

ANNEXE (A).

Draft Resolution Relative to the Negotiation, Signature and Ratification of International Agreements.

THE Conference recommends for the acceptance of the Governments of the Empire represented that the following procedure should be observed in the negotiation, signature and ratification of international agreements.

The word "treaty" is used in the sense of an agreement which, in accordance with the normal practice of diplomacy, would take the form of a treaty between Heads of States, signed by plenipotentiaries provided with Full Powers issued by the Heads of the States, and authorising the holders to conclude a treaty.

I.

1. Negotiation.

(a.) It is desirable that no treaty should be negotiated by any of the Governments of the Empire without due consideration of its possible effect on other parts of the Empire, or, if circumstances so demand, on the Empire as a whole.

(b.) Before negotiations are opened with the intention of concluding a treaty, steps should be taken to ensure that any of the other Governments of the Empire likely to be interested are informed, so that, if any such Government considers that its interests would be affected, it may have an opportunity of expressing its views, or, when its interests are intimately involved, of participating in the negotiations.

(c.) In all cases where more than one of the Governments of the Empire participates in the negotiations, there should be the fullest possible exchange of views between those Governments before and during the negotiations. In the case of treaties negotiated at International Conferences, where there is a British Empire Delegation, on which, in accordance with the now established practice, the Dominions and India are separately represented, such representation should also be utilised to attain this object.

(d.) Steps should be taken to ensure that those Governments of the Empire, whose representatives are not participating in the negotiations, should, during their progress, be kept informed in regard to any points arising in which they may be interested.

2. Signature.

(a.) Bilateral treaties imposing obligations on one part of the Empire only should be signed by a representative of the Government of that part. The Full Power issued to such representative should indicate the part of the Empire in respect of which the obligations are to be undertaken, and the preamble and text of the treaty should be so worded as to make its scope clear.

(b.) Where a bilateral treaty imposes obligations on more than one part of the Empire, the treaty should be signed by one or more plenipotentiaries on behalf of all the Governments concerned.

(c.) As regards treaties negotiated at International Conferences, the existing practice of signature by plenipotentiaries on behalf of all the Governments of the Empire represented at the Conference should be continued, and the Full Powers should be in the form employed at Paris and Washington.

3. Ratification.

The existing practice in connection with the ratification of treaties should be maintained.

II.

Apart from treaties made between Heads of States, it is not unusual for agreements to be made between Governments. Such agreements, which are usually of a technical or administrative character, are made in the names of the signatory Governments, and signed by representatives of those Governments, who do not act under Full Powers issued by the Heads of the States; they are

not ratified by the Heads of the States, though in some cases some form of acceptance or confirmation by the Governments concerned is employed. As regards agreements of this nature the existing practice should be continued, but before entering on negotiations the Governments of the Empire should consider whether the interests of any other part of the Empire may be affected, and, if so, steps should be taken to ensure that the Government of such part is informed of the proposed negotiations, in order that it may have an opportunity of expressing its views.

ANNEXE (B).

Historical Memorandum on the Position of the Dominions in relation to the Signature of Treaties.

I.

THE history of the association of the Dominions with the negotiation of commercial and other arrangements affecting their interests goes back for several decades.

The earliest phase is found in the desire of the British Government to have the assistance of Dominion Ministers familiar with the matters dealt with.

Reference may be made to the negotiation of the Reciprocity Treaty of 1854 with the United States in the interests of Canada, in which the Canadian Government were consulted in the fullest manner possible.

In 1865 the British Government expressed their readiness to accept Canadian assistance in negotiating a Treaty of Reciprocity with the United States.

In 1871 Sir John Macdonald was one of the plenipotentiaries engaged in the negotiations for the Treaty of Washington, while Sir Alexander Galt and Sir Charles Tupper on several occasions conducted negotiations on behalf of Canada for commercial treaties with Spain and France.

It was at first proposed in such cases that the Canadian representative should be treated as being engaged in informal negotiations, and that he should not actually sign the convention when concluded; but this principle was abandoned almost immediately, and as early as 1884 it was contemplated that, had the negotiations with Spain, then on foot, resulted in an agreement, Sir Charles Tupper, High Commissioner for Canada, should have signed the agreement together with His Majesty's Representative at Madrid.

In 1888 Sir Charles Tupper actually signed the Treaty of Washington, which was, however, not approved by the United States Senate, and therefore was never ratified.

In 1892 Canadian Ministers, with Sir J. Pauncefote, then Ambassador at Washington, conducted negotiations with the United States Secretary of State, but no settlement resulted.

In 1893 Sir Charles Tupper negotiated a Treaty with France, which was finally accepted by both the French and British Governments. Sir Charles signed the treaty along with His Majesty's Representative at Paris.

In 1890 and 1902 Sir Robert Bond negotiated, on behalf of Newfoundland, through the Ambassador at Washington, with the United States Secretary of State. The former negotiation resulted in a convention, which was not proceeded with owing to the opposition of the Canadian Government on the ground that it was hostile to the interests of Canada, but the negotiation of 1902 terminated in the signature of a convention which, however, never came into operation owing to the objections of the United States Government.

In 1898 and 1899 a joint commission was appointed to deal with certain questions at issue with the United States of America, and elaborate negotiations took place on the subject of trade reciprocity between Canada and Newfoundland and the United States, among other matters, the negotiators being, with one exception, representatives of Canada and Newfoundland.

In 1907 Mr. Fielding and Mr. Brodeur, on behalf of the Canadian Government, negotiated a separate treaty with France, which received the approval of the British Government, and which,

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