

**UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL**



Distr.
GENERAL

E/CN.6/259/Add.2
2 March 1955

ORIGINAL: ENGLISH

COMMISSION ON THE STATUS OF WOMEN
Ninth session

COMMENTS OF GOVERNMENTS ON THE TEXT OF THE DRAFT
CONVENTION ON NATIONALITY OF MARRIED WOMEN

(ADDENDUM)

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INTRODUCTION

Since document E/CN.6/259 was issued the Secretary-General has received communications from the Governments of the Netherlands and Norway containing comments on the draft Convention of the Nationality of Married Women. These comments are set forth below.

XXI. NETHERLANDS

"... The Netherlands Government have noted with interest the Draft Convention on the Nationality of Married Women.

They are in agreement with the underlying principle that for the law of nationality, too, greater equality of men and women should be aimed at.

They were also pleased to see that some of the objections raised by them in connexion with the original draft convention on the nationality of married persons, have been met in the new draft-convention.

Though the Government attach great value to the principle of unity of the family with regard to nationality, they are by no means of the opinion that, for the sake of this principle, women should be deprived of their nationality against their will and be forced to accept a different nationality. The Netherlands Government could, if need be, accept a system under which a woman, when contracting a marriage, follows the nationality of her husband unless by a declaration to that effect she expresses the wish to retain her own nationality. Such a system would leave to women a right to choose, while the unity of the family is not unnecessarily sacrificed.

Art. 1. The wording of this article is contrary to the views held by the Government, viz. that de jure constituendo a woman, unless she makes a declaration to the effect that she wishes to retain her own nationality, follows the nationality of her husband. If, however, this has not been the intention of the drafters of this article, the wording of the article should be so modified as to make it perfectly clear.

Art. 2. The Government agree to the general purport of this article. It should be pointed out, however, that this article might give rise to double nationality. If, e.g., a married man, who is a subject of one of the Parties to this Convention, should be naturalized in a State, not a party to this Convention, in which it is a rule that in case of naturalization a woman automatically follows the nationality of her husband, the State of which the woman is a subject would, in virtue of article 2, be held to let her retain her own nationality.

Art. 3. The Government are of the opinion that as a result of the fact that the words 'whenever possible' in article 3 of the original draft convention have been replaced by the words 'subject to such limitations only as may be imposed by law in the interest of security and public policy', must be considered as an improvement, though the vagueness of the term 'public policy' again creates uncertainty. Now that the scope of the draft convention has been restricted to the nationality of married women, the question arises as to whether it is desirable at all to limit the right of a married woman to acquire the nationality of her husband.

The Government deem it desirable to state in this article that the woman who decides in favour of the nationality of her husband consequently loses her own nationality.

The Government are of the opinion that the other articles of the Draft Convention offer no occasion for remarks. However, they wish to emphasize the desirability of inserting a territorial application clause."

XXII. NORWAY

"... The Norwegian Government considers the present draft to be more satisfactory in many respects than the earlier draft and finds itself in a position to accept in general the proposed substantive provisions. It is presumed that Article 3 will not prevent the national legislation from requiring a certain period of residence in the country as a condition for granting naturalization. To make this quite clear in relation to the Norwegian Nationality Act of 8 December 1950 (No.3), Article 3, the Norwegian Government would consider it advantageous to amend the words 'security and public policy' to read 'security or public policy'. In this connexion reference is also made to the Permanent Representative's note of 19 January 1954."
