

76. Ukrainian S.S.R.

CONSTITUTION OF 30 JANUARY 1937. OFFICIAL UKRAINIAN TEXT. PUBLICATION OF THE SUPREME COUNCIL OF THE UKRAINIAN S.S.R., 1951. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS

Article 15 ...

(b) The Ukrainian S.S.R. has the right to enter into direct relations with foreign States and to conclude agreements and exchange diplomatic and consular representatives with them.

. . . .

Article 43. The Council of Ministers of the Ukrainian S.S.R.:

. . . .

(h) Exercises guidance in the sphere of the relations of the Ukrainian S.S.R. with foreign States, on the basis of the general procedure¹ established by the U.S.S.R. governing the relations of Union Republics with foreign States.

77. Union of South Africa

1. *Treaty-making power:*

(a) SECTION 4 (1) OF THE STATUS OF THE UNION ACT, 1934
(ACT NO. 69 OF 1934)

The Executive Government of the Union in regard to any aspect of its domestic or external affairs is vested in the King, acting on the advice of His Ministers of State for the Union, and may be administered by His Majesty in person or by a Governor-General as his representative.

(b) MEMORANDUM OF 12 JANUARY 1953 FROM THE GOVERNMENT OF THE UNION OF SOUTH AFRICA

In very few cases, however, does Her Majesty exercise this right to conclude treaties on behalf of the Union, and then only where it is the practice that treaties of a certain type be concluded between Heads of State.

In fact, the practice has arisen that the treaty-making power in the Union of South Africa is almost exclusively exercised by the Governor-General in Council (i.e., the Government, consisting in practice of the Governor-General acting on the advice of his Ministers and also known as the Executive Council).

Furthermore, while the Government is responsible to Parliament for its actions, and through Parliament to the Electorate, it can be stated that normally no limitation is placed on the Government's treaty-making power by either Parliament or the Electorate, for the following reasons:

(a) Only in exceptional circumstances does legal provision exist for the actual approval by Parliament of international agreements. This special legislation is set out below in the list of Acts relating to the negotiation and conclusion of international agreements.

¹ See under title "U.S.S.R.".

(b) All international agreements are, in accordance with established practice, eventually laid upon the Tables of both Houses of Parliament and Parliament can then express its approval or disapproval of any such agreement. Any such approval or disapproval, however, has no effect on the validity of an international agreement entered into by the Government.

2. *Negotiation :*

The agencies concerned in the negotiations leading up to the signature of, or accession to, an international agreement are the following:

(i) The Department or Departments within whose sphere the subject matter of the agreement falls, in consultation if necessary, with the appropriate Minister;

(ii) The Department of External Affairs;

(iii) The External Trade Relations Committee in the case of Commercial or related agreements. This committee consists of representatives of the Departments of External Affairs, Finance, Commerce and Industries, Mines, Agriculture and Customs and Excise.

Draft agreements are drawn up or considered by the Department or Departments within whose sphere of administration they fall. Any proposals emanating from such Departments are examined by the Department of External Affairs. In the case of commercial or related agreements, the views of the External Trade Relations Committee are obtained from a policy point of view.

Once agreement has been obtained as to the reading of the draft agreement, negotiations are initiated or carried on with the State or Organization concerned through the Department of External Affairs, and any counter-proposals follow the same steps outlined above, until agreement is obtained between all parties concerned.

3. *Signature:*

The Department which will administer the agreement, or, if several Departments are concerned, the Department most directly affected then approaches the Executive Council (see paragraph 1 above) through the prescribed channels for authority to sign the agreement and to issue a Full Power to the representative designated to sign the agreement on behalf of the Government.

Full Powers are drawn up, bound and sealed by the Department of External Affairs, on receipt of the Executive Council Authority from the Department which has obtained that authority.

It is customary for Full Powers to be signed by the Honourable the Prime Minister and Minister of External Affairs though, on occasion, another Minister may sign the Full Power.

Where practice requires that the treaty should be between Heads of State, the Full Power is issued by Her Majesty the Queen on the advice of Her Ministers in the Union.

4. *Steps taken after Signature in certain cases:*

Where ratification is not necessary, e.g., in the case of an agreement concluded by means of an Exchange of Notes, or in certain other cases, steps may be taken which normally only take place after ratification. Thus the agreement may be published for information in the *Government Gazette*

(the Official Government Newspaper) or it may be Proclaimed in the *Government Gazette* if this should be required by law. These and other steps are set out in the paragraphs following on that dealing with ratification.

5. *Accession:*

Where the Union is not an original party to an agreement, the same preliminary steps are taken with regard to procedure and the obtaining of Executive Council authority as in the case of signature. In this case, however, no Full Power is issued, but an Instrument of Accession is drawn up by the Department of External Affairs, printed and bound, and then signed by the Honourable the Prime Minister and Minister of External Affairs, whereafter it is despatched for deposit with the appropriate authorities.

6. *Ratification:*

Where an agreement requires ratification by the Union, this ratification is effected by the deposit of an Instrument of ratification signed by the Honourable the Prime Minister and Minister of External Affairs, or, where the treaty is between Heads of State, by Her Majesty the Queen. Parliament itself has in the past ratified international agreements but it may be said that this is done only where the agreement is of great interest to the Union of South Africa. No legislation requires such ratification by Parliament except that, in 1948, the Treaties of Peace Act, 1948, was passed (see below) which requires that Peace Treaties be ratified with the prior concurrence of Parliament.

Before the Instrument of Ratification is drawn up and signed, however, it is again necessary to approach the Executive Council for authority to ratify. This authority is again obtained by the Department administering the agreement, or the Department most directly affected, as in the case where authority is obtained for signature.

7. *Tabling and proclamation:*

International agreements entered into by the Union may be divided generally into four categories:

(a) Those agreements, which by law require to be approved by resolution of both Houses of Parliament within a certain time after they are concluded, and in the absence of which approval, the agreements lapse, or those which merely require Tabling with no provision as to approval.

The following examples of sections of the relevant Acts of Parliament, taken from the extracts quoted in paragraph 10, indicate what types of agreements are affected:

(i) See paragraph 10 (b) below: section 3 of chapter I of the Post Office Administration and Shipping Combinations Discouragement Act, 1911 (Act No. 10 of 1911).

(ii) See paragraph 10 (k) below: sections 69, 72, 73 and 74 of Act No. 35 of 1944 (the Customs Act, 1944) as amended.

(b) Those agreements which, by law, require to be proclaimed by the Governor-General in the *Government Gazette*, and thereafter to be Tabled in both Houses of Parliament with the minimum delay.

The following sections from the relevant Acts are examples of the legislation governing these types of agreements.

(i) See paragraph 10(*g*) below: section 2 of the Aviation Act, 1923 (Act 16 of 1923);

(ii) See paragraph 10(*f*) below: section 36 *bis* of the Death Duties Act, 1922 (No. 29 of 1922), as inserted by section 12 of the Finance Act, 1939 (Act 33 of 1939) as amended;

(iii) See paragraph 10(*j*) below: section 94 of Act No. 31 of 1941 (the Income Tax Act, 1941) as amended.

(*c*) Those agreements which are merely required to be published in the *Government Gazette*.

The following are examples of the sections of the relevant Acts relating to this group:

(i) See paragraph 10(*d*) below: section 85 of Act 36 of 1919 (the Public Health Act, 1919);

(ii) See paragraph 10(*e*) below: section 14(1) of the Prisons and Reformatories Act Amendment Act, 1920 (Act 46 of 1920) as amended by section 88 of the Children's Act, 1937 (Act 31 of 1937);

(iii) See paragraph 10(*h*) below: section 50 of the Children's Act, 1937 (Act 31 of 1937);

(iv) See paragraph 10(*o*) below: section 33 of Act No. 25 of 1949 (the Work Colonies Act, 1949).

(*d*) Those agreements for which no express provision is made in legislation to the effect that they should be brought to the notice of Parliament, or that they be published in the *Government Gazette*.

Where provision exists for an agreement to be brought to the notice of Parliament for its express approval, this step is carried out before any of the other steps mentioned below, which are applicable to all four categories of agreements, are taken. The following procedure is adopted:

The agreement is Tabled in both Houses of Parliament (*viz.*, the House of Assembly and the Senate). A Minister gives notice of a motion in either House, to the effect that the agreement is approved. At the proper time, the motion is considered by the relevant House and, should it be approved, it becomes a resolution of the House. The resolution is then sent by Message to the Other House. Should the resolution be concurred in by the Other House, the Government is duly informed.

The motion for the approval of an agreement may be introduced into either House, but it is more usual for introduction to take place in the Lower House, *i.e.*, the House of Assembly.

Where it is required by law that an agreement must be proclaimed, the Governor-General is approached with a request to sign the necessary Proclamation, which is then published in both official languages (English and Afrikaans) in the *Government Gazette*. In such a case, the relevant Statute generally also provides that, as soon as possible after Proclamation, copies thereof should be Tabled in both Houses of Parliament with the minimum delay. Such Tabling is for the information of Parliament only, but nothing prevents either House from expressing an opinion on the agreement by way of a resolution.

In accordance with the principle that Parliament should be informed, as far as public policy demands it, of all the acts of the Government, all International Agreements are Tabled in both Houses of Parliament in the

form of the Union's *Treaty Series* publications. This step occurs, however, only after the agreement has been published in the *Government Gazette* for the information of the general public. The remarks made in paragraph 1(b) above, also apply to the Tabling of Agreements. This practice of Tabling all agreements is not based on any express legal enactment, but has been invariably followed for a considerable period of time.

8. *Publication:*

All international agreements are, as far as it is deemed expedient in the light of public policy, published for general information in the *Government Gazette*, unless such publication has already occurred by way of Proclamation. There is also no specific enactment or regulation which requires such publication except in those cases cited in paragraph 7 above, but the practice has been followed for a considerable period.

After publication has taken place in the *Government Gazette*, steps are taken to publish the agreement again in the Union's *Treaty Series* publications. It is these publications which are Tabled in Parliament, if no specific provision is made in any legislation that Tabling should occur within a certain period of time after the conclusion of the agreement. (See paragraph 7 above.) The *Treaty Series* publications are also available for sale to the public.

9. *Translation:*

Section 137 of The South Africa Act, 1909, as amended, provides that all records, journals and proceedings of Parliament shall be kept in both official languages (i.e., English and Afrikaans) and all Bills, Acts and Notices of general public importance or interest issued by the Government of the Union shall be in both languages.

In accordance with these provisions, all international agreements must be translated if the original was drawn up in only one of the official languages, or in a foreign language, before Tabling in Parliament or publication in the *Government Gazette* or *Treaty Series*. This translation is done by the official Government Translation Bureau.

10. *Legislation affecting Treaties:*

The following are the Acts of Parliament which have a bearing on the negotiation and conclusion of treaties or international agreements and their coming into operation, together with extracts of the relevant sections:

(*Note:* Several other Acts have been passed from time to time which have a bearing on international agreements, but these either ratify specific agreements or provide for their effective application.)

(a) Extradition Acts of 1870, 1873, 1895 and 1906 of the United Kingdom which are part of the law of the Union, and section 28 of the Administration of Justice Act, 1912 (Act No. 27 of 1912), and section 4 of the Fugitive Criminals (Further Provision) Act, 1926 (Act 13 of 1926).

The sections having a bearing on the *negotiation and conclusion* of international agreements, are the following:

Sections 2 and 17 of the Extradition Act, 1870 (33 and 34 Victoria, chapter 52).

2. Where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by Order in Council, direct that this Act shall apply in the case of such foreign State.

17. This Act, when applied by Order in Council, shall, unless it is otherwise provided, extend to every British possession in the same manner as if throughout this Act the British Possession were substituted for the United Kingdom or England, as the case may require... These two sections should be read with section 7 of the Royal Executive Functions and Seals Act, 1934 (No. 70 of 1934) which is as follows:

7. In the absence of any Act of Parliament of the Union providing otherwise, the powers of the King to be exercised by His Majesty in Council or by Order in Council under Acts of the Parliament of the United Kingdom passed prior to the commencement of the Statute of Westminster, 1931, and extending to the Union as part of the law of the Union shall, in respect of the Union, after the commencement of this Act, be exercised respectively by the Governor-General in Council or by him by Proclamation in the *Gazette* unless the Governor-General in Council decide that the exigencies of the case require that the procedure prescribed by such Acts be followed:

Provided that the King in Council shall in the latter case act or purport to act in respect of the Union only at the request of the Prime Minister of the Union duly conveyed and it be expressly declared, in the instrument containing the King's pleasure that the Union has requested and consented to the King in Council so acting in respect of the Union.

By section 4 of the Fugitive Criminals (Further Provision) Act, 1926 (Act 13 of 1926), the Government of the Union may adhere in respect of the territory of South West Africa to any extradition treaty between His Majesty and a foreign State, and thereupon the provisions of such treaty and of the Extradition Acts 1870-1906 become applicable as between the territory and that State.

(b) The Post Office Administration and Shipping Combinations Discouragement Act, 1911 (Act No. 10 of 1911), chapter I, section 3, sub-sections 4, 5 and 6 read as follows:

(4) The Postmaster-General may, with the concurrence of the Minister, establish, maintain, and abolish mail services, post offices, and savings bank offices, as he may deem fit, make and alter postal and telegraph arrangements, and enter into conventions and agreements with other postal and telegraph administrations, and may further from time to time make regulations, not inconsistent with this Act, for the conduct of any business entrusted to him, or as to the manner of exercising the powers and duties assigned to him by this Act, and all such conventions, agreements, and regulations when approved by the Governor-General shall be published in the *Gazette* and shall thereupon have the same force and effect as if they were in this Act contained.

(5) A copy of every such convention or agreement or of any alteration thereof shall, within thirty days after the same is executed, be laid before both Houses of Parliament, if Parliament be then in session, or if it be not in session, within thirty days after the commencement of its next ensuing session.

(6) Any regulation, convention, or agreement made under a law repealed by this Act, shall, notwithstanding the repeal, remain in force until rescinded under the power of this Act.

(c) Patents, Designs, Trade Marks and Copyright Act, 1916 (Act No. 9 of 1916)—sections 191, 191 *bis*, 191 *ter* and 193, as amended by sections 23, 24 and 25 of the Patents, Designs and Trade Marks Amendment Act, 1947 (Act No. 19 of 1947).

The amended sections mentioned above, relate to the conditions whereunder a person who has applied for protection for any invention, design or trade mark in a "Convention Country", is entitled to a patent or to registration of his design or trade mark in the Union; they also relate to the power of the Governor-General to make rules with regard to the above. Section 193 of Act 9 of 1916 as amended by section 25 of Act 19 of 1947, reads as follows:

"Convention Country" shall mean a country in the case of which there is for the time being in force a declaration made by the Governor-General by proclamation, with a view to the fulfilment of a treaty, convention, arrangement or engagement, declaring that that country is a Convention Country, and for this purpose every colony, protectorate, territory subject to the authority or under the suzerainty of another country, or territory in respect of which a mandate or trusteeship is being exercised, shall be deemed to be a country in the case of which a declaration may be made:

Provided that a declaration may be made as aforesaid for the purpose either of all or of some (but not all) of the provisions of this Act, and a country in the case of which a declaration made for the purpose of some (but not all) of the provisions of this Act is in force shall be deemed to be a Convention Country for the purposes of these provisions only.

(d) Section 85 of Act 36 of 1919 (the Public Health Act, 1919) provides as follows:

85. The Governor-General may enter into agreements with the Imperial Government, or with the Government of any British Dominion or of any foreign country, providing for the reciprocal notification of outbreaks of any formidable epidemic or other disease or any other matter affecting the public health relations of the Union with other countries. The terms or a summary of every such agreement shall be notified in the *Gazette*.

(e) Section 14 (1) of the Prisons and Reformatories Act Amendment Act, 1920 (Act 46 of 1920) as amended by section 88 of the Children's Act, 1937 (Act 31 of 1937) reads as follows:

14 (1). The Governor-General may enter into an agreement with the officer administering the government of any territory in Africa south of the equator (being a portion of the British Dominions or a territory under the protection of the Crown) on terms and conditions set out in the agreement, for the reception in the Union and detention in any prison or gaol therein of any person sentenced by a competent court of such territory according to law in force therein to imprisonment with or without hard labour.

The fact that any such agreement has been entered into with the officer administering any such territory and a summary of the terms of the agreement shall be notified by the Minister in the *Gazette*.

(f) Section 36 *bis* of the Death Duties Act, 1922 (Act No. 29 of 1922) as inserted by section 12 of the Finance Act, 1939 (Act 33 of 1939) and as amended by section 16 of the Finance Act, 1945 (Act 46 of 1945) reads as follows:

36 *bis* (1) The Governor-General may enter into an agreement with the government of any other country or territory, whereby arrangements are made with such government with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Union and of such other country or territory, of death duties in respect of the same property, or to the rendering of, reciprocal assistance in the administration of, and in the collection of death duties under, the laws relating to death duties in force in the Union and in such other country or territory.

(2) As soon as may be after the conclusion of any such agreement the arrangements thereby made shall be notified by proclamation by the Governor-General, in the *Gazette*, whereupon until such proclamation is revoked by the Governor-General, the arrangements notified therein shall, so far as they relate to immunity, exemption or relief in respect of Union death duties, have effect as if enacted in this Act, but only if and for so long as such arrangements, so far as they relate to immunity, exemption or relief in respect of death duties levied or leviable in such other country or territory have the effect of law in such country or territory.

(3) As soon as may be after the publication in the *Gazette*, of any such proclamation copies thereof shall be laid upon the Tables of both Houses of Parliament.

(4) The Governor-General may at any time revoke any such proclamation by proclamation in the *Gazette*, and the arrangements notified in such earlier proclamation shall cease to have effect upon a date fixed in such latter proclamation, but the revocation of any proclamation shall not affect the validity of anything previously done thereunder.

(5) As soon as may be after the publication in the *Gazette* of any proclamation, revoking any such proclamation, copies thereof shall be laid upon the Tables of both Houses of Parliament.

(g) Section 2 of the Aviation Act, 1923 (Act 16 of 1923) reads as follows:

2. The Governor-General may

(a) Issue such proclamations as appear to him necessary for carrying out the convention, and for giving effect thereto or to any of the provisions thereof;

(b) Do all things necessary to ratify or cause to be ratified on behalf of the Union of South Africa, *any amendments of or additions to* the Convention which may from time to time be made and, by proclamation in the *Gazette*, declare that the amendments or additions so ratified shall be observed and have the force and effect of law in the Union: provided that copies of any amendments or additions so ratified or proclaimed shall be laid on the Tables of both Houses of Parliament within fourteen days after their publication in the *Gazette* if Parliament is then in session or, if Parliament is not then in session, within fourteen days after the commencement of its next ensuing session;

(c) By proclamation in the *Gazette*, declare that any of the provisions of the convention shall, with such modifications or adaptations and such consequential and supplementary provisions as may be necessary or expedient, apply also to air navigation within the limits of the Union.

The Convention referred to was, originally, the Convention for the Regulation of Aerial Navigation of 13th October, 1919, but this was repealed and, by section 1 of the Aviation Amendment Act, 1947 (Act 42 of 1947), the Convention on International Civil Aviation of 7th December, 1944, was substituted in its place.

(h) Subsections (1) and (2) of section 50 of the Children's Act, 1937 (Act 31 of 1937) read as follows:

50 (1) The Governor-General may enter into an agreement with the head of the government of any British territory in Africa south of the equator for the reception into and retention in any reformatory in the Union of any person under the age of twenty-one whose detention has been ordered by a competent court of the said territory according to the law in force therein. When such an agreement has been entered into, the Minister shall publish in the *Gazette* a notice of that fact and a summary of the terms of the agreement.

(2) Every agreement entered into under section fourteen of the Prisons and Reformatories Act Amendment Act, 1920, which is in force at the commencement of this Act shall continue in force as if it had been entered into under subsection (1) of this section.

(i) Section 106 of the Workmen's Compensation Act, 1941 (Act 30 of 1941) reads as follows:

106. For the purpose of giving effect to any convention with a foreign State or with the government of any member of the British Commonwealth of Nations or of any part of His Majesty's Dominions providing for reciprocity in matters relating to compensation to workmen for accidents causing disablement or death, the Governor-General may make rules by Proclamation in the *Gazette* including rules

(a) For determining in any case where a workman is entitled to compensation both under this Act and under the law of any such country with which the convention is made, under the law of which party to the convention such workman or his dependants shall be entitled to recover compensation:

. . .

(j) Subsections (1) to (5) of section 94 of Act No. 31 of 1941 (the Income Tax Act, 1941), as amended by section 12(a) of the Income Tax Act, 1945 (Act 39 of 1945) read as follows:

94. (1) The Governor-General may enter into an agreement with the Government of any other country or territory, whereby arrangements are made with such Government with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Union and of such other country or territory, of income tax in respect of the same income, or to the rendering of reciprocal assistance in the administration of, and in the collection of taxes under, the income tax laws of the Union and of such other country or territory.

(2) As soon as may be after the conclusion of any such agreement the arrangements thereby made shall be notified by proclamation by the Governor-General in the *Gazette*, whereupon until such proclamation is revoked by the Governor-General, the arrangements notified therein shall, so far as they relate to immunity, exemption or relief in respect of Union income tax, have effect as if enacted in this Act, but only if and

for so long as such arrangements, so far as they relate to immunity, exemption or relief in respect of income tax levied or leviable in such other country or territory have the effect of law in such country or territory.

(3) As soon as may be after the publication in the *Gazette* of any such proclamation, copies thereof shall be laid upon the Tables of both Houses of Parliament.

(4) The Governor-General may at any time revoke any such proclamation by proclamation in the *Gazette*, and the arrangements notified in such earlier proclamation shall cease to have effect upon a date fixed in such latter proclamation, but the revocation of any proclamation shall not affect the validity of anything previously done thereunder.

(5) As soon as may be after the publication in the *Gazette*, of any proclamation revoking any such proclamation, copies thereof shall be laid upon the Tables of both Houses of Parliament.

(k) The following sections of Act No. 35 of 1944 (the Customs Act, 1944) as amended by Section 4 of Act 33 of 1950 (the Customs Amendment Act, 1950) and the other Acts indicated, are relevant to the negotiation and conclusion of international agreements:

69. *Intermediate Rates in Respect of Foreign States.* The Governor-General may conclude an agreement with the government of any territory whereby, in consideration of equivalent privileges in respect of goods imported into that territory from the Union, rates of duty not lower than the intermediate rates of duty set forth in the tariff are extended to specific goods produced or manufactured in and imported from that territory.

72. *Agreements with other Parts of the King's Dominions:*

The Governor-General may conclude an agreement with the government of any Commonwealth country or of any territory which is under the King's protection or in respect whereof a mandate has been issued to the King by the League of Nations, whereby, in consideration of equivalent privileges in respect of goods imported into that territory from the Union, rates of duty not lower than the minimum rates of duty set forth in the tariff are extended to specific goods produced or manufactured in and imported from that territory.

73. (This section was substituted by section 1 of the Customs Amendment Act, No. 38 of 1947 as amended by section 1 of Act 27 of 1948 (the Customs Amendment Act, 1948).)

Agreements with Governments of Territories in Africa.

(1) The Governor-General may enter into an agreement with the government of any territory in Africa whereby

(a) Goods produced or manufactured in the Union shall be admitted into that territory free of duty or at special rates of duty, and goods produced or manufactured in that territory shall be admitted into the Union free of duty or at special rates of duty;

(b) In respect of goods manufactured in the territory of either party to the agreement and removed from the one territory to the other territory, there shall be paid by the government of the territory from which the goods are being removed to the government of the other territory a mutually agreed percentage of the export value of such goods;

(c) One party to the agreement shall

(i) Pay over to the other party the customs duties paid in respect of goods which having been imported into its territory are removed to the territory of the other party; and

(ii) Collect on behalf of the other party and pay over to such other party the difference between the duties paid in respect of goods imported into its territory and removed to the territory of the other party, and the duties which would have been payable if such goods had been imported direct into the territory of the other party: Provided that where the difference in the tariff rates applicable in the respective territories in respect of the importation of any goods does not exceed a mutually agreed percentage the parties may agree to dispense with such collection and payment in respect of those goods;

(d) One party to the agreement shall collect on behalf of the other party and pay over to such other party the excise duties or surtax imposed in respect of goods which having been produced or manufactured in or imported into its territory are removed to the territory of the other party;

(e) In the event of an excise duty or surtax being imposed on any goods produced or manufactured in or imported into the Union a corresponding duty or surtax may be levied on like goods which, having been produced or manufactured in or imported into the territory of the other party to the agreement, are imported into the Union from that territory;

(f) One party to the agreement shall collect on behalf of the other party any export duty imposed in respect of goods which having been produced or manufactured in the territory of either party are removed to the territory of the other party and thence exported to a third country, if such duty would otherwise be payable on the direct exportation of such goods to such third country.

(g) One party to the agreement shall from time to time pay to the other party either a mutually agreed amount or a mutually agreed percentage of the total revenue derived from customs and excise duties in the territory of that party, instead of the payments referred to in paragraphs (b), (c) and (d);

(h) A council shall be established for the purpose of investigating, reporting and making recommendations on the working of the agreement and the progress made towards the attainment of the objects and purposes of the agreement. The Governor-General may by proclamation in the *Gazette* declare any or all of the provisions of the Commissions Act, 1947 (Act No. 8 of 1947), to be applicable in the Union with reference to any council so established.

(2) (a) Payments made by the government of any territory to the Government of the Union in terms of any agreement entered into under subsection (1) shall accrue to the Consolidated Revenue Fund.

(b) Payments to the government of any territory by the Government of the Union in terms of any such agreement shall be deemed to be refunds of duty and shall be paid as drawbacks out of revenue accruing to the Consolidated Revenue Fund.

74. *Agreements Lapse if not Approved by Parliament*: An agreement concluded under section *sixty-nine, seventy-two* or *seventy-three* during any session

of Parliament upon a date not less than twenty-eight days before the end of that session shall lapse at the end of that session unless it has been approved of during that session by resolution of both Houses of Parliament. An agreement concluded under the said sections at any other time shall lapse at the end of the next ensuing session of Parliament unless it has, during that session, been approved of by resolution of both Houses of Parliament, but the lapsing of any such agreement shall not detract from its validity before it lapsed.

(1) Section 93 of Act No. 47 of 1946 (The Silicosis Act, 1946) reads as follows:

93. (1) The Governor-General may by an agreement with the Government of any territory in Southern Africa regulate the manner in which any benefit which was awarded to any Native who is domiciled in the territory in question, shall be paid to the Native concerned or to any other person on his behalf, and the manner of disposing of any part of such a benefit which has not been expended because the beneficiary died.

(2) When the Governor-General has entered into such an agreement as aforesaid, which contains any provisions mentioned in subsection (1) which are in conflict with the provisions of subsection (1) of section *seventy-three* in relation to a Native who is domiciled in the territory with whose Government the agreement was concluded, the said provisions of the agreement shall prevail.

(3) Any agreement entered into, before the commencement of this Act, by the Governor-General with the Government of any territory in Southern Africa, which contains any such provisions as is mentioned in subsection (1) shall, for the purposes of this section, be deemed to have been concluded after the commencement of this Act.

(m) The Treaties of Peace Act, 1948 (Act No. 20 of 1948) reads as follows:

Act No. 20 of 1948

ACT

To provide for carrying into effect Treaties of Peace between the Government of the Union of South Africa and certain other powers.

*(English Text signed by the Governor-General)
(Assented to 25th March, 1948)*

Be it enacted by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:

1. In this Act the expression "the Treaties" means the Treaties of Peace with Bulgaria, Finland, Hungary, Italy and Romania (copies of which were laid before Parliament on the thirtieth day of May, 1947) which were signed on behalf of the Government of the Union in Paris on the tenth day of February, 1947, and to the ratification of which the concurrence of Parliament has been obtained, and such other treaties as may be included in this definition in accordance with the provisions of section three.

2. (1) The Governor-General may, subject to the provisions of subsection (3), and after any one of the Treaties has been ratified by the Government of the Union, by proclamation make such regulations as

appear to him to be necessary or expedient for carrying out such treaty, and for giving effect to the provisions thereof.

(2) Without prejudice to the generality of the powers conferred by subsection (1), such regulations

- (a) Shall be of force and effect, notwithstanding anything to the contrary in any other law contained;
 - (b) May, for the purpose set out in subsection (1), be made retrospective in effect;
 - (c) May for the said purposes, establish any necessary offices, and authorize any necessary appointments;
 - (d) May provide for the imposition of penalties specified therein for any contravention of or failure to comply with any provision of the regulations.
- (3) (a) Any proclamation issued in terms of subsection (1) shall be laid on the Tables of both Houses of Parliament within fourteen days after publication if Parliament is then in ordinary session, or if it is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.
- (b) If both Houses of Parliament have by resolutions passed in the same session (being a session during which any proclamation referred to in paragraph (a) had been duly laid on the Tables) approved of any such proclamation, or of any provision in any such proclamation, such proclamation shall thereafter be of force and effect to the extent to which it has been so approved, but without prejudice to anything that has been done in terms of such proclamation, up to the date of the passing of such resolutions which shall be deemed to have been validly done, whether such proclamation is approved or disapproved.

3. (1) Whenever a treaty of peace is concluded between the Government of the Union and any power not mentioned in section one, between whom and the Union a state of war exists at the date of commencement of this Act, or has at any time since the sixth day of September, 1939, existed, the Governor-General may, after such treaty has been ratified with the prior concurrence of Parliament, provide by proclamation that, save as provided in subsection (2), such treaty shall for the purposes of this Act thereafter be deemed to be included in the definition of the expression "the Treaties" in section one contained.

(2) The provisions of subsection (3) of section two shall apply *mutatis mutandis* in regard to any proclamation promulgated in terms of subsection (1).

4. This Act shall be called the Treaties of Peace Act, 1948.

(n) A special Act was also passed to give effect to the Geneva General Agreement on Tariffs and Trade. This Act (No. 29 of 1948) is known as the Geneva General Agreement on Tariffs and Trade Act, 1948, and the undermentioned sections provide as follows:

3. The agreement shall, in relation to the territories the governments of which are referred to in section *two*, be applied either provisionally or definitively as the Governor-General may determine by proclamation in the *Gazette*, with effect from a date specified in such proclamation.

4. The Governor-General may by proclamation in the *Gazette* withhold

or withdraw, as the case may be, any concessions, including concessions in customs tariff rates, which the Government of the Union has in terms of the agreement undertaken to grant or granted to any party to the agreement if such party does not accept the agreement or, as the case may be, withdraws from the agreement after having accepted or acceded to it.

5. (1) The agreement shall, in relation to any territory the government of which has, in terms of the agreement, acceded thereto, be applied with effect from a date to be fixed by the Governor-General by proclamation in the *Gazette*.

(2) The Governor-General may, by any proclamation referred to in subsection (1) or by a later proclamation grant, in consideration of equivalent privileges in respect of goods imported from the Union into the territory of any acceding Government, concessions in customs tariff rates in respect of specified goods produced or manufactured in the territory of that government on their importation into the Union.

6. The Governor-General may by proclamation in the *Gazette* and subject to the terms of the agreement and with effect from a date specified in the proclamation withdraw, in whole or in part, any concession, including a concession in customs tariff rates, granted to any party to the agreement or, in consideration of equivalent privileges in respect of goods imported from the Union into the territory of any party to the agreement, grant further concessions in customs tariff rates in respect of specified goods produced or manufactured in the territory of that party on their importation into the Union.

8. Any proclamation under section *three*, other than a proclamation relating to the provisional application of the agreement, and any proclamation under sections *four, five, six* or *seven*, issued during any session of Parliament upon a date not less than twenty-eight days before the end of that session shall lapse at the end of that session unless it has been approved of during that session by resolution of both Houses of Parliament and any proclamation issued at any other time shall lapse at the end of the next ensuing session of Parliament unless it has, during that session, been approved of by resolution in both Houses of Parliament, but the lapsing of any such proclamation shall not detract from its validity before it lapsed.

Act 27 of 1950 (the Geneva General Agreement on Tariffs and Trade Amendment Act, 1950) amended Act 29 of 1948, by granting the Governor-General power to apply customs tariff rates, applied in relation to territories whose governments are parties to the above Agreement, to certain territories between whose government and the Government of the Union of South Africa there is in existence an agreement concluded in terms of section *sixty-nine* of the Customs Act, 1944 (see *supra*) or in terms of which most-favoured-nation treatment is accorded, as well as to certain areas of Germany.

(o) Subsections (1) and (2) of section 33 of Act No. 25 of 1949 (the Work Colonies Act, 1949) provide as follows:

33. (1) The Government of the Union, represented by the Minister, may enter into an agreement with the Government of any British territory in Africa for the admission to and the detention in any work colony, retreat or certified retreat in the Union, of any person over the age of

nineteen years whose detention in any work colony, inebriate reformatory or similar institution for a period of not less than one year has been ordered by a competent court of the said territory according to the law in force therein. Whenever such an agreement has been entered into, the Minister shall cause to be published in the *Gazette* a notice of that fact and a summary of the terms of the agreement.

(2) The Minister may order the admission to and detention in a work colony, a retreat or a certified retreat of any person over the age of nineteen years whose detention in any work colony, inebriate reformatory or similar institution for a period of not less than one year has been ordered by a competent court of a territory with the Government of which the Government of the Union has entered into an agreement mentioned in subsection (1).

78. Union of Soviet Socialist Republics

CONSTITUTION OF 5 DECEMBER 1936 AS AMENDED. TRANSLATION PUBLISHED BY FOREIGN LANGUAGES PUBLISHING HOUSE, MOSCOW 1947

Article 14. The jurisdiction of the Union of Soviet Socialist Republics, as represented by its higher organs of State power and organs of State administration, embraces:

(a) Representation of the U.S.S.R. in international relations, conclusion, ratification and denunciation of treaties of the U.S.S.R. with other States, establishment of general procedure governing the relations of Union Republics with foreign States.

Article 18. (a) Each Union Republic has the right to enter into direct relations with foreign States and to conclude agreements and exchange diplomatic and consular representatives with them.

Article 30. The highest organ of State power in the U.S.S.R. is the Supreme Soviet of the U.S.S.R.

Article 31. The Supreme Soviet of the U.S.S.R. exercises all rights vested in the Union of Soviet Socialist Republics in accordance with article 14 of the Constitution, in so far as they do not, by virtue of the Constitution, come within the jurisdiction of organs of the U.S.S.R. that are accountable to the Supreme Soviet of the U.S.S.R., that is, the Presidium of the Supreme Soviet of the U.S.S.R., the Council of Ministers of the U.S.S.R., and the Ministries of the U.S.S.R.

Article 49. The Presidium of the Supreme Soviet of the U.S.S.R.:

(o) Ratifies and denounces international treaties of the U.S.S.R.

Article 68. The Council of Ministers of the U.S.S.R.:

(d) Exercises general guidance in the sphere of relations with foreign States.