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GENERAL

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THE PROBLEM OF STATELESSNESS

Information transmitted by States in pursuance of
Economic and Social Council resolution 352 (XII)
relating to the problem of statelessness

The Secretary-General has the honour to circulate the following communication dated 16 January 1952 from the Permanent Representative of Australia to the United Nations:

"The Permanent Representative of Australia to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to refer to the latter's notes of 5th April, 1951, (SOA 325/04) and 27th September, 1951, (SOA 325/5/02) in which certain information was requested on statelessness.

The following information is submitted by the Australian Government:

(a) Avoidance of Statelessness

In the event of Australia being concerned in territorial changes, it may be assumed that care will be taken to avoid, as far as possible, cases of statelessness.

(b) Present Law

The Nationality and Citizenship Act, which came into force on 26th January, 1949, was drafted with a view to avoiding statelessness wherever possible. Persons born in Australia acquire Australian citizenship at birth unless they are the children of diplomatic representatives here of other countries. A person born outside Australia of a father who is an Australian citizen acquires Australian citizenship if the birth is registered at an Australian Consulate within a prescribed time. Citizenship may also be acquired by naturalization, in the case of aliens, or by registration, in the case of British subjects.

Applications from stateless persons for naturalization as Australian citizens are considered on exactly the same basis as those of other aliens, and are approved if the applicants can comply with the conditions laid down by the Nationality and Citizenship Act 1948-1950. Broadly the applicants must:

- (i) make a declaration of intention to apply for naturalization not earlier than one year after having entered Australia, New Guinea or Nauru, and make application for naturalization not earlier than two years and not later than seven years after making the declaration;
- (ii) be of full age (21 years) and full capacity;
- (iii) have resided in Australia, New Guinea or Nauru for at least five years, including the year immediately preceding the application and another four years during the eight years immediately preceding the date of the application;
- (iv) be of good character;
- (v) have an adequate knowledge of the English language, or, alternatively, have resided in Australia, New Guinea or Nauru for at least twenty years;
- (vi) have an adequate knowledge of the responsibilities and privileges of Australian citizenship; and
- (vii) intend to continue to reside in Australia, New Guinea or Nauru.

The Minister is empowered, in certain cases, to exempt persons from making a declaration, and to grant a certificate of naturalization to an alien who is not of full age. Special facilities are also accorded to an alien woman, who is the wife or widow of an Australian citizen. She may be granted a certificate if she has resided in Australia, New Guinea or Nauru for not less than one year. As a matter of policy, all aliens who have settled permanently in Australia, including stateless persons, are encouraged to apply for naturalization as soon as they can comply with the above-mentioned statutory requirements.

Australian citizenship may be lost in several ways, but broadly the circumstances in which loss of Australian citizenship can result in statelessness are the following:

- (i) Section 20 of the Nationality and Citizenship Act results in loss of citizenship by any naturalized or registered citizen who resides outside Australia, New Guinea and Nauru for over seven years continuously (other than in the service of an Australian Government or firm or of an
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international organization of which Australia is a member) without giving annual notice of intention to retain citizenship. As a general rule, such persons may be expected to possess or acquire another nationality, e.g., that of the country in which they are residing; if they do not, they will become stateless. Statelessness results in these cases from the omission by the person concerned either to give notice of intention to retain citizenship or to return to Australia within seven years;

- (ii) Section 21 of the Act empowers the Minister to deprive a naturalized or registered person of his citizenship if that person has been guilty of disloyalty; has, during a war in which Australia is or was involved, traded or communicated with an enemy; has been registered or naturalized by fraud or was not of good character at the date of naturalization or registration; or has been sentenced, within five years after registration or naturalization, to imprisonment for a year or more. If a person who is so deprived of his Australian citizenship does not possess or acquire another nationality he will become stateless. Only one person has so far been deprived of citizenship under this section. It is not considered to be practicable or desirable to limit the Minister's powers of deprivation under the section to persons who possess or will acquire another nationality at the time of deprivation.

(c) Review of Nationality Legislation

Australian nationality legislation is reviewed from time to time, and the subject of statelessness, in particular the question of reducing the number of cases of statelessness, will, of course, be kept in mind during such reviews. Under present circumstances, the number of cases has been reduced virtually to a minimum."