Act.

Article 3 of both draft Conventions. The Danish Nationality Act contains no provisions on birth on ships and aircraft, but birth on a Danish ship or aircraft cannot invariably be expected to involve the same status as birth in Danish territory, as each case will be decided on its own merits. On the other hand, a child born on a foreign ship or aircraft may acquire the same status as children born in Danish territory if, for instance, such ship or aircraft is *en route* between various parts of Denmark.

Article 4 of both draft Conventions. This article, like paragraph 3 of article 1 of the draft Convention on the Reduction of Future Statelessness, lays down a principle of descent which goes beyond Danish law or nationality.

Article 5 of both draft Conventions. The Danish Nationality Act provides that a person shall not normally lose his Danish nationality except in connexion with simultaneous acquisition of a foreign nationality. Similarly, the loss of the nationality of a parent referred to in paragraph 2 of this article does not normally entail the loss of the children's Danish nationality unless they acquire another nationality at the same time. The only exception to this rule is paragraph 2 of article 8 of the Danish Nationality Act, which lays down that if a person loses his or her nationality in pursuance of paragraph 1 of the article (birth and residence abroad until twenty-second year) the children of such person shall also lose their Danish nationality if they acquire it through him or her. Such loss shall become effective even if it renders the children stateless.

Article 6 of both draft Conventions. Paragraphs 1 and 2 of this article are in conformity with the rules laid down by the Danish Nationality Act, article 9 (on renunciation) and article 7 (on loss) of Danish nationality through acquisition of another nationality, but paragraph 3 of the draft Conventions goes beyond Danish law, *cf.* article 8 of the Danish Nationality Act under which a person may lose his Danish nationality even if that renders him stateless.

Article 7 of both Conventions. Danish law on nationality does not contain any rules on deprivation of nationality by way of penalty and is thus in conformity with the principle laid down by this article.

Article 8 of both Conventions. Under Danis law on nationality a person cannot be deprived of his nationality on the grounds referred to in this article; hence, article 8 is in conformity with the principles of law adhered to in Denmark.

Article 9 of both Conventions. The rules embodied in this article are in conformity with the principles to which the State of Denmark has adhered and will probably continue to adhere in such cases.

Article 10 of both Conventions. The Danish authorities have no objection to the provisions of this article.

From the above comments it will be understood that the provisions of the draft Conventions deviate, in essential respects, from the existing Danish legislation on nationality. Hence, the draft Conventions cannot be accepted by the Danish authorities without quite substantial reservations, unless they are amended considerably in the course of further treatment.

In regard to the question of amending the Danish legislation on nationality with a view to adapting it to conventions based on the two drafts submitted, attention is invited to the fact that the Danish Nationality Act of 27 May 1950 was drafted in collaboration with the other Scandinavian countries. Hence, amendments of that Act would—at least as far as more important amendments are concerned—probably presuppose corresponding and simultaneous amendments of the Norwegian and Swedish nationality laws.

In view of the comparatively recent detailed consideration given to Scandinavian laws on nationality, the Danish authorities feel that far-reaching amendments of these laws are not very likely to be effected in the next few years.

6. Egypt

NOTE FROM THE PERMANENT DELEGATION OF EGYPT TO THE UNITED NATIONS

[*Original: English*]
[*2 July 1954*]

1. Article 1 of both draft Conventions. The Egyptian Government does not accept the provisions of article 1 in both draft Conventions. Whereas that article permits a child, who otherwise would be stateless, to acquire at birth the nationality of the State in whose territory it is born, Egyptian Law No. 160 of 1950, stipulates that acquisition of Egyptian nationality is dependent upon normal residence in Egypt until the age of twenty-one, and compliance with other conditions referred to in articles 4 and 5 of that law.

Furthermore, Egypt is suffering from an over-population problem. The increase in population is not at par with the growth of economic resources. The adoption of the principles laid down in article 1 of both draft Conventions would, therefore, aggravate the situation causing a decline in the social and economic standards of living in Egypt.

According to current Egyptian laws, acquisition of Egyptian nationality is limited to cases where economic, cultural or artistic gains accrue therefrom.

The Egyptian Law of 1950, in its article 2, paragraph 4, considers, however, a child born in Egypt of two unknown parents to be Egyptian.

The Egyptian Government considers that the actual provisions of its present law of nationality has thus eliminated one of the most common reasons of statelessness and does not, therefore, deem it necessary to change any of its provisions which were primarily drawn up to safeguard the vital interests of its inhabitants.

2. Article 2 of both draft Conventions. Article 2 of both draft Conventions is in conformity with the principles laid down by article 2 of the Egyptian Law of 1950.

3. Article 3 of both draft Conventions. For reasons similar to those expressed in paragraph 1 above, the provisions of this article are not acceptable to the Egyptian Government.

4. Article 5 of both draft Conventions. Provisions of this article are not in accordance with principles provided by the Egyptian Law on nationality.

5. Article 6 of both draft Conventions. The Egyptian Nationality Law contains similar provisions aiming at eliminating statelessness with the exception of one case—that of a foreign wife who acquires Egyptian nationality by marriage and upon termination of that marriage loses her Egyptian nationality if her residence is normally established abroad.

The *ratio legis* of this exception lies in the desire of the Egyptian Government to prevent cases of fraud. Moreover, it has been observed that such a wife who is not willing to reside in Egypt and establish her normal residency abroad must have considerable interest in doing so and presumably might have regained her nationality of origin.

On the other hand, the married woman does not lose her Egyptian nationality is she normally resides in Egypt after termination of her marriage.

6. Article 7 of both draft Conventions. Whereas article 7 of the draft Convention on the Elimination of Future Statelessness is inconsistent with the Egyptian Law of nationality, article 7 of the draft Convention on the Reduction of Future Statelessness is partly in conformity with its provisions.

The Egyptian Law does not require any judicial pronouncement before nationality is lost although executive decisions in this respect are subject to judicial review by Egyptian courts.

The Egyptian Government does not approve of any limitation to be imposed upon its right of deprivation of nationality as a punishment because it considers the State the most competent authority to decide on acts which threaten its internal security or its economic and social structure.

7. Article 10 of both draft Conventions. The Egyptian Government may approve the establishment, within the framework of the United Nations, of an agency to act on behalf of stateless persons, but does not approve the establishment of a tribunal to decide upon complaints by individuals claiming to have been denied nationality.

It is the view of the Egyptian Government that granting nationality is a matter for the exclusive jurisdiction of the States within the framework of its own domestic legislation and based upon consideration of its best interest and security. Therefore domestic courts would be the competent organs to supervise the State action in this matter.

The Egyptian Government has no further comments on other articles of both draft Conventions.

Taking into consideration the above-mentioned remarks, the Egyptian Government cannot, therefore, accept the two draft Conventions in their present text; and reserves the right to present further comments, as it deems necessary, when the final draft convention is completed and submitted to the Egyptian Government.

7. Honduras

LETTER FROM THE DEPARTMENT OF FOREIGN AFFAIRS OF HONDURAS

[Original: Spanish]
[15 January 1954]

The Honduran Government accepts without reservation the preambles to the two draft Conventions, which are based on a binding moral principle expressed in the Universal Declaration of Human Rights in the words: "Everyone has the right to a nationality." The Economic and Social Council recognizes that this right should be effectively guaranteed.

The Honduran Government accepts without reservation article 1 of the draft Convention on the Elimination of Future Statelessness.

In my Government's opinion a new paragraph should be added to article 1 of the draft Convention on the Reduction of Future Statelessness, in order to prevent the statelessness of a person who does not normally reside in the country before attaining the age of eighteen. This paragraph would read as follows:

> "4. If the person does not normally reside in the State before attaining the age of eighteen he shall acquire his father's nationality or, failing that, his mother's nationality."

My Government approves article 3 of both draft Conventions providing that birth on a vessel or an aircraft shall be deemed to have taken place within the territory of the State whose flag the vessel flies. It accepts this article in the light of the Commission's decision that the best solution in this case was to adopt the simple test of the flag of the vessel and of the registration of the aircraft, in view of the relative infrequency of birth on vessels or aircraft.

It also approves without reservation article 4 of both draft Conventions.

It has no objections to article 5 of both Conventions. My Government does not object to article 6, paragraphs 1 and 2 of the drafts but objects to paragraph 3 of that article which provides that "persons shall not lose their nationality so as to become stateless on the ground of departure, stay abroad, failure to register or on any other similar ground". My Government is of the opinion that departure, stay abroad, failure to register or any other similar ground should be a ground for loss of nationality, but only in the case of naturalized persons who in this way acquire a new nationality and return to their former country for a certain time or indefinitely, or settle in another State without registering with the appropriate authorities of the State of which they claim to be naturalized citizens after the expiration of a time-limit laid down under the national law. The Honduran Government is in favour of this paragraph being amended accordingly, with the addition of a further paragraph. The new text might read as follows:

> "... except in the case of naturalized persons who may lose their nationality after being absent from the country for more than five consecutive years if they fail to register abroad or their conduct is such that they deserve to be deprived of their naturalization.
>
> "4. Naturalized persons who lose their nationality in this way shall recover that of their country of origin."

My Government has no comment to make on article 7 of the Convention on the Elimination of Future Statelessness but considers that this article should refer specifically to nationality at birth. The new paragraph 4 added to article 6 would be applied to naturalized persons.

My Government also agrees with article 7 of the Convention on the Reduction of Future Statelessness, but considers in connexion with paragraph 2 that the Government authorities acting in accordance with the law should be entitled to deprive

a person of nationality. Such an amendment would mean adding another sentence to paragraph 2.

In accordance with its traditional policy and that of the Republic throughout its history, my Government is able to accept without any modifications article 8 of both drafts. It sincerely believes that other Governments guided by the same democratic principles will accept it wholeheartedly without any reservations limiting its application.

My Government agrees with articles 8 and 9 of the drafts.

My Government approves paragraphs 1, 2 and 4 of article 10. It suggests, however, that in order to achieve the purposes mentioned in those paragraphs the following sentence should be added to paragraph 3:

"... and if none of the Contracting Parties request it, the General Assembly shall proceed to set them up."

8. India

NOTE FROM THE MINISTER FOR EXTERNAL AFFAIRS OF INDIA

[*Original: English*]
[*2 April 1954*]

The Minister for External Affairs...has the honour to say that pending enactment of the Citizenship Law of India, it is not possible for the Government of India to offer any useful comments on the draft Conventions in question, since statelessness is a problem which is intimately connected with laws of nationality and citizenship.

9. Lebanon

LETTER FROM THE MINISTER FOR FOREIGN AFFAIRS OF LEBANON

[*Original: French*]
[*18 May 1954*]

Article 1 of both drafts is in line with the general principles of Lebanese legislation on nationality and hence does not call for any comment.

Article 2 of both drafts is simply the natural sequence to article 1 and does not call for any comment, except perhaps that it may be desirable to define what is meant in law by the term "child".

Article 3 of both drafts is also in conformity with Lebanese legislation.

Articles 4 and 5, too, are in keeping with Lebanese law which provides that "a person born of a Lebanese father is a Lebanese national", and that "if a Lebanese woman marries an alien she shall lose her nationality on condition that the legislation of the State of which her husband is a national confers his nationality upon her, failing which she shall retain her Lebanese nationality."

Article 6, paragraphs 1 and 2, call for no comment. As regards article 6, paragraph 3, of both drafts, which provides that "Persons shall not lose their nationality, so as to become stateless, on the ground of departure, stay abroad, failure to register or any other similar ground", the Lebanese Government would be prepared to adopt it if the "stay abroad"—the cause of the loss of nationality—should exceed the time limit stipulated in the legislation of the contracting State of which the individual concerned is a national.

Article 7 of the draft Convention on the Elimination of Future Statelessness states that "the Parties shall not deprive their nationals of nationality by way of penalty if such deprivation renders them stateless." On the other hand, article 7, paragraph 1, of the draft Convention on the Reduction of Future Statelessness provides that "the Parties shall not deprive their nationals of nationality by way of penalty if such deprivation renders them stateless, except on the ground that they voluntarily enter or continue in the service of a foreign country in disregard of an express prohibition of their State".

The Lebanese Government cannot concur with the terms of the first of these drafts; while it can, on the other hand, agree to those of the second draft, for they are in keeping with its own legislation, it feels bound nevertheless to point out that there is one case in which Lebanese legislation does not require an express prohibition, viz. where a Lebanese national accepts an official appointment in Lebanon in the service of a foreign Government without prior permission.

Moreover, article 7, paragraph 2, of this second draft Convention provides: "In the case to which paragraph 1 above refers, the deprivation shall be pronounced by a judicial authority acting in accordance with due process of law", whereas under Lebanese law an order to deprive a person of Lebanese nationality is made by the Council of Ministers.

Articles 8, 9 and 10, common to both drafts, do not call for any comments.

10. Netherlands

COMMENTS TRANSMITTED BY A LETTER FROM THE PERMANENT DELEGATION OF THE NETHERLANDS TO THE UNITED NATIONS

[*Original: English*]
[*1 June 1954*]

General comments

The Netherlands Government, convinced of the necessity of eliminating or drastically reducing statelessness, are of the opinion that both draft conventions on future statelessness as contained in chapter IV of the report of the International Law Commission covering the work of its fifth session form an excellent contribution towards the solution of this problem, which has been pressing for such a long time.

The Netherlands Government, therefore, are in general agreement with the principles and major objectives of the said draft Conventions.

The Netherlands Government would, however, express a preference for the draft Convention on the Reduction of Future Statelessness (hereinafter to be referred to as "second draft") on grounds which will be further explained in their comments on the preamble and the articles of the draft Conventions. Notwithstanding this preference, they have thought it useful to include in their comments a number of suggestions regarding possible amendments of the text of the draft Convention on the Elimination of Future Statelessness (hereinafter to be referred to as "first draft"), in so far as, in their opinion, the wider objectives of this draft make such amendments necessary.

As regards the final sentence of paragraph 121 of the report of the International Law Commission: "In due course and after receiving the comments of Governments, the Commission will consider whether and in what form it should submit to the General Assembly one or more final draft conventions and what course of action it should recommend", the Netherlands Government, though they do not favour the idea of more than one final draft convention being eventually opened for signature—as this procedure would not be conducive to the uniformity of law—do not object to more than one draft convention being submitted to the General Assembly, leaving it to the Assembly to decide which draft will be adopted. They wish to point out, however, that should the General Assembly eventually decide to recommend the first draft for signature and ratification by the Members of the United Nations, it would be difficult for the Netherlands Government to comply with such recommendation, in view of the existing nationality legislation in the Netherlands.

Comments on the preamble and the articles of the two draft Conventions

Preamble. As regards the preamble of the conventions, the Netherlands Government have no remarks to make.

Article 1. The Netherlands Government prefer the text of article 1 of the second draft, for three reasons:

(1) As regards the acquisition of Netherlands nationality, Netherlands legislation, as a rule, is based on the principle of *jus sanguinis.* Though in order to avoid statelessness certain exceptions can be made to the principle of *jus sanguinis,* it should be observed that there may be cases in which the application of article 1 of the first draft would result in the acquisition of Netherlands nationality by persons who—the parents being non-Netherlanders—are born in the Netherlands as a result of purely accidental circumstances and then leave this country after so short a time that there is no link whatever with the Netherlands.

In the opinion of the Netherlands Government, paragraphs 2 and 3 of article 1 of the second draft constitute an adequate guarantee that in the future statelessness will only occur in exceptional cases.

(2) In practice, article 1 of the first draft could induce a State in whose territory stateless children have been born to discriminate in its legislation against these subjects who have been more or less forced upon that State, in so far as they have hardly any link with it. For instance, it could be easily imagined that—as is the case in various countries adhering to the principle of *jus soli*—the right to vote and the right to freedom of assembly and association are withheld from subjects who have no connexion with the State either by residence or by any other links. Thus, though, in its literal sense, the text of article 1 of the first draft protects the stateless person to a greater extent than does the text of article 1 of the second draft, the first may in practice lead to a devaluation of his status. It should be observed in this connexion that it has not been laid down in the draft Conventions which minimum rights a subject must possess.

(3) Acceptance of article 1 of the first draft might induce States not to admit refugees into their territories, which would be undesirable on humanitarian grounds.

In considering their position with regard to this article the Netherlands Government have proceeded on the assumption that article 1 of the second draft should be taken to mean that the person concerned shall provisionally acquire the nationality of the Party in whose territory he is born, which acquisition shall be confirmed as soon as he attains the age of eighteen, the nationality being lost if he shifts his normal residence to another country before reaching that age.

Article 2. In the explanatory comment on this article in the report of the International Law Commission it is pointed out that this provision, especially within the system of the first draft, is not quite conclusive from a purely theoretical point of view. It may be imagined that a foundling, found in the territory of one of the Contracting Parties, is subsequently discovered actually to have been born in the territory of a State which does not recognize the principle of *jus soli,* while the nationality of the parents is not known. In that case, if the latter State is not a party to the convention, the present wording of article 2 might leave room for statelessness, because the child cannot profit by the provision of article 4 of the two draft Conventions.

The Netherlands Government realize that the case referred to above will present itself in very exceptional circumstances only, but in view of the object of the first draft, viz., to eliminate every conceivable possibility of statelessness, they would nevertheless suggest to add to article 2 a second paragraph to be worded in the following terms:

"In the case that, its place of birth being known, it would otherwise be stateless, the foundling shall, for the purpose of article 1, be deemed to have been born in the territory of the Party in which it is found."

Article 3. The Netherlands Government deem it a happy solution to assume, for the purpose of article 1, that in all cases in which birth has taken place on a vessel or an aircraft, it shall be deemed to have taken place within the territory of the State whose flag the vessel flies, irrespective of the State where the aircraft is registered.

Article 4. According to the explanatory comment on this article in the report of the International Law Commission, it is the intention that the provision of his article shall extend to children born in no-man's-land or in territories the sovereignty of which is undetermined or divided, therefore, the Netherlands Government are of the opinion that the word "not" in the third line of article 4 should be omitted, it should be placed in the second line after the word "child".

Article 5. For the reasons set forth in their comments on article 7, the Netherlands Government deem it desirable to extend the scope of the provision contained in paragraph 2. In their opinion this could be achieved by inserting this provision as a separate article.

Article 6. The Netherlands Government are in general agreement with the provisions of this article.

Article 7. As regards this article, the Netherlands Government likewise prefer the second draft as the stringent provision that States are not allowed to deprive their nationals of their nationality by way of penalty, if such deprivation renders them stateless, is qualified by providing that an exception can be made in case such nationals voluntarily enter or continue in the service of a foreign country in disregard of an express prohibition of their State. Further the Netherlands Government hold the view that the expression "by way of penalty" implies an unintended restriction of the article; therefore the Government would suggest to delete these words. This also applies to the second draft, as in many countries—and certainly in the Netherlands—deprivation of nationality on the ground of entering or continuing in the service of a foreign State is not considered a punitive measure but rather the logical result of the fact that the person concerned has evinced a degree of loyalty to a foreign State which is incompatible with his original nationality.

Accordingly Netherlands nationality is lost at the moment the person concerned enters the service of a foreign State without the consent of the competent authorities. At the moment the Netherlands Government are considering a proposal to the effect that when a person enters the service of a foreign State he shall lose his Netherlands nationality only in cases in which this is expressly declared by the Netherlands authorities concerned. In this system the decision whether or not the person concerned will lose his Netherlands nationality does not depend on juridical factors; it is rather a matter of policy and therefore intervention of a court does not fit in with the proposed system. If this system should be adopted the number of cases of Netherlanders becoming stateless as a result of entering the service of a foreign State would be very small; therefore it is in accordance with the spirit of the proposals of the International Law Commission.

If in the first paragraph of article 7 of the second draft the words "by way of penalty" are deleted, the Netherlands Government recommend that in connexion with the foregoing the second paragraph of article 7 be worded as follows:

"In the case that a person will be deprived of his nationality on the aforementioned ground by way of penalty, the deprivation shall be pronounced by a judicial authority acting in accordance with due process of law."

Moreover the Netherlands Government are of the opinion that deprivation of nationality in virtue of article 7 should not entail loss of nationality by the members of the family of the person concerned. A similar guarantee has been laid down in paragraph 2 of article 5 of the two drafts. Therefore the

Netherlands Government deem it desirable to insert paragraph 2 of article 5 as a separate article in the two conventions, so that this provision shall apply not only to loss of nationality as a consequence of change of personal status but to all cases of loss of nationality dealt with in the conventions. This new article could be inserted at the end of the conventions.

As regards the explanatory comment in the report of the International Law Commission on article 7 concerning the legal effects of withdrawal or annulment of naturalization on account of fraud in obtaining it, the Netherlands Government are of the opinion that it is advisable to make full provision for this case in the two conventions.

Article 8. The Netherlands Government entirely concur in the explanation of the International Law Commission to this article.

Article 9. Though the Netherlands Government recognize the existence of a principle of international law according to which the inhabitants of a territory as referred to in this article, as a rule, have the right of option, they share the opinion of the International Law Commission, as expressed in its explanatory comment on this article that the present conventions are not the appropriate place for dealing with this principle. They understand from the explanatory comment, however, that the provision concerning the right of option was inserted for the sole purpose of avoiding the impression that, by not inserting this right, the existence thereof was being ignored. For the purpose of reflecting this more clearly in the text of the convention the Netherlands Government would suggest to insert in paragraph 1 after the word "option", the words "as far as recognized under international law". They are of the opinion that in this way it is clearly expressed that in this respect the convention does not add anything to existing international law.

Article 10. In general, the Netherlands Government agree to the provisions of this article concerning the settlement of disputes and complaints which might arise in connexion with the interpretation or application of the convention. They realize that article 10 for the greater part contains only directives which will have to be elaborated after the convention has come into force.

The Netherlands Government entirely concur in the view of the International Law Commission laid down in paragraph 158 of its report, viz., that the fact that the tribunal referred to in paragraph 2 of article 10 should be accessible to individuals acting through an agency does not affect the question to what extent individuals in general can be subject of rights and obligations arising from international law. For the establishment of that tribunal by the convention is exclusively envisaged in view of considerations of a practical nature applying to this special case, viz., that in this case persons are concerned who claim to have been denied nationality in violation of the provisions of the convention and who, consequently, cannot call upon any State to accord them diplomatic protection or any other form of protection based on international law.

Finally, the Netherlands Government wish to note for the sake of good order that in the English text of the final sentence of paragraph 157 of the report of the International Law Commission the word "established" seems to have been omitted before "in accordance with paragraph 2". It is assumed that both in the English and in the French text the object of referring to paragraph 2 of article 10 is to specify the tribunal.

11. Norway

LETTER FROM THE PERMANENT DELEGATION OF NORWAY TO THE UNITED NATIONS

[Original: English]
[6 April 1954]

The Norwegian Government is in agreement with the objectives underlying the drafts prepared by the International Law Commission and would regard their acceptance as multilateral conventions by a large number of States as a great step forward. The system established by the drafts is, however, in various respects not in conformity with Norway's nationality legislation in force at present. The following observations relate to the latter aspect of the matter.

I

Draft Convention on the Elimination of Future Statelessness

Article 1. According to article 1 of the Norwegian Nationality Act a child born in Norwegian territory will in any case acquire Norwegian nationality if the *mother* is Norwegian and the child would otherwise be stateless. Are *both* parents stateless, the child will, however, also become stateless. Consequently the Nationality Act would have to be amended before Norway could adhere to the convention.

Article 3. As a general rule birth on board a Norwegian ship is, according to Norwegian law, assimilated with birth in Norwegian territory as far as acquisition of nationality is concerned. Exceptions may be found, for instance when the birth has taken place while the ship was staying in a foreign port or during the passage of the territorial waters of another country. In such cases it might not be warranted to assimilate the birth with birth in Norwegian territory and it is doubtful whether any circumstances could warrant the adoption of a categorical rule such as the one contained in the draft.

Article 4. According to article 1 of the Norwegian Nationality Act, a child born to a Norwegian unmarried woman will acquire Norwegian nationality regardless of the place of birth. If the child is born to married parents outside Norway and if the father is an alien (or stateless), there is no similar rule even if the mother is Norwegian and the child would otherwise become stateless. The same applies to a child born out of wedlock to a Norwegian father if the mother is not Norwegian. Thus an amendment to the Nationality Act would have to precede Norway's adherence to the convention. In addition it should be noted that, according to the Norwegian conception of right and the system of the Nationality Act, the nationality of the *mother* should prevail in case of a child born out of wedlock. From a Norwegian point of view, therefore, the provision contained in the last sentence of article 4 is not sufficiently flexible.

Article 5. The provision contained in paragraph 2 is not in conformity with our Nationality Act in so far as loss of nationality according to article 8 of the Nationality Act entails loss of nationality by the children even if they thereby become stateless. For the contents of article 8 reference is made to the observations on article 6, paragraph 3, of the draft (see below).

Article 6. The provision contained in paragraph 3 is in conflict with article 8 of the Norwegian Nationality Act, which prescribes that a Norwegian *born in a foreign country* loses his Norwegian nationality when he reaches twenty-two years of age if he has never previously resided in Norway or sojourned in the country under circumstances pointing to solidarity with Norway. Whether the consequence of the loss of nationality is that he will become stateless or not, is an irrelevant factor.

II

Draft Convention on the Reduction of Future Statelessness

Article 1, paragraphs 2 and 3 are not in conformity with the Norwegian Nationality Act which—except in the case mentioned in article 8—does not recognize loss of Norwegian nationality unless the person concerned acquires the nationality of another country. The provision, therefore, would make it necessary to amend the law. As regards the last sentence of

paragraph 3, reference is made to the comments made on article 4 of the preceding draft convention (see I).

For comments on articles which both drafts have in common reference is made to the comments to particular articles of the preceding draft (see I).

Provisions in the draft which have not been singled out for comment are considered not to be in conflict with Norwegian legislation. No comments are offered with regard to such provisions.

As will appear from the preceding comments, Norway's position with regard to the question of adherence to the draft will have to be influenced by the possibility of effecting the necessary changes in the Nationality Act. Considering the important humanitarian aspects of the matter and the importance of demonstrating some liberality in the international co-operation aimed at relieving statelessness, the Norwegian Government will not be adverse to the idea of seeking to effect the necessary changes in the law provided there is some prospect of general adherence to one of the draft Conventions on the part of Governments. It should be noted, however, that the Norwegian Nationality Act of 8 December 1950 (No. 3) was the result of Nordic co-operation in the legal field and that the Nationality Acts of Norway, Denmark and Sweden are in the main identical. From the point of view of Nordic uniformity of law it must be considered unfortunate to amend the Norwegian law if similar changes are not made in the Danish and Swedish laws.

12. Philippines

LETTER FROM THE PHILIPPINE MISSION TO THE UNITED NATIONS

[Original: English]
[25 February 1954]

The provisions of the two draft Conventions, the first on the Elimination of Future Statelessness, and the second on the Reduction of Future Statelessness, do not contravene any applicable laws of the Philippines, with the exception of paragraph 1 of article 6 of both drafts, which provides that "Renunciation shall not result in loss of nationality unless the person renouncing it has or acquires another nationality". This provision conflicts with section 1 (2) of Commonwealth Act No. 63, as amended by Republic Act No. 106, which prescribes that Philippine citizenship may be lost, among other ways, "by express renunciation of citizenship". Such loss of citizenship on the part of Filipino citizens is not conditioned on the acquisition or possession of another. However, adherence to the rule expressed in the draft Conventions as regards the effect of renunciation of citizenship would not prejudice national interest and would, on the contrary, uphold the policy expressed in the draft Conventions to avoid or reduce statelessness.

An examination of the two draft Conventions shows that they are similarly worded except as regards articles 1 and 7. The additional provisions in article 1 of the second draft (on the reduction of future statelessness) are more in consonance with the principle of citizenship adopted by the Philippine Constitution to abandon the rule of *jus soli* and to emphasize the *jus sanguinis* doctrine. Likewise, the additional provisions in article 7 of the second draft give a Member State sufficient leeway to provide for forfeiture of citizenship on the part of its nationals by way of penalty.

With reference to article 6, paragraph 3 of the draft Conventions, it should be added that section 18 (*b*) of Commonwealth Act No. 473, otherwise known as the Naturalization Law, provides that a certificate of naturalization may be cancelled if the person naturalized shall, within five years next following the issuance of said certificate, return to his native country or to some foreign country and establish his permanent residence there.

Of the two draft Conventions, the Philippine Government believes that the one on the Reduction of Future Statelessness is preferable because it appears as the logical step toward the ultimate goal of eliminating statelessness and, therefore, presents an easier basis for agreement.

13. Sweden

LETTER FROM THE MINISTRY FOR FOREIGN AFFAIRS OF SWEDEN

[Original: English]
[3 May 1954]

The present Swedish Citizenship Act, promulgated on 22 June 1950 and in force as from 1 January 1951, replaced a previous Act of 1924 on the same topic. The new Swedish legislation on citizenship is the result of a close co-operation between Sweden, Denmark and Norway. When comparing the contents of the Swedish Citizenship Act now in force and that of the two draft Conventions in question, the Swedish Government have found that the draft Conventions are substantially incompatible with, and are more far-reaching than, the rules contained in the Swedish Citizenship Act. The Swedish Government, which do not deem it feasible at the present time to consider a modification of the said legislation so recently adopted, cannot thus accept the two draft Conventions in their actual tenor without making such extensive reservations as to render a Swedish adherence thereto purposeless.

14. United Kingdom of Great Britain and Northern Ireland

NOTE VERBALE FROM THE UNITED KINGDOM DELEGATION TO THE UNITED NATIONS

[Original: English]
[12 March 1954]

Her Majesty's Government are in favour not only of the reduction of statelessness but of its elimination so far as they may be possible by international agreement. Their preference as between article 1 of the draft Convention on the Elimination of Future Statelessness and article 1 of the draft Convention on the Reduction of Future Statelessness is for the former, not only on this general ground but because the provision of the former article seems to them simpler and free from the complications which under the alternative article might arise in determining the actual status of individuals—and in particular those under eighteen years of age—coming within its scope.

As regard article 1 of the draft Convention on the Reduction of Future Statelessness, Her Majesty's Government have no objection in principle to the general scheme of the article, but they observe that since the first paragraph of this article would require the admission to a limited extent of the principle of the *jus soli* by countries whose nationality law is not based on that principle, it has been thought right in paragraph 2 of the article to provide in effect that the retention of nationality so acquired may be dependent upon the degree of connexion which the person concerned has maintained with the country whose nationality is conferred upon him. It seems to Her Majesty's Government that it would be equitable that some similar discretion should be allowed under paragraph 3 to those countries which, as that paragraph stands, are being asked to accept the obligation of applying the *jus sanguinis* without any regard to the degree of the connexion between them and the person concerned.

The same consideration arises as regards article 4 of both draft Conventions.

A further comment which Her Majesty's Government would wish to offer at this stage is in respect of article 10 of both draft Conventions. Her Majesty's Government recognize that the question whether action taken in a particular case by a State Party to a convention on this subject is in accordance with the provisions of the convention will not always, and may not even often, be of interest to another State Party (though they would point out that there will be some cases in which another State, e.g., the State where the person is resident at the time, may have a direct interest in the consequences of such action). They do not think, however, that this consideration would justify the setting up of the elaborate organization suggested under this article and the giving of a right to the individual to set this machinery in motion. They would point out that the issues raised before the suggested tribunal might be far from simple, e.g., the question of the meaning of such terms as "normally resident" in article 1 or "political grounds" in article 8, and they doubt whether it is desirable to institute a tribunal with power to determine such questions in cases which, by reason of the circumstances in which they arise, cannot be submitted to the International Court of Justice, within whose province the authoritative determination of such questions lies.

Her Majesty's Government have no other comments to offer on the other articles of the draft Conventions. They wish, however, to stress the desirability of including a suitable form of territorial application article in the convention, so as to permit the extension of the convention to any or all of the territories for whose international relations Member States are responsible, after due consultation for the purpose of ascertaining the wishes of the Governments of those territories. Her Majesty's Government accordingly propose the insertion of an additional article in the final version of the convention on the following lines:

> "Any State may at the time of its ratification or thereafter declare by notification addressed to the Secretary-General that the present Convention shall extend to all or any of the territories for whose international relations it is responsible."

15. United States of America

NOTE FROM THE UNITED STATES MISSION TO THE UNITED NATIONS

[*Original: English*]
[*20 April 1954*]

This Government realizes the hardships resulting to many people from statelessness and the importance for Governments to amend their laws to eliminate or reduce as far as possible the amount of statelessness which results from the operation of such laws. However, there is a question whether such elimination or reduction can best be accomplished through the medium of an international convention, concluded within the framework of the United Nations or through appropriate legislative action of individual Governments taken pursuant to a recommendation of some organ of the United Nations.

So far as this Government is concerned, there are very few instances in its laws in which loss of American nationality results in a person becoming stateless. Where expatriation results from acts committed abroad, the nature of the act will, in some instances, such as naturalization, taking an oath of allegiance, or accepting a position for which nationality in a foreign state is a prerequisite, automatically bring about the acquisition of another nationality. Other acts of expatriation, such as military service and voting, are such as would normally be performed only by persons having also the nationality of the State in which the act was performed. While there are cases where expatriation may result in statelessness, these, for the most part, are cases affecting persons who remain in the United States, such as conviction by United States courts of treason or desertion from military service, and consequently do not create any international problem. In addition, these cases are few in number.

So far as stateless persons admitted to the United States for permanent residence are concerned, they are eligible for naturalization upon compliance with the statutory requirements to the same extent as other aliens. Consequently, the present United States laws do not, to any great extent, add to the number of stateless persons, and do, in fact, aid in the reduction of statelessness by giving to stateless persons the same opportunity for naturalization as is given to other permanently resident aliens.

As of possible usefulness, this Government, although questioning the desirability of dealing with this subject by convention, presents the following discussion of the extent to which the provisions of the conventions conform to existing United States law:

Article 1. Since the United States follows the principle of the *jus soli*, the first article of the first convention is in conformity with existing United States law. The corresponding article of the second convention is concerned with countries following the principle of *jus sanguinis* and is not of particular concern to the United States. It is noted, however, that it does recognize the father as having a superior right over the mother to transmit nationality. This seems at variance with the principle of non-discrimination based on sex which has been recognized and supported by the United States in other organs of the United Nations.

Article 2. Assuming the presumption of birth in the territory in which found to be a rebuttable one, this is in accord with United States legislation.

Article 3. United States law does not recognize birth on a vessel or airplane of United States registry as conferring United States nationality. A provision of this type is open to serious possibilities of abuse.

Article 4. It is noted that the article as drafted would confer dual nationality on children who acquired at birth the nationality of a State which was not a party to the convention. In this respect it would seem to have the effect of increasing dual nationality. It also perpetuates the discrimination referred to in article 1. The effect, so far as the United States is concerned, would seem to be that if it did become a party to the convention, article 1 would apply, and, if it did not, article 4 would be applicable as between the parties. In either event the child would be an American citizen, but in the second contingency, the convention would insure his acquiring a second nationality as well. Moreover, if the parents are nationals of States not parties to the convention, the child might still be stateless. This article would seem to require re-examination.

Article 5. This article appears to present no inconsistency with existing United States nationality legislation. United States law provides for loss of nationality only through the performance of certain voluntary acts. A mere change in personal status is not considered such a voluntary act. Neither does the loss of nationality by one spouse affect the nationality of the other or of their children.

Article 6. The first paragraph of this article is not in accordance with existing United States law, which provides for the loss of nationality by making a formal renunciation of American citizenship before a diplomatic or consular officer. Such loss is in no way dependent upon whether the person renouncing has or acquires another nationality. The second paragraph appears to deal with a situation which does not obtain in the United States and for that reason would not appear to be open to any objection on its part. Since the United States regards expatriation as a natural and inherent right of all people, there is no provision in its law for the issuance of expatriation permits. The third paragraph of this

article would be at variance with the long-standing provision in United States laws for the loss of citizenship in certain cases through protracted residence abroad for specified periods.

Article 7. This article, as it appears in either convention, is inconsistent with United States laws, which in several instances provide for deprivation of nationality "by way of penalty", regardless of whether such deprivation renders the individual stateless. As examples, there may be cited treason, desertion and draft evasion. With regard to the second paragraph of article 7 in the draft Convention on the Reduction of Future Statelessness, there is nothing in United States law which requires a judicial pronouncement before nationality is lost, although procedures have been established whereby persons who have been held administratively to have lost nationality may have the administrative determination reviewed by the courts.

Article 8. This probably presents no inconsistency with United States law, although it is not entirely clear what the term "political" is intended to cover. If it is intended to cover offences such as treason or desertion from military service, it would be objectionable from the standpoint of the United States.

Article 9. In connexion with acquisitions of new territory in the past, the United States has invariably made provision for the acquisition of United States nationality by the inhabitants.

Article 10. This article appears objectionable from the viewpoint of the United States. Since this Government considers that the question of determining who are American nationals is one of purely domestic concern, it would not be willing to delegate to an international tribunal the power to over-rule a decision made by it that a particular individual did not have American nationality.