[Communicated to the Assembly, the Council and the Members of the League.]

Official No.: **A. 15** (a). 1932. V.

Geneva, September 15th, 1932.

LEAGUE OF NATIONS

NATIONALITY OF WOMEN

Observations submitted by Governments

SECOND SERIES

Note by the Secretary-General.

Since the publication of the document A.15.1932.V, containing observations submitted by the Governments, in accordance with the Assembly's resolution of last year, on the subject of the nationality of women, the statements reproduced below have been received from the Governments of Denmark, Finland and Switzerland.

Information as to their attitude with regard to the ratification of the Hague Nationality Convention has also been furnished by the following Governments which have signed the Convention, in reply to the enquiry addressed to them by the Secretary-General in execution of the Assembly's resolution of October 3rd, 1930: Australia, Austria, Belgium, Great Britain and Northern Ireland, Canada, Cuba, Czechoslovakia, Denmark, France, Germany, Hungary, Iceland, India, Italy, Japan, Latvia, Luxemburg, Netherlands, Poland, Portugal, Sweden, Switzerland. This information is summarised in the document A.25.1932.V. The Convention has not yet been ratified by any signatory Government, but Brazil, Monaco and Norway have acceded to it.

Denmark.

LETTER OF SEPTEMBER 5TH, 1932.

The provisions in force in Denmark concerning the acquisition and loss of Danish nationality are contained in the Law of April 18th, 1925. In view of the importance of uniform legislation on this point in the various countries, and particularly in neighbouring countries, the questions dealt with in this law were, at the time of its preparation, very thoroughly examined by the delegates of Norway, Sweden and Denmark. This examination led to the adoption in the three countries of nationality laws which are, on all main points, identical.

The following is a statement of the position taken up by Danish law regarding the equality of men and women in matters of nationality.

I. In Danish law, an unmarried woman is treated in exactly the same way as a man.

II. In the case of married women, a distinction is drawn between acquisition and loss of nationality.

(a) With regard to the acquisition of Danish nationality, the following points should be noted: if the husband, at the time of the celebration of marriage, is a Danish national, his wife, under Article 3 of the aforesaid law, acquires Danish nationality in all cases, whether she takes up her residence in the country or not and whether she retains or loses her former foreign nationality. If, after the celebration of marriage, the husband acquires Danish nationality by naturalisation, such naturalisation, under Article 4, applies to the wife also, unless, in each particular case, some arrangement is made to the contrary. It is the practice of the Danish

S. d. N. 1.500 (F.) 1.150 (A.) 9/32. Imp. Granchamp. Annemasse.

Series of League of Nations Publications

V. LEGAL

1932. V. 4.

administrative authorities to require that the wife shall also sign the husband's application for naturalisation. Experience has shown that, in the vast majority of cases, she does so. When she does not, enquiries are made to ascertain whether she is unwilling to acquire Danish nationality. If this is the case and if the husband's request for naturalisation is granted, it is arranged that such naturalisation shall not apply to the wife.

(b) With regard to the loss of Danish nationality, a married woman is treated exactly like a man, except in one case which rarely occurs in practice. The law contains these two rules concerning loss of nationality :

Article 5 lays down that a person who becomes a national of another country loses his Danish nationality. If, however, the person concerned is domiciled in Denmark and has acquired Danish nationality by reason of birth, he only loses that nationality when he leaves the country in order to take up definite residence abroad.

The married woman then, so long as she remains in Denmark, does not lose her Danish nationality even if, by marriage, she becomes the national of another country. Similarly, if the husband is a stateless person or if, according to the law of his country, the nationality of that country is not acquired by marriage, she retains her Danish nationality unconditionally.

According to Article 6, Danish men and unmarried Danish women born abroad who have never been domiciled in Denmark, lose their Danish nationality at the age of 22. The interested party may, however, on submitting a petition, be allowed by Royal Decision to retain such nationality. This article also lays down that, if the husband loses his Danish nationality under this article, his wife shall also lose it.

It will thus be seen that the Danish law on nationality takes account, to a liberal degree, of the independence of women from the point of view of nationality, and also contains clauses intended to ensure that, in certain cases, they shall not lose their nationality.

The question has now been raised of incorporating absolutely in existing nationality laws the principle of women's independence in this matter — one of the consequences of which would be that a Danish woman would retain her Danish nationality unconditionally even if she married a foreigner and that a foreign woman would not become a Danish national on marrying a Dane. The Danish Government is unable at present to express a final opinion on this question, but it will carefully follow the course of events. In this connection, it should be observed that all Danish women's organisations of any importance support the principle of full and entire equality.

With regard to the provisions of the Hague Convention on this subject, the Danish Government ventures to offer the following comments :

Both the Committee of Experts set up before the Conference for the Codification of International Law, and the Preparatory Committee, most carefully considered, on the basis of the statements made by the Governments concerned, the extent to which the provisions of the Convention in this domain might be regarded as realisable, in the sense that it might be possible to count on the accession of a fairly large number of States. During the Conference itself, this question was also very carefully discussed. Consequently, the provisions adopted must — as the records of the Conference themselves show — be regarded not as an expression of what the Conference held to be desirable, but only of what it held to be feasible at the present time.

It should also be recognised that Articles 8 to 10 of the Convention do represent a very considerable improvement in the status of women. These provisions are, as a matter of fact, in conformity with existing Danish law on the subject.

It would be a mistake to regard the provisions of the Convention as a disavowal of the principle of the equality of men and women in matters of nationality. If statements are ever made which are based on this misunderstanding, attention should be drawn to the passage in the Final Protocol in which States are invited to consider the possibility of incorporating into their laws the principle of the equality of the sexes in the matters of nationality.

The application of the clauses adopted in the Convention will, it is true, necessitate changes in the nationality laws of certain countries. But a Convention which gave full effect to the system of equality would involve the unification of the laws of all countries on this subject, which would mean that a number of States would have to adopt entirely new principles.

In view of the experience gained at the Conference for the Codification of International Law, there is every reason to believe that, at the present time, at least, such unification would be a matter of very considerable difficulty. The Danish Government sincerely hopes that efforts will be continued to secure a more uniform international regulation of these points, in accordance with the first recommendation contained in the Final Protocol. At the same time, however, it feels that no changes in this direction should be made to the detriment of the results which have so far been obtained and which are already of considerable practical importance.

Finland.

Letter of August 22nd, 1932.

[*Translation.*]

Finland has always been concerned to pay women the respect which is due to them and to recognise the value to the community of their activities. Accordingly, Finland has been foremost, and indeed has been the first country in the world, to give women full political rights

and gradually to recognise, with only certain rare and insignificant exceptions, complete equality between the sexes as regards private and public rights and their legal position in general within the community.

The question of the equality of the sexes has, however, a different aspect when considered from the international point of view. In the first place, the advantage or disadvantage of allowing the nationality of a country to be acquired or lost are essentially different in the case of countries from which there is a large volume of emigration and in the case of countries to which there is a large volume of immigration. In these circumstances, it is understandable that the various countries should endeavour to reach real reciprocity in the matter and, on occasion, should do so by legislative measures which may produce conflicts with the legislation of other countries. As regards married women, there must be added to this cause of divergence of legal rules the desire to maintain the unity of the family, a motive which is accorded a different degree of importance in different countries. The complications which follow, in the shape of double nationality or complete absence of nationality, etc., are evidently very regrettable ; but it appears at present impossible to remove the causes which produce this situation.

Any general or universal international arrangement presupposes, however, a solution of the problem dealt with which is acceptable for all the Powers, or at least for the great majority of the Powers. So soon as it is seen that there exist in the legislation of the various countries divergences which are fundamental and comparatively persistent, it becomes necessary to be content to recognise the existence of this situation and to restrict unification or codification of the law to points on which general agreement appears probable. If this were not done, any attempt at codification or unification would take a merely declaratory form and fail to attain concrete results through ratification by the States concerned.

The Finnish Government considers that the International Codification Conference held at The Hague in 1930 dealt with the question of the nationality of women under the influence of considerations such as are above set out. It recognised the co-existence of different legal systems and, without expressing the preference for any system rather than for any other system, limited itself, in general, to endeavouring to diminish the complications which result from such a situation.

As regards more particularly the details of the Convention on certain questions relating to the conflict of nationality laws, the Government of Finland has no observations to make upon Article 8. The Finnish Government also thinks it possible to accept the principle contained in Article 9, although some changes in the law at present in force in Finland would be involved. Article 10, in the opinion of the Government of Finland, might have the effect of too greatly compromising the unity of the family, without adopting the only method by which the independence and equality of the wife can be emphasised. It would be possible to reconcile the principle of the unity of the family and the principle of the equality of the wife by stipulating that naturalisation of either spouse shall be subject to the consent of the other. The Government of Finland has no objection to make to the first sentence of Article 11, but the second sentence seems to it less acceptable as giving to a wife, after the dissolution of her marriage, the possibility of renouncing the nationality acquired by the marriage even where she still continues domiciled in the husband's country — subject, of course, to the country of her previous nationality permitting her to recover it in such circumstances.

As regards the other proposals relating to the nationality of women, the Government of Finland feels that it is at present premature to contemplate innovations going beyond what was proposed by the Hague Conference of 1930. The discussions and votes at The Hague, and the subsequent fate of the Convention there adopted, have shown that the modest results of the Conference are the maximum which can at present be attained on the subject. So soon, however, as the evolution of the law of the various countries gives sufficient reason to suppose that more advanced proposals would have a chance of attaining more general acceptance, the Government of Finland would be very ready to collaborate in an international endeavour to effect just and equitable improvement in the legal status of women.

Switzerland.

LETTER OF AUGUST 13th, 1932.

[*Translation*].

We have the honour to inform you that the Federal Council, in common with other Governments, considers that it would be premature to convene an international conference to examine once more the question of the nationality of women. It is hardly doubtful that such a conference could not, on the subject of nationality, produce results going beyond those of the Conference of The Hague of 1930. In these circumstances, the enterprise would be condemned in advance to meet with a failure which it is desirable to avoid in the interests both of the League of Nations and of the codification of international law.

We would add, in order to show our views on the questions of substance, that the principle of identity of nationality within the family is at the basis of Swiss law as at present in force, and will very probably be again incorporated in the new legislation on nationality which is now in preparation. It will be for Parliament to pronounce finally on this matter. Should Parliament, as is to be expected, remain faithful to the principle, Articles 8 and 9 of the Convention of April 12th, 1930, would represent the maximum possible concessions, and Article 10 of the Convention, which Switzerland has been unable to accept, would continue to be the object of a reservation on our part.