

ANNEX 1666.

Series of Publications: 1937.IV.8.

Official No.: C.341.M.231.1937.IV.

ASSISTANCE TO INDIGENT FOREIGNERS.

OBSERVATIONS OF GOVERNMENTS ON THE SECOND DRAFT MULTILATERAL
CONVENTION ON ASSISTANCE TO INDIGENT FOREIGNERS.

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INTRODUCTION.

In 1931,¹ the Council of the League of Nations set up a temporary Committee of Experts to prepare a preliminary draft International Convention on Assistance to Indigent Foreigners, after making the necessary enquiries. The Council's invitation to appoint one or more representatives on this Committee was accepted by the Governments of the United States of America, Argentine Republic, the United Kingdom, Denmark, France, Hungary, Italy, Japan, Mexico, the Netherlands, Poland and Switzerland.

On the proposal of the Committee of Experts, two private organisations—the Permanent International Conference for the Protection of Migrants and the International Migration Service—were also invited to attend its discussions in an advisory capacity. This Committee of Experts has so far met twice. In 1933, it prepared a draft Multilateral Convention² stipulating in general that each of the contracting parties should grant indigent nationals of the other contracting parties residing in its territory and needing material or moral assistance the same treatment as that granted to its own nationals. At the same time, realising that the preparation of an International Convention required considerable time, and anxious to remedy the situation of indigent foreigners as soon as possible, it also drew up fourteen recommendations in the spirit of the draft Convention, and recommended to Governments their immediate application.

The draft Convention and the fourteen recommendations were submitted to the Governments. Thirty-five Governments and four international organisations communicated to the Secretariat³ their observations on this draft Convention.

The Committee of Experts met a second time in January 1936⁴ to study the Governments' suggestions, and, taking into account as far as possible the amendments suggested, it drew up a second draft Multilateral Convention.

Acting on the instructions of the Council, the Secretary-General invited the Governments of Members of the League and non-member States, and also a number of interested international organisations, to send their opinions on the provisions of the second draft Multilateral Convention on Assistance to Indigent Foreigners.

Up to the present, the Secretary-General has received observations with regard to the second draft Convention from the following countries and organisations:

Union of South Africa	Iraq
Argentine	Japan
Australia	Liechtenstein
Austria	Monaco
United Kingdom	Netherlands
Bulgaria	New Zealand
Czechoslovakia	Poland
Danzig	Siam
Denmark	Sweden
Ecuador	Switzerland
Egypt	Turkey
Estonia	Union of Soviet Socialist Republics
Finland	United States of America
Greece	Uruguay
Hungary	Venezuela
Iceland	International Labour Office
India	Permanent Conference for the Protection of Migrants.

The number of countries sending in their observations as a result of the two consultations is not very different, but the countries replying are not the same in both cases. The following Governments which sent in comments on the first draft Multilateral Convention have not answered on this occasion: Belgium, Chile, China, Colombia, France, Irish Free State, Italy, Latvia, Lithuania, Norway, Spain and Yugoslavia. On the other hand, the Governments of the Argentine, Czechoslovakia, Danzig, Egypt, Liechtenstein, Uruguay and Venezuela, which did not reply at the first consultation, have sent in replies regarding the second draft Multilateral Convention.

Several Governments have sent exhaustive comments on the second draft Convention; certain others have confined themselves to a brief statement as to whether they are inclined to adhere to the Convention or not. A few of the replies contain no comments at all, and do not state whether the Government in question would be willing to accept the Convention. Other Governments again have informed the Secretariat that their reply is still under consideration by the competent authorities.

¹ See *Official Journal*, November 1931, page 2036.

² Document C.10.M.8.1934.IV (see *Official Journal*, February 1934 (Part I), page 188).

³ Documents A.E.21 and Addenda, A.E.22, A.V.6.1934.

⁴ Document C.94.M.37.1936.IV (see *Official Journal*, June 1936, page 565).

GENERAL OBSERVATIONS.

Union of South Africa.

The Government of the Union of South Africa has no observations to offer concerning the draft Convention.

Argentine.

In the Argentine Republic, nationals and foreigners are equally entitled to social assistance and no discrimination whatever is made between them. It is therefore considered unnecessary to frame a convention on the treatment to be given to indigent foreigners.

Foreign communities co-operate in the assistance given by social agencies and hospitals in this country. They have opened and are maintaining hospitals and various welfare institutions, homes for orphans and old persons who have become indigent, rest homes, etc., and this assistance helps very considerably to protect foreigners who have fallen ill or become destitute. This activity is reinforced by the assistance given by the State, without any cost to the countries of origin, to the nationals of foreign communities that have no resources for the purpose.

A matter which might be of interest to the Argentine Republic would be the repatriation of indigent foreigners who have lived less than five years in the country.

Australia.

The Government of Australia has no observations to offer beyond those formulated with regard to the first draft Convention.¹

¹ So far as the Commonwealth of Australia is concerned, the practice regarding repatriation and deportation is already in accord with most of the proposals and it is not the practice to repatriate foreigners merely because they have become indigent.

So far as *South Australia* is concerned, no discrimination is exercised against foreigners who become indigent.

The Government of *Western Australia* generally approves the objects of the Convention on Assistance to Indigent Foreigners and thinks that the draft Convention indicates a step forward in the direction of satisfactorily dealing with these cases.

Indigent foreigners are eligible for all forms of public assistance and for the benefits of the various social services in *Victoria* in the same manner as nationals.

Aliens who are mentally afflicted or defective are received into mental hospitals for treatment in the same manner as nationals. The Department of Mental Hygiene is, however, strongly in favour of the repatriation of such aliens and, for that purpose, approaches the appropriate consular representative, who is invariably ready to assist.

As the question of the repatriation of aliens is a matter within the jurisdiction of the Commonwealth of Australia, this State is not in a position to comment on the terms of the articles referring to this matter.

The Sustenance Branch of the Labour Department does not differentiate between foreigners and nationals in granting assistance.

No person may be registered as an applicant for unemployment relief work or for sustenance unless that person has been a *bona-fide* resident in *Victoria* for a period of three months prior to such application and is out of employment at the time of making application for registration; subject to this condition, no differentiation is made between nationals and foreigners in the provision of relief work or sustenance.

Charitable organisations associated with the Charities Board of *Victoria* do not differentiate between foreigners and nationals.

The Immigration Acts 1901-1932 of the Commonwealth of Australia provide that a person who is not born in Australia may be liable for deportation if he or she becomes an inmate of a charitable institution within five years after his or her arrival in the Commonwealth. One or two cases of this nature have arisen within the past five years. In such cases, the Charities Board of *Victoria*, or the charitable organisation concerned, refers the matter to the Customs Department of the Commonwealth for reference to the appropriate Commonwealth Minister of State.

The Public Health Department of *Victoria* comes in contact with indigent foreigners only in regard to tuberculosis. No differentiation is made between nationals and foreigners in respect of accommodation and treatment. Whenever it is ascertained that a patient comes within the deportation provisions of the Immigration Restriction Act of the Commonwealth, the Customs Department of the Commonwealth is informed of the circumstances of the case.

Where aliens are charged with capital felonies, felonies and misdemeanours, legal assistance for their defence is available to them upon the same conditions as are applicable to nationals. There is also no obstacle to their applying to sue *in forma pauperis* in civil proceedings in like manner to that open to nationals.

Advice has been received from the Premier of *Tasmania* that, so far as his State is concerned, an alien as such is not deprived of any assistance to which nationals are entitled.

The relief dispensed by the *New South Wales* Colonial Secretary's Department—*i.e.*, Food Relief and Cash Assistance—is available to indigent foreigners, and medical attention to the aged and infirm is also available to indigent foreigners.

No discrimination exists in *Queensland* in respect to indigent foreigners in regard to the granting of relief assistance to such persons in indigent circumstances.

It might be mentioned, however, that the provisions of the Unemployment Insurance Acts do not apply to any aboriginal alien native of Asia, Africa or the Pacific Islands. Such persons are not eligible to contribute to the Unemployment Insurance Fund, and are not entitled to receive any benefits therefrom.

No cases are known where steps have been taken to repatriate any indigent foreigner in *South Australia*, who has applied for rations from the Unemployment Relief Council. The treatment meted out by the Council to foreigners who apply for relief is no different from that which applies to any other person whose destitution is caused through unemployment, and who, in consequence, applies to the Council for assistance.

It is, of course, to be understood that any applicants who are foreigners are closely questioned as to the financial position of any of their relatives residing in their native country who might come within the ambit of the Maintenance Act, 1926. Even though this Act might not be effective in the country concerned, its ruling applies to such foreigners who apply for sustenance in this State. Should it be ascertained through the questionnaire that the foreign applicant has relatives at "home" who are in a position to assist, then the applicant is advised to communicate with the relatives with a view to obtaining either sustenance or a passage to return.

This treatment is no different from that shown to applicants who might be born in a British country. The Council treats every applicant for relief on the individual merits of the case.

Austria.

When the first draft Multilateral Convention on Assistance to Indigent Foreigners was examined, the competent Federal authorities had occasion to state that, subject to certain reservations, they approved of the general trend of the draft. While they maintain this standpoint in principle, they nevertheless think it preferable for Austria to refrain from acceding to any such multilateral convention.

Austria is obliged to watch carefully the maintenance of her budgetary equilibrium, which was secured at heavy sacrifice, and could not therefore undertake such extensive commitments for assistance to indigent foreigners without the risk of somewhat serious financial difficulties. This danger must be avoided. Austria must, indeed, try to secure, if possible by bilateral agreements, the total refund of the very heavy expenditure involved in assisting foreigners residing on her territory and in giving them hospital treatment.

The Federal authorities further consider that it would be easier to secure common international action in this sphere by concluding bilateral agreements than by trying to frame a multilateral convention, for which a standard model could scarcely be found that would both take into account the varying conditions in the different countries in matters of assistance and reconcile the often conflicting interests involved.

In this respect, the Federal authorities fully endorse the views expressed by the Swiss experts.¹

The competent Federal authorities have felt it their duty in any case to submit their observations on the various articles of the draft Convention in question.

United Kingdom.

It is considered that the terms of the draft Convention are in some respects such as might give rise to uncertainty as to the obligations assumed by a ratifying country. In particular, it is thought that the terms "assistance", "unemployment relief", "benefits", "relief", "public assistance", "public assistance grants" are used somewhat indiscriminately, without any indication of the precise significance to be attached to them. It is suggested that it would be clearer if the system of nomenclature adopted by the International Labour Organisation in the Convention on Benefits or Allowances to the Involuntarily Unemployed were used here—namely, "benefit" (*indemnité*), "allowance" (*allocation*) and "relief" (*secours*), as appropriate.

Bulgaria.

The competent Royal Department is willing to accede to the draft Multilateral Convention for the Assistance to Indigent Foreigners.

Denmark.

The Danish Government refers to its reply regarding the first draft Convention. For the reasons therein given, the Danish Government is still reluctant to accede to Articles 5 and 6 of the draft in question (Articles 6 and 7 of the old draft) and, as it is not prepared to help in repatriating persons in receipt of provisional assistance only, it still hesitates to accept Article 3 of the draft (see also under Article 5).

Danzig.

The Senate has already stated that Danzig cannot accede to the Convention, not only on grounds of principle, but also, and above all, for financial reasons. The relatively slight changes made in the draft are not such as to cause the Senate to change its fundamentally negative attitude.

Egypt.

The Government of Egypt has no observations to offer concerning the draft Convention.

Ecuador.

While it recognises and approves of the humanitarian efforts made by the League of Nations in the sphere of assistance to indigent foreigners, the Government of Ecuador considers that, in the case of countries like Ecuador with limited economic resources, international philanthropic action on the scale indicated in the Council's proposal goes beyond mere humanitarianism and it accordingly reserves the right to maintain its own legislation on the subject, under which the principle of equality as between nationals and foreigners is recognised.

¹ See footnote on page 967.

Estonia.

The principles of the Convention are essentially the same as the principles on which Estonian legislation on public assistance is based. Most of the provisions of the draft have thus already been put into effect by national legislation and applied as such. There will be no difficulty in applying them to foreigners on a basis of reciprocity under Article 4 of the Law on Public Assistance. Most of the objects of the Convention have thus already been achieved by our national legislation.

While noting, however, that the principles of the draft Convention and of Estonian domestic legislation are in harmony, the Estonian Government still considers that the method of bilateral conventions is better calculated to give appreciable results for the international settlement of such questions. The Estonian Government will therefore not be able to participate in a multilateral convention on public assistance to indigent foreigners.

United States of America.

As the changes made in the previous draft Convention by the Committee of Experts at its second session do not appear to make any fundamental change in its provisions, the Government of the United States of America, for the reasons stated previously,¹ does not contemplate becoming a party to the new draft Convention.

Finland.

The Finnish Government is gratified to note that the present draft Convention takes into account some of the suggestions made by it in its memorandum on the first draft Convention. The Finnish Government feels bound, however, to point out that, in its present form, the Convention is still open to certain observations. It would emphasise chiefly the following points and refer in addition to the respective paragraphs of its comments contained in the memorandum mentioned.

The draft Convention leaves open the question as to how and to what extent the accession of a State to the Convention would affect the public assistance treaties already concluded by that State whose provisions differed from those contained in the Convention. Is it to be assumed that States acceding to the Convention will have to denounce their previous bilateral agreements concluded in view of the special conditions obtaining in the signatory States?

The competent authorities in Finland think that, at least as matters are at present, it would be difficult for Finland to accede to the Convention in question unless the remarks just made can be taken at least broadly into consideration.

Greece.

As it has already had occasion to state, the Greek Government has in principle the fullest sympathy with the aims of the draft International Convention on Assistance to Indigent Foreigners. Nevertheless, in spite of the efforts it has made and the substantial improvement noticeable in the operation of social welfare services since its last communication on this subject, the Greek

¹ The draft Multilateral Convention, which is composed of twelve articles, appears to be designed primarily for the benefit of foreigners residing in a State rather than for the benefit of the State itself.

While the Government of the United States is deeply sympathetic with the efforts of the Committee of Experts to raise the standards of assistance to indigent aliens, it does not deem it practicable to become a party to the Convention.

Under normal conditions, assistance to indigents is provided in this country principally by the local and State authorities, and not by the authorities of the Federal Government. There would be serious difficulties, both legal and administrative, in trying to enforce in the United States a convention such as this one, requiring the establishment of uniform rules throughout the country for the granting of relief to indigent aliens and citizens.

While it is understood that, as a rule, no distinction is made in the various States of the United States between citizens and aliens in the granting of assistance to indigent persons, at the same time the laws of the various States do not establish any right in the individual to receive assistance. These laws, in general, impose obligations on the public authorities to render assistance to indigent persons under certain specified conditions, which do not include a requirement of citizenship. This character of the legislation in the United States for the relief of indigent persons makes it extremely difficult, if not impossible, for the Government of the United States to sign a multilateral convention such as this, which ostensibly guarantees rights of assistance to indigent aliens by reason of their status as aliens.

For the Government of the United States to become a party to this Convention would require modification of the legislation in most of the individual States, and it is believed that the Convention would not bring about improvements commensurate with the difficulties which would be involved in such changes.

As to the provisions of the Convention for repatriation, apparently such provisions are intended primarily for the protection of indigent aliens from unnecessary hardship resulting from measures to expel them. However, it has never been the practice of the United States Government to expel aliens merely because they have become indigent in this country, and its laws do not provide for expulsion upon that ground alone. Section 19 of the Immigration Act of 1917, concerning the deportation of aliens who have become a public charge, might be mentioned in this connection, but this provision is limited to "any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing".

With reference to the subject of repatriation, mention may also be made of the provision of Section 23 of the Immigration Act of 1917 authorising the Commissioner-General of Immigration "to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this Act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed".

Government still finds it difficult to meet the requirements of its own nationals, more particularly of refugees. In view of the inadequacy of the resources at its disposal, chiefly in the medical field — it is calculated that it would be necessary to have another 12,000 to 16,000 beds to cope properly with the needs of the destitute sick—it cannot for the time being assume international obligations which it would be unable to discharge.

The Greek Government reserves the right to accede to the Convention as soon as it deems it possible.

Hungary.

The Hungarian Government has no observations to make on the second draft Multilateral Convention on Assistance to Indigent Foreigners, and is willing to accede to that Convention.

India.

The Government of India states that it has little direct concern in the matter, since the draft Convention appears to assume what does not exist in India—namely, an organised system of State assistance to indigent persons. Moreover, the need for a Convention seems to have arisen from the embarrassment felt by certain countries in dealing with large numbers of destitute foreigners within their borders. The Government of India has not experienced this: nor has the existence of a large number of indigent Indians in foreign countries been brought to its notice.

The new draft has been examined, as desired. While offering its observations on details, the Government of India wishes it to be understood that it is not committed to the principles expressed in the Convention. Apart from the considerations stated in the preceding paragraph, India is on the eve of an important constitutional change which, while reserving certain functions to the Central Legislature, confers on the provinces autonomy of administration and legislation over a wide field. The provision of relief for destitute persons, unemployment, charities, the provision of educational and medical facilities—all these will be the concern of the provinces, and no undertaking can now be given as to the attitude of the provincial legislatures and Ministers shortly to be brought into existence. On the other hand, the expulsion and repatriation of foreigners will be the concern of the Central Government and Legislature: the Government of India cannot make any accurate forecast of the view which the Legislature might take of a proposal to accept a Convention on the lines of the draft, or of legislation designed to give effect to it.

The Government of India has not particularly examined the relevant enactments with which it is immediately concerned—such as the Foreigners Act III of 1864 and the European Vagrancy Act IX of 1874—to see what amendments therein would be necessitated by acceptance of the draft Convention. It proposes to do so when the draft assumes a final form. In the meanwhile, it wishes to repeat the caveat stated above.

The Government of India adds that, if an international convention is adopted, and the question of India's acceptance arises, it will be necessary to consider whether Indian States should be excluded by a specific reservation. The Government of India desires to make it clear that, in formulating its observations, it has considered only the position of British India.

Iraq.

The Royal Iraqi Government does not find itself in a position to accede to the Convention on Assistance to Indigent Foreigners. Accordingly, it has no observations to offer regarding the second draft Convention.

Iceland.

Indigent foreigners are very humanely treated in Iceland, and during their stay in the country are usually treated in the same way as Iceland nationals when they need public assistance.

Nevertheless, the Government of Iceland, in view of the small population of the country and with more particular reference to Article 5 of the draft, is reluctant to accede to a convention of the tenor proposed.

Liechtenstein.

In view of the special situation of the Principality, the Liechtenstein Government is not in a position to accede to a multilateral convention relating to assistance to indigent foreigners. It would, however, be prepared to adopt the essential provisions of the draft Convention under bilateral treaties which it might conclude.

In practice, the welfare institutions and communes of the Principality, and the State itself, extend the most liberal assistance to foreigners, whatever their nationality, who are destitute through no fault of their own and are resident on Liechtenstein territory. This assistance is given until such time as the question of repatriation has been settled by appropriate negotiations.

Monaco.

Owing to the special composition of its population, the Principality expends proportionally more in assistance than other States.

Only 1,734 of the 22,994 inhabitants of Monaco are nationals of Monaco, and very few of these nationals live abroad, so that the accession of the Monegasque Government to the multilateral Convention would involve a heavy burden on the Treasury without the nationals of Monaco deriving any real benefit from *de jure* reciprocity.

While it highly appreciates the humanitarian sentiments inspiring the Convention on Assistance to Indigent Foreigners, the Government of the Principality regrets that it cannot be one of the contracting parties.

New Zealand.

The Government of New Zealand has no observations to offer concerning the draft Convention.

Netherlands.

The Netherlands Government is glad to note, on examining the revised draft Multilateral Convention on Assistance to Indigent Foreigners, that the Committee of Experts has taken into account several observations which it made on the first draft Convention.

Nevertheless, the Netherlands Government regrets that the Netherlands cannot adopt this draft, even in its present form, as a multilateral convention on the subject. While referring generally to the Netherlands Government's previous reply,¹ the Ministry for Foreign Affairs states in brief the chief objections to the revised draft.

The initial objection lies in the fact that certain obligations under the draft Convention will arise, not only in respect of "the nationals of the other High Contracting Parties", but of foreigners generally. The Netherlands Government does not consider it possible to undertake in a Convention special obligations towards the nationals of countries which are not themselves parties to that Convention.

If the above objections were taken into account, the Netherlands Government would be prepared to consider, in respect of the Kingdom in Europe, acceding to a draft Convention thus amended; there is no possibility of the Netherlands Government accepting such obligations for the overseas territories.

Siam.

The Government of Siam, while sympathising with the efforts of the Committee of Experts, is of the opinion that, under the actual conditions in Siam, the necessity of such a convention does not arise.

¹ The Netherlands Government, realising the great importance of this question, is quite prepared to co-operate in the efforts to affect improvements as regards assistance to foreigners. In particular, it would appear very desirable to draw up international regulations with a view to preventing indigent persons in future from being deported from one country to another. In view, however, of the present economic situation in the various countries and the great differences of opinion on this subject in the countries to which a multilateral convention would apply, the Netherlands Government desires at the outset to express its preference for the system of bilateral agreements referred to in recommendation XIV of the Committee of Experts.

Similarly, the Netherlands Government would point out that, in view of the special position in overseas territories, rules such as those drawn up by the Committee of Experts would, in some respects, not be acceptable as regards those territories; the observations submitted by the Netherlands Government in the present note therefore apply exclusively to the home country. In view of the above, Her Majesty's Government is of opinion that the work begun by the League of Nations in this matter will be most productive of results if the text drawn up by the Committee of Experts is regarded as a draft for a model bilateral convention which States could be recommended to conclude.

In general, the practice followed in the Netherlands is already very largely in keeping with the proposals of the Committee of Experts. Under Netherlands legislation, indigent foreigners receive as a rule the same assistance as Netherlands nationals. The Treaty of Establishment concluded with Germany on December 17th, 1904 (*Legal Gazette*, 1906, No. 279), contains, as far as Netherlands nationals and Germans are concerned, provisions on this subject which are very similar to the rules proposed by the Committee of Experts. The extent to which the Netherlands Government could comply immediately with the recommendations drawn up by the Committee of Experts may be deduced from the actual facts and from the following observations.

The Netherlands Government desires to make a general observation in connection with the statements previously submitted by the Netherlands delegation to the Assembly. The Government cannot agree with the view adopted by the majority of the Committee of Experts that assistance to minors should be settled on a separate basis, apart from the general provisions. In the Government's opinion, there can be no question of assistance to minors except in the case of orphans or abandoned children living abroad without their families, and these cases are in practice somewhat rare. In all the other cases, assistance is required by families—parents and children together—and it would appear contrary to the principle of safeguarding the unity of the family, laid down in Recommendation II, to include special rules relating to assistance to minors. In this connection, the Government would prefer to omit Article 2. Similarly, Article 1, paragraph 2 (c), appears superfluous; moreover, any provision that all measures of protection applying to indigent minors of the country should be granted to foreign minors would raise questions of private international law.

The Netherlands Government has noted with satisfaction that the draft gives the Governments complete liberty to determine their policy as regards the admission of foreigners. Similarly, the Government shares the view of the Committee of Experts that benefits granted by social insurance funds, and special assistance rendered on account of unemployment, should be excluded from the assistance in question; if it is desired that foreigners should benefit from such grants, special international regulations would have to be drawn up on this subject.

Sweden.

Various States, including those in which public assistance is very highly organised, have adopted for indigent persons a system of relief differing in many respects from public assistance proper, which in those countries represents only a comparatively small part of the benefits granted to destitute persons. Accordingly, a convention on public assistance only would have by no means the same significance for the various contracting States.

Switzerland.

The Political Department informs the Secretariat that the Federal authorities have again made a thorough study of this question and regret that they must maintain the negative attitude taken up in regard to the first draft Convention and confirm the various points of the declarations made by their representatives on the Committee of Experts in January 1936.¹

Switzerland could not adopt a conventional system of assistance entailing heavier obligations than are already imposed upon her at present. The Swiss authorities have reached the extreme limit of what they can do in this matter. As proof, a few figures may be quoted. Statistics show that more than 85 million francs are spent annually in Switzerland on relief work, or more than 20 francs per head of the population. Of these 85 million francs, 5 millions are expended on assistance to foreigners in Switzerland and more than 1.5 million on assistance to Swiss nationals abroad. It has been calculated that, in the sixteen years between 1919 and 1935, the Confederation and the cantons have paid out 32 million francs to assist their nationals in need abroad and 72 millions for the assistance of foreigners in Switzerland, making a total of 104 millions. Such an effort could not, in the present circumstances, be augmented.

As the Swiss representatives on the Committee of Experts had already pointed out, a multilateral convention involving equal obligations on paper for all parties would in fact create glaring inequalities between the contracting parties. Some countries would greatly benefit by a general system of reciprocity, while others with a larger number of foreigners residing in their territories would have to bear excessive burdens. Countries such as Switzerland, with a large foreign population, would assume much heavier obligations than countries where the situation is different.

It would be necessary, moreover, before concluding an international convention on the subject, to begin by securing some kind of equivalence in the actual kind of assistance given. Countries differ considerably in respect both of their legislation on assistance and of the actual organisation of assistance. The Federal authorities consider it essential that there should be, if not an absolute, at least an adequate concordance between the benefits that Switzerland would have to grant and those given by another contracting country.

In the opinion of the Federal authorities, moreover, it would hardly be possible, even if the greatest allowance were made for the objections just raised, to settle the question satisfactorily by an international convention. In view of the great differences between the various systems of assistance and the often conflicting interests of States, it would seem impossible to imagine a system which, presented in a convention open to all parties, would deal in a manner satisfactory to everyone both with the situation of the indigent persons and with the repayment of the assistance given. Only bilateral agreements would enable the countries concerned to strike the necessary balance between the benefits to be granted and the financial burdens thereby entailed. The Federal authorities, having observed that the organs of the League are contemplating a multilateral convention designed to settle the question of assistance as a whole, fear that the agreement drafted may form another of the numerous instruments to which it has been impossible to give real effect.

If, however, the majority of States should prove to be, in principle, in favour of concluding an international convention, Switzerland might consider the possibility of acceding to an agreement limited to the points on which agreement could at present be achieved. In such an agreement,

¹ The Swiss experts explained the reasons why their country could not, for its part, accept the draft multilateral Convention framed by the Committee. Switzerland has in the past assumed, and still assumes, in the matter of assistance to indigent foreigners, extremely heavy financial burdens. The proposed Convention would have the effect of still further increasing, to a very considerable extent, a burden which for Switzerland is already very heavy. Whereas, for example, the Convention which the Swiss Confederation concluded with France in 1931—that is to say, with a country whose conditions in the matter of assistance are virtually the same as those of Switzerland—provides that the country of residence shall be obliged to defray the costs of assistance for thirty days after the request for repatriation, the proposed multilateral Convention would require the country of residence to assume towards indigent persons of any country a party to that Convention an undertaking to assist the indigent person for a period of one year at least at its own expense.

For this reason, and for the further reason that conditions of assistance may vary considerably between one country and another, the Swiss experts are of opinion that their Government would not be able to participate in an agreement containing such far-reaching proposals.

In view of the extreme complexity of the matter, due more particularly to the difference in the conditions existing in the various countries in the matter of assistance, the Swiss experts would have preferred that the Committee should confine itself to resuming the examination of the general principles by which States might be guided in their practice or in the negotiation of bilateral or regional treaties.

The proposal was not, however, favourably received, as some delegations pointed out that it would be sufficient in this connection to adhere to the fourteen recommendations adopted in 1933.

To show their entire goodwill and emphasise once more their interest in the problem of international assistance to the indigent, the Swiss experts declared their readiness, if any delegation wished, to consider the desirability of drawing up a draft model bilateral treaty. Though under no illusion as to the practical utility of a model of this kind, the Swiss experts thought the Committee might agree that such a document might favour and facilitate the conclusion of bilateral treaties.

States might mutually undertake more particularly to give, in the same way as to their own nationals, first aid to indigent foreigners who fall ill in the country of residence or are unable to earn a living because of their age or their infirmity, and also to pregnant women or women during confinement. The duration of assistance, repatriation and the refund of expenses, on the other hand, should be settled by means of bilateral agreements. The proposed agreement could be usefully supplemented by various recommendations similar to those already framed at Geneva. The result thus achieved would be modest, but would at least form a starting-point for the future.

Czechoslovakia.

According to the opinion of the competent service of the Republic, it would appear that the problem of assistance to indigent foreigners could be better solved by bilateral agreements than by a multilateral convention.

Turkey.

Turkish legislation extends to indigent foreigners the benefits of the assistance granted by the philanthropic and social institutions in Turkey which, from purely humanitarian motives, deal with needy foreigners applying for help and relief.

Further, there are no administrative objections to a certain simplification of formalities designed to facilitate journeys and expedite the repatriation of indigent foreigners.

Under the above conditions, and in view of present circumstances, the Government of the Republic does not think it opportune to expand the organisation of assistance to foreigners in Turkey to the extent that would seem to be implied by the draft Convention in question and the fourteen recommendations of the Committee of Experts.

The Turkish Government accordingly regrets its inability to accede to the Convention framed by the Committee of Experts for Assistance to Indigent Foreigners.

Union of Soviet Socialist Republics.

The Government of the Union of Soviet Socialist Republics has no further remarks to make, apart from those which it had already occasion to communicate when the first enquiry on this subject was held; those observations are still maintained by the competent authorities of the Union.

It may be pointed out that, apart from a drafting amendment made in the Preamble, the second draft has not been changed in such a way as to take into account the observations referred to, which, in the view of the authorities in question, still retain their intrinsic importance.

Uruguay.

The reply of the Government of Uruguay is still under consideration by the competent authorities.

Venezuela.

The reply of the Government of Venezuela is still under consideration by the competent authorities.

International Labour Office.

The International Labour Office has noted with interest the second draft Convention on Assistance to Indigent Foreigners drawn up by the Committee of Experts of the League of Nations. The draft in question, if approved, will usefully supplement the regulations already adopted by the International Labour Conference on the treatment of foreign workers in the matter of social insurance against physical risks and unemployment assistance. As the Committee of Experts recognises in the Preamble to the draft Convention, the application of these social regulations is one of the most effective means of preventing indigence; and it is for this reason that the Committee further draws attention to the advantages which would ensue in connection with the reduction of indigence in general and the curtailment of public relief expenditure if the Conventions and recommendations of the International Labour Conference on the subject of social insurance were ratified or enforced by the different Governments.

At the same time, there are cases in which, in practice, social insurance and special unemployment assistance are both inadequate. In such cases, workers are reduced to indigence and are compelled to resort to public relief. Their position in such case is somewhat peculiar, as the regulations to which they appeal do not relate to workers as such, but to indigent persons in general, whatever their origin.

To meet this contingency, the League of Nations has been engaged on the preparation of a draft Convention on Assistance to Indigent Foreigners; and the permanent organisations of the League and of the International Labour Office have remained in close touch with each other in

this connection, in order to preclude any possibility of differences (as a result of inconsistency, duplication, or omissions) between the draft Convention, on the one hand, and, on the other, the Conventions and recommendations of the International Labour Conference on the subject of social insurance and unemployment assistance. The International Labour Conference itself recognised the close relations existing between the two organisations when, at its eighteenth session, it expressed the wish " that the rights of foreign unemployed workers, who have exhausted their right to benefit and allowances, to participate in the relief grants made to destitute persons should be regulated by the adoption of an international Convention which should provide in a positive and liberal manner for the right of foreign unemployed workers to obtain such grants ".

In these circumstances, it is to be hoped that the draft Convention prepared by the Committee of Experts on Assistance to Indigent Foreigners will quickly be brought to a successful issue.

Lastly, the International Labour Office notes the recommendation adopted by the Committee of Experts in the following terms:

" The Committee of Experts on Assistance to Indigent Foreigners and the Execution of Maintenance Obligations abroad expresses the hope that the attention of the International Labour Office will be drawn to the very painful situation which arises when a person who has worked in a foreign country is in danger of becoming indigent owing to the costs and delays which hinder or retard his attaining his rights or advantages under the social laws or institutions of the country of residence;

" And asks the competent organs of the International Labour Organisation to examine the possibility of reducing these difficulties to a strict minimum, in order that all the dictates of humanity be respected in the case of these persons."

The International Labour Office will duly communicate the above recommendation to the Governments, drawing their attention to the desirability of facilitating in the fullest possible measure the payment of social benefits due to foreign claimants.

Permanent Conference for the Protection of Migrants.¹

At first sight, the second draft Convention appears in its general lines to resemble the first one fairly closely. Like the latter, it is based on humanitarian principles and a desire for proper social order.

The differences between the two drafts merely relate to certain minor points. Words have been changed here and there, or sentences interposed. But those changes are highly significant, and the result is that, compared with the first draft, the second one represents, from the humanitarian standpoint, a retrograde step.

Obviously, a multilateral convention such as that proposed by the experts, which is to apply to widely different countries, can only lay down minimum obligations and cannot go into great detail regarding methods of assistance or repatriation.

This Convention will in no wise prevent States between which exchanges of population are frequent from concluding bilateral conventions, the provisions of which are more favourable to indigent persons in their respective countries.

Nevertheless, the multilateral Convention now before the League will be the sole safeguard of many unfortunate individuals, provided, of course, that their country accedes to it.

It will be of special value to "refugees" who are obliged to leave their native land for political reasons and also to "stateless persons", the number of whom has greatly increased as a result of the post-war disturbances in Europe—provided, of course, that the Convention clearly states that they are included among the persons to whom it is applicable.

This Convention will therefore meet a real need, and it is essential, in the first place, that it should provide for a minimum of assistance and protection, and, secondly, that it should be applicable to the largest possible number of indigent foreigners.

It is in relation to these two points, and especially to the second one, that the new draft is less favourable than the original draft.

The conclusions to be drawn from a study of this draft Convention are the following:

Even if an international convention realises the good intentions which were expressed by the experts in their drafts (but which were already weakened in the second), the protection of indigent foreigners will be inadequate. The work devolving upon private institutions for the assistance of indigent foreigners will remain extremely heavy. These institutions are to set up an international organisation under the cover of the proposed Convention. They should also have a social service organised to assist alien families that are stricken with poverty, in order to avoid as far as possible expelling them or refusing them admittance.

They should have an administrative service to put the papers of their protégés in order, and to arrange whenever possible for their repatriation under humane conditions.

The services of the embassies and consulates should facilitate this task as far as possible, expedite enquiries and the obtaining of the papers requested, and issue them to indigent persons, free of charge, which is not always the case at present.

This would help to make the proposed Convention effective.

¹ These observations were communicated to the Permanent Conference for the Protection of Migrants by the Belgian Federation of Private Organisations for the Protection of Migrants.

PREAMBLE.

United Kingdom.

The words which exclude from the scope of the Convention social insurance, unemployment relief and legal aid to the poor still appear in substance only in the Preamble to the Convention.

Finland.

As regards the Preamble, the Finnish Government, of course, approves in principle the governing idea that freedom of movement and free access of foreigners to the national labour market are the most effective means of preventing recourse to assistance proper. But, as this principle is at present very often and very widely disregarded, it may be questioned whether it should be laid down in an international convention. At any rate, use should be made, in the Preamble and in Article 1, paragraph 1, at least, of the more explicit term "public assistance", which already appears in other articles of the draft Convention.

Permanent Conference for the Protection of Migrants.

The first version stipulated in the Preamble that effective and adequate assistance should be granted; the second version provides that measures of assistance indispensable for the requirements of a proper livelihood shall be applied, which appears to restrict the scope of this assistance very considerably.

ARTICLE 1.

Australia.

The Government of Australia has no other observations to make in addition to those formulated with regard to the first draft Convention.¹

Austria.

A general undertaking such as that provided in sub-paragraph (a) of this article would, of course, involve a serious financial risk for the State. It would also be at variance with the practice in recent years of the police authorities, who have tried to remove foreigners who have to be given public assistance. In sentences which it has recently passed, the Supreme Administrative Court has endorsed the view of the police authorities that even foreigners who have only precarious and uncertain means of livelihood at their disposal do not willingly comply with the requirements of public order and that, in the interests of the latter, they must be sent out of Austrian territory.

The provision in paragraph 3 of this article to the effect that the Convention shall apply to relief to indigent unemployed persons when such relief forms a part of public assistance might be construed in Austria by the persons concerned to mean that the Convention would also cover the "hardship benefit" referred to in Article 306 of the 1935 Federal Law on Social Insurance. "Hardship benefit" is an unemployment relief benefit given to indigent unemployed persons after the expiry of the benefit period. The sums necessary for distributing "hardship benefit" are mainly derived from contributions paid by the Federation and the Federal States.

By law, "hardship benefit" may be granted to unemployed nationals and unemployed foreigners nationals of countries which have a similar institution and which expressly undertake to extend reciprocal treatment to unemployed Austrians residing in their territory.

¹ With regard to clause (c) of Article 1 of the proposed Convention, the Child Welfare Act (No. 21) of 1923 covers all children in New South Wales, irrespective of their nationality, and the Child Welfare Department, as the Department of the Government administering this enactment, is so organised that its officers are concerned with all children covered by Article 1, paragraph (c), of the proposed Convention. For the purpose of the Act, a child means a boy or girl up to the age of 16 years, and, when a delinquent, up to the age of 18 years. The new Child Welfare Bill now before Parliament accepts the principle of placing the welfare of the child uppermost and the organisation of the Department will meet the needs of all children who come under the broad classification of being in need of protection, or being destitute and in need of assistance, or a delinquent in need of training.

In this State, as in all English-speaking countries, the term "civil minority" covers a person until he attains his twenty-first birthday. As has been stated above, the Child Welfare Act, except in special circumstances where it is deemed advisable to extend supervision and guardianship, has jurisdiction only up to the age of 18 years. The general laws of the State, however, make no distinction as regards nationality where the maintenance, education and welfare of a minor are concerned.

Article 1, paragraph (c), therefore does not provide for any departure from existing practice and is acceptable to the State of New South Wales.

Paragraph 3 should therefore be so worded as to convey clearly that the Convention does not apply to any unemployment relief benefit proper.

The obligation imposed by the draft on the country of residence to grant indigent foreigners residing in its territory any medical or institutional care which they may need on the same terms as to its own nationals has long been the rule in Austria under national legislation. The Austrian law on public hospitals makes no distinction on grounds of nationality, and this is also true as regards free dispensary treatment, the law making it obligatory on communes to assist indigent foreigners in case of sickness.

The undertakings embodied in the above provisions of the draft would therefore not involve any fresh financial burdens for Austria. But the Federal authorities desire to raise serious objections on this point for the following reasons:

The very high level attained and the reputation enjoyed by the Austrian medical school attract large numbers of sick persons from the neighbouring countries, more particularly from some of the Succession States of the former Austro-Hungarian Monarchy. Most of these persons, unfortunately, come to Austria with the very definite intention of getting cheap, if not free, treatment. In such circumstances the cost of the medical treatment given to them, and of their hospital treatment, falls on the Austrian Treasury, except in a very few cases where the hospital administrations manage to recover their costs from the patients.

This involves a very heavy financial burden on the Treasury, which is not offset by the fact that indigent Austrians living abroad also receive free medical assistance and institutional treatment, because the number of such Austrians is incomparably less than the number of foreigners who have to be admitted every year to Austrian hospitals at the public expense.

The Federal Government, therefore, had always tried to negotiate with the States concerned with a view to remedying as far as possible this state of affairs, which is so damaging to its interests. The most favourable, and also the most equitable, solution for Austria would naturally be the adoption of the principle of full reciprocal refund of hospital expenses by the countries of origin. But Austria would have to insist at least that the country of origin should agree to take over its nationals receiving hospital treatment in Austria within a period convenient and suitable to hospital conditions.

United Kingdom.

The specific exclusions suggested by the United Kingdom Government concerning the words which places outside the scope of the Convention social insurance, unemployment relief and legal aid to the poor are not inserted in this article. It is considered that this arrangement is undesirable and that it would be preferable to insert in this article, after the words "burial if necessary", the words "but this undertaking shall not apply to health insurance and unemployment insurance benefits and unemployment assistance allowances and non-contributory old age pensions".

The paragraph beginning with the word "notwithstanding" which has been introduced into this article seems ambiguous in meaning and in any case unnecessary. It is by no means clear that the paragraph would not bring the Unemployment Assistance Scheme in force in the United Kingdom within the scope of the Convention. This appears undesirable to the United Kingdom Government, as unemployment assistance is already the subject of a Convention of the International Labour Organisation.

Finland.

The minority age-limit referred to in sub-paragraph (c) of this article, coinciding with civil minority, which in Finland extends up to 21 years of age, could not conveniently be applied in our country, as the Law on Public Assistance fixes the minority age-limit at 16, and the Law on Child Welfare also enacts, generally speaking, an age-limit below 21 (16 years for children, 18 for young persons and only in certain exceptional cases 21). If the draft Convention came into force in Finland as at present worded, it would mean that young foreigners would be granted wider training and educational benefits than are granted to young Finnish nationals, and such would be out of the question.

The enumeration, in paragraph 3 of this article, of certain forms of assistance to which the Convention would not apply is not satisfactory from the Finnish point of view. The only exceptions there made are for the various social insurance systems and unemployment relief. In Finland, however, the communes and the State, or even the State alone, grant nationals personal allowances which do not form a part of compulsory public assistance. This paragraph should therefore specify that the Convention does not apply to relief which does not form a part of actual compulsory public assistance.

Japan.

It would be desirable to omit paragraph 2 of this article, because the beneficiaries of assistance and the forms and extent of assistance have already been prescribed in Japan by the existing Relief Law.

Netherlands.

As already pointed out in its earlier reply, the Netherlands Government objects to the insertion, in a convention, of special obligations regarding the assistance to be given to minors. While it welcomes the amendment made in Article 2, particularly the reference to "orphans or abandoned children", the Netherlands Government thinks that the rule laid down in paragraph 2 (c) on the assistance to be granted to minors still goes too far.

Lastly, the Netherlands Government considers that rules regarding refugees should be embodied in a special Convention regulating the status of refugees generally.

Poland.

In this article delete the last paragraph (from the words "Refugees, stateless persons . . ." to the end of the paragraph).

Union of Soviet Socialist Republics.

One of the observations made with regard to the first draft Convention refers to the eventuality of a reservation which the Government of the Union of Soviet Socialist Republics would have to make at the time of signature if the text of the Convention were brought into line with the other observations.¹

International Labour Office.

The International Labour Office is glad to note that this article expressly provides that unemployed foreigners who have exhausted their rights to unemployed benefits or allowances should enjoy equality of treatment with indigent nationals in the matter of public assistance.

Permanent Conference for the Protection of Migrants.

This article corrects the impression in the Preamble by stating that foreigners shall receive the same treatment as nationals, although it is repeated that this refers to assistance indispensable to the requirements of a proper livelihood.

The last paragraph of Article 1 refers to refugees, stateless persons and persons of indeterminate nationality.

The first version contained one unfortunate phrase: "as defined in the Geneva Agreements of May 12th, 1926, and June 30th, 1928".

If the word "as" implies the words "for instance", so much the better. If, as is probable, the word "as" is understood to mean "only those refugees", this restriction is highly regrettable, because it will exclude from the benefit of assistance a large number of refugees who have been obliged to leave their native land since the war of 1914-1918.

The agreements in question apply solely to a few groups of clearly specified refugees.

But at least, under the first draft, stateless persons and persons of indeterminate nationality would undoubtedly have the benefit of assistance.

In the second draft, the phrase in question—"stateless persons and persons of indeterminate nationality"—has been inserted after "refugees". As the agreements do not mention either stateless persons or persons of indeterminate nationality, there is a risk that administrations, interpreting the text literally, may leave these unfortunate persons without any assistance whatever.

ARTICLE 2.

Finland.

The passage in this article referring to sub-paragraph (c) of the second paragraph of Article 1 should also be amended.

¹ Paragraph 3 of the Preamble to the draft should be brought fully into line with the other parts of the draft, more particularly with paragraph 4 of the Preamble and Article 1, paragraph 1.

It is therefore proposed that, in paragraph 3, the words "on the same terms as to its own nationals" should be inserted after the word "livelihood".

The signing of the Convention must not imply that the Union of Soviet Socialist Republics recognises the international Conventions mentioned in the last paragraph of Article 1 or that it undertakes to recognise the administrative practice established in the various countries by those Conventions.

Japan.

The word " minors " in this article shall be construed to mean, so far as Japan is concerned, a child under 13 years of age.

Netherlands.

The observation made above on accepting obligations towards indigent persons belonging to countries not parties to the Convention applies to this article also, where there is an express reference to " even such minors as are nationals of countries not parties to the present Convention ".

Permanent Conference for the Protection of Migrants.

Article 2 (new draft) imposes a restriction which is particularly regrettable, since it applies to minors. In the first version, it was stated that all foreign minors (even those belonging to countries which had not signed the Convention) would be granted assistance. The present Article 2 provides that such minors must be orphans or abandoned. It would have been more humane to retain the first version. The objection raised by certain countries (that this would create difficulties in families the children of which were assisted but not the parents) is not valid. It is inconceivable that parents would complain because their child received assistance if he was in need of it.

ARTICLE 3 (former Article 4).

Austria.

As institutional treatment is usually an essentially temporary form of assistance, it follows naturally that Austria, which is anxious to reduce the burden imposed on her by the present state of affairs, could not accede to a convention which would debar her from repatriating a person receiving hospital treatment before the expiry of a period of twelve months, or in practice even fifteen months, of assistance.

This period should in general be substantially reduced and should vary according to circumstances. In the conventions to be concluded with foreign States, it would be necessary to take into account the very varying conditions obtaining in those States, and of their geographical relation to Austria. A longer period might be advisable in the case of mental disease, or of assistance given to old persons or to patients who need the permanent help of a third party.

In view of the great variety of cases which may arise, it would scarcely seem possible to lay down a general rule defining the period in question. Its length should be determined by negotiations between the contracting parties.

The undertaking not to remove indigent foreigners after an uninterrupted residence of at least twelve months goes much too far. It would mean granting to those foreigners the right of asylum and abandoning in their favour the sovereign rights of the State. Such an undertaking might even have the effect that, in order to prevent its nationals being expelled, the country of origin would grant them assistance until they had completed twelve months' residence in the country of domicile, stopping the payment as soon as the contractual obligation of the country of residence came into force.

It would, moreover, be necessary to define exactly what is to be understood by " occasional absence ".

India.

The scheme which the Government of India suggested was that deportation on the ground of destitution alone shall not, without the consent of the alien, be enforced if he has resided for twelve months since his last arrival in the country of residence; and that repatriation, on the ground of destitution alone, of an indigent foreigner who has resided for twelve months since his last arrival in the country of residence shall be carried out only by common agreement between the two countries concerned; and it accepted the provision that the country of origin may not oppose repatriation if the person had for one year been in receipt of public assistance grants in the country of residence, and also the exceptions made in the four clauses appearing in Article 6 (now 5).

The Government of India agreed with the view of the United Kingdom Government, except that, in both articles, the period of residence required should be five years instead of twelve months.

The views of the Government of India has in effect been met by the amendments now made. The Government of India does not wish to press its view as to the period of residence required.

Netherlands.

While it agrees with the principle in this article that indigence alone cannot justify the summary removal of persons who have lived in the territory of a country for at least twelve

months, the Netherlands Government cannot accept the principle embodied in the draft that in cases where expulsion is not justified on other grounds than indigence, a contracting party shall be obliged to give a foreigner the necessary assistance for one year unless his repatriation can be arranged by common consent.

Permanent Conference for the Protection of Migrants.

It is easier to understand the restriction contained in this article, which is no doubt necessary to avoid an influx of indigent persons from poor countries into countries in which assistance is well organised.

ARTICLE 4 (former Article 5).

Austria.

It follows more particularly from the wording of the first sentence in this article that the draft Convention aims at safeguarding primarily the interests of the foreigner and his family. While they appreciate the humanitarian aim of the draft Convention, the Federal authorities nevertheless think that the primary object of such conventions should be the protection of the legitimate interests of the contracting parties.

India.

The Government of India still considers that the second paragraph of the article is out of place in a Convention.

International Labour Office.

The International Labour Office is glad to note that the draft Convention refers to the case of repatriation of indigent foreigners having certain rights, in respect of themselves or their families, to payments or benefits on the part of social organisations. This article provides in that connection that the indigent foreigner may supply full information regarding any such rights he may have acquired during the enquiry conducted by the authorities of the country of residence on the subject of his repatriation. There is no incompatibility between a provision of this kind and the provisions of the draft Convention adopted by the International Labour Conference at its nineteenth session concerning the establishment of an international scheme for the maintenance of rights in invalidity, old-age and widows' and orphans' insurance. The principle embodied in this Convention does not, it should be noted, preclude the return or repatriation of a foreign worker to his country of origin, since its purpose is solely to safeguard the maintenance of rights acquired, or in course of acquisition, in the country of residence by a foreign worker leaving that country.

Permanent Conference for the Protection of Migrants.

This article has been modified to the detriment of assisted persons. The first version attached chief importance to the interests of the assisted person in connection with repatriation. The second placed these interests in the background, the Governments having protested. If, in practice, the assisted person's interests are taken into account, there can be no ground for complaint. But it is to be feared that, with the present wording, these interests will in reality be completely disregarded.

Without losing sight of the interests of the country of residence, more stress might perhaps be laid on those of the assisted person.

ARTICLE 5 (former Article 6).

Australia.

See observations on the first draft Convention.¹

¹ *Western Australia.* — In so far as the draft Multilateral Convention on Assistance to Indigent Foreigners is concerned, Article 6 (present Article 5) in the second paragraph states: "The State of origin may not oppose repatriation if its national has, for a period of at least one year, received public assistance grants in the country of residence".

Provision should be made in this whereby the State of origin shall not oppose repatriation if its national desires it, even though the application is made before twelve months in the country of residence.

In sub-clause (1) of the same article, provision is made that the preceding paragraph shall not apply "if the person assisted has remained at least ten years in the country of residence".

It is necessary, at times, to give attention to the question of repatriation, even after the expiration of ten years' residence in the country, and the Government of Western Australia is of opinion that the ten years' limitation should not apply.

Sub-clause (3) (present sub-clause (2)) of the same article reads: "if repatriation would result in the separation of the members of the family".

It sometimes happens that in cases of, say, mental derangement, or some similar disability on the part of a member of a family, it is impossible for that person to travel. At the same time, repatriation may be to the advantage of the other

Austria.

The provision in the draft to the effect that repatriation can be carried out only when a foreigner has received public assistance grants for one year is tantamount to compelling the country of residence to pay those grants for that period. Such an obligation would not only entail financial burdens too great to be borne but would also encourage the assisted person not to seek any employment or financial assistance which relatives living abroad and responsible for his maintenance might be able to give.

Denmark.

The Danish Government has no observations to make other than those made in regard to the first draft Convention.¹

Finland.

The second paragraph of this article should be so modified as to provide that, as is prescribed in many bilateral public assistance treaties already concluded by Finland, nationals may be repatriated not only if they have received public assistance grants for a year but also when there is reason to believe that they would require assistance for at least one year.

India.

See under Article 3.

Netherlands.

In the opinion of the Netherlands Government, the period of one year laid down in this article is too long; it should not exceed six months. Further, the Netherlands Government considers that the above obligation should not be extended to all the indigent nationals of the other contracting parties, but should apply only to the persons specified in the three categories mentioned in the third paragraph of the article. The provision in sub-paragraph (2) should be confined to members of a family living under the same roof and should not apply to sons and daughters of full age. Further, in sub-paragraph (3), the words "to a woman" should be amended to read "to a widow or divorced woman".

Poland.

The last paragraph of this article from the words "Removal from the territory" to the end of the paragraph should be deleted.

This amendment is based on the conviction that provisions concerning refugees are already contained in other Geneva international Conventions; it would, therefore, be undesirable to retain such provisions in a Convention which aims at standardising assistance to the indigent nationals of the contracting States.

The provisions of Article 3, last paragraph, and this article, sub-section (1), second sentence, should be amplified by stipulating that the departure of a foreigner to his own country to perform compulsory military service there shall also be deemed to constitute occasional interruption of residence.

The object of this amendment is to safeguard the nationals of all countries from an attenuation of the benefits arising out of the proposed Convention through the fact of their performing military service in the army of their native country.

members of the family; therefore, this clause should be amended so as to prevent any such disability from acting to the detriment of the family concerned.

Victoria. — It is pointed out that the period of ten years suggested in Article 6 (now Article 5) of the Multilateral Convention as being necessary for an alien to obtain a settlement in his new country appears to be an unduly extended term.

¹ The stipulations in Articles 6 and 7 (now Articles 5 and 6) on the repatriation of indigent foreigners to their country of origin are in several respects incompatible with the existing Danish regulations. This will prevent Denmark from acceding to the draft, because the competent authorities are unwilling to depart from the guiding principles hitherto followed in the matter of the repatriation of foreigners residing in Denmark who when indigent are not entitled to permanent relief, and in regard to the refund, by the country of origin, of the cost of relief.

In this connection, it should be observed that the competent authorities, in accordance with the rules hitherto followed, do not take any steps to secure the repatriation of persons who can be given temporary relief. On the other hand, the authorities must reserve the right to endeavour to secure the repatriation of indigent foreigners even when the latter have not, for the previous twelve months, received any aid from the public relief authorities. Where the need for such aid must be regarded as permanent and where there are no other humanitarian reasons militating against repatriation other than a lengthy stay — for instance, the fact that the person concerned is living with near relatives — the competent authorities generally insist, if repatriation is to be avoided, that the person shall have been living in Denmark for twenty years without having received any aid from the public relief authorities.

Sweden.

In connection with Article 6 of the old draft (now Article 5), the Swedish Government submitted the following observation: "It would be desirable to state expressly in this article that repatriation should not be carried out if the need for assistance is only occasional and to assimilate to the cases referred to in paragraph 2 that in which the need for assistance is likely to continue approximately for a year at least".

Article 5 of the new draft, which corresponds to the former Article 6, clearly takes no account of this observation. The Swedish Government nevertheless feels bound to maintain the point of view therein expressed.

It considers, further, that paragraph 2 of the same article should be drafted so as to make it clear that the measures of assistance which have made the question of repatriation urgent must have been given for at least one year. As at present worded, this paragraph would enable repatriation to be applied for even when assistance had only been given occasionally—for example, in a case where an indigent person had benefited by it, say, for at least one year, but before this occasional assistance was given to him. To obviate such an interpretation and to meet at the same time the wish expressed by the Swedish Government in its previous observations, paragraph 2 should read as follows:

"Nevertheless, the country of origin may not oppose repatriation if the assistance given to its nationals has already lasted for one year or if it can be presumed that the need for assistance will last for at least a year from the date on which assistance began to be given. In the case of . . . six months."

It would also be advisable to bring the amended text of paragraph 2 into closer concordance with paragraph 3 of the same article. In paragraph 2, therefore, the words "except in the cases referred to later in the present article" should be inserted after the words "may not". The Preamble to paragraph 3 should also be worded as follows:

"Even where repatriation can be effected in accordance with the foregoing provisions, it shall not be resorted to in the following cases:"

The Swedish Government considers further that the wording of paragraph 3 of this article should be amended so as to make it clear that the provision therein contained shall not apply to a case where a foreigner has received public assistance for at least one year during a stay of ten years in the country of residence. Lastly, it would be advisable to insert in the same paragraph a provision to the effect that "assistance to a foreigner" is to be construed as covering also assistance given to a member of his family.

The Swedish Government accordingly proposes that the text of Article 5 (former Article 6) should be amended as follows:¹

"Subject to the provisions of Article 3, the repatriation, on grounds of indigence alone, of an indigent foreigner in receipt of assistance shall be carried out only by common agreement between the Government of the country of residence and the Government of the country of origin.

"Nevertheless, the country of origin may not, *except in the cases referred to later in the present article, oppose repatriation if the assistance given to its nationals has already lasted for one year or if it may be presumed that the need for assistance will last for at least one year from the date on which assistance began to be given.* In the case of old people of over seventy years of age, this period shall be reduced to six months.

"*Even where repatriation can be effected in accordance with the above provisions, it shall not be resorted to in the following cases:*

"(1) *If, before receiving assistance benefits, the foreigner has remained for at least ten years in the country of residence without being given public assistance, for himself or a member of his family, for an unbroken period of at least one year.* Absence of a foreigner from the country of residence, if only occasional, shall not be deemed to constitute interruption of residence.

"(2) If repatriation would result in the separation of the members of the family against their will.

"(3) In the case of assistance to a woman if, before her marriage, she possessed the nationality of the country of residence.

"The repatriation of the assisted person must be postponed if it presents any danger to the health of that person or any other persons.

"Removal from the territory in execution of the present article may not take place in the case of refugees, stateless persons and persons of indeterminate nationality referred to in the last paragraph of Article 1."

¹ The passages printed in italics show the amendments proposed in the text of Article 5 of the second draft Convention.

Permanent Conference for the Protection of Migrants.

In this article, a particularly interesting category of persons has unfortunately been left out of the list of those who cannot be repatriated or sent out of the territory.

This is the second category: "If the person assisted is receiving assistance grants by reason of an industrial accident which occurred in the country of residence, or by reason of an illness contracted in that country and recognised as occupational by the national laws".

It is regrettable that this exception should have been omitted, since this category of people would seem to have a special claim to assistance from the country of residence.

ARTICLE 6 (former Article 7).

Finland.

The first paragraph of this article should be amended in the same way as the corresponding passage in the previous article. In any case, the words "without a break" should be added to the words "for more than one year". The time-limits mentioned in the second paragraph of the same article should not be strictly specified: in some of the treaties concluded by Finland, the periods during which relief must be given before it can be claimed from the country of origin are shorter. Accordingly, States acceding to the Convention should, where necessary, be able to follow a different procedure from that laid down in the Convention as regards applications for refund, the amount of such applications and the period after which such applications may be made.

ARTICLES 7 AND 8 (former Articles 8 and 9).

India.

The Government of India stated that it was unable to accept the corresponding Articles 8 and 9 in the old draft. It would not, however, have the same objection to the articles as now worded, since it is now clear that they apply only to repatriation by common agreement under Article 5.

ARTICLE 9 (former Article 10).

India.

The Government of India still considers that the words after "country of residence" should be omitted.

ARTICLE 10 (former Article 11).

Austria.

It is not clear whether the provision in this article refers only to repatriation costs or whether the country of residence can also claim a refund of the cost of the assistance granted. It would be essential for the country of origin to help also in securing as far as possible the refund of the costs of assistance incurred in the country of residence.

ARTICLE 11 (former Article 12).

Finland.

If the above observations are taken into consideration, it might be advisable to add to this article a sentence containing the remarks and suggestions made regarding Articles 5 and 6, and thus avoid having to make the same reservations repeatedly.

Appendix.

FIRST DRAFT MULTILATERAL CONVENTION ON ASSISTANCE
TO INDIGENT FOREIGNERS.

On the express understanding that the system of social insurance, unemployment relief and legal aid to the poor does not fall within the scope of the present Convention;

Whereas, while the extension to all foreigners in each country of the benefits deriving from national legislation on social insurance and unemployment relief, freedom of movement and free access to the national market of labour for foreigners established in the country of residence are the most effective means of preventing recourse to assistance proper, measures of assistance will nevertheless remain indispensable in a large number of cases;

Whereas humanitarian principles and considerations of public policy cannot but induce States to grant effective and adequate assistance to any foreigner without means of livelihood, even when there is no obligation to do so under any law or convention;

Considering it desirable that an international convention on assistance to indigent foreigners should ensure for such persons the benefit of all measures of assistance applicable to nationals;

The undersigned plenipotentiaries, being provided with full powers found in good and due form, have agreed upon the following provisions:

Article 1.

Each of the Contracting Parties undertakes that nationals of the other Contracting Parties residing in its territory and standing in need of relief, medical attention or any other assistance whatsoever, including moral assistance, shall receive in such territory the same treatment as its own nationals and subject to the same conditions as the latter, together with decent burial if necessary.

Such assistance shall at least apply:

(a) To persons entirely without means of livelihood;

(b) To persons suffering from physical or mental disease, to the aged or to invalids incapable of providing for their own needs;

(c) To minors for whose maintenance neither their own families nor third parties are making adequate provision. The assistance granted to such persons shall include, not only medical and hygienic care and admission to institutions, but also all the measures of protection, maintenance, training and education applicable to indigent national minors. For the purposes of the present provision, the term "minority" shall be construed to mean the civil minority as defined by the laws of the country of residence.

Refugees as defined in the Geneva Agreements of May 12th, 1926, and June 30th, 1928, and by the administrative practice of the countries in which they are regularly authorised to reside, together with stateless persons and persons of indeterminate nationality, shall be entitled in such countries to the assistance specified above.

Article 2.

The assistance specified in letter (c) of the foregoing article shall be granted even to such minors as are nationals of States not parties to the present Convention.

Article 3.

The present Convention does not apply to an indigent person possessing the nationality both of the State of residence and of another State.

Article 4.

Each of the Contracting Parties undertakes not to deport foreigners on the sole ground that they are indigent, except by means of repatriation and under the conditions laid down in the present Convention.

The provisions of the previous paragraph shall not prevent the application of police measures such as expulsion, even to an assisted person, if such measures are the normal consequence of infringement of the laws and regulations. The application of such measures shall, however, be suspended, so long as the condition of the assisted person precludes this action.

Article 5.

The interest of the assisted person and his family should, in the first place, determine whether or not it is desirable to repatriate him.

During the enquiry conducted on this subject by the authorities of the country of residence, the indigent foreigner may either personally or through a competent institution supply full information regarding his situation and that of his family.

Article 6.

The repatriation of an indigent foreigner in receipt of assistance shall be carried out only by common agreement between the Government of the country of residence and the Government of the country of origin.

The State of origin may not oppose repatriation if its national has, for a period of at least one year, received public assistance grants in the country of residence.

The provisions of the preceding paragraph shall not apply in the following cases:

- (1) If the person assisted has remained at least ten years in the country of residence;
- (2) If the person assisted is receiving assistance grants by reason of an industrial accident which occurred in the country of residence, or by reason of an illness contracted in that country and recognised as occupational by the national laws;
- (3) If repatriation would result in the separation of the members of the family;
- (4) In the case of assistance to a woman if, before her marriage, she possessed the nationality of the country of residence.

The repatriation of the assisted person must be postponed if it presents any danger to the health of that person or any other persons.

Repatriation shall not apply in regard to the refugees, stateless persons and persons of indeterminat nationality referred to in the last paragraph of Article 1.

Article 7.

In the cases provided for in paragraph 2 of Article 6, the State of origin may, in agreement with the State of residence, replace repatriation by the refund of assistance costs.

In this case, the costs of assistance shall be defrayed by the country of origin as from the expiration of the period of three months, as specified in Article 8.

Article 8.

The Government of the State of residence shall notify to the Government of the State of origin, through its diplomatic representative, its intention of proceeding to the repatriation of the assisted person. This notice shall be accompanied by all civil-register, and other, particulars necessary to identify the indigent person in question and to make known the situation from the point of view of assistance (names and surnames of the assisted person, his civil status, the names of his parents, date and place of birth, proofs of his nationality, date and place of marriage and names and surname of wife, if any, place and date of last stay in country of origin, present address, brief description of his situation, medical certificate).

When obliged to obtain information of a social character concerning the situation of the person to be repatriated and his family, the Governments of the countries concerned shall apply, whenever possible, to the public relief services and qualified private relief organisations.

The Government of the State of origin shall inform the diplomatic representative of the State of residence, within three months of the receipt of each notification, whether it recognises the assisted person as its national and agrees to his repatriation. If the State of origin does not recognise the assisted person as its national, it must supply the diplomatic representative of the State of residence with the necessary justification.

Article 9.

The State of residence shall be bound to take any steps which may be necessary for the protection of the assisted person to be repatriated up to the frontier of the State of origin. It shall reach an agreement with the States of transit and the States of origin, in order to avoid difficulties *en route*.

Each of the Contracting States shall grant in its territory, for the transit of assisted persons to be repatriated, the same safeguards, facilities and reduced rates as for the transport of its own indigent nationals.

Article 10.

The cost of the repatriation of the assisted person as far as the frontier of the country of origin shall be defrayed by the State of residence, when the latter and the State of origin are both situated in Europe, or in Africa, or in Asia, or in Oceania, or in North America and Central America, or in South America. In all other cases, the defrayal of costs shall be adjusted by agreement between the two States concerned.

The costs shall be defrayed by the State of origin in the event of repatriation taking place at its request.

Article 11.

Should the person assisted, or other persons legally bound to do so in his stead, be in a position to meet these expenses, repayment thereof may be claimed. For this purpose, each of the Contracting States shall lend any other Contracting State such assistance as is admissible under that country's laws with a view to the repayment of such expenses, which shall be calculated at the rates applicable to nationals, to the authorities entitled thereto.

Article 12.

All measures of order and detail which may become necessary for the application of the present Convention shall be settled by agreement between the competent departments of the Contracting States.

SECOND DRAFT MULTILATERAL CONVENTION ON ASSISTANCE
TO INDIGENT FOREIGNERS.¹

Preamble.

On the express understanding that the system of social insurance, unemployment relief and legal aid to the poor does not fall within the scope of the present Convention;

Whereas, while the extension to all foreigners in each country of the benefits deriving from national legislation on social insurance and unemployment relief, freedom of movement and free access to the national market of labour for foreigners established in the country of residence are the most effective means of preventing recourse to assistance proper, measures of assistance will nevertheless remain indispensable in a large number of cases;

Whereas humanitarian principles and considerations of public policy cannot but induce States to grant effective and adequate assistance to any foreigner without means of livelihood, *on the same conditions as are enjoyed by their own nationals*, even when there is no obligation to do so under any law or convention;

Considering it desirable that an international Convention on assistance to indigent foreigners should ensure for such persons the benefit of *the measures of assistance indispensable for the requirements of a proper livelihood* as applicable to nationals;

The undersigned plenipotentiaries, being provided with full powers found in good and due form, have agreed upon the following provisions:

Article 1.

Each of the *High Contracting Parties* undertakes that nationals of the other Contracting Parties residing in its territory and standing in need of relief, medical attention or any *assistance whatsoever indispensable for the requirements of a proper livelihood*, including moral assistance, shall receive in such territory the same treatment as its own nationals and subject to the same conditions as the latter, together with decent burial if necessary.

Such assistance shall at least apply:

- (a) To persons entirely without means of livelihood;
- (b) To persons suffering from physical or mental disease, to the aged or to invalids incapable of providing for their own needs;
- (c) To minors for whose maintenance neither their own families nor third parties are making adequate provision. The assistance granted to such persons shall include, not only medical and hygienic care and admission to institutions, but also measures of protection, maintenance, training and education applicable to indigent national minors. For the purposes of the present provision, the term "minority" shall be construed to mean the civil minority as defined by the laws of the country of residence.

Notwithstanding that the present Convention does not apply either to social insurance systems or to unemployment relief, it shall apply to relief to indigent unemployed persons when such relief forms a part of public assistance.

Refugees, stateless persons and persons of indeterminate nationality, as defined in the Geneva Agreements of May 12th, 1926, and June 30th, 1928, and by the administrative practice of the countries in which they are regularly authorised to reside, shall be entitled in such countries to the assistance specified above.

Article 2.

The assistance specified in letter (c) of the foregoing article shall be granted even to such minors as are nationals of *countries* not parties to the present Convention, *in the case of orphans or abandoned children.*

Article 3 (former Article 4).

Each of the High Contracting Parties undertakes not to *remove foreigners from its territory* on the sole ground that they are indigent, *if at the moment when the measure would be taken they have been living in the country of residence uninterruptedly for not less than twelve months*, except by means of repatriation and under the conditions laid down in the present Convention.

Absence of a foreigner from the country of residence, if only occasional, shall not be deemed to constitute interruption of residence.

¹ The passages printed in italics show the amendments made in the first draft of the Convention.

Article 4 (former Article 5).

The interest of the foreigner and of his family shall be taken into account in deciding whether or not to repatriate an indigent foreigner, and in fixing the date of repatriation, if this is decided upon.

During the enquiry conducted on this subject by the authorities of the country of residence, the indigent foreigner may either personally or through a competent institution supply full information regarding his situation and that of his family, *in particular, regarding his rights or those of his family, where such exist, to grants or benefits at the hand of some social welfare institution.*

Article 5 (former Article 6).

Subject to the provisions of Article 3, the repatriation, on grounds of indigence alone, of an indigent foreigner in receipt of assistance shall be carried out only by common agreement between the Government of the country of residence and the Government of the country of origin.

Nevertheless, the country of origin may not oppose repatriation if its national has, for a period of at least one year, received public assistance grants in the country of residence. In the case of old people of over seventy years of age, this period shall be reduced to six months.

Furthermore, even where the assistance has been given for more than one year, the provisions of the preceding paragraph shall not apply in the following cases:

(1) *If the foreigner has remained at least ten years in the country of residence. Absence of a foreigner from the country of residence, if only occasional, shall not be deemed to constitute interruption of residence;*

(2) *If repatriation would result in the separation of the members of the family against their will;*

(3) *In the case of assistance to a woman if, before her marriage, she possessed the nationality of the country of residence.*

The repatriation of the assisted person must be postponed if it presents any danger to the health of that person or any other persons.

Removal from the territory in execution of the present article may not take place in the case of refugees, stateless persons and persons of indeterminate nationality referred to in the last paragraph of Article 1.

Article 6 (former Article 7).

Where assistance has been given for more than one year, the country of origin may, in agreement with the country of residence, replace repatriation by the refund of assistance costs.

In this case, the costs of assistance shall be defrayed by the country of origin as from the expiration of the period of *one year specified in the preceding paragraph* or, *if the application for repatriation has been made after that period, as from three months after the receipt of the application by the country of origin.*

Article 7 (former Article 8).

Where repatriation of an indigent foreigner is proposed by the Governments concerned by common agreement according to Article 5, the Government of the country of residence shall notify to the Government of the country of origin, through its diplomatic representative, its intention of proceeding to the repatriation of the assisted person. This notice shall be accompanied by all civil register and other particulars necessary to identify the indigent person in question and to make known the situation from the point of view of assistance (names and surname of the foreigner, his civil status, the authority issuing his passport, the names of his parents, date and place of birth, proofs of his nationality, date and place of marriage and names and surname of wife, if any, place and date of last stay in country of origin, present address, brief description of his situation, medical certificate).

When obliged to obtain information of a social character concerning the situation of the person to be repatriated and his family, the Governments of the countries concerned shall apply, whenever possible, to the public relief services and qualified private relief organisations.

The Government of the country of origin shall inform the diplomatic representative of the country of residence, within three months of the receipt of each notification, whether it recognises the assisted person as its national and agrees to his repatriation.

Article 8 (former Article 9).

The country of residence shall be bound to take any steps which may be necessary for the protection of the foreigner to be repatriated up to the frontier of the country of origin. It shall, *if necessary*, reach an agreement with the countries of transit and the country of origin, in order to avoid difficulties *en route*.

Each of the *High Contracting Parties* shall grant in its territory, for the transit of foreigners to be repatriated, *any facilities and reduced rates which it grants* for the transport of its own indigent nationals.

Article 9 (former Article 10).

The cost of the repatriation of the *foreigner* as far as the frontier of the country of origin shall be defrayed by the *country* of residence, when the latter and the *country* of origin are both situated in Europe, or in Africa, or in Asia, or in Oceania, or in North America and Central America, or in South America. In all other cases, the defrayal of costs shall be adjusted by agreement between the two *countries* concerned.

The costs shall be defrayed by the *country* of origin in the event of repatriation taking place at its request.

Article 10 (former Article 11).

Should the person assisted, or other persons legally bound to do so in his stead, be in a position to meet these expenses, repayment thereof may be claimed. For this purpose, each of the *High Contracting Parties* shall lend any other *Contracting Party* such assistance as is admissible under that country's laws with a view to the repayment of such expenses, which shall be calculated at the rates applicable to nationals, to the authorities entitled thereto.

Article 11 (former Article 12).

All measures of order and detail which may become necessary for the application of the present Convention shall be dealt with by arrangements between the countries concerned, which shall be entitled to delegate powers to their competent administrative authorities for direct settlement of the issues arising.

ANNEX 1667.

Series of Publications : 1937.XII.A.2.

Official No. : C.327.M.220.1937.XII.

WORK OF THE INTERNATIONAL COMMITTEE ON INTELLECTUAL
CO-OPERATION AT ITS NINETEENTH PLENARY SESSION.*(Paris, July 12th to 17th, 1937.)*REPORT OF THE COMMITTEE, SUBMITTED TO THE COUNCIL ON
SEPTEMBER 14TH, 1937.

INTRODUCTION.

This year, in view of the variety of questions with which the Committee has had to deal and of which it is called upon to give an account in its report, it seemed expedient to divide the Report into three distinct parts.

Part I contains the usual report of the Committee on the work done by the Intellectual Co-operation Organisation since the previous session.

Part II contains a special study, with Annex, concerning the utilisation of modern means of spreading information in the cause of peace. The information and suggestions which it contains have been prepared for the Assembly in accordance with the resolution passed by the latter in 1936, requesting the International Committee on Intellectual Co-operation to carry out a study of this question.

Part III of the Report contains a note prepared by the International Committee on Intellectual Co-operation, in conjunction with the Governing Body of the International Institute of Intellectual Co-operation, with a view to submitting a draft international act concerning intellectual co-operation.

As this Report is to appear at the same time as the Report on the Work of the League in 1936/37 (document A.6(a)1937), it did not seem necessary to include in the latter report a detailed account of all the activities described in the following chapters.

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