

*Article 121.* The President of the Republic exercises the general administration of the country.

His powers are:

. . .

(18) To conclude treaties ... submitting them to Congress for ratification.

### **35. Hungary**

CONSTITUTION OF 20 AUGUST 1949. ENGLISH TEXT PUBLISHED BY THE HUNGARIAN GOVERNMENT, BUDAPEST, 1949

*Article 19.* (1) At its first sitting Parliament elects from among its own members the Presidential Council of the People's Republic, consisting of a President, two Vice-Presidents, a Secretary and seventeen members. ...

*Article 20.* (1) The competence of the Presidential Council of the People's Republic extends to:

. . .

(e) Concluding international treaties on behalf of the Hungarian People's Republic; ...

(f) Appointing diplomatic representatives and receiving the letters of credence of foreign diplomatic representatives;

(g) Ratifying international treaties.

*Article 21.* (1) The term of office of the Presidential Council of the People's Republic expires when Parliament elects a new Presidential Council of the People's Republic.

. . .

(4) In order to make valid decisions at least nine members of the Presidential Council of the People's Republic must be present in addition to the President and Secretary.

### **36. Iceland**

CONSTITUTION OF 17 JUNE 1944. ENGLISH TRANSLATION PUBLISHED BY THE INFORMATION OFFICE OF THE ICELANDIC MINISTRY OF FOREIGN AFFAIRS (1948)

*Article 21.* The President concludes treaties with other states. Except with the consent of the Althing,<sup>1</sup> he may not make such agreements if they entail renouncement of, or servitude on, territory or territorial waters or if they entail constitutional changes.

### **37. India**

(a) HISTORICAL NOTE PREPARED BY THE SECRETARIAT OF THE UNITED NATIONS

1. India became one of the original members of the League of Nations in 1920, and from that time forward possessed the status of an International Person.

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<sup>1</sup> Parliament (Upper House and Lower Houses).

2. A Foreign and Political Department of the Government of India was organized under a Foreign Secretary who dealt with Indian relations with foreign States, and who was responsible to the Governor-General. Treaties could be concluded on behalf of India either by a representative of the Government of India or by a representative of the Government of the United Kingdom acting on behalf of India. If the treaty was made in the heads-of-States form, the representative received a Full Power signed by the King; the instrument of ratification was signed by His Majesty acting on the advice of the Government of India.

3. By the Indian Independence Act, 1947 (of the United Kingdom Parliament) provision was made for the setting up of two separate "Dominions"—India and Pakistan. As a result, provision was made by the Indian Independence (International Arrangements) Order, 1947, for the apportionment between these two countries of international rights and obligations to which India was entitled before 15 August 1947. Under this Order, membership of all international organizations devolved solely upon India. As regards rights and obligations under existing international agreements having an exclusive territorial application to an area comprised within the new State of India, the Order provided that these should devolve exclusively upon India; a similar provision was made as regards international agreements having an exclusive territorial application to an area comprised within Pakistan.

4. India, as from 26 January 1950, declared herself to be a Republic owing no allegiance to the King, and not forming part of his dominions, but acknowledging him as Head of the Commonwealth of Nations of which India continues to be a member. India, therefore, no longer concludes treaties in the King's name.

(b) MEMORANDUM OF 19 APRIL 1951 FROM THE GOVERNMENT OF INDIA

1. Under article 73 of the Constitution of India "The exclusive power of the Union shall extend to the matters in respect of which Parliament has power to make laws", and under article 53 the executive power of the Union "is vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution". Under article 246 (1) "Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the 'Union List')". List I, clause 14, contains the item: "entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries".

2. Parliament has not made any laws so far on the subject, and, until it does so, the President's power to enter into treaties (which is after all an executive act) remains unfettered by any "internal constitutional restrictions".

3. In practice, the President does not negotiate and conclude a treaty or agreement himself. Plenipotentiaries are appointed for this purpose, and they act under full powers issued by the President. It is, however, the President who ratifies a treaty.

4. Apart from treaties made between heads of states, agreements of a technical or administrative character are also made by the Government

of India with other governments. Such agreements are made in the name of the signatory governments, and are signed by the representatives of these governments. Full powers are granted and ratification is effected on behalf of the Government.

### 38. Indonesia

#### (a) HISTORICAL NOTE PREPARED BY THE SECRETARIAT OF THE UNITED NATIONS

1. A Round Table Conference met at The Hague from August to November 1949. There were represented at this conference the Government of the Netherlands, the Government of the Republic of Indonesia, and the (Indonesian) Federal Consultative Assembly. The purpose of this conference was to reach an agreement on the future political status of Indonesia. At that time the Republic of Indonesia consisted of a number of states bound together in a federation, and the Conference took note of a Constitution for the Republic of the United States of Indonesia. This Constitution was, however, superseded, in August 1950 (when the federal structure of the State was replaced by a unitary one), by the promulgation of the Provisional Constitution of the Republic of Indonesia, the relevant portions of which appear below. An agreement was reached at the conference regulating the conduct of foreign relations by the two States which constitute the Netherlands—Indonesian Union. This was entitled "Agreement between the Union Partners concerning foreign relations" and at the present time<sup>1</sup> is still in force.

2. By article 5 of the Agreement on Transitional Measures (*Security Council Official Records, Fourth Year, Special Supplement No. 6*, p. 102) the Kingdom of the Netherlands and the Republic of the United States of Indonesia agreed that "the rights and obligations of the Kingdom arising out of treaties and other international agreements concluded by the Kingdom shall be considered as rights and obligations of the Republic of the United States of Indonesia only where and inasmuch as such treaties and agreements are applicable to the jurisdiction of the Republic of the United States of Indonesia, and with the exception of rights and duties arising out of treaties and agreements to which the Republic of the United States of Indonesia cannot become a party on the ground of the provisions of such treaties and agreements".

3. On 19 May 1950, the Government of the United States of Indonesia—also acting on behalf of the member states of East Indonesia and East Sumatra—and the Government of the member state of the Republic of Indonesia reached an agreement jointly to establish a unitary state to be called the "Republic of Indonesia". This unitary state includes the old Republic of Indonesia and all the other member states of the "Republic of the United States of Indonesia". On 15 August 1950, the President of the Republic of the United States of Indonesia proclaimed a Charter declaring, "as an internal change, the establishment of the Unitary State of the Republic of Indonesia comprising the whole Indonesian country and nation of Indonesia".

<sup>1</sup> 1 April 1952.