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DRAFT PRINCIPLES ON FREEDOM AND NON-DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

Note by the Secretary-General

As requested in operative paragraph 2 of resolution 4 (XVIII), which the Commission adopted at its eighteenth session, the Secretary-General transmitted to the Governments of States Members of the United Nations and of the specialized agencies the text of the draft principles on freedom and non-discrimination in the matter of political rights drawn up by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/213, para. 370), as well as the suggestions made by the Commission on the Status of Women (E/CN.6/L.336), so that they could submit their comments on the substance of the draft principles and the form in which such principles should be embodied.

The comments of the Government of Belgium are transmitted to the Commission herewith.

BELGIUM

I. General principles on freedom and non-discrimination in the matter of political rights

1. Principle II (b) states that: "No one shall be denied nationality, or deprived of nationality, as a means of denying him or depriving him of political rights", and principle XI (c) provides that measures prescribed by law or regulation establishing "a reasonable period which must elapse before naturalized persons may exercise their political rights" shall not be considered discriminatory "provided that they are combined with a liberal naturalization policy".

If this statement of principles were to create, for such States Members of the United Nations as might subscribe to it, obligations towards aliens staying in their territory in the matter of naturalization, such States would have to exercise greatly increased caution in opening their borders to aliens, lest later on they might have to integrate into their national community, with rights of citizenship, persons they considered undesirable. This would add to the difficulty of the refugee problem, which is already causing concern.

It should be noted that a Convention on the Reduction of Statelessness was signed at New York, under United Nations auspices, on 30 August 1961. This Convention lays down, in precise and detailed terms, the cases in which a Contracting State must grant its nationality to a stateless person and the very restricted cases in which it may take away its nationality from one of its nationals.

Hence, principle II (b) appears redundant; it is wholly in conformity with the provisions of the Convention on the Reduction of Statelessness signed at New York on 30 August 1961, and in the circumstances a mere reference to that Convention would have sufficed.

2. The application of principle X (a), which relates to access to non-elective public office and which provides that: "Every national shall be eligible on equal terms to hold any non-elective public office in his country, or any political or administrative unit thereof in which he resides", would be subject

to an exception; under article 60 of the Belgian Constitution, a woman cannot ascend the throne.

Consequently Belgium would have to add at the end of principle X (a) a reservation worded as follows: "save as regards the succession established by the Constitution".

II. Proposals made by the Commission on the Status of Women concerning discrimination in the matter of political rights

These proposals also appear to call for some comments:

1. In paragraph 2, the expression "distinction based on marital status" does not seem a very apt addition.

Principle II (a), which uses the phrase "without distinction of any kind, such as race, colour, sex ..." is drafted clearly enough.

2. Paragraphs 3 and 4 would replace the idea of "duties or personal interests" by that of "financial or professional interests".

The latter terms are more specific but more restrictive. The point is debatable, but the Belgian Government would prefer the original wording.

3. The amendments in paragraph 5 seem to be contradictory; some differentiation is inherent in the very concept of "reasonable" requirements and qualifications.

The Belgian Government expresses its preference for the original text.

III. Form in which such principles should be embodied

Subject to the foregoing, the Belgian Government considers that, in view of their importance, the principles on freedom and non-discrimination in the matter of political rights should take the form of a convention rather than a recommendation.
