

to enter into agreements with foreign entities on matters within their own jurisdiction. This would be analagous to the situation existing in Switzerland in that the provinces would be only agents of the federal government. The provinces, pursuant to a federal-provincial internal accord-cadre, would not become parties to international agreements with foreign states, but through acting as a species of agent, achieve a greater participation in treaty-making through the ability to bind the federal government, with their consent, in respect of matters of specific concern to the provinces. The application of the Swiss principle would mean that the federal government and not the provinces would be responsible for any negotiations undertaken under such an accord-cadre but the provincial authorities would form part of the federal-provincial team involved in these negotiations.

50. The various arrangements of the types described above (ad hoc and generic accords-cadres and federal-provincial accord-cadre) should apply only to matters of a provincial competence which do not relate to Canadian interests as a whole. For example, it would obviously be wrong for such a technique to be used so as to allow a province to bind the Canadian Government in respect of the ratification of a multilateral convention, i.e. concerning labour matters. This principle of agency could appropriately be used in the case of matters of direct, local and exclusive interest to a particular province and not to a number of provinces. Possible examples are land settlement, certain types of immigration and education arrangements, and local works (bridges, highways etc.).

51. It seems doubtful whether the treaty-making powers of member states of a federal union based on the German principle would be desirable in Canada. Application of the German principle, by allowing member states to become internationally responsible parties to agreements with foreign entities, would create a situation whereby the member states become subjects of international law and acquire international personalities to the extent that they enter into treaty relationships. Although the German principle requires the federal government to approve all international agreements, the German experience has been to discourage member states from using these powers.

52. There seems little question that a devolution by the federal government of its external prerogatives to the provinces would be contrary to the experience of all federal countries which in all cases except Germany do not allow member states to exercise such powers and which in Germany are exercised only sparingly and exceptionally.

53. Procedures should also be instituted on the federal-provincial plane which would make it easier for the federal government to consult the provinces in order to determine whether they would be willing to take the legislative action necessary in order to implement general multilateral treaties which Canada has signed