from the Montreux Convention of 8 May 1937, and the fate of the old capitulation privileges relating particularly to the Mixed Courts, the Health Board and the *Caisse de la Dette*, the Soviet Government — as pointed out in your note — in the very first days of its life, and on the principle of equal rights for all nations, spontaneously repudiated, once and for all, any agreements, capitulations, special privileges etc. benefiting the Czarist Government which were incompatible with the principle of equal rights.

This repudiation naturally applied, and continues to apply, in the case of Egypt.

United Kingdom of Great Britain and Northern Ireland

Transmitted by a letter dated 26 February 1965 from the Permanent Representative of the United Kingdom to the United Nations

A. TREATIES

I. Texts

(a) *Multilateral instruments*

1. FINAL DECLARATION OF THE INTERNATIONAL CONFERENCE IN TANGIER. SIGNED AT TANGIER ON 29 OCTOBER 1956[1]

. . .

I

. . .

Have agreed to recognize the abolition of the international régime of the Tangier Zone and hereby declared abrogated, in so far as they have participated therein, all acts, agreements and conventions concerning the said régime.

. . .

Courts, the Health Board and the *Caisse de la Dette*, are incompatible. It will be readily understood that this stipulation, which has been accepted by all States, should likewise be accepted by the Soviet Government, which from its inception has proclaimed the principle of the abolition of capitulations wherever they existed."

[1] United Nations, *Treaty Series*, vol. 263, p. 165. Came into force on 29 October 1956, the date of signature. The Declaration is signed by the Governments of Belgium, Spain, the United States of America, France, Italy, Morocco, the Netherlands, Portugal and the United Kingdom of Great Britain and Northern Ireland.

2. TREATY CONCERNING THE ESTABLISHMENT OF THE REPUBLIC OF CYPRUS BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, GREECE AND TURKEY OF THE ONE PART AND THE REPUBLIC OF CYPRUS OF THE OTHER. SIGNED AT NICOSIA ON 16 AUGUST 1960

[See CYPRUS, section A]

(b) *Bilateral instruments*

1. AGREEMENT AS TO THE DEVOLUTION OF INTERNATIONAL RIGHTS AND OBLIGATIONS UPON THE DOMINIONS OF INDIA AND PAKISTAN [SCHEDULE TO THE INDIAN INDEPENDENCE (INTERNATIONAL ARRANGEMENTS) ORDER, 1947][1]

1. The international rights and obligations to which India is entitled and subject immediately before the 15th day of August, 1947, will devolve in accordance with the provisions of this agreement.

2. (1) Membership of all international organisations together with the rights and obligations attaching to such membership, will devolve solely upon the Dominion of India.

For the purposes of this paragraph any rights or obligations arising under the Final Act of the United Nations Monetary and Financial Conference will be deemed to be rights or obligations attached to membership of the International Monetary Fund and to membership of the International Bank for Reconstruction and Development.

(2) The Dominion of Pakistan will take such steps as may be necessary to apply for membership of such international organisations as it chooses to join.

3. (1) Rights and obligations under international agreements having an exclusive territorial application to an area comprised in the Dominion of India will devolve upon that Dominion.

(2) Rights and obligations under international agreements having an exclusive territorial application to an area comprised in the Dominion of Pakistan will devolve upon that Dominion.

4. Subject to Articles 2 and 3 of this agreement, rights and obligations under all international agreements to which India is a party immediately before the appointed day will devolve both upon the Dominion of India and upon the Dominion of Pakistan, and will, if necessary, be apportioned between the two Dominions.

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[1] *Gazette of India Extraordinary*, 14 August 1947. *The Indian Independence (International Arrangements) Order, 1947*, reads as follows:

"WHEREAS the agreement set out in the Schedule to this Order has been reached at a meeting of the Partition Council on the 6th day of August, 1947;

"AND WHEREAS it is intended that, as from the 15th day of August, 1947, the said agreement shall have the force and effect of an agreement between the Dominions of India and Pakistan;

"NOW THEREFORE in exercise of the powers conferred upon him by section 9 of the Indian Independence Act, 1947 and of all other powers enabling him in that behalf, the Governor-General hereby orders as follows:—

"1. This Order may be cited as the Indian Independence (International Arrangements) Order, 1947.

"2. The agreement set out in the Schedule to this Order shall, as from the appointed day, have the effect of an agreement duly made between the Dominion of India and the Dominion of Pakistan. *Schedule* [text reproduced above]. (*Signed*) Mountbatten of Burma, Governor-General, K. V. K. Sundaram, Officer on Special Duty."

2. Treaty (with Exchange of Notes) between the Government of the United Kingdom of Great Britain and Northern Ireland and the Provisional Government of Burma regarding the Recognition of Burmese independence and related matters. Signed at London, on 17 October 1947[1]

Article 1

The Government of the United Kingdom recognise the Republic of the Union of Burma as a fully independent sovereign State.

The contracting Governments agree to the exchange of diplomatic representatives duly accredited.

Article 2

All obligations and responsibilities heretofore devolving on the Government of the United Kingdom which arise from any valid international instrument shall henceforth, in so far as such instrument may be held to have application to Burma, devolve upon the Provisional Government of Burma. The rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Burma shall henceforth be enjoyed by the Provisional Government of Burma.

Article 3

Any person who at the date of the coming into force of the present Treaty is, by virtue of the Constitution of the Union of Burma, a citizen thereof and who is, or by virtue of a subsequent election is deemed to be, also a British subject, may make a declaration of alienage in the manner prescribed by the law of the Union, and thereupon shall cease to be a citizen of the Union.

The Provisional Government of Burma undertake to introduce in the Parliament of the Union as early as possible, and in any case within a period of one year from the coming into force of the present Treaty legislation for the purpose of implementing the provisions of this Article

• • •

Article 5

The Provisional Government of Burma reaffirm their obligation to pay to British subjects domiciled on the date of the coming into force of the present Treaty in any country other than India and Pakistan all pensions, proportionate pensions, gratuities, family pension fund and provident fund payments and contributions, leave salaries and other sums payable to them from the revenues of Burma or other funds under the control of the executive authority of Burma, in virtue of all periods of service prior to that date under the rules applicable immediately prior thereto.

. . .

[1] United Nations, *Treaty Series*, vol. 70, p. 184. Came into force on 1 January 1948.

Article 7

(*a*) All contracts other than contracts for personal service made in the exercise of the executive authority of Burma before the coming into force of the Constitution of the Union of Burma to which any person being a British subject domiciled in the United Kingdom or any Company, wherever registered, which is mainly owned, or which is managed and controlled by British subjects so domiciled, was a party, or under which any such person or company was entitled to any right or benefit, shall as from that date, have effect as if made by the Provisional Government of Burma as constituted on and from that date; and all obligations that were binding on the Provisional Government of Burma immediately prior to the said date, and all liabilities, contractual or otherwise, to which that Government was then subject, shall, in so far as any such person or company as aforesaid is interested, devolve on the Provisional Government of Burma as so constituted.

(*b*) In so far as any property, or any interest in any property vested in any person or authority in Burma before the coming into force of the Constitution of the Union of Burma, or the benefit of any contract entered into by any such person or authority before that date, is thereafter transferred to, or vested in the Provisional or any successor Government of Burma, it shall be so transferred or vested subject to such rights as may previously have been created and still subsist therein, or in respect thereof, in favour of any person or company of the status or character described in the preceding sub-article.

Article 8

The contracting Governments being resolved to conclude at the earliest possible date a mutually satisfactory Treaty of Commerce and Navigation have agreed for a period of two years from the date of the coming into force of the present Treaty or until the conclusion of such a Treaty of Commerce and Navigation to conduct their commercial relations in the spirit of Nos. 1-3 of the Exchange of Notes annexed hereto, provided that, at any time after six months from the date of the coming into force of the present Treaty, either party may give three months' notice to terminate the undertaking set out therein.

Article 9

The contracting Governments agree to maintain postal services, including Air Mail services and Money Order services, on the existing basis, subject to any alteration in matters of detail which may be arranged between their respective Postal Administrations as occasion may arise.

. . .

Article 11

The contracting Governments will accord to each other the same treatment in civil aviation matters as heretofore, pending the conclusion of an Agreement in regard to them, provided that this arrangement may be terminated on six months' notice given by either side.

EXCHANGE OF NOTES

No. 1

Mr. C. R. Attlee to Thakin Nu

10 Downing Street,
London, 17th October, 1947

Sir,

WITH a view to the most friendly commercial relations with the new independent State of Burma, the Government of the United Kingdom are desirous to conclude a Commercial Treaty with the least possible delay, but realise that the complex nature of such a Treaty makes it impossible to hope to complete negotiations before the coming into force of the Constitution of the Union of Burma. At the same time the Government of the United Kingdom are sure that the Provisional Government of Burma share their view that the commercial relations of the two countries should not be left entirely unregulated in the meantime and that suitable transitional arrangements cannot but help the conclusion of a mutually satisfactory Treaty at as early a date as possible.

2. I have therefore to express the hope that the Provisional Government of Burma will not during this interim period take action which would prejudicially affect existing United Kingdom interests in Burma in the legitimate conduct of the businesses or professions in which they are now engaged, and that if the Provisional Government of Burma, in the formulation of national policy, are convinced that such action must be taken in any particular case they will consult with the Government of the United Kingdom in advance with a view to reaching a mutually satisfactory settlement. For their part the Government of the United Kingdom will be glad to observe the same principles in regard to the treatment of Burman interests in the United Kingdom.

3. If the Provisional Government of Burma agree with the foregoing proposals, I suggest that this letter and your reply should constitute an understanding between our two Governments to that effect.

I have, &c.
(*Signed*) C. R. ATTLEE.

No. 2

Thakin Nu to Mr. C. R. Attlee

Sir, *London, 17th October, 1947*

I have the honour on behalf of the Provisional Government of Burma to acknowledge receipt of your letter of to-day's date. The Provisional Government of Burma share the view of the Government of the United Kingdom that the commercial relations of the two countries should not be left entirely unregulated during the period which will elapse between the coming into force of the Constitution of the Union of Burma and the conclusion of a mutually satisfactory Treaty of Commerce and Navigation. The Provisional Government of Burma therefore agree, subject to paragraph 2 below, that they will not take action which would prejudicially affect existing United Kingdom interests in Burma in the legitimate conduct of the businesses or professions in which they are now engaged. The Provisional Government of Burma also agree that

if convinced of the necessity of such action in any particular case they will consult with the Government of the United Kingdom in advance with a view to reaching a mutually satisfactory settlement, although there may be occasional cases of emergency in which full prior consultation is impracticable and only short notice can be given to the United Kingdom Ambassador. The Provisional Government of Burma note with satisfaction that the Government of the United Kingdom will observe the same principles in regard to the treatment of Burman interests in the United Kingdom.

2. I have however to explain that the undertaking given in the preceding paragraph must be read as subject to the provisions of the Constitution of the Union of Burma as now adopted, and in particular to the policy of State socialism therein contained to which my Government is committed. If however the implementation of the provisions of Articles 23 (4) and (5), 30, 218, or 219 of the Constitution should involve the expropriation or acquisition in whole or in part of existing United Kingdom interests in Burma, the Provisional Government of Burma will provide equitable compensation to the parties affected.

3. Finally I suggest that, in so far as questions arise which, in the opinion of either Government, do not appropriately fall within the scope of the preceding paragraphs of this letter, these should be discussed by representatives of our two Governments, and decided in accordance with the generally accepted principles of international law and with modern international practice.

I have, &c.
(*Signed*) THAKIN NU

No. 3

Mr. C. R. Attlee to Thakin Nu

10 Downing Street,
London, 17th October, 1947

Sir,

I have the honour, on behalf of the Government of the United Kingdom, to acknowledge receipt of your letter of to-day's date. The Government of the United Kingdom welcome both the Provisional Government of Burma's acceptance of the suggestion contained in my previous letter and their assurance of equitable compensation to United Kingdom interests in the circumstances set out in paragraph 2 of your letter. The Government of the United Kingdom readily accept the suggestion contained in paragraph 3 of your letter.

I have, &c.
(*Signed*) C. R. ATTLEE.

3. EXTERNAL AFFAIRS AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND CEYLON. SIGNED AT COLOMBO ON 11 NOVEMBER 1947[1]

Whereas Ceylon has reached the stage in constitutional development at which she is ready to assume the status of a fully responsible member of the British Commonwealth of Nations, in no way subordinate in any aspect of domestic or external affairs, freely associated and united by common allegiance to the Crown;

And whereas the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ceylon are desirous of entering into an agreement to provide for certain matters relating to external affairs;

Therefore the Government of the United Kingdom and the Government of Ceylon have agreed as follows:—

(1) The Government of Ceylon declares the readiness of Ceylon to adopt and follow the resolutions of past Imperial Conferences.

(2) In regard to external affairs generally, and in particular to the communication of information and consultation, the Government of the United Kingdom will, in relation to Ceylon observe the principles and practice now observed by the Members of the Commonwealth, and the Ceylon Government will for its part observe these same principles and practice.

(3) The Ceylon Government will be represented in London by a High Commissioner for Ceylon, and the Government of the United Kingdom will be represented in Colombo by a High Commissioner for the United Kingdom.

(4) If the Government of Ceylon so requests, the Government of the United Kingdom will communicate to the Governments of the foreign countries with which Ceylon wishes to exchange diplomatic representatives proposals for such exchange. In any foreign country where Ceylon has no diplomatic representative the Government of the United Kingdom will, if so requested by the Government of Ceylon, arrange for its representatives to act on behalf of Ceylon.

(5) The Government of the United Kingdom will lend its full support to any application by Ceylon for membership of the United Nations, or of any specialised international agency as described in Article 57 of the United Nations Charter.

(6) . . .

[See CEYLON above]

(7) This Agreement will take effect on the day when the constitutional measures necessary for conferring on Ceylon fully responsible status within the British Commonwealth of Nations shall come into force.

. . .

[1] United Nations, *Treaty Series*, vol. 86, p. 25. Came into force on 4 February 1948.

4. PUBLIC OFFICERS AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND CEYLON. SIGNED AT COLOMBO ON 11 NOVEMBER 1947[1]

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ceylon have agreed as follows:—

(1) In this Agreement:—

"officer" means a person holding office in the public service of Ceylon immediately before the appointed day, being an officer—

(*a*) who at any time before the 17th day of July, 1928, was appointed or selected for appointment to an office, appointment to which was subject to the approval of a Secretary of State, or who, before that day, had entered into an agreement with the Crown Agents for the Colonies to serve in any public office for a specified period; or

(*b*) who on or after the 17th day of July, 1928, has been or is appointed or selected for appointment (otherwise than on agreement for a specific period) to an office, appointment to which is subject to the approval of a Secretary of State; or

(*c*) who, on or after the 17th day of July, 1928, has entered or enters into an agreement with the Crown Agents for the Colonies to serve for a specific period in an office, appointment to which is not subject to the approval of a Secretary of State, and who, on the appointed day, either has been confirmed in a permanent and pensionable office or is a European member of the Police Force;

"the appointed day" means the day when the constitutional measures necessary for conferring on Ceylon fully responsible status within the British-Commonwealth of Nations shall come into force;

"pension" includes a gratuity and other like allowance.

(2) An officer who continues on and after the appointed day to serve in Ceylon shall be entitled to receive from the Government of Ceylon the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or, as the case may be, as respects the tenure of office, or rights as similar thereto as changed circumstances may permit, as he was entitled to immediately before the appointed day, and he shall be entitled to leave passages in accordance with the practice now followed; but he shall not be entitled to exemption from any general revision of salaries which the Government of Ceylon may find it necessary to make.

(3) Any officer who does not wish to continue to serve in Ceylon, being an officer described in paragraph (a) of the definition of "officer" in Clause 1, may retire from the service at any time; and in any other case may retire from the service within two years of the appointed day. On such retirement he shall be entitled to receive from the Government of Ceylon a compensatory pension in accordance with the special regulations made under Section 88 of the Ceylon (State Council) Order in Council, 1931, in force on the appointed day; but an officer who leaves the Ceylon service on transfer to the Public Service in any colony, protectorate or mandated or trust territory shall not be entitled to receive such a pension.

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[1] United Nations, *Treaty Series*, vol. 86, p. 31. Came into force on 4 February 1948.

(4) Pensions which have been or may be granted to any persons who have been, and have ceased to be, in the public service of Ceylon at any time before the appointed day, or to the widows, children or dependants of such persons, shall be paid in accordance with the law under which they were granted, or if granted after that day, in accordance with the law in force on that day, or in either case in accordance with any law made thereafter which is not less favourable.

5. TRAITÉ ENTRE LA FRANCE ET LE MAROC FAIT À RABAT LE 20 MAI 1956 ET SIGNÉ À PARIS LE 28 MAI 1956[1]

. . .

Article 11

Le Maroc assume les obligations résultant des traités internationaux passés par la France au nom du Maroc, ainsi que celles qui résultent des actes internationaux relatifs au Maroc qui n'ont pas donné lieu à des observations de sa part.

. . .

6. EXCHANGE OF LETTERS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FEDERATION OF MALAYA RELATING TO THE INHERITANCE OF INTERNATIONAL RIGHTS AND OBLIGATIONS BY THE GOVERNMENT OF THE FEDERATION OF MALAYA. KUALA LUMPUR, 12 SEPTEMBER 1957

[See MALAYSIA, section A 2]

7. EXCHANGE OF LETTERS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF GHANA RELATIVE TO THE INHERITANCE OF INTERNATIONAL RIGHTS AND OBLIGATIONS BY THE GOVERNMENT OF GHANA. ACCRA, 25 NOVEMBER 1957

[See GHANA, section A]

8. TREATY OF FRIENDSHIP (WITH EXCHANGE OF NOTES) CONCLUDED BETWEEN ITALY AND SOMALIA. MOGADISCIO, ON 1 JULY 1960[2]

. . .

Note from the Head of the Italian Delegation addressed to the Head of the Somali Delegation

With reference to the Treaty of Friendship concluded this day between our two countries, I have the honour to inform Your Excellency as follows:

(1) It is agreed that upon the entry into force of the aforesaid Treaty

[1] *Revue Générale de Droit International Public*, troisième série, tome LX, 1956, p. 481. Une version en anglais de ce traité a été publiée dans *The American Journal of International Law*, vol. 51,1957, p. 679.

[2] English translation provided by the Government of the United Kingdom. For original Italian text see: *Diritto Internazionale*, vol. XVI, 1962, pp. 440-442 and *Bollettino Ufficiale della Repubblica Somala*, Anno II, 31 Dicembre 1961, Suppl. N. 9 al N. 12, pp. 5-9.

the Government of Somalia shall succeed the Italian Government in all the rights and obligations arising out of international instruments concluded by the Italian Government in its capacity as the Administering Authority for the Trust Territory, in the name of and on behalf of Somaliland up to June 30, 1960;

(2) In accordance with the purposes and the principle of Article 12 of the Trusteeship Agreement for Somaliland of January 27, 1950, the Italian Government considers itself bound to provide the attached list of the multilateral agreements entered into by Italy before 1950 on humanitarian, social, health, legal and administrative matters and applied to Somaliland;[1]

Upon the accession of Somalia to independence, all responsibilities and all obligations assumed by the Italian Government under these agreements, in so far as they extend to Somalia, shall cease with regard both to the Somali Government and to third States.

This note, the list which accompanies it, and the reply which Your Excellency will kindly send me, shall constitute an agreement between the two Governments and shall form an integral part of the aforesaid Treaty.[2]

9. EXCHANGE OF LETTERS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE FEDERATION OF NIGERIA RELATIVE TO THE INHERITANCE OF INTERNATIONAL RIGHTS AND OBLIGATIONS BY THE GOVERNMENT OF THE FEDERATION OF NIGERIA. LAGOS, 1 OCTOBER 1960

[See NIGERIA, section A]

10. EXCHANGE OF LETTERS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF SIERRA LEONE RELATING TO THE INHERITANCE OF INTERNATIONAL RIGHTS AND OBLIGATIONS BY THE GOVERNMENT OF SIERRA LEONE. FREETOWN, 5 MAY 1961[3]

Letter from the High Commissioner for the United Kingdom in Sierra Leone to the Minister of External Affairs of Sierra Leone

Freetown,
5th May, 1961

Sir,

I have the honour to refer to the Sierra Leone Independence Act, 1961, under which Sierra Leone has assumed independent status within the Commonwealth of which Her Majesty the Queen is Head, and to state that it is the understanding of the Government of the United Kingdom of Great Britain and Northern Ireland that the Government of Sierra Leone agree to the following provisions:

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[1] The Italian Note was accompanied by a list of nineteen multilateral conventions entered into by Italy and extended to Somalia before the beginning of the Trusteeship.

[2] The text of the Somali Note has not been provided by the Government of the United Kingdom. For the Italian text of the Somali Note see: *Diritto Internazionale*, op. cit., p. 442 and *Bollettino Ufficiale della Repubblica Somala*, op. cit., p. 9. The Somali Government agrees with the content of paragraph 1 of the Italian Note and takes note of the information provided in accordance with paragraph 2.

[3] United Nations, *Treaty Series*, vol. 420, p. 11. Came into force on 5 May 1961.

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument shall be assumed by the Government of Sierra Leone as from 27th April, 1961, in so far as such instrument may be held to have application to Sierra Leone;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Sierra Leone shall, as from 27th April, 1961, be enjoyed by the Government of Sierra Leone.

I shall be grateful for your confirmation that the Government of Sierra Leone are in agreement with the provisions aforesaid and that this note and your reply shall constitute an agreement between the two Governments.

I have the honour to be,
Sir,
Your most obedient humble Servant,
(*Signed*) J. B. JOHNSTON
High Commissioner

Letter from the Minister of External Affairs of Sierra Leone to the High Commissioner for the United Kingdom in Sierra Leone

Freetown,
5th May, 1961

Sir,

I have the honour to acknowledge the receipt of your note of today's date which reads as follows:

Sir,

I have the honour to refer to the Sierra Leone Independence Act, 1961, under which Sierra Leone has assumed independent status within the Commonwealth of which Her Majesty the Queen is Head, and to state that it is the understanding of the Government of the United Kingdom of Great Britain and Northern Ireland that the Government of Sierra Leone agree to the following provisions:

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument shall be assumed by the Government of Sierra Leone as from 27th April, 1961, in so far as such instrument may be held to have application to Sierra Leone;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Sierra Leone shall, as from 27th April, 1961, be enjoyed by the Government of Sierra Leone.

I shall be grateful for your confirmation that the Government of Sierra Leone are in agreement with the provisions aforesaid and that this note and your reply shall constitute an agreement between the two Governments.

I have the honour to be,
Sir,
Your most obedient humble Servant,
(*Signed*) J. B. JOHNSTON

I have pleasure in confirming that the Government of Sierra Leone are in agreement with the provisions set out in your note of today's date, and that Your Excellency's note and this reply shall constitute an agreement between the two Governments.

I have the honour to be,

Sir,

Your most obedient humble Servant,

(*Signed*) J. KAREFA-SMART

Minister of External Affairs

11. EXCHANGE OF LETTERS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF JAMAICA RELATING TO THE INHERITANCE OF INTERNATIONAL RIGHTS AND OBLIGATIONS BY THE GOVERNMENT OF JAMAICA. KINGSTON, 7 AUGUST 1962[1]

Letter from the British High Commissioner in Jamaica to the Prime Minister of Jamaica

Kingston
7th August, 1962

Sir,

I have the honour to refer to the Jamaica Independence Act, 1962, under which Jamaica has assumed independent status within the Commonwealth of which Her Majesty the Queen is Head, and to state that it is the understanding of the Government of the United Kingdom of Great Britain and Northern Ireland that the Government of Jamaica agree to the following provisions:

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument (including any such instrument made by the Government of the Federation of the West Indies by virtue of authority entrusted by the Government of the United Kingdom) shall as from 6th August, 1962 be assumed by the Government of Jamaica, in so far as such instrument may be held to have application to Jamaica;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Jamaica shall as from 6th August, 1962 be enjoyed by the Government of Jamaica.

I shall be grateful for your confirmation that the Government of Jamaica are in agreement with the provisions aforesaid and that this Note and your reply shall constitute an agreement between the two Governments.

I have the honour to be,

Sir,

Your most obedient, humble servant,

(*Signed*) A. F. MORLEY

High Commissioner

[1] United Nations, *Treaty Series*, vol. 457, p. 117. Came into force on 7 August 1962.

Letter from the Prime Minister of Jamaica to the British High Commissioner in Jamaica

Kingston
7th August, 1962

Your Excellency,

I have the honour to acknowledge receipt of your Note of today's date which reads as follows:—

"Sir,

"I have the honour to refer to the Jamaica Independence Act, 1962, under which Jamaica has assumed independent status within the Commonwealth of which Her Majesty the Queen is Head, and to state that it is the understanding of the Government of the United Kingdom of Great Britain and Northern Ireland that the Government of Jamaica agree to the following provisions:

"(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument (including any such instrument made by the Government of the Federation of the West Indies by virtue of authority entrusted by the Government of the United Kingdom) shall as from 6th August, 1962 be assumed by the Government of Jamaica, in so far as such instrument may be held to have application to Jamaica;

"(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Jamaica shall as from 6th August, 1962 be enjoyed by the Government of Jamaica.

"I shall be grateful for your confirmation that the Government of Jamaica are in agreement with the provisions aforesaid and that this Note and your reply shall constitute an agreement between the two Governments.

"I have the honour to be,

"Sir,

"Your most obedient, humble servant,

"A. F. MORLEY

"*High Commissioner*"

I have pleasure in confirming that the Government of Jamaica are in agreement with the provisions set out in your Note of today's date, and that Your Excellency's Note and this reply shall constitute an agreement between the two Governments.

I have the honour to be,

Sir,

Your most obedient, humble servant,

(*Signed*) Alexander BUSTAMANTE

Prime Minister and Minister of External Affairs and Defence

12. EXCHANGE OF LETTERS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF TRINIDAD AND TOBAGO RELATING TO THE INHERITANCE OF INTERNATIONAL RIGHTS AND OBLIGATIONS BY THE GOVERNMENT OF TRINIDAD AND TOBAGO. PORT OF SPAIN, 31 AUGUST 1962[1]

Letter from the British High Commissioner in Trinidad and Tobago to the Prime Minister of Trinidad and Tobago

Port of Spain
31st August, 1962

Sir,

I have the honour to refer to the Trinidad and Tobago Independence Act, 1962, under which Trinidad and Tobago has assumed independent status within the Commonwealth of which Her Majesty the Queen is Head, and to state that it is the understanding of the Government of the United Kingdom of Great Britain and Northern Ireland that the Government of Trinidad and Tobago agree to the following provisions:—

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument (including any such instruments made by the Government of the Federation of the West Indies by virtue of authority entrusted by the Government of the United Kingdom) shall henceforth be assumed by the Government of Trinidad and Tobago, in so far as such instruments may be held to have application to Trinidad and Tobago;

(ii) the rights and benefits which heretofore were enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Trinidad and Tobago shall henceforth be enjoyed by the Government of Trinidad and Tobago.

2. I shall be grateful for your confirmation that the Government of Trinidad and Tobago are in agreement with the provisions aforesaid, and that this letter and your reply shall constitute an agreement between the two Governments.

I have the honour to be,

Sir,
Your most obedient humble servant,

(Signed) N. E. COSTAR
High Commissioner

[1] United Nations, *Treaty Series*, vol. 457, p. 123. Came into force on 31 August 1962.

Letter from the Prime Minister of Trinidad and Tobago to the British High Commissioner in Trinidad and Tobago

Port of Spain
31st August, 1962

Your Excellency,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

"I have the honour to refer to the Trinidad and Tobago Independence Act, 1962, under which Trinidad and Tobago has assumed independent status within the Commonwealth of which Her Majesty the Queen is Head, and to state that it is the understanding of the Government of the United Kingdom of Great Britain and Northern Ireland that the Government of Trinidad and Tobago agree to the following provisions:—

"(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument (including any such instruments made by the Government of the Federation of the West Indies by virtue of authority entrusted by the Government of the United Kingdom) shall henceforth be assumed by the Government of Trinidad and Tobago, in so far as such instruments may be held to have application to Trinidad and Tobago;

"(ii) the rights and benefits which heretofore were enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Trinidad and Tobago shall henceforth be enjoyed by the Government of Trinidad and Tobago.

"2. I shall be grateful for your confirmation that the Government of Trinidad and Tobago are in agreement with the provisions aforesaid, and that this letter and your reply shall constitute an agreement between the two Governments."

I have pleasure in confirming that the Government of Trinidad and Tobago are in agreement with the provisions set out in your letter of today's date, and that Your Excellency's letter and this reply shall constitute an agreement between the two Governments.

I have the honour to be,

Sir,
Your most obedient humble servant,

(*Signed*) Eric WILLIAMS
Prime Minister

13. EXCHANGE OF LETTERS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF MALTA RELATING TO THE INHERITANCE OF INTERNATIONAL RIGHTS AND OBLIGATIONS BY THE GOVERNMENT OF MALTA. FLORIANA AND VALLETTA, 31 DECEMBER 1964[1]

Letter from the High Commissioner for the United Kingdom to the Prime Minister of Malta

Floriana
31 December, 1964

Sir,

I have the honour to refer to the Malta Independence Act 1964 and to state that it is the understanding of the Government of the United Kingdom that the Government of Malta are in agreement with the following provisions:—

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument shall, as from the 21st September, 1964, be assumed by the Government of Malta in so far as such instruments may be held to have application to Malta;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Malta shall, as from the 21st September, 1964, be enjoyed by the Government of Malta.

I shall be grateful for your confirmation that the Government of Malta are in agreement with the provisions aforesaid and that this letter and your reply shall constitute an agreement between the two Governments.

I have the honour to be, Sir,
Your most obedient,
humble Servant,
High Commissioner

Letter from the Prime Minister of Malta to the High Commissioner for the United Kingdom in Malta

Valletta,
31 December 1964

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's letter of 31st December, 1964, which reads as follows:

"I have the honour to refer to the Malta Independence Act 1964 and to state that it is the understanding of the Government of the United Kingdom that the Government of Malta are in agreement with the following provisions:—

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument shall, as from the 21st September, 1964, be assumed

[1] United Nations, *Treaty Series*, vol. 525, p. 221. Came into force on 31 December 1964.

by the Government of Malta in so far as such instruments may be held to have application to Malta;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Malta shall, as from the 21st September, 1964, be enjoyed by the Government of Malta.

I shall be grateful for your confirmation that the Government of Malta are in agreement with the provisions aforesaid and that this letter and your reply shall constitute an agreement between the two Governments."

I have pleasure in confirming that the Government of Malta are in agreement with the provisions set out in your letter and that your letter and this reply shall constitute an agreement between the two Governments.

I have the honour to be,
With the highest consideration,
Your Excellency's obedient servant,
Prime Minister

II. Notes

(a) *Unilateral declarations made by new States concerning international instruments applied to their territories prior to independence*

1. *Tanganyika*

In a letter dated 9 December 1961, the Prime Minister of Tanganyika declared to the Secretary-General of the United Nations:

"The Government of Tanganyika is mindful of the desirability of maintaining, to the fullest extent compatible with the emergence into full independence of the State of Tanganyika, legal continuity between Tanganyika and the several States with which, through the action of the United Kingdom, the territory of Tanganyika was prior to independence in treaty relations. Accordingly, the Government of Tanganyika takes the present opportunity of making the following declaration:

"As regards bilateral treaties validly concluded by the United Kingdom on behalf of the territory of Tanganyika or validly applied or extended by the former to the territory of the latter, the Government of Tanganyika is willing to continue to apply within its territory, on a basis of reciprocity, the terms of all such treaties for a period of two years from the date of independence (i.e., until 8 December 1963) unless abrogated or modified earlier by mutual consent. At the expiry of that period, the Government of Tanganyika will regard such of these treaties which could not by the application of the rules of customary international law be regarded as otherwise surviving, as having terminated.

"It is the earnest hope of the Government of Tanganyika that during the aforementioned period of two years, the normal processes of diplomatic negotiations will enable it to reach satisfactory accord with the States concerned upon the possibility of the continuance or modification of such treaties.

"The Government of Tanganyika is conscious that the above

declaration applicable to bilateral treaties cannot with equal facility be applied to multilateral treaties. As regards these, therefore, the Government of Tanganyika proposes to review each of them individually and to indicate to the depositary in each case what steps it wishes to take in relation to each such instrument — whether by way of confirmation of termination, confirmation of succession or accession. During such interim period of review any party to a multilateral treaty which has prior to independence been applied or extended to Tanganyika may, on a basis of reciprocity, rely as against Tanganyika on the terms of such treaty."[1]

The Text of this declaration was circulated to all Members of the United Nations; and on 2 July 1962, the Permanent Representative of the United Kingdom replied as follows:

"I have the honour . . . to refer to the Note dated 9 December 1961, addressed to Your Excellency by the then Prime Minister of Tanganyika, setting out his Government's position in relation to international instruments concluded by the United Kingdom, whose provisions applied to Tanganyika prior to independence. Her Majesty's Government in the United Kingdom hereby declare that, upon Tanganyika becoming an independent Sovereign on the 9th of December 1961, they ceased to have the obligations or rights, which they formerly had, as the authority responsible for the administration of Tanganyika, as a result of the application of such international instruments to Tanganyika."

In the course of 1962 Tanganyika informed the United Nations that the rights and obligations of the United Kingdom in respect of Tanganyika, arising out of 42 international instruments relating to GATT, were to be considered as the rights and obligations of Tanganyika as from the date of independence; that she, Tanganyika, considered herself bound by the 1946 Convention on the Privileges and Immunities of the United Nations; and that she also was bound by the 1947 Convention on the Privileges and Immunities of the Specialized Agencies.[2]

The attitude of Her Majesty's Government to the question of the inheritance of treaty rights and obligations by Tanganyika may be summarised as follows. In March 1961 the British Government suggested to the Government of Tanganyika that it should, on independence, exchange letters with the British Government in order that Tanganyika would continue to enjoy the rights and obligations under treaties made by the British Government on behalf of Tanganyika. This had been the recent practice when other territories dependent on the British Crown became sovereign States.

If this procedure had been agreed to by the Government of Tanganyika other States would no doubt have accepted that Tanganyika, by assuming all the obligations and responsibilities under such treaties, would be entitled to enjoy all the rights and benefits under such treaties.

The Tanganyika Government understood that the effect of an agreement as mentioned above might be to enable third States to call upon Tanganyika to perform certain treaty obligations from which Tanganyika would otherwise have been released by her emergence into in-

[1] *Yearbook of the International Law Commission, 1962*, vol. II, p. 121.
[2] *Ibid.*

dependent statehood. They were advised that such an agreement would probably not, by itself, enable them to insist that third States discharge towards Tanganyika the obligations which they had assumed under treaties with the United Kingdom.

The British Government recognised that the decision whether to enter into an inheritance agreement was entirely one for the Tanganyikan Government. Now that the Tanganyikan Government had published its intentions in a letter to the Secretary-General, the British Government must also make its position clear.

2. *Uganda*

Uganda, to which full sovereign status was granted by the 1962 Uganda Independence Act, became a fully independent member of the Commonwealth on 9 October 1962.

Uganda did not sign an Exchange of Letters concerning treaty rights and obligations on independence but instead elected to follow the precedent set by Tanganyika. Notice of Uganda's intention concerning treaties applicable in respect of its territory immediately before independence was given by means of a unilateral declaration by the Uganda Government which was sent to the Secretary-General of the United Nations and circulated to Members by him. This was followed by a disclaimer of responsibility by the United Kingdom also sent to the Secretary-General and circulated by him.

As far as the United Kingdom Government is concerned the same considerations apply in this case as in the case of Tanganyika.

The texts of the declaration (I) addressed by the Prime Minister of Uganda to the Secretary-General of the United Nations, dated 12 February 1963, and the disclaimer (II) contained in a letter from the Permanent Representative of the United Kingdom to the Secretary-General of the United Nations, dated 3 April 1963, are as follows:

I

"Prior to Uganda attaining independence on 9th October, 1962, treaty relationships were entered into, on its behalf, by the Government of the United Kingdom. The Government of Uganda now wishes to make clear its position in regard to obligations arising from those treaties entered into prior to 9th October, 1962, by the protecting Government. The Government of Uganda accordingly makes the following declarations.

"2. In respect of all treaties validly concluded by the United Kingdom on behalf of the Uganda Protectorate, or validly applied or extended by the former to the latter, before the 9th October, 1962, the Government of Uganda will continue on a basis of reciprocity to apply the terms of such treaties from the time of its independence, that is to say 9th October, 1962, until the 31st December, 1963, unless such treaties are abrogated, or modified by agreement with the other high contracting parties before 31st December, 1963. At the expiry of this period, or of any subsequent extension of the period which may be notified in like manner, the Government of Uganda will regard such treaties, unless they must by the application of the rules of customary international law be regarded as otherwise surviving, as having terminated.

"3. The declaration in the previous paragraph extends equally to multilateral treaties; and during this period of review any party to a multilateral treaty which was validly applied or extended to Uganda before the 9th October, 1962, may on a basis of reciprocity as indicated above, rely on the terms of such treaty as against the Government of Uganda.

"4. It is the earnest hope of the Government of Uganda that during the aforementioned period, the normal processes of diplomatic negotiations will enable it to reach satisfactory accord with the States concerned upon the possibility of the continuance or modification of such treaties. In the case of multilateral treaties, the Government of Uganda intends, before the 31st December, 1963, or such later date as may be subsequently notified in like manner, to indicate to the depository in each case the steps it wishes to take, whether by way of confirmation of termination, or confirmation of succession or accession, in regard to each such instrument.

"5. It would be appreciated if Your Excellency would arrange for the text of this declaration to be circulated to all Members of the United Nations."

II

I have the honour by direction of Her Majesty's Government in the United Kingdom of Great Britain and Northern Ireland to refer to the Note dated the 12th of February, 1963, addressed to Your Excellency by the Prime Minister of Uganda, setting out his Government's position in relation to international instruments concluded by the United Kingdom, whose provisions applied to Uganda prior to independence.

Her Majesty's Government in the United Kingdom hereby declare that, upon Uganda becoming an independent Sovereign State on the 9th of October, 1962, they ceased to have the obligations or rights, which they formerly had, as the Government responsible for the international relations of Uganda, as a result of the application of such international instruments to Uganda.

I am to request that this statement should be circulated to all Members of the United Nations.

(b) *Multilateral instruments*

1. *Convention for the Unification of certain Rules relating to International Carriage by Air, signed at Warsaw, on 12 October 1929*[1]

(i) *Burma*

Article 2 of the Treaty between the United Kingdom and the Provisional Government of Burma regarding the Recognition of Burmese Independence and Related Matters, concluded in London on 17 October 1947,[2] dealt with the question of obligations and responsibilities arising out of international instruments.

In 1947-48 it had been decided not to press the Burmese to notify their accession to international agreements to which His Majesty's Government had at one time or another acceded on their behalf. At

[1] League of Nations, *Treaty Series*, vol. CXXXVII, p. 11.

[2] See section A, I (*b*) 2, above.

that time the United Kingdom was primarily concerned to safeguard His Majesty's Government against any claims by third countries in respect of such agreements. It was considered that provided the United Kingdom's agreements with Burma were registered with the United Nations and were published, no more needed to be done. His Majesty's Government had always recognised, however, that Article 2 of the 1947 Anglo-Burmese Treaty could not bind third countries to accept the transfer of all treaty rights and obligations to Burma and that there was consequently always a possibility of some third country taking a different view from the United Kingdom and Burma on that matter. The Burmese themselves seemed to think that Article 2 of the Treaty was sufficient.

His Majesty's Government concluded that it would be expedient to leave most cases until a concrete instance arose. It was suggested that the Burmese should accede formally to the Warsaw Convention, pointing out to them at the same time that since Article 2 of the 1947 Treaty was legally binding only on the parties to that Treaty they might wish to take similar action in respect of other international instruments as and when the occasion arose.

(ii) *Nigeria*

Prior to the making of the Carriage by Air (Parties to Convention) Order 1961, which revised the previous similar Orders of 1958, the appropriate Nigerian authorities were informed of our intention that the Federation of Nigeria should no longer appear in Part I of the Schedule as a territory in respect of which the United Kingdom was a High Contracting Party to the Warsaw Convention of 1929.

Instead, it was explained that, in the view of the British Government, the effect of the Exchange of Letters concerning treaty rights and obligations dated 1 October 1960 (the Inheritance Agreement)[1] was that Nigeria was a separate High Contracting Party to the Convention and should therefore appear as such. Further, the date on which the Convention came into force with respect to Nigeria would continue to be shown as 3 March 1935, which was 90 days after the Convention was ratified by the United Kingdom on behalf of Nigeria.

The Nigerian authorities replied that, in their view, the relevant date should not be 3 March 1935 but such date as is notified to the other High Contracting Parties by the Government of the Republic of Poland, the custodian power, such date being 90 days after the Polish Government had received the Nigerian instrument of accession to the Convention.

The British Government reiterated their view that the effect of the Inheritance Agreement was that Nigeria had agreed to accept the rights and obligations arising under all treaties, conventions etc. signed by the United Kingdom prior to independence and applicable to Nigeria.

On reconsideration, the Nigerian authorities accepted this view and decided that no further action by Nigeria was necessary.

(iii) *Tanganyika*

Prior to the making of the Carriage by Air (parties to Convention) Order 1962, which revised the previous similar Order of 1961, the

[1] See NIGERIA, section A.

Tanganyika Government were informed of our intention that Tanganyika should no longer appear in Part I of the Schedule as a territory in respect of which the United Kingdom was a Contracting Party to the 1929 Warsaw Convention on International Carriage by Air.

Instead, it was explained that in the view of the British Government, the effect of the unilateral declaration made to the Secretary-General of the United Nations by the then Prime Minister of Tanganyika, Mr. Nyerere, concerning Tanganyika's intentions with regard to treaty rights and obligations, was that Tanganyika could now appear as a separate High Contracting Party and that the date on which the Convention came into force with respect to Tanganyika would remain the same as before, namely 3 March 1935, being 90 days after the Convention was ratified by the United Kingdom on behalf of Tanganyika.

2. *Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946*;[1] *Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on 21 November 1947*;[2] *and certain international instruments relating to GATT.*

Tanganyika

[See section A, II(*a*), 1 above]

3. *Convention on Road Traffic signed at Geneva on 19 September 1949*[3] *and Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, done at Geneva on 7 September 1956.*[4]

Cyprus

Article 8 of the Treaty concerning the Establishment of the Republic of Cyprus[5] deals with the question of international rights and obligations. Cyprus has indicated[6] that she considers herself bound by the following treaties which were made applicable to her by the United Kingdom:

(*a*) 1949 Convention on Road Traffic;

(*b*) 1956 Supplementary Convention on Slavery.

In the course of correspondence between the British High Commission in Nicosia and the Cyprus Ministry of Foreign Affairs concerning the applicability of the Convention on Road Traffic 1949 to the Republic, the Ministry forwarded the view that in their opinion a limited interpretation should be given to Article 8 of the Treaty of Establishment.

In their view, the mere fact that the United Kingdom had extended the application of a Convention or Treaty to Cyprus, while the latter was a Colony, did not necessarily mean that they were then bound by it. Article 8 should be confined to international instruments entered into

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[1] United Nations, *Treaty Series*, vol. I, p. 15.
[2] *Ibid.* vol. 33, p. 261.
[3] *Ibid.* vol. 125, p. 22.
[4] *Ibid.*, vol. 266, p. 3.
[5] See CYPRUS, section A.
[6] *Yearbook of the International Law Commission, 1962*, vol. II, p. 116, para. 77.

by the United Kingdom, with particular and localised reference to the territory of Cyprus.

They felt they were bound, in particular, by the Convention on Road Traffic because it was an international agreement and had the nature of international "legislation", regulating a particular international subject. Its law-making character and its multilateral nature indicated that the international community would expect any new member to abide by it.

In discussion between the two Governments on the interpretation of Article 8 it was argued that under customary international law a territory which has been carved out of the territories of an existing State, on becoming a new Sovereign State succeeded automatically to those rights and obligations of the existing State under international instruments which refer specifically to the territory of the new State. Such instruments concern local rights and duties and related, in general, to boundaries, rivers, etc. Consequently, in the view of the United Kingdom Government, Article 8 would have been quite unnecessary, if it only referred to such instruments as referred specifically to the territory of the Republic. Hence it could not have been the intention that Article 8 should have the limited interpretation suggested by the Cyprus Ministry of Foreign Affairs. The intention of the United Kingdom Government in relation to Article 8, as in relation to previous exchanges of letters concerning treaty rights and obligations with other former dependent territories, was that it should cover *all* international instruments which before independence bound the United Kingdom in respect of the territory of the Republic.

It was agreed that the view previously expressed by the Cyprus Ministry of Foreign Affairs was too limited and that the Ministry of Foreign Affairs should be advised accordingly.

4. *Treaty of Peace with Japan, signed at San Francisco on 8 September 1951*[1]
India and Pakistan

Article 11 of the Treaty of Peace with Japan provided, *inter alia*, that in the case of persons tried and sentenced by the International Military Tribunal for the Far East, the power to grant clemency, to reduce sentences and to parole, with respect to such persons may not be exercised except on the decision of a majority of the Governments represented on the Tribunal, on the recommendation of Japan.

In the view of the British Government, the power conferred under Article 11 was a right conferred by the Treaty and therefore came within the scope of the operation of Article 25. The language of these two Articles taken together was considered to exclude all but the Allied Powers as defined in the Treaty from participation in the exercise of this right. This in effect meant only those Powers which had signed and ratified the Treaty.

India, as territorially defined at present, was not a member of the original International Military Tribunal of the Far East. British India which then consisted of what is now India and Pakistan was, however, a member. India did not sign or ratify the Treaty. Pakistan did both.

We informed the Japanese Government that, in the opinion of the

[1] United Nations, *Treaty Series*, vol. 136, p. 45.

British Government, Pakistan and India were the legal successors of British India: that, as successor states, they both were qualified to exercise rights under Article 11, but only if they were parties to the Treaty: that only Pakistan, and not India, was such a party by virtue of the former's signature and ratification of the Treaty.

The Indian Government contested this view in a Note delivered to the British Government and claimed that when the Tribunal was set up in 1946, India was undivided but partition took place before the Tribunal's decisions in 1948. According to Article 2 (1) of the Agreement set out in the Schedule to the Indian Independence (International Arrangements) Order, 1947,[1] membership of all International Organisations together with the rights and obligations attaching to such membership devolved solely on India. The International Military Tribunal was such an Organisation and therefore the right of voting on questions of granting clemency etc. which was inherent in the nations represented on the Tribunal, devolved, by virtue of the above agreement, on India and not on Pakistan. Article 11 of the Treaty recognised this position and stated that the power to grant clemency etc. rested with those Governments represented on the Tribunal and India was so represented, not Pakistan. Article 25 did not affect the position because India's rights came into existence prior to and independently of the Treaty. Article 11 recognised the right but did not create it.

The British Government maintained their original view and replied to the Indian Government accordingly.

(c) *Bilateral instruments*

1. *Treaty of 31 December 1889*[2] *and Supplementary Treaty of 29 July 1909*[3] *between France and the United Kingdom of Great Britain and Northern Ireland extending to Tunisia the provisions of the Anglo-French Extradition Treaty of 14 August 1876*[4]

Tunisia

The provisions of the 1876 Extradition Treaty between France and the United Kingdom were extended to Tunis by a treaty of 1889.

In 1959 Her Majesty's Government informed the Tunisian Government that they considered the 1889 treaty and the 1909 supplementary treaty to be still binding on the grounds that Tunis was formerly a protectorate and therefore enjoyed a separate international personality.

The Tunisian Government replied in a Note dated 22 May 1959 that it did not consider itself bound by the treaties. Her Majesty's Government therefore informed Tunis that they were treating the Tunisian Note as notice of termination of the agreement and waiving the requirement of six months' notice to terminate.

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[1] See section A, I (*b*) 1, above.

[2] De Martens, *Nouveau Recueil Général de Traités*, deuxième série, tome XVI, p. 885.

[3] *Ibid.*, troisième série, tome III, p. 803.

[4] *Ibid.*, deuxième série, tome II, p. 456.

2. *Treaty of 14 May 1897*[1] *and Agreement of 29 November 1954*[2] *between Ethiopia and the United Kingdom of Great Britain and Northern Ireland*

Somalia

In the House of Commons on April 11, 1960, the Prime Minister, in answer to the question whether the 1897 Treaty and the 1954 Agreement between the United Kingdom and Ethiopia would apply to the proposed union between the Somaliland Protectorate [under the British administration] and Somalia [a United Nations Trusteeship territory under the Italian administration], replied:

> "Following the termination of the responsibilities of H.M. Government for the Government of the Protectorate, and in the absence of any fresh instruments, the provisions of the 1897 Anglo-Ethiopian Treaty should, in our view, be regarded as remaining in force as between Ethiopia and the successor State. On the other hand, Article III of the 1954 Agreement, which comprises most of what was additional to the 1897 Treaty, would, in our opinion, lapse."

3. *Anglo-Dutch Extradition Treaty of 26 September 1898*,[3] *Anglo-Dutch Convention regarding legal proceedings in civil and commercial matters of 31 May 1932*[4] *and other treaties and agreements concluded between the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland prior to 27 December 1949*

Indonesia

The position of Indonesia as a successor State with regard to treaties was covered, so far as the Netherlands was concerned, in the Agreement on Transitional Measures (especially Article 5) which was part of the overall settlement reached at the Round Table Conference, 1949.[5] It is there laid down that the rights and obligations of the Netherlands arising out of treaties concluded by them shall be considered as the 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 grounds of the provisions of such treaties

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[1] The Anglo-Ethiopian Treaty with Annexes, signed at Addis Ababa on 14 May 1897 (U.K. Treaty Series No. 2 (1898), C. 8715) defines the boundary between the Somaliland Protectorate and Ethiopia and provides for the rights and obligations of the parties on such matters as commercial activities across the frontier and through the caravan route open to both nations, import duties and local taxation, transit of arms, prohibition of the frontier-crossing of armed bands, the use of grazing-grounds by the tribes occupying either side of the frontier, and free access to the nearest wells by these tribes.

[2] The Agreement between the United Kingdom and Ethiopia, signed at London on 29 November 1954 (Cmnd. 9348), in part, stipulates the implementation of the provisions of the 1897 Anglo-Ethiopian Treaty, relating to grazing rights.

[3] De Martens, *Nouveau Recueil Général de Traités*, deuxième série, tome XXIX, p. 145.

[4] League of Nations, *Treaty Series*, vol. CXL, p. 287.

[5] See INDONESIA, section A, I, 1.

and agreements". However, as far as can be made out, neither the Indonesians nor the Dutch have ever made it clear precisely what treaties the former were deemed to have inherited from the latter. The Protocol and Exchange of Letters of 1954 about the abolition of the Dutch-Indonesian Union was not explicit on this point, and in any case this Protocol was never ratified. Nor is any clarification to be found in the Indonesian Law of 1956 which unilaterally abrogated the Round Table Conference Agreements.

The only positive indications that the United Kingdom has on the attitude of the Indonesians to the matter of succession are:

(1) In February 1950 the Indonesians applied for the extradition of Westerling from Singapore for murder and other crimes. They stated that they had assumed the rights and obligations of the Netherlands Government in respect of their territory under the 1898 Anglo-Dutch Extradition Treaty. Later the same year the Indonesian Prime Minister affirmed in writing that his Government considered the Anglo-Dutch treaty binding on Indonesia. The application for Westerling's extradition failed in fact because the Singapore High Court decided that the Order in Council of 1899, applying the 1898 treaty, did not cover Indonesia.[1] The Indonesians do not appear to have made any other application since then.

(2) In July 1952 the Legal Department of the Indonesian Ministry for Foreign Affairs told H.M. Embassy that the Anglo-Dutch Civil Procedure Convention, extended to the Netherlands East Indies in March 1935[2] was not considered as being in force in Indonesia and that they would like a new Convention to be drawn up.

(3) In January 1961 the Indonesian Ministry for Foreign Affairs, in reply to a United Kingdom enquiry relating to the continuance in force of treaties and agreements concluded between the Kingdom of the Netherlands and the United Kingdom prior to December 27, 1949, and previously applicable to the former Netherlands Indies, stated that of such agreements they considered as still in force only those which either Government had expressed a wish to continue and the other had agreed thereto.

4. *Treaty between the Government of Afghanistan and His Britannic Majesty's Government for the establishment of neighbourly relations, signed at Kabul on 22 November 1921*[3]

India and Pakistan

The Treaty concluded at Kabul on 22 November 1921 between the Governments of Afghanistan and the United Kingdom guaranteed, *inter alia*, Afghan independence and the status of the Indo-Afghan frontier as accepted by the Afghan Government under Article 5 of the treaty concluded at Rawalpindi on 8 August 1919.

In the course of 1947 it became apparent from indications in the Afghan press and elsewhere that the Afghan Government might base a claim to the North-West Frontier Province on the legal doctrine of *rebus sic stantibus*, putting forward the argument that the boundary

[1] See section B below.
[2] League of Nations, *Treaty Series*, vol. CLVI, p. 276.
[3] *Ibid.*, vol. XIV, p. 47.

defined in Article 2 of the 1921 Treaty had been agreed to on the basis of the continuance of a certain state of facts, namely British rule in India, and that because of the grant of independence to India and Pakistan the 1921 Treaty lapsed.

The Foreign Office were advised that the splitting of the former India into two States — India and Pakistan — and the withdrawal of British rule from India had not caused the Afghan Treaty to lapse and it was hence still in force. It was nevertheless suggested that an examination of the Treaty might show that some of its provisions being political in nature or relating to continuous exchange of diplomatic missions were in the category of those which did not devolve where a State succession took place. However, any executed clauses such as those providing for establishment of an international boundary or, rather, what had been done already under executed clauses of the Treaty, could not be affected, whatever the position about the Treaty itself might be.

5. *Convention between Great Britain and Belgium with a view to facilitating Belgian traffic through the territories of East Africa, signed at London on 15 March 1921,*[1] *and Agreement between the Government of Belgium and the Government of the United Kingdom of Great Britain and Northern Ireland, relative to the construction of a deep-water quay at the port of Dar es Salaam, signed at London on 6 April 1951*[2]

Tanganyika

Shortly before Tanganyika became independent, the Belgian Embassy in London approached the Foreign Office on the question of the future of the Agreement of 15 March 1921 concerning the traffic of goods and persons across East Africa. It was pointed out that the trusteeship territories of Ruanda and Urundi had an interest in the Agreement and that Belgium was still responsible for the safeguard of this interest until the independence of the two territories. Furthermore, the Belgian Government took the view that Belgium had a direct interest in the Agreement.

Accordingly, the British Government, who, as one of the signatories of the Agreement, also had an interest in it, enquired of the Tanganyika Government their views on the future of the Agreement of 1921 and also the Belbase Agreement of 1951 which accorded to the Belgian Government certain port facilities in Tanganyika.

We were informed that it was the intention of the Tanganyika Government to treat both the 1921 and 1951 Agreements as void; that they intended to resume possession of the sites in the ports of Dar-es-Salaam and Kigoma after giving reasonable notice; and that they considered that the Government of the Congo and those of Ruanda and Urundi, through the Government of Belgium, should be so informed and invited to frame a claim for compensation should they so wish.

At the request of the Tanganyika Government, these views were passed to the Belgian Embassy in London and through our Embassy in Leopoldville to the Government of the Congo. At the same time, each Government was informed that we had made a formal reply to the Tanganyika Government's views in which it was stated that the British

[1] League of Nations, *Treaty Series*, vol. V, p. 319.
[2] United Nations, *Treaty Series*, vol. 110, p. 3.

Government did not subscribe to the view that the provisions of the 1921 and 1951 Anglo-Belgian Agreements were void but that the international consequences of the Tanganyika Government's views would not, after independence, be the concern of the United Kingdom Government.

6. *Convention between the United Kingdom of Great Britain and Northern Ireland and France respecting legal proceedings in civil and commercial matters, signed at London on 2 February 1922*[1]

(i) *Cambodia*

The Civil Procedure Convention between France and the United Kingdom, concluded on 2 February 1922, was extended to French Indo-China on 1 January 1933 though the Supplementary Convention of 15 April 1936[2] was not so extended.

In 1958, Her Majesty's Embassy at Phnom Penh approached the Cambodian Foreign Ministry in order to ascertain whether Cambodia, as a successor of French Indo-China, would agree to continue the Convention. In 1959, however, the Cambodian Ministry of Foreign Affairs informed Her Majesty's Embassy that "because of the independence of Cambodia and of the friendly relations between our two countries", they would like to negotiate a new convention on legal procedure in civil and commercial matters. The position is still unresolved.

(ii) *Laos*

In a Note dated 15 March 1961, the Laotian Ministry of Foreign Affairs informed Her Majesty's Embassy at Vientiane that Laos considered the Anglo-French Civil Procedure Convention of 1922 (this had been extended to French Indo-China in 1933) to be still in force between the United Kingdom and the Kingdom of Laos as a consequence of the Treaty of Friendship and Association concluded between France and Laos on 22 October 1953.[3] Article 1 of this Treaty states:

> "The French Republic recognises and declares that the Kingdom of Laos is a fully independent and sovereign State. Consequently it succeeds the French Republic in all the rights and obligations deriving from all international treaties and special conventions contracted by France prior to the present convention on behalf of Laos or French Indo-China."

Her Majesty's Government were willing to regard the Anglo-French Civil Procedure Convention of 1922 as continuing to apply as between the United Kingdom and the Kingdom of Laos, but wished it to be understood that the Convention continued in force not by virtue of the 1953 Franco-Laotian Treaty of Friendship, but because Her Majesty's Government and the Government of Laos were agreed that the 1922 Anglo-French Civil Procedure Convention should continue in force as between the United Kingdom and Laos. The Laotian Government accepted this view in a Note dated 26 December 1962.

Her Majesty's Government did not consider that there was any auto-

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[1] League of Nations, *Treaty Series*, vol. X, p. 447.
[2] *Ibid.*, vol. CCIII, p. 123.
[3] See Laos above.

matic succession by newly independent territories to the rights and obligations under civil procedure conventions or treaties of a similar nature entered into by their mother country on their behalf before independence. Any agreement between the mother country and the newly independent State to the effect that the independent State should succeed to the rights and duties under treaties entered into by the mother country on their behalf was binding upon the Contracting Parties to that agreement, but not necessarily on States which had entered into Agreements with the mother country in respect of the territory which had now become independent. Consequently there must be some act after independence of "novation" between the newly independent State and the other Contracting Party.

(iii) *Lebanon*

In a Note dated 31 October 1952, the Government of the Lebanon informed H.M. Embassy at Beirut that they recognised the Anglo-French Civil Procedure Convention of 2 February 1922 as continuing to apply to the United Kingdom.

(iv) *Viet-Nam*

Article 2 of the Treaty of Independence signed in June 1954, between Viet-Nam and the French Republic reads:

> "Viet-Nam takes over from France all rights and obligations resulting from international treaties or conventions contracted by France in the name of the State of Viet-Nam, and all other treaties and conventions concluded by France in the name of French Indo-China in so far as these affect Viet-Nam."

The Viet-Namese stated in 1959 that they did not consider the Anglo-French Civil Procedure Convention of 1922 as being in force between the United Kingdom and Viet-Nam.

7. *Convention between His Majesty in respect of the United Kingdom and the President of the United States of America regarding the boundary between the Philippine Archipelago and the State of North Borneo, signed at Washington on 2 January 1930*[1]

Philippines

The administration of the Turtle and Mangsee Islands was transferred from the Government of North Borneo to the Philippine Government in 1948. The recent history of this small group of islands is briefly as follows.

In an exchange of Notes between the British Ambassador in Washington and the United States Secretary of State on 3 July and 10 July 1907,[2] the United States agreed to leave the British North Borneo Company undisturbed in the administration of the above islands, sovercignty over which was indisputably recognized as pertaining to the United States of America, until the two Governmcnts could by treaty delimit the boundary between their respective domains in that area or until the expiry of one ycar from the date when notice of termination could be given by either to the other.

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[1] League of Nations, *Treaty Series*, vol. CXXXVII, p. 297.
[2] *Ibid.*, p. 314.

In a Convention signed at Washington on 2 January 1930, between the Governments of the United States and Great Britain, the two Governments agreed to delimit the boundary of the Philippine Archipelago and the State of North Borneo by drawing a line which passed through the Turtle and Mangsee Islands. It was agreed that all islands to the north and east of that line and all islands and rocks traversed by the line should belong to the Philippine Archipelago and all islands to the south and west of the line should belong to the State of North Borneo. Seven of the Turtle and Mangsee Islands fell to the north and east of this line. However, the United States agreed that the North Borneo Company should continue to administer the islands in question "unless or until the United States Government give notice to HMG of their desire that the administration of the islands should be transferred to them". Such transfer would be effected within one year after such notice was given on a day and in a manner to be arranged mutually.

In July 1946 the Republic of the Philippines came into existence; and later in the year served notice to the British Government of the desire of the Philippine Government to take over the administration of the Turtle and Mangsee Islands. In a Note dated 24 September 1946 and addressed to the Philippine Secretary of Foreign Affairs, the British Government acknowledged that as a result of the Act of Independence "the Government of the Republic of the Philippines has succeeded to the rights and obligations of the United States under the Notes of 1930".

8. *Treaty of commerce and navigation between Great Britain and Siam, signed at Bangkok on 23 November 1937*[1]

India and Pakistan

During the course of negotiations with the Siamese Government concerning the Anglo-Siam Treaty of Commerce and Navigation signed at Bangkok on 23 November 1937, the United Kingdom Government reminded the Siamese Government that if the latter agreed to the proposals forwarded by the United Kingdom Government concerning the above Treaty, it would apply in respect of all territories to which it had been previously made applicable either under Article 23 or Article 24 thereof.

This applied to both India and Pakistan, the Governments of which were successor Governments of undivided India, as the latter was constituted at the time when the 1937 treaty was made applicable to India.

The Siamese Government would not agree that the 1937 Treaty was applicable to Pakistan. In their view, a new State was not bound by the treaties of Commerce and Navigation concluded by the State of which it was formerly an integral part. They had, however, no objection to Pakistan acceding to the 1937 Treaty in accordance with the relevant provisions thereof.

The United Kingdom Government, in reply, reiterated their view that the Government of Pakistan equally with the Government of India was a successor Government to the former Government of undivided India as constituted at the time when the 1937 Treaty was made applicable to India. The readiness and desire of the Government of Pakistan to succeed to the international obligations and rights of the former

[1] League of Nations, *Treaty Series*, vol. CLXXXVIII, p. 333.

Government of undivided India was made clear in the Indian Independence (International Arrangements) Order, 1947.[1] The United Kingdom Government found it hard to understand how the Siamese Government differentiated between India and Pakistan since both were former parts of undivided India and both alike should have been entitled to succeed to the rights and obligations of the 1937 Treaty.

The United Kingdom Government also stated that if the Siamese Government were not prepared to recognise Pakistan's rights as a co-equal successor State with India, then the position of Pakistan would seem otherwise only to be analogous to that of the old dominions when they became separate international persons. In the case of the "old dominions", they were generally recognised as succeeding to the rights and obligations which had been assumed by the United Kingdom Government on behalf of the territories from which the new States were constituted. This applied not only to treaties which referred to the territories concerned but also to treaties, such as commercial treaties, whose provisions applied territorially to the whole Empire.

The Siamese Government, however, adhered to their original view, namely denying the right of Pakistan to succeed to the Treaty but expressing willingness that she should accede. The Government of Pakistan did not, in the event, accede to the Treaty and the matter was dropped.

During the course of consultations with the Government of Pakistan concerning these same negotiations, they expressed the view, *inter alia*, that *by virtue of* the Indian Independence (International Arrangements) Order, 1947, rights and obligations under all agreements to which the Government of undivided India was a party, had devolved upon both the Governments of Pakistan and of India except in so far as any such agreement could be held to have had an exclusive territorial application to an area now comprised in either of the two new territories. The Anglo-Siam Treaty of 1937 had been applied generally to undivided India and did not therefore come within the terms of the exception.

The United Kingdom Government, while agreeing in general with the views of the Government of Pakistan, pointed out, however, to the latter that the position of Pakistan vis-à-vis Siam could not be *governed* by the 1947 Order which only had, and only could have, validity as between Pakistan and India. The United Kingdom Government would have hoped, however, that the Siamese Government would have accepted the position as set out in the Order.

9. *Agreement between France and the United Kingdom of Great Britain and Northern Ireland relating to air transport between British and French territories, signed at London on 28 February 1946*[2]

Ghana

On 25 November 1957, an Exchange of Notes[3] took place between the Government of the United Kingdom and the Government of Ghana with reference to the inheritance of international rights and obligations by the Government of Ghana . . .

[1] See section A, I (*b*) 1, above.
[2] United Nations, *Treaty Series*, vol. 27, p. 173.
[3] See GHANA, section A.

As a consequence of certain difficulties with the French over air services in West Africa, the Ghana Government inquired of the United Kingdom Government whether as a result of the exchange of letters concerning treaty rights and obligations signed on independence, the Ghana Government inherited obligations under various bilateral air agreements undertaken by the United Kingdom which were relevant to the territory of Ghana.

The United Kingdom Government in reply stated that, in their view, the exchange of letters referred to, covered air services agreements, including the Anglo-French Agreement of 1946. The French Government, by exercising in Ghana rights under the Agreement, had tacitly accepted the inheritance by Ghana of the former obligations of the United Kingdom under the Agreement and were thereby estopped from maintaining that Ghana could not claim any rights on her side under the said Agreement.

10. *Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Norwegian Government for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at London, on 2 May 1957*[1]

British territories

In April 1963, the Norwegian Embassy in London inquired of the Foreign Office whether Her Majesty's Government considered the term of the Anglo-Norwegian Double Taxation Agreement (1951) as remaining in force between Norway and certain Commonwealth countries to which the Convention had been extended by Exchange of Notes (1955)[2] and which had since become independent.

At the time of the inquiry, seven of the territories to which the Convention had been extended had become independent and with each we had concluded an "Inheritance Agreement" concerning treaty rights and obligations.

The Foreign Office replied to the effect that the Inheritance Agreements concluded between the United Kingdom and those countries now independent were thought to show that the Governments of those countries would accept the position that the rights and obligations under the Double Taxation Agreement should still apply to those countries but that the question whether the Agreement was, in fact, still in force between those countries and Norway was a matter to be resolved by the Norwegian Government and the Governments of those countries.

[1] United Nations, *Treaty Series*, vol. 106, p. 101.

[2] *Ibid.*, vol. 219, p. 340. A table of territories to which the Convention is to be extended is annexed to the Note sent by Her Britannic Majesty's Ambassador to the Royal Norwegian Ministry for Foreign Affairs.

11. *Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federal Republic of Germany for the extradition of fugitive criminals, signed at Bonn, on 23 February 1960*[1] *and Agreement between Israel and the United Kingdom of Great Britain and Northern Ireland for the reciprocal extradition of criminals, signed at London on 4 April 1960*[2]

Nigeria

On 23 February 1960 the United Kingdom signed an Extradition Agreement with the Federal German Republic. Article 2 (*c*) of the Agreement applied it to "all British Colonies (except Southern Rhodesia) for the international relations of which the Government of the United Kingdom are responsible". Article 2 (*d*) applied the Agreement to the various British Protectorates, among them Nigeria Protectorate. Article 7 stated *inter alia*: "The date on which this Agreement shall come into force shall be agreed upon by an Exchange of Notes." On 16 July 1960 an Exchange of Notes took place between the two Governments[3] in which it was agreed that the Agreement should enter into force on 1 September 1960.

Article 2 (*d*) and (*e*) of the Agreement with Israel, signed on 4 April 1960, applied it in the same phraseology to the same territories as did Article 2 (*c*) and (*d*) of the Agreement with Germany above. The Agreement with Israel was to enter into force "three months after the date of the exchange of ratifications". These were exchanged on 26 July 1960, and the Agreement duly came into force on 26 October 1960.

Orders in Council, giving effect to the Agreements, were issued, in the case of the Agreement with Germany, on 3 August 1960 and, in the case of the Agreement with Israel, on 12 September 1960. Both Orders listed the Colony of Nigeria as a territory to which the Orders applied. It so happened that, as the Orders applying the Agreements were made such a short time before Nigerian independence, they were not brought to the attention of the Nigerian Government until after independence had been attained on 1 October 1960.

Shortly after Nigeria became independent, it was pointed out to the Nigerian authorities that because of Article 2 (*c*) and (*d*) of the Anglo-German Extradition Treaty of 23 February 1960 and Article 2 (*d*) and (*e*) of the Anglo-Israeli Extradition Treaty of 4 April 1960, both Agreements, which were signed before independence, were applicable as far as the United Kingdom Government were concerned to all those territories which made up the pre-independence Federation of Nigeria. It was further pointed out that the rights and obligations of the United Kingdom Government in relation to these agreements, one of which had come into effect on 1 September 1960 and the other, which although it had not come into effect, had been ratified prior to independence, had been accepted by the Nigerian Government in accordance with the Exchange of Letters concerning treaty rights and obligations dated 1 October 1960 (the Inheritance Agreement).

The Nigerian authorities replied that the Anglo-Israeli Agreement which had not come into effect prior to independence was not the type

[1] United Nations, *Treaty Series*, vol. 385, p. 39.
[2] *Ibid.*, vol. 377, p. 331.
[3] See NIGERIA, section A.

of international agreement that it was envisaged the Exchange of Letters should cover. As regards the Anglo-German Agreement, although they agreed that the Exchange of letters provided for assumption of obligations and enjoyment of rights under existing international treaties and further that the agreement in question fell into this class, they pointed out that the agreement was a bilateral one under which the parties assumed obligations and became entitled to exercise rights *inter se*: it was their view that, this being so, the intention of the High Contracting Parties was that either party only should be entitled to request the return of a fugitive criminal. The conclusion they drew was that it could not have been the intention of the High Contracting Parties that an independent third party could come in and enjoy any rights under the Agreement without the consent of the parties. In the circumstances, the Nigerian authorities decided that Nigeria should give no effect to either of the Agreements under reference, but should negotiate separate extradition treaties with the two countries concerned.

B. DECISIONS OF NATIONAL COURTS

TEXTS OF JUDGMENTS

High Court of the Colony of Singapore (Island of Singapore)

Re Westerling: Judgment of 15 August 1950[1]

[The question whether British "Extraditions Acts" apply to the Republic of Indonesia under the "1898 Anglo-Netherlands Extradition Treaty"[2] and the related Order-in-Council of 2 February 1899 — Incorporation of international agreements into municipal law — Inheritance agreements and third States — Effects of recognition — Role of the Judiciary in matters relating to the conduct of international relations — Effects of a statement by the Executive on succession to treaty rights]

"This is an application for an Order of Prohibition directed to the District Judge and First Magistrate Singapore to stay Extradition proceedings brought on behalf of the United States of Indonesia for the surrender of Raymond Paul Pierre Westerling on account of crimes said to have been committed in the island of Java.

"No objection has been taken to the nature of the Order asked, but a preliminary objection was taken by Sir Roland Braddell, appearing for the Republic of the United States of Indonesia, to the form of the application on account of certain irregularities, or of non-conformity with the procedure prescribed.

"Counsel contended that these irregularities deprived the court of jurisdiction to hear the matter which had come before it. He pointed to section 10 of the Administration of Justice (Miscellaneous Provisions) Act 1938,[3] which provides that rules shall be made prescribing the procedure to be followed in obtaining the order substituted for the Prerogative Writs. This provision he contended is mandatory. Even if this provision be mandatory on the Rule making body, a question which, I

[1] I Malayan Law Reports 228.

[2] De Martens, *Nouveau Recueil Général de Traités*, deuxième série, tome XXIX, p. 145.

[3] 1 and 2 Geo. VI. c. 63.

think, might be disputed, yet it would not, for that reason, alter in any way the character of the rules made, which are more rules of procedure indistinguishable from other rules of that kind. The jurisdiction of this Court is inherent in it at Common Law, or is conferred by statute or by a combination of Statute and Common Law, and is not in my opinion to be taken away by any ordinary rule of procedure. In considering the nature and gravity of any non-observance of a rule of procedure, it is always right to bear in mind that the principal purpose of such rules is to bring the necessary parties before the court, with a knowledge of the points at issue and in a position to reply thereto. If therefore the proper parties are before the court with an opportunity of being heard and on proper notice any non-observance would seem to me of minor importance. No allegation was made that any party was taken by surprise, or put to any expense and no adjournment was asked.

"The substance of the objection was that the motion paper for the leave to apply was not accompanied by a Statement in accordance with Order 59 rule 3 (2) Rules of the Supreme Court which here apply. This statement, it is said, is in the nature of a pleading, and the applicant is strictly confined to the grounds of his application set out therein. In this case the motion paper set out as the one and only ground of the application that 'the said Extradition case No. 1 of 1950 relates to an application at the suit of the Government of the United States of Indonesia for the extradition (pursuant to the Extradition Acts 1870 to 1906 of the United Kingdom) of the said Raymond Paul Pierre Westerling to the said United States of Indonesia which is a country and/or territory to which the said Extradition Acts 1870 to 1906 of the United Kingdom do not apply, and that the arrest of the said Raymond Paul Pierre Westerling pursuant to the above-mentioned Warrant and the proceedings against him in the First Criminal District Court of the Colony of Singapore as abovementioned are therefore illegal for want of jurisdiction'.

"The extent of this pleading is, therefore, very limited. Sir Roland Braddell referred to the Practice Note in Weekly Notes of 4th March 1939 at page 76 which itself refers to a case of non-observance of this rule. In that case the affidavit merely stated that the matters set out in the statement were true, and did not further verify the facts relied on. The court required an affidavit exhibiting the statement and not only (as it would seem) referring thereto.

"In this case the affidavit filed refers specifically to no statement, there being none. Some matters contained are according to certain of the applicant's contentions matters of law and might be regarded as the grounds. According to the Attorney General's contention these matters are in this court matters of fact. Though the facts may not be peculiarly within the deponent's knowledge, they are the facts on which he relies and no real objection was taken to the substance of the affidavit. Sir Roland did allege that he was prejudiced by the grounds being unconfined, by their speaking incorrectly of the Acts applying to a country and by the reference to Extradition Acts 1870-1906 instead of 1870-1932, but I could find no real prejudice in this. I intimated that I was prepared to treat the portion of the paper setting out the relief and the ground as a statement, by which means the parties would seem sufficiently protected from enlargement of the claim, and in these circumstances, having regard to the very limited ground and the counsel responsible for the application not wishing to amend, I thought it proper

to hear the arguments of parties. Sir Roland stated that he did not waive his objection and might renew it, and this, of course, he is perfectly free to do. He later objected — or wanted an objection noted — to an affidavit filed by the applicant at the desire of the Attorney General and correspondence exhibited thereto. Little turns on these letters.

"The ground was argued in two ways arising from the scheme of the Extradition Acts 1870-1932, of which Acts, however, that of 1870 alone is relevant. That Act does not deal with a purely internal matter or one which can be regulated by Municipal law alone. Extradition imports two states, one requiring extradition and one from which the surrender of an alleged offender is required. It also touches the personal liberties of the alleged offender. The Act, though it may be capable of general application, of itself may be said to apply to nothing. Before it can be made to apply, there must be states agreeing to mutual extradition. The Act, therefore, contemplates a Treaty, or arrangement, entered into with another state desiring to establish a system of extradition, and it accordingly goes on to authorise His Majesty in Council to make an order, reciting or embodying the Treaty, and applying the Acts in the case of that state which is the other party thereto. Any act taken by officers of the state, or by others, for the purpose of Extradition against an individual must be under and in accordance with the Statute so applied.

"The applicant alleged that there was neither Treaty, nor Order in Council with the United States of Indonesia, the requisitioning state in this case, under or in respect of which any action could be taken under the Statute. It is not disputed that there is no specific Treaty entered into with the United States of Indonesia for this purpose, and, consequently, there is no Order in Council applying the acts to that country in regard to that treaty. The argument on the first point was partly in anticipation of possible cases to be made, and partly in reply to a statement in the correspondence to which I have referred, that the United States of Indonesia is a 'successor' of the Netherlands. The argument was necessarily nebulous, as there were several points, such as the date, and mode, of His Majesty's recognition of the United States of Indonesia, and whether His Majesty's Government has consented to any devolution of rights which might be affected by Article 5 of the Draft Agreement on Transitional Measures made at the Round Table Conference at the Hague on 2nd November 1949, on which, it was suggested, the court would have to seek information in some way or another. At an early stage I raised the question of how far these matters could be tried by this court, since the view of His Majesty's Government would seem to be clearly inferable from the action already taken, and of how far they were relevant to the matter before it. Counsel however contended (and rightly) that, if there were no treaty, the Acts could not be invoked, and the matter should be determined beyond doubt. He argued that the United States of Indonesia was a new, and sovereign state and that whatever the Netherlands might have done to give it 'succession' to itself, the acts of these two states could not affect a third.

"I do not propose to set out, or to consider, these arguments at length, as, in my opinion, they are completely answered by the contentions put forward by the Attorney General, and by the statement read, and put in, by him as a certificate of the view of His Majesty. This statement is to the following effect.

'I have to inform the Court on the authority of the Secretary of State for Foreign Affairs that the Republic of the United States of Indonesia has succeeded to the rights and obligations of the Kingdom of the Netherlands under the Anglo-Netherlands Extradition Treaty of 1898 in respect of Indonesia and that the said Treaty now applies between His Majesty's Government in the United Kingdom and the Republic of the United States of Indonesia'.

"The Attorney General contended that the question of whether the Crown is in Treaty relations with a foreign state is a matter on which the court should seek guidance from the appropriate department of the Executive, and whatever may be certified as His Majesty's view of the matter in reply is, not merely evidence of the fact, but is conclusive evidence. The views of His Majesty may be ascertained not only in reply to specific inquiries by the court but may be volunteered to the court, and, in any matter in which the King's Attorney General appears and makes a statement of those views, such statement is equally conclusive. The court is so bound by the views of His Majesty on all matters affecting the Crown's relations with Foreign States and on all questions of International Law.

"In support of the first proposition he cited numerous dicta in the Duff Development Company *v.* Government of Kelantan,[1] Mighell *v.* Sultan of Johore[2] and other cases to which it is necessary for me to refer. This point is one which was recently debated, and contested, at length in these courts in The Sultan of Johore *v.* Tungku Abubakar and Ors.,[3] and in that case I expressed an opinion which was entirely in accordance with the view put forward by the Attorney General, and from which I see no reason to retract. On his second proposition he referred to Engelke *v.* Musmann,[4] and the Gagara,[5] and other cases. While the courts have in some cases referred to an established procedure of reference by the court, as Lord Cave in the Duff Development case (page 805) spoke of the established practice of the courts seeking information in this way when any question of the sovereignty of a foreign state is raised; yet this does not imply that no other procedure is open, or that one mode of procedure is peculiarly applicable to a specific subject of inquiry. In Luther *v.* Sagor,[6] Roche J. himself caused inquiries to be so made, although letters from the Foreign Office had been obtained by the parties and were before him, but he did so, not to comply with any practice, but in case ampler or further information might then be available. There can be no doubt that a concurrent practice of accepting in the same sense information conveyed to the court by the Law Officers existed and was in fact followed in the Parlement Belge[7] which is perhaps the most important case on these matters, and in which the question raised as to the international convention and as to the possession of the vessel by a reigning sovereign were accepted on the Attorney General's pleading, and this is a question closely analogous to that referred to by

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[1] 1924 A.C. 797.
[2] 1894 1 Q.B. 149.
[3] 1950 16 M.L.J. 21.
[4] 1928 A.C. 433.
[5] 1919 P. 95.
[6] 1921 1 K.B. 456.
[7] 4 P.D. 129; 5 P.D. 197.

Lord Cave. It seems that there is no prescribed form of proof, but the court is bound by any intimation of His Majesty's view by whatever channel he pleases to communicate it.

"Sir Roland Braddell in dealing with the same matter spoke of foreign affairs as the subject of such enquiry and conclusive evidence. He went on to discuss Acts of State which could not be questioned by legal process as giving rise to no right of action in tort or contract. He did not, as I understood him, contend that such a plea could defeat a subject, in respect, at least, of an act in this country, or that the applicant, being an alien, his arrest might be so excused. He went on to consider the King's Treaty making powers and spoke of their making as acts of state. He admitted that such treaties could not alter the law, but urged that the Government making them, would probably be in a position to obtain any necessary change of the law from Parliament. No question, however, of His Majesty's power to make Treaties, has been raised, the only question is whether the necessary treaty has, in this case, been made — or more generally whether such treaty relations exist.

"The Attorney General's third proposition goes further than Sir Roland's arguments. It is thought necessary in order to cover the statement that the Republic has succeeded to the rights and obligations of the Kingdom of the Netherlands under the Treaty of 1898. This might be regarded as a conclusion drawn from the application of rules of International Law, and the application of rules of law might be thought a function of the courts. He rested this proposition on Foster *v.* Globe Venture Syndicate[1] and The Zamora.[2] I do not think these cases give his proposition much support. The subject of inquiry in the first was where a boundary exists in fact, without, it would seem to me, any reference to ownership, as the Attorney General suggests, or to the legal title at any law to land on either side thereof. It might be a boundary of sovereignty, and not of ownership, nor of legal possession. The second case seems rather against him. The question turns on what is here meant by International Law. Counsel for applicant had referred to the definition of Lord Russell of Killowen adopted by Lord Alverstone and the Divisional Court in West Rand Central Gold Mining Company Ltd. *v.* The King[3] 'it is the sum of the rules or usages which civilized States have agreed shall be binding upon them in their dealings with one another'. From which and from a general view, it might be thought that, apart from express agreement, it is not a law having moral authority, or as embodying ethical principles commanding obedience, but more historical generalisations from conduct. It would, in a fuller investigation, be necessary to enquire how far 'rules' are anything more than deductions from repeated acts, or from usual conduct. As to such rules and as to usage, the generality of the conduct would be immaterial as the courts would be bound to accept His Majesty's views of such acts, and, in general, the acts of His Majesty's government. In this view there would, therefore, be little difference between the first propositions and the third. On the other hand the proposition in its full extent seems directly con-

[1] 1900 1 C.H. 811.
[2] 1916 2 A.C. 77.
[3] 1905 2 K.B. 407.

trary to the principal point in the Zamora case[1] cited, which I should have understood to be the Privy Council's rejection of Lord Stowell's dictum in the Fox (3) that Orders in Council in the prize court are analogous to Statutes in the Common Law courts, and of the apparent opinion that the Crown could legislate by Order in Council, and its acceptance of his other opinion in the Maria[2] that the Prize Court is a court applying International Law, though there are passages suggesting that the Privy Council's opinion is confined to cases in which the Crown is a party. The contrary proposition was Lord Robert Cecil's second proposition in West Rand Central Gold Mining Company Ltd. *v.* Rex[3] which there received but very partial acceptance. The proposition may be too wide, but it might be accepted for the purposes of this case, for if the court be bound by the Crown's recognition of the Republic, it must also accept what the Republic is recognized as; only such full acceptance would seem to me consistent with the full meaning of the majority opinions in the Duff Development Case. I think that all the matters set out in the statement quoted must be accepted and are conclusively established.

"The Attorney General went on to argue on an assumption that the statement was not accepted as conclusive. It would be unnecessary to follow those arguments, and his examples of succession, were it not that they throw some light on the application of the Acts, and introduced some illuminating cases not, in my opinion, very helpful to his case. It is not, nor could it be, disputed that the Extradition Acts were applied to what are now the territories of the Republic, and in particular, to Java. The Attorney General referred to sections, 2, 5 and 25 of the Act of 1870. There can be no doubt that under these sections the Acts were applied to Java, but they were not applied to Java as such but only as being a colony of the Netherlands. Had it not been a colony the provisions would not have operated. The Attorney General argued that the Acts were applied to those territories, and continued to apply. The Act does not speak of territories, it speaks consistently of 'states' by which I can only understand sovereign states including therein such areas as section 25 requires.

"In this connexion he referred among other instances to some furnished by the dissolution of the Austro-Hungarian Empire. A treaty was made on 3rd December 1873 with the Emperor of Austria, King of Bohemia etc. and Apostolic King of Hungary and an order in council applying the acts was made on 17th March 1874. After the 1914-18 war notices were given to Austria and Hungary reviving this treaty. We have no clear information as to these notices, but they are understood to be designed to prevent, or remedy, any abrogation affected by war. In the same way a Treaty was made with Serbia on 6th December 1900, which continued with Yugoslavia. Later orders in Council, including No. 971 of 30th July 1923 recited such Treaty as still existing. The Attorney General referred to several examples. The Attorney General was arguing, on the assumption that Austria after the war was a different person at International Law from the party to the treaty, that a treaty made with one party might continue with another, and submitted that a recital in

[1] 1916 2 A.C. 94-97; 2 Eng. P.C. 61.
[2] 1 C. Rob. 340.
[3] 1905 2 K.B. 391.

an Order in Council, relying on a dictum in the Zamora[1] is binding on the court.

"I am unaware of any authority for the view that there is a breach in the historical continuity of the Austrian or Hungarian state; changes of constitution, of name, or of area, are of varying importance and would not necessarily change the personality of a state. To me the cases would seem to imply the opposite, and the only apparently relevant case among the successors to the Austro-Hungarian Empire, would have seemed to be Czechoslovakia. On that case we have no more certain guidance than that in Sir Arnold McNair's book Law of Treaties at page 453 where he says that he believes that in the view of the British Government Czechoslovakia despite reference in a Treaty of 1919 with the Allies to the Kingdom of Bohemia Markgraviate of Moravia and Duchy of Silesia is no successor to the Austro-Hungarian Empire, but he gives no reason for that belief; and also that guidance afforded by the making of a new treaty and a new Order in Council with Czechoslovakia on 11th November 1924 and on 20th November 1926.

"It might seem hard to draw such distinction between the Republic and Czechoslovakia as to rights of succession. The latter had been in the nature of an ally in the preceding war, and was named in a form as King of Bohemia etc. in the treaty in question. The treaty applied to the Republic merely as a colony. It remains in some treaty relations with the Netherlands called a Union, but is a separate Sovereign State. The cases would seem to show three possibilities: a continuing state, a 'successor' contemporaneous with its predecessor and a new state which is not a successor. The Austrian cases on this point may not therefore be strictly opposite, but on the other hand, the question of succession being concluded, they may yet provide some analogy as to this theory of the continuing territorial application of the act.

"My conclusions from all this are the opposite of those of the Attorney General. It would seem to me that, in the case of Austria and Hungary, the same treaty and order continued, although originally made jointly with a dual monarchy, and despite the reduction in size; while, in the case of Serbia, the same state under the same king was recognized as continuing in Yugoslavia. In Czechoslovakia where a new state arose a new treaty and a new Order were made, although had that state merely been recognized as a 'successor' all that would have seemed needed, according to the Attorney General's case, would have been a notice similar to those given to Austria and Hungary. Taking the territory of the Empire, before the war the acts were applied in respect of all in accordance with the Imperial treaty. There was, however, no continuing application to territory, except where there was continuing state personality, but in Czechoslovakia where the acts had presumably ceased to apply new provisions had to be made, while in those parts absorbed by Serbia an old, and, in a sense, competing, treaty and order took the place of the Imperial treaty and its corresponding order. In my opinion, application depends on the existence of an appropriate Treaty and on appropriate Order in Council. The statement affirms such a Treaty.

"From this Statement it would also appear that there may be at International Law some one, unknown, I believe, to other law, in the nature of a *haeras viventis*. It may not be for this court to discuss his

[1] 1916 a A.C. 77-98.

qualities, but such a successor must, it would seem, be a still more separate and distinct person than the more usual person claiming by succession; for he is contemporaneously existent with his predecessor. The word succession otherwise suggests an analogy to natural persons. It is by no means unusual for a successor to be determined by a deceased person's personal law, or the law of his domicile, but the construction of a grant to the predecessor, or of his contracts, would be determined by the law of the land. The fact that a successor may be determined elsewhere by International Law presents no great difficulty. None of the parties had much to say as to the Order in Council, though it appears a matter of first practical importance. The only Order in Council on which the Republic could rely is that of 2nd February 1899, corresponding with the treaty referred to in the Statement. Mr. Massey drew attention to the Order in Council and to the operative penultimate paragraph which applies the Acts to the State of the Netherlands only; for it reads:

> 'Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the fourteenth day of March, 1899, the said Acts shall apply in the case of the Netherlands, and of the said Treaty with the Queen of the Netherlands'.

"Sir Roland Braddell seemed unwilling to refer to the Order in Council except in answer to questions. He contended, as I understood him, that the treaty was the most important, and only really operative instrument; and he rcpeatedly referred to that part of section 2 of the Act of 1870 which provides 'Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement'.

"It may be conceded that the treaty is the most important instrument without which the Act would be a dead letter, and no Order in Council called for. Nevertheless, by itself, it affects nothing practical, and on it no man under the protection of the law could be arrested, and against him no proceeding could be brought. The powers to extradite all flow from the Act, and until the Act is applied the treaty remains in the clouds, or, at least, its existence and force are confined to the realms of international law. To look at the matter from a practical point of view; proceedings can only be instituted through sections 6 and 7. If requisition be made the question at once arises whether the requisition be made by a state to which the Act has been applied, and, to determine this, recourse must be had for the reasons stated, not to the Treaty, but to the Order in Council. It must be read to be understood, and it must be construed to ascertain its full meaning.

"This Order in Council is an ordinary instrument of subordinate legislation, it is to be construed by this court, and in accordance with the ordinary canons of legal construction. So read I should have thought its meaning beyond doubt. The state in the case of which the Act is applied thereby is the Netherlands and no other. It is not in the case of the Republic of Indonesia, nor in that of the Netherlands and its successors, contemporaneous or by substitution. The Order in Council, just as that in the case of Austria, is still capable of application. The court might be obliged to construe the treaty as part of the Order in Council, but for this purpose, it does not seem necessary to go beyond

the penultimate paragraph. It is a principal canon of interpretation, which has been called the golden rule, that the grammatical and ordinary sense of the words is to be adhered to and by this means the intention of the maker or lawgiver must be sought. The ordinary meaning of Netherlands would seem clear enough. I can find nothing here, or for that matter in the rest of the Order, which could lead one to suppose that the draftsman, or the persons making the order, contemplated the successors of the State of the Netherlands or any state other than the Netherlands. It would seem to me quite clear that they have not used language capable of including any one else. The provision is, in essence, tantamount to a grant of the rights, powers and facilities afforded by the Act, and that grant is to one person only, by name, which person still exists. It may well be that diplomatic language is sufficiently elastic to include the Republic in the benefits of the Treaty, but there seems to be no Order in Council applying the Act to the Republic in respect of this Treaty, or of any other treaty.

"My opinion is confirmed by other considerations. The powers under the Extradition Acts are statutory powers, and should be exercised strictly in accordance with that statute whether it be powers of officers acting under Section 6, or of making orders under section 2. Parliament, in committing the application of the acts to the Executive, has yet required that all orders made should within six weeks be laid before Parliament. It does not, as Sir Francis Piggot states,[1] in a passage quoted by Sir Roland Braddell, expressly reserve any powers of modifying the order, but there can be no doubt that it has full power to secure the revocation of any order it disliked. What use is made of this provision is immaterial, there is yet a tacit assent to every Order in Council. I agree with Mr. Massey that to treat the Acts as applied to a state, whose name has never appeared in any Order laid before Parliament, would vitiate this procedure and be an abuse of the power of applying the Statute. It is true that an objection to an order on this ground might be an objection to its validity, and so barred by section 5 of the Act of 1870, as, it is said, and I think wrongly, is my mere construing of the Order. Just as there is no evidence of any intention by the King in Council to apply the acts to the Republic, so also I can see no corresponding tacit assent of Parliament. Moreover, the contrary contentions would render the law liable to change by what the Attorney General tells us, I think rightly, is a legal use of the prerogative, in violation of those very principles which Sir Roland Braddell cited from pages 15, 29 and 32 of Sir Francis Piggot's book. It would also imply that the law is no longer to be ascertained from a perusal of the instruments in which it is supposed to be embodied, but can only be surely ascertained by what is, in practice, an application to the Foreign Office for its latest opinion of what certain terms mean. This is obviously contrary to all sound legal principles, and to all the history of our jurisprudence.

"In these circumstances it would seem to me that any proceedings based on a contrary assumption are mis-conceived and I think that the Order applied for should be made.

"(*Signed*) L. E. C. EVANS,
"*Puisne Judge*,
"Singapore"

[1] Extradition p. 40.

C. DIPLOMATIC CORRESPONDENCE

CORRESPONDENCE BETWEEN THE PRIME MINISTER OF THE SUDAN AND THE FOREIGN SECRETARY OF THE UNITED KINGDOM RELATING TO THE TREATIES MADE ON BEHALF OF, OR APPLIED TO, THE SUDAN BY THE CO-DOMINI, JANUARY 1956

Communication, dated 1 January 1956,[1] *addressed to the Prime Minister of the Sudan by the Secretary of State for Foreign Affairs of the United Kingdom*

Excellency,

The Government of the United Kingdom of Great Britain and Northern Ireland have received the resolution passed by the Sudanese Parliament declaring that the Sudan is to become a fully independent sovereign State and requesting the Co-Domini to recognise this declaration. In response I am authorised by the Government of the United Kingdom to inform you that they recognise, as from today's date, that the Sudan is an independent sovereign State.

In recognising the independence of the Sudan, the Government of the United Kingdom trust that the Government of the Sudan will continue to give full effect to the agreements and conventions made on behalf of, or applied to, the Sudan by the Co-Domini and will be grateful for confirmation that this is the intention of the Sudan Government. The Government of the United Kingdom hope that the Government of the Sudan will co-operate with them in all steps necessary to wind up the affairs of the Condominium in the Sudan.

I avail myself of this opportunity to convey Your Excellency the assurance of my highest consideration, etc.

(*Signed*) Selwyn LLOYD

H.E., Sayed Ismail el Azhari,
Prime Minister of the Sudan

On the following day the Prime Minister of the Sudan replied to the above communication and said *inter alia*:

Reference has been made in Your Excellency's above-quoted letter to giving effect to the Agreements and Conventions made on behalf of, or applied to, the Sudan by the Co-Domini. Since the Sudan Government have only now assumed powers in regard to external matters I beg that Your Excellency may make specific mention to the Agreements and Conventions contemplated in your above-mentioned letter so that I may be in a position to comply with Your Excellency's request.

No doubt the Sudan Government had and will sincerely co-operate with the Government of the United Kingdom in all steps necessary to wind up the affairs of the Condominium in the Sudan.

May I take this opportunity to express to the Government of the United Kingdom the deep gratitude for the magnificent role played to fulfil their pledges and bring about this happy result in the smoothest and friendly way. Etc.

Ismail EL AZHARI

H.E., Secretary of State for Foreign Affairs,
United Kingdom

[1] The day on which the Sudan became independent. For a similar communication from the Prime Minister of Egypt see: SUDAN, section C 1.