

INTRODUCTORY NOTE

The subject of Dual Nationality was referred to the Committee by the Government of the Union of Burma under the provisions of Article 3(b) of the Statutes of the Committee. The Governments of Burma, Japan and the United Arab Republic submitted memoranda on the subject and the United Arab Republic also presented a Draft Agreement for consideration of the Committee.

During the First Session held in New Delhi, the Delegations of Burma, Indonesia and Japan made brief statements on the problem of dual nationality but the Committee decided to postpone further consideration of the subject as the Delegations of India, Ceylon, Iraq and Syria had reserved their position on this subject.

During the Second Session held in Cairo, the views of the Delegations were ascertained on the basis of a questionnaire prepared by the Secretariat. The main topics discussed during the Second Session were: (1) the acquisition of dual nationality; (2) the position of a resident citizen who is simultaneously a citizen of another State and the rights of such a citizen; (3) the position of a non-resident citizen possessing dual nationality; and (4) the position of an alien possessing dual nationality. The Delegations were of the opinion that it would be desirable to reduce the number of cases of persons possessing dual nationality by means of enacting suitable national legislation or by concluding international conventions. It was, however, felt that unless there was uniformity in nationality laws and unanimity on the fundamental principles of nationality, it would be very difficult to achieve the desired objective by means of a multilateral convention. The Committee decided that the Secretariat should prepare a report on the subject on the basis of the discussions held during the session and that this report together with the draft agreement submitted by the United Arab Republic should be taken up for consideration during the Third Session.

At the Third Session held in Colombo, the Committee had a general discussion on the subject, and the unanimous view of the Delegations was that some preparatory work should be done by the governments of the participating countries on the basis of the report of the Secretariat before the Committee could finally make its recommendations on the subject. The Committee therefore decided to request the governments of the participating countries to study the report of the Secretariat and the Draft Agreement submitted by the Delegation of the United Arab Republic and to communicate their views to the Secretariat in the form of memoranda indicating particular problems which have arisen in this regard and suggesting specific points which they desire the Committee to take up for particular study and consideration.

At the Fourth Session held in Tokyo, the Committee gave further consideration to the subject and decided to request the Delegation of the United Arab Republic to prepare a revised draft of a convention in the light of the comments received from the governments of the participating countries for consideration at the Fifth Session of the Committee. The Committee also directed the Secretariat to request the governments which had not given their comments to do so as early as possible and thereafter to forward the comments on to the Delegation of the United Arab Republic.

At the Fifth Session held in Rangoon in January 1962, the subject was fully considered by the Committee on the basis of a draft of an Agreement submitted by the Delegation of the United Arab Republic. The Committee also had before it written memoranda on the subject submitted by the Governments of Burma, Ceylon, Indonesia, Iraq and Japan. After a detailed discussion on the various aspects of the subject the Committee adopted a preliminary report containing the draft Articles embodying principles relating to the elimination or reduction of dual or multiple nationality.

At the Sixth Session of the Committee held in Cairo in 1964, the subject was finally discussed on the basis of the preliminary report adopted at the Fifth Session and the comments received thereon from the Delegates. The Committee drew up and adopted its Final Report containing Model Rules embodying principles relating to elimination or reduction of dual or multiple nationality. It was decided to submit the Final Report to the Government of Burma and the Governments of the other countries.

FINAL REPORT OF THE COMMITTEE ADOPTED AT THE SESSION

Model articles embodying principles relating to elimination or reduction of dual or multiple nationality

GENERAL PROVISIONS*

ARTICLE 1

It is for each State to determine under its own law who are its nationals. This law itself shall be recognised by other States in so far as it is consistent with international conventions, international customs, and the principles of law generally recognised with regard to nationality.

Note: The Delegate of Thailand stated that with the exception of the principle of compulsory recognition he accepted the other principles incorporated in this Article.

ARTICLE 2

Questions as to whether a person possesses the nationality of a particular State shall be determined in accordance with the law of that State.

Note: The Delegate of India reserved his position on this Article.

ARTICLE 3

Alternative (A)

For the purpose of these Model Articles the age of majority of a person shall be determined according to the law of the State the nationality of which is to be acquired, retained, or renounced.

Alternative (B)

The age of majority shall be determined according to the laws of the State, the nationality of which is relevant for the matter under consideration, provided that for the purposes of Articles 5 and of Article 7, the majority age (in the event of any conflict of

*As regards Dual Nationality, the Delegation of Pakistan stated that the Government of Pakistan recognises no second nationality in a citizen except that in the United Kingdom; a citizen of Pakistan has all the rights of a citizen of the United Kingdom including the right of vote. The Delegation of Ghana reserved the position of his Government on these Articles.

State laws) shall be the majority age under the law of the State which prescribes a higher age.

Note: The Delegates of Burma, Thailand and the United Arab Republic accepted Alternative (A) of Article 3. The Delegates of Ceylon and India accepted Alternative (B) of Article 3. The Delegate of Thailand saw no objection to Alternative (B). The Delegates of Japan and Indonesia reserved their position on this Article.

Nationality of Married Women

ARTICLE 4

(1) If a woman who is a national of one State marries a national of another State, or if a husband acquires a nationality other than that he had on the date of marriage, the nationality of the wife shall not be affected.

(2) Nevertheless if she, in either of such cases, voluntarily acquires the nationality of her husband, she loses *ipso facto* tli other nationality.

Note: The Delegate of Thailand whilst accepting clause (1) of this Article wished it to be understood that this principle would also apply in the case of a husband acquiring an additional nationality. The Delegate of India wished that the words, "unless she has already renounced her original nationality" to be added at the end of clause (2) of this Article.

Nationality of Children

ARTICLE 5

A minor follows ordinarily his father's nationality. If the minor is born out of wedlock, or if the nationality of his father is -unknown or if his further has no nationality, he follows his mother's nationality.

(2) Nevertheless, if a minor born to a national of one State in another State is (deemed in accordance with the laws of each of the two States to be its national, he should opt for one of these two nationalities within one year from the date of attaining his majority age in accordance with the provisions of Article 7.

Note: The Delegates of Ceylon and India accepted only the first sentence of clause (1) of this Article. The Delegate of Ceylon could not accept the second sentence of clause (1) of this Article in view of the inclusion in it of reference to the case of a minor whose father is stateless. The Delegate of India preferred the omission of the second sentence but expressed the view that the principle of nationality of the State of birth instead of the principle of mother's nationality should be adopted. The Delegates of Burma and Thailand accepted the provisions of clause (2) of this Article. The Delegates of Ceylon, India and the United Arab Republic were in agreement that clause (2) of this Article was not necessary. The Delegate of Indonesia reserved his position on clause (2) of this Article. The Delegate of Japan reserved his position on paragraph (2) of Article 5 of the draft.

Adoption

ARTICLE 6

In case of valid adoption, the adopted minor shall follow his adopter's nationality.

Note: The Delegates of Burma, Indonesia and the United Arab Republic accepted this Article. The Delegates of Indonesia and the United Arab Republic took the view that the minor should have an option after he attains majority to choose between his original nationality and the nationality of his adopter. The Delegate of Thailand stated that the words "be entitled to" should be inserted between the word ,shall" and the word "follow". This Article was not accepted by the Delegates of Ceylon, India and Japan.

Option

ARTICLE 7

A person who knows that he possesses two nationalities acquired without any voluntary act on his part should renounce one of them in accordance with the law of the State whose nationality he desires to renounce, within twelve months of his knowing that fact or within twelve months of attaining his majority age, whichever is the latter.

Note: The Delegates of Burma, Ceylon, India Thailand and the United Arab Republic accepted this Article. The Delegate of Indonesia reserved his position on this Article although he

expressed the view that the option available to the individual must be of obligatory character and that States should by means of agreement provide for dealing with cases where the individual does not exercise the option. The Delegate of Japan was not in favour of imposing any obligation on an individual to exercise the option.

Active Nationality

ARTICLE 8

A person having more than one nationality shall be treated as having only one nationality in a third State. A third State should, however, recognise exclusively the nationality of the State in which he is habitually and principally resident or the nationality of the State with which in the circumstances he appears to be in fact most closely connected.

ARTICLE 9

A person possessing two or more nationalities of the contracting States, who has his habitual and principal residence within the territory of one of these States with which he is in fact most closely connected, shall be exempt from all military obligations in the other State or States.

Note: The Delegate of Iraq reserved his position on this Article.

ARTICLE 10

Without prejudice to the provisions of Article 9, if a person possesses the nationality of two or more States, and under the law of any one of such States has the right, on attaining his majority age, to renounce or decline the nationality of that State, he shall be exempt from military service in such State during his minority.

Note: The Delegates of Indonesia and Iraq reserved their position on this Article.

Explanatory Note: These Articles are intended to serve only as model rules as embodying certain Principles relating to elimination or reduction of Dual or Multiple Nationality. The provisions of each, of the above Articles are independent of each other.