

When a Government has received information of the intention of any other Government to conduct negotiations, it is incumbent upon it to indicate its attitude with reasonable promptitude. So long as the initiating Government receives no adverse comments and so long as its policy involves no active obligations on the part of the other Governments, it may proceed on the assumption that its policy is generally acceptable. It must, however, before taking any steps which might involve the other Governments in any active obligations, obtain their definite assent.

Where by the nature of the treaty it is desirable that it should be ratified on behalf of all the Governments of the Empire, the initiating Government may assume that a Government which has had full opportunity of indicating its attitude and has made no adverse comments will concur in the ratification of the treaty. In the case of a Government that prefers not to concur in the ratification of a treaty unless it has been signed by a plenipotentiary authorized to act on its behalf, it will advise the appointment of a plenipotentiary so to act.

The Imperial Conference of 1937 recognized, as regards the nature and effect of the participation of members of the British Commonwealth in a multilateral treaty,

- (i) That each member of the Commonwealth takes part in such a treaty as an individual entity, and, in absence of express provision in the treaty to the contrary, is in no way responsible for the obligations undertaken by another member.
- (ii) That the form agreed upon for such treaties at the 1926 Conference accords with this position.¹

II. CONTEMPORARY PROCEDURE

The Dominions now participate in treaty-making on a footing of complete equality with the United Kingdom, and have in many respects developed distinctive procedures of their own. The principles adopted by the Imperial Conferences of 1923, 1926, and 1937, set out above, should be read as the framework in which are set the more formal details of treaty-making procedure which are summarized in the remainder of this note.

Treaty-making procedure usually follows the traditional division of treaties into agreements between Heads of States (in the case of New Zealand, the King) and agreements between Governments. No sharp line divides the subject-matter of the two forms, which are equally binding, but in more recent times inter-governmental agreements have usually

¹ The footnote on p. 11 refers to the form of treaty agreed upon at the Imperial Conference of 1926.