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

(Addendum)

Since the issuance of documents E/CN.6/243, E/CN.6/243/Add.1 and E/CN.6/243/Add.2, the Secretary-General has received from the Government of the Dominican Republic the following comments on the Draft Convention on the Nationality of Married Persons:

DOMINICAN REPUBLIC

"First, it should be noted that the ideas set forth in the Preamble to the draft convention are entirely in accord with the spirit of Dominican legislation as it applies to nationality of married persons. In fact, articles 19 and 12 of the Civil Code of the Dominican Republic, which cover the cases of a Dominican woman married to an alien and an alien woman married to a Dominican, have recently been amended in order to permit the woman, under certain conditions, to retain her original nationality.

Nevertheless, the Dominican Government believes that, far from helping to stabilize the legal position, the maintenance of duality with regard to the nationality of spouses in mixed marriages may give rise to serious legal problems, particularly troublesome in the case of immigration countries and of countries in which conflicts of private international law with regard to personal status are settled on the basis of domestic legislation. The Dominican Government therefore feels that any convention on the nationality of married persons should lay stress both on the principle of freedom of married persons to choose their nationality and on that of the juridical unity of the family. That is the basic trend of the Dominican legislation mentioned above.

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It is obvious that the juridical unity of the family with regard to nationality can only be determined by reference to one of the nationalities held respectively by the two spouses. Therefore, any choice made by the legislation of a State in this respect cannot be regarded as discrimination against the other sex. A distinction is not in itself objectionable. It is objectionable only when it is discriminatory.

Accordingly, the Dominican Government considers article 1 of the draft convention unacceptable as it stands, because of the vagueness of its wording.

The Dominican Government also feels that article 2 of the draft convention is couched in absolute and rigid terms, and not only contradicts the principle of freedom to choose one's nationality enunciated in the second paragraph of the Preamble to the draft convention, but may conflict with the principle of juridical unity of the family embodied in the legislation of the Dominican Republic and of other countries.

Moreover, article 2 envisages two situations which call for different treatment: the celebration and the dissolution of a marriage. While the provision is unexceptionable in the case of the latter situation, the Dominican Government sees no justification where the former situation is concerned, for excluding the possibility of a person's acquiring a foreign nationality through marriage.

If the intention is to avoid compulsory changes of nationality as a result of marriage, the Dominican Government feels that the article in question should be worded more clearly.

As regards article 3, the Dominican Government believes that it should be amended to provide for a further possibility: that of one spouse voluntarily acquiring the nationality of the other spouse through the marriage.

The Dominican Government raises no objection to articles 4, 6, 7, 9, 10, 11 and 12 of the draft convention.

As regards article 5, the Dominican Government is of the opinion that if the draft convention is opened for signature, all States members of the

international community should be free to accede to it, without exception, and without the need for any invitation by the United Nations General Assembly.

The position of the Dominican Government with reference to article 8, which deals with reservations, will depend on the final wording of the substantive articles of the draft convention."
