



Treaty Series No. 4 (1936)

[Reprint of "Union of South Africa Treaty Series No. 5 (1934)"]

AGREEMENT

between His Majesty's Government in the Union of
South Africa and the Portuguese Government

revising the

Convention of September 11, 1928, relating to

NATIVE LABOUR FROM MOZAMBIQUE, RAILWAY MATTERS AND COMMERCIAL INTERCOURSE

Lourenço Marques, November 17, 1934

[Ratifications exchanged at Pretoria, July 12, 1935]

*Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty*

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REVISION OF THE TERMS OF THE CONVENTION BETWEEN THE
GOVERNMENT OF THE UNION OF SOUTH AFRICA AND THE
GOVERNMENT OF THE PORTUGUESE REPUBLIC.

THE Government of the Union of South Africa and the Government of the Portuguese Republic, having agreed to revise the terms of the Convention made and signed at Pretoria on the eleventh day of September Nineteen hundred and Twenty-eight,* under Article 54 thereof, have appointed as their Representatives to that end, that is to say :—

The Union Government :

The Honourable Patrick Duncan, K.C., C.M.G., M.P.,
Member of the Executive Council and Minister of Mines ;
The Honourable Oswald Pirow, K.C., M.P., Member of the
Executive Council and Minister of Railways and Harbours
and of Defence ; and
The Honourable Adrian Paulus Johannes Fourie, M.P.,
Member of the Executive Council and Minister of
Commerce and Industries and of Labour ;

The Portuguese Government :

Senhor José Ricardo Pereira Cabral, Colonel of Cavalry,
Governor-General of the Colony of Mozambique ;
Dr. José d'Almada, Colonial Adviser to the Ministry for
Foreign Affairs ;

Who, having communicated their respective powers, found in good and due form, have agreed as follows :—

A. As regards Part I (Native Labour), that for Articles 2, 3, 10, 11, 13, and 26 the following be substituted, viz. :—

1. ARTICLE 2.

The Portuguese Government authorizes the recruiting aforesaid and the subsequent repatriation of the Portuguese Natives upon the terms and conditions and in accordance with the regulations, together with any amendments thereof consistent with Article 53, facilities and arrangements in operation and actually observed as at the 16th day of May, 1928, in so far as such terms, conditions, regulations, facilities and arrangements (so in operation and observed) are matters under the control of either Government and in so far as they are not modified by this Convention.

* " Treaty Series No. 9 (1930)," Cmd. 3495.

**HERSIENING VAN DIE TERME VAN DIE KONVENSIË TUSSEN
DIE REGERING VAN DIE UNIE VAN SUID-AFRIKA EN DIE
REGERING VAN DIE PORTUGESE REPUBLIEK.**

Die Regering van die Unie van Suid-Afrika en die Regering van die Portugese Republiek, van sins om die bepalings van die Konvensie, aangegaan en geteken te Pretoria op die elfde dag van September eenduisend negehonderd ag-en-twintig, te hersien, ooreenkomstig die bepalings van Artikel 54 daarvan, het vir die doel as hul Verteenwoordigers aangestel, te wete:—

Die Regering van die Unie :

- Sy Edele Patrick Duncan, K.C., C.M.G., L.V., Lid van die Uitvoerende Raad en Minister van Mynwese;
- Sy Edele Oswald Pirow, K.C., L.V., Lid van die Uitvoerende Raad en Minister van Spoorweë en Hawens en van Verdediging; en
- Sy Edele Adrian Paulus Johannes Fourie, L.V., Lid van die Uitvoerende Raad en Minister van Handel en Nywerheid en van Arbeid;

Die Portugese Regering :

- Senhor José Ricardo Pereira Cabral, Kolonel van die Ruitery, Goewerneur-generaal van die Kolonie Mosambiek;
- Dr. José d'Almada, Koloniale Adviseur van die Ministerie van Buitelandse Sake;

wat, na oorlegging van hul respektiewe volmagte, wat in goeie en behoorlike vorm bevind is, ooreengekom het as volg:—

A. Wat betref Deel I (Naturelle Arbeid) dat Artikels 2, 3, 10, 11, 13 en 26 vervang word deur die volgende, te wete:—

1. **ARTIKEL 2.**

Die Portugese Regering magtig die aanwerwing voormeld en die latere repatriasie van die Portugese Naturelle ooreenkomstig die terme en voorwaardes en in ooreenstemming met die regulasies tesame met enige wysigings daarvan bestaanbaar met Artikel 53, fasiliteite en skikkings soos in werking en werklik nagekom op die 16de dag van Mei 1928, insover as sodanige terme, voorwaardes, regulasies, fasiliteite en skikkings aldus in werking en nagekom, sake is wat onder kontrole val van een van die Regerings en insover as hulle nie deur hierdie Konvensie gewysig word nie.

The Government of Mozambique, however, reserves the right to limit the recruitment, or to cause it to cease, in those areas where, for reasons of public or private undertakings, it should be found necessary to provide for pressing local demands for native labour, but without prejudice to the limits fixed for the quota of Portuguese Natives to be employed on the mines and, as far as possible, in agreement with the Recruiting Organization.

2. ARTICLE 8.

The number of Natives recruited in terms of this Convention whose employment on the Mines is authorized by the Portuguese Government shall not exceed 80,000, and the Union Government will allow the Mines, if they so desire, to employ a minimum of 65,000 Portuguese Natives.

In order to solve any difficulties relative to native labour that may arise in Mozambique or in the Union, the numbers mentioned in this Article may, after consultation between the two Governments, be altered :—

- (a) whenever, in Mozambique, there is not sufficient native labour available for its own requirements, or whenever native labour exceeds those requirements;
- (b) whenever, in the Union, the Government may have to provide against unemployment amongst Union Natives.

3. ARTICLE 10.

The following fees shall be payable to the Curator by the Mines in respect of Portuguese Natives, viz. :—

- (a) A registration fee of one shilling and sixpence per Native on original engagement, and one shilling and sixpence on re-engagement;
- (b) a monthly fee of two shillings and ninepence per Native for every month or part thereof during which the Native is employed.

4. ARTICLE 11.

If the total fees received by the Government of Mozambique in any year, commencing with the year 1935, under articles 9 and 10 in respect of Portuguese Natives employed on the Mines amount to less than forty-four shillings and sixpence multiplied by the average number of such Natives employed by the Mines during that year, the deficiency shall be paid by the Mines to the Curator.

5. ARTICLE 13.

After the first nine months (two hundred and thirty-four shifts worked) and during any period or periods of re-engagement, deferred

Die Regering van Mosambiek behou egter die reg om die aanwerving te beperk of te laat ophou in streke waar dit, uit hoofde van openbare of private werke, nodig mag bevind word om in dringende plaaslike behoefte aan natuurlike arbeidskragte te voorsien, sonder om egter tekort te doen aan die vasgestelde getal Portugese Naturelle vir diens in die Myne, en, vir sover moontlik, in ooreenstemming met die Werforganisasie.

2. ARTIKEL 3.

Die aantal Naturelle, aangewerf onder hierdie Konvensie, die tewerkstelling in die Myne van wie die Portugese Regering magtig, gaan 80,000 nie te bowe nie, en die Regering van die Unie sal die Myne toelaat om, indien hulle dit verlang, 'n minimum van 65,000 Portugese Naturelle in diens te hou.

Ten einde eventuele moeilikhede in verband met natuurlike-arbeid, in Mosambiek of die Unie, op te los, kan die getalle in hierdie Artikel vermeld, na oorleg tussen die twee Regerings, gewysig word :

- (a) so dikwels as Mosambiek vir sy eie behoeftes 'n tekort aan natuurlike-arbeid het, of so dikwels as natuurlike-arbeid sy behoeftes oortref;
- (b) so dikwels as in die Unie, die Regering maatreëls moet neem teen werkloosheid onder Naturelle van die Unie.

3. ARTIKEL 10.

Die volgende gelde sal deur die Myne aan die Kurator betaal word in verband met Portugese Naturelle, naamlik :—

- (a) 'n Registrasiefooi van een shilling en ses pennies per Naturel by oorspronklike indiensneming of her-indiensneming;
- (b) 'n maandelikse fooi van twee shillings en nege pennies per Naturel vir elke maand of gedeelte daarvan, gedurende welke die Naturel in diens is.

4. ARTIKEL 11.

Ingeval dat in enige jaar, te begin met die jaar 1935, die totale gelde deur die Regering van Mosambiek ingevolge Artikels 9 en 10 ten aansien van Portugese Naturelle werksaam in die Myne ontvang, minder bedra as vier-en-veertig shillings en ses pennies vermenigvuldig met die gemiddelde getal van sodanige Naturelle wat gedurende daardie jaar by die Myne in diens was, betaal die Myne aan die Kurator die tekort.

5. ARTIKEL 13.

Na die eerste nege maande (234 skofte) en gedurende enige tydperk of tydperke van her-indiensneming, word loon bereken op 'n

pay at a flat rate revisable from time to time and representing as nearly as practicable one-half of the rate of pay shall be retained from the earnings of Portuguese Natives by the Mines on which they are employed and shall be paid to the Natives in Mozambique on their return thereto.

6.

ARTICLE 26.

All moneys payable under this Convention, whether taxes, fees, wages or any other moneys, shall be paid and settled in legal currency of the Union.

B. As regards Part II (Port and Railways), that Articles 33, 34, 35, 36, 37, 38 and 43 be deleted, and that for Articles 32, 41 and 44 the following be substituted, viz. :—

1.

ARTICLE 32.

The Union Government undertakes to secure to the Port of Lourenço Marques not less than forty-seven and a half per cent. of the total tonnage of commercial sea-borne goods traffic imported into the "competitive area" :—

- (a) For the purpose of computing the percentage referred to in this Article, sea-borne goods traffic for the civil, military and railway authorities shall be excluded;
- (b) The "competitive area" shall mean the area bounded by lines drawn between the goods traffic depots serving Pretoria, Springs, Vereeniging, Klerksdorp, Welverdiend, Krugersdorp and Pretoria, as indicated in the map annexed to this Convention, or any other area which may be agreed upon by the two Railway Administrations.

2.

ARTICLE 41.

All matters affecting Railways and Harbours not provided for in the Convention shall form the subject of a working Agreement, binding upon both Governments, between the two Railway Administrations represented by the General Manager of the South African Railways and Harbours of the one part, and by the Director dos Serviços dos Portos e Caminhos de Ferro de Moçambique of the other part. Any alteration to the said agreement shall require the consent of the Minister of Railways and Harbours of the Union and of the Governor-General of Mozambique as the respective heads of the two Railway Administrations.

3.

ARTICLE 44.

For the purpose of this Convention the Administration of the South African Railways and Harbours and the Administration of the Portos e Caminhos de Ferro de Moçambique shall mean any authority

geëddelde basis, wat van tyd tot tyd hersien kan word, en so na as moontlik die helfte van die loonskaal bedra uit die verdienstes van Portugese Naturelle deur die Myne, waarop hulle werksaam is, agtergehou en aan die Naturelle by hul terugkeer in Mosambiek betaal.

6. ARTIKEL 26.

Alle gelde, betaalbaar ingevolge hierdie Konvensie, hetsy belastinge, fooie, lone, of enige ander gelde, word in die gangbare betaalmiddel van die Unie betaal en vereffen.

B. Wat betref Deel II (Hawe en Spoorweë) dat Artikels 33, 34, 35, 36, 37, 38 en 43 geskrap word, en dat Artikels 32, 41 en 44 deur die volgende vervang word, te wete:—

1. ARTIKEL 32.

Die Regering van die Unie onderneem om aan die Hawe van Lourenço Marques te verseker nie minder as sewe-en-veertig en half persent van die totale tonnemaat oorsese handelsgoedereverkeer na die "Konkurensiestreek":

(a) by die berekening van die persentasie vermeld in hierdie Artikel word die goedere van oorsee ingevter vir die siviele, militêre en spoorwegowerhede uitgesluit;

(b) die "konkurensiestreek" beteken die streek wat begrens is deur lyne getrek tussen die stasies vir goedereverkeer wat Pretoria, Springs, Vereeniging, Klerksdorp, Welverdiend, Krugersdorp en Pretoria bedien soos aangedui in die kaart aan hierdie Konvensie geheg, of 'n ander streek waartoe ooreengekom mag word deur die twee Spoorwegadministrasies.

2. ARTIKEL 41.

Alle Spoorweë- en Hawensaangeleenthede, waarin die Konvensie nie voorsien nie, vorm die onderwerp van 'n werkende ooreenkoms, wat beide Regerings bind, tussen die twee Spoorwegadministrasies wat aan die kant van die Suid-Afrikaanse Spoorweë en Hawens verteenwoordig word deur die Algemene Bestuurder en aan die ander kant deur die Direkteur van die Hawens en Spoorwegdienste van Mosambiek. Elke wysiging van bogemelde ooreenkoms vereis die toestemming van die Minister van Spoorweë en Hawens van die Unie en van die Goewerneur-generaal van Mosambiek as die onderskeie hoofde van die twee Spoorwegadministrasies.

3. ARTIKEL 44.

In hierdie Konvensie beteken die Administrasie van die Suid-Afrikaanse Spoorweë en Hawens en die Administrasie van Hawens en Spoorweë van Mosambiek elke gesag aan wie die beheer van, en

in whom the management and control of the railways and harbours in the Union and in Mozambique, respectively, are for the time being vested.

C. As regards Part III (Customs and Commercial Intercourse), that Articles 46 and 47 and the Schedules annexed to the Convention be deleted, and that for Article 52 the following be substituted, viz. :—

ARTICLE 52.

(1) The Government of the Union and the Government of the Portuguese Republic, so far as concerns Mozambique, undertake not to impede the mutual trade between the Union and Mozambique, by the imposition of any prohibitions or special restrictions upon imports into or exports from the respective territories, but exceptions may be made—

- (a) in consideration of the public safety, or public health, and on moral or humanitarian grounds;
- (b) in consideration of the protection of animals and plants against disease, insects and harmful parasites, or for their preservation from degeneration or extinction;
- (c) in respect of arms, ammunition and implements of war, and, under exceptional circumstances, other military supplies;
- (d) in respect of the export of national treasures of artistic, historic or archaeological value;
- (e) in respect of goods which are or may be objects of a State monopoly;
- (f) in respect of prison—or penitentiary—made goods;
- (g) in extending to imported products the prohibitions or restrictions which are or may be imposed in respect of the production, sale, transport or consumption of similar local products;
- (h) in subjecting the exportation of their products to certain conditions with a view to ensuring the quality and preserving the reputation of those products, and at the same time offering a guarantee to the foreign purchaser;

provided that such prohibitions or restrictions are applied at the same time and in the same manner and to the same extent to other countries in regard to which like grounds for applying such measures exist, and provided further that they do not constitute a disguised restriction on the mutual trade.

(2) In the event of circumstances arising which may render it necessary to impose upon imports any prohibitions or restrictions not covered by Section (1) of this Article, the Union Government and the Portuguese Government undertake that they will not without prior

toeg oor, die spoorweë en hawens in die Unie en in Mosambiek onderskeidelik asdan opgedra is.

C. Wat betref Deel III (Doeane en Handelsverkeer) dat Artikels 46 en 47 en die Bylae van die Konvensie geskrap word, en dat Artikel 52 vervang word deur die volgende, te wete:—

ARTIKEL 52.

(1) Die Regering van die Unie en die Regering van die Portugese Republiek, wat Mosambiek betref, onderneem om die onderlinge handelsverkeer tussen die Unie en Mosambiek nie deur die oplegging van verbode of besondere beperkings op die invoer in, of uitvoer van die respektiewe grondgebiede te belemmer nie. Uitsonderings kan gemaak word—

- (a) in die belang van publieke veiligheid of volksgesondheid en op morele of mensliewende gronde;
- (b) om diere en plante teen siekte, insekte en skadelike parasiete te beskerm, of om hul ontarding of uitsterwing te verhoed;
- (c) ten aansien van wapens, ammunisie en krygsmateriaal, en, onder buitengewone omstandighede, ander militêre voorrade;
- (d) ten aansien van die uitvoer van nasionale skatte van artistieke, historiese of oudheidkundige waarde;
- (e) ten aansien van goedere wat voorwerpe van 'n Staatsmonopolie is of mag word;
- (f) ten aansien van goedere in gevangnisse of strafinrigtings gemaak;
- (g) ten einde op ingevoerde goedere die verbode of beperkings wat bestaan of opgelê mag word ten aansien van die produksie, verkoop, vervoer of verbruik van soortgelyke plaaslike produkte, toe te pas;
- (h) ten einde, deur die oplegging van voorwaardes op die uitvoer van sekere produkte, die kwaliteit en goeie naam daarvan te verseker, en terselfdertyd 'n waarborg aan die buitelandse kopers te verskaf;

met die verstande dat bogenoemde verbode of beperkings opgelê word op dieselfde tyd, en op dieselfde wyse en in dieselfde mate aan ander lande ten aansien waarvan soortgelyke gronde bestaan vir die toepassing van sulke maatreëls, en met die verdere voorbehoud dat hulle nie 'n vermoede beperking van die wedersydse handelsverkeer uitmaak nie.

(2) Ingeval omstandighede ontstaan wat dit nodig maak om verbode of beperkings op die invoer te lê, wat nie deur paragraaf (1) van hierdie Artikel gedek is nie, onderneem die Unieregering en die Portugese Regering om nie sonder voorafgaande advies enige verbode

notice impose any prohibitions or restrictions which will place the products of Mozambique or of the Union in any less favourable position than the products of any other country, excepting the countries specified in sub-sections (a), (b) and (c) respectively of Article 45.

D. As regards Part IV (Miscellaneous), that for Article 56 the following be substituted, viz. :—

ARTICLE 56.

Any dispute that may arise relative to the interpretation or the carrying out of the Convention, and that cannot be settled by direct negotiations between the Union Government and the Portuguese Government shall be submitted to arbitration, and to this end the Union Government will appoint as Arbiter the Chief Justice of the Supreme Court of South Africa and the Portuguese Government the Judge President of the Court of Appeal of Mozambique. If the Judges aforesaid are unable to reach a joint decision they shall together elect an umpire. If no appointment can be mutually agreed upon by them, the President of the High Court of International Justice at The Hague shall be requested to make the necessary appointment. The procedure shall be *ex æquo et bono* and in accordance with the terms of submission to be agreed upon in respect of each particular case. This Article shall not apply to Article 32 of the Convention except where the question in dispute is whether or not the port of Lourenço Marques is in fact receiving forty-seven and a half per cent. of the traffic as provided for in the said Article.

This Agreement shall be ratified by the two Governments and the exchange of ratifications shall take place at Pretoria without undue delay; the Articles that have been revised shall, however, come into operation from the date of the signature hereof, and the Articles that have been deleted shall become inoperative from the same date, all other Articles of the Convention continuing in force as before.

In witness whereof the Representatives of the respective Governments have signed the present Agreement on the revision of the terms of the Convention.

Done at Lourenço Marques in triplicate in English, Afrikaans and Portuguese texts on the Seventeenth day of November, 1934.

PATRICK DUNCAN.

JOSÉ RICARDO

O. PIROW.

PEREIRA CABRAL.

A. P. J. FOURIE.

JOSÉ D'ALMADA.

of perkings op te lê nie, waardeur die produkte van Mosambiek of van die Unie in 'n minder gunstige posisie as die van enige ander land geplaas word, behalwe die lande vermeld in sub-paragraawe (a), (b) en (c), onderskeidelik, van Artikel 45.

D. Wat betref Deel IV (Gemengde Bepalings) dat Artikel 56 vervang word deur die volgende, te wete:—

ARTIKEL 56.

Elké geskil wat mag rys in verband met die uitleg of die toepassing van die Konvensie en wat nie besleg kan word deur direkte onderhandelings tussen die Regering van die Unie en die Portugese Regering nie sal onderwerp word aan arbitrasie en vir hierdie doel sal die Regering van die Unie as Arbitrator aanstel die Hoofregter van die Hooggeregshof van Suid-Afrika en die Portugese Regering die Regter-President van die Hof van Appèl van Mosambiek. Indien die Regters vermeld nie in staat is om tot 'n gemeenskaplike beslissing te geraak nie, sal hulle gesamentlik 'n Skeidsregter kies. Indien hulle ten aansien van so'n aanstelling geen ooreenstemming kan bereik nie, sal die President van die Hoë Hof van Internasionale Regspraak in Den Haag gevra word om die nodige aanstelling te maak. Die prosedure sal wees *ex aequo et bono* en in ooreenstemming met die terme van submissie, waaromtrent die Partye in elke besondere geval moet ooreenkom. Hierdie Artikel is nie op Artikel 32 van die Konvensie van toepassing nie behalwe waar die vraag in geskil is of die Hawe van Lourenço Marques, al dan nie, in werklikheid sewe-en-veertig en half persent van die verkeer geniet wat in gemelde Artikel voorgeskryf word.

Hierdie Ooreenkoms moet deur die twee Regerings bekragtig word en die uitwisseling van bekragtiging geskied op Pretoria sonder onnodige oponthoud; die Artikels wat hersien is, tree egter in werking van die datum van ondertekening hiervan, en die Artikels wat geskrap is, word van dieselfde datum af nie van krag nie, terwyl alle ander Artikels van die Konvensie so as van tevore in werking bly.

Ter oorkonde waarvan die Verteenwoordigers van die onderskeie Regerings hierdie Ooreenkoms tot wysiging van die terme van die Konvensie geteken het.

Gedaan te Lourenço Marques, in drievoud in Afrikaanse, Engelse en Portugese tekste op die Sewentiende dag van November 1934.

PATRICK DUNCAN.

JOSÉ RICARDO

O. PIROW.

PEREIRA CABRAL.

A. P. J. FOURIE.

JOSÉ D'ALMADA.

REVISÃO DAS CLAUSULAS DA CONVENÇÃO ENTRE O GOVÊRNO
DA REPÚBLICA PORTUGUÊSA E O GOVÊRNO DA UNIÃO DA
ÁFRICA DO SUL.

O GOVÊRNO da República Portuguesa e o Govêrno da União da África do Sul, tendo concordado em proceder á revisão das clausulas da Convenção celebrada e assinada em Pretória aos onze dias do mês de Setembro do mil novecentos e vinte e oito, nos termos do artigo 54 da mesma Convenção, nomearam seus representantes para esse efeito :

O Govêrno Português :

- O Senhor José Ricardo Pereira Cabral, Coronel de Cavalaria, Governador Geral da Colónia de Moçambique;
- O Doutor José de Almada, Consultor Colonial do Ministério dos Negócios Estrangeiros;

E o Govêrno da União :

- O Honourable Patrick Duncan, K.C., C.M.G., M.P., Membro do Conselho Executivo e Ministro das Minas;
- O Honourable Oswald Pirow, K.C., M.P., Membro do Conselho Executivo e Ministro dos Caminhos de Ferro e Portos e da Defeza;
- O Honourable Adrian Paulus Johannes Fourie, M.P., Membro do Conselho Executivo e Ministro do Commércio, Indústria e do Trabalho;

os quais, depois de terem comunicado os seus respectivos poderes, que acharam em boa e devida forma, concordaram no seguinte :

A. Relativamente á Parte I (Trabalho Indigena), que os artigos 2, 3, 10, 11, 13 en 26 sejam substituídos como segue :

ARTIGO 2.

O Govêrno Português autorisa o referido recrutamento e a subsequente repatriação dos indigenas portugueses, nos termos dos regulamentos em vigôr á data de 16 de Maio de 1928 e das alterações neles introduzidas que não contrariem o disposto no artigo 53, e em harmonia com as condições, facilidades e acordos igualmente em vigôr áquella data, no que depender dos Govêrnos de Moçambique e da União e no que não fôr alterado por esta Convenção.

Fica, porém, reservado ao Govêrno de Moçambique o direito de limitar ou fazer cessar o recrutamento nas zonas onde, por motivo de trabalhos públicos ou particulares, seja necessário atender a instantes necessidades locais de mão de obra indigena, mas sem prejuízo dos limites fixados para o contingente de indigenas portugueses a empregar nas Minas e, tanto quanto possivel, de acôrdo com a entidade recrutadora.

ARTIGO 3.

O número de indígenas recrutados nos termos desta Convenção que o Governo Português autorisa que sejam empregados nas Minas não será superior a 80,000; e o Governo da União autorisa que as Minas, se assim o desejarem, empreguem um mínimo de 65,000 indígenas portugueses.

Para que possam ser resolvidas quaisquer dificuldades sobre trabalho indígena que surjam em Moçambique ou na União, os números fixados neste artigo podem ser alterados, mediante consulta entre os dois Governos:

- (a) Quando em Moçambique não haja suficientes disponibilidades de mão de obra indígena para as suas próprias necessidades ou quando as haja em excesso;
- (b) Quando na União seja necessário ao Governo providenciar sobre desemprego entre os indígenas da União.

ARTIGO 10.

As Minas pagarão ao Curador, pelo emprêgo de indígenas portugueses, as seguintes taxas:

- (a) Um xelim e seis dinheiros pelo registo de cada contrato ou recontrato, por cada indígena;
- (b) Dois xelins e nove dinheiros por indígena e por mês ou parte, durante o tempo que o indígena estiver empregado.

ARTIGO 11.

Se, em cada ano, a começar no de 1935, o total das taxas e emolumentos recebidos pelo Governo de Moçambique, nos termos dos artigos 9 e 10 e em relação aos indígenas portugueses empregados nas Minas, não atingir uma importância igual ao produto de quarenta e quatro xelins e seis dinheiros pelo número médio de indígenas empregados nas Minas durante esse ano, a diferença será paga pelas Minas ao Curador.

ARTIGO 13.

Depois dos primeiros nove meses (duzentos e trinta e quatro dias úteis) do contracto e durante qualquer periodo ou periodos de recontracto, será deduzida dos salários dos indígenas portugueses, pelas Minas em que estiverem empregados, uma quantia certa, tão próxima quanto fôr possível, de metade desses salários e verificável de tempos a tempos, que será paga em Moçambique por ocasião do regresso dos indígenas.

ARTIGO 26.

Tôdas as quantias em dinheiro devidas nos termos desta Convenção, sejam taxas, emolumentos, salários ou outras, serão pagas e liquidadas em moeda corrente na União.

B. Relativamente á Parte II (Portos e Caminhos de Ferro), que sejam eliminados os artigos 33, 34, 35, 36, 37, 38 e 43 e que os artigos 32, 41 e 44 sejam substituídos como segue :

ARTIGO 32.

O Governo da União assegura ao Porto de Lourenço Marques não menos de quarenta e sete meio por cento da tonelagem comercial total das mercadorias importados por via marítima com destino á “ zona de competencia.”

- (a) Para efeitos do cálculo da percentagem referida neste artigo, será excluído o tráfego das mercadorias importadas por via marítima com destino ás autoridades civis, militares e ferroviárias;
- (b) Por “ zona de competencia ” entende-se a zona limitada pelas linhas traçadas entre as estações de mercadorias de Pretória, Springs, Vereeniging, Klerksdorp, Welverdiend, Krugersdorp e Pretória, conforme o mapa anexo a esta Convenção, ou qualquer outra zona determinada por acordo entre as duas Administrações Ferroviárias.

ARTIGO 41.

Todos os assuntos referentes a portos e caminhos de ferro não previstos nesta Convenção serão objecto de um acordo de trabalho entre as duas Administrações Ferroviárias, respectivamente representadas pelo Director dos Serviços de Portos e Caminhos de Ferro de Moçambique e pelo General Manager of the South African Railways and Harbours. A este acordo de trabalho ficam obrigados os dois Governos. Quaisquer alterações ao dito acordo necessitam da aprovação do Governador Geral de Moçambique e do Ministro dos Caminhos de Ferro e Portos da União como chefes das respectivas Administrações Ferroviárias.

ARTIGO 44.

Para os efeitos desta Convenção entender-se-á por Administração dos Portos e Caminhos de Ferro de Moçambique e por Administração dos South African Railways and Harbours qualquer autoridade a quem a Direcção e superintendencia dos Caminhos de Ferro e Portos de Moçambique ou da União sejam ou venham a ser respectivamente cometidas.

C. Relativamente á Parte III (Alfandegas e Intercâmbio Commercial), que sejam eliminados os artigos 46 e 47 e as tabelas anexas e que o artigo 52 seja substituído como segue :

ARTIGO 52.

(1) O Governo da República Portuguesa, em relação a Moçambique, e o Governo da União obrigam-se a não pôr impedimentos ao

intercambio comercial entre Moçambique e a União pela imposição de proibições ou restrições especiais á importação ou exportação dos respectivos territórios, com excepção do que respeita a :

- (a) Segurança pública e Saúde pública e motivos de ordem moral e humanitária ;
- (b) Protecção de animais e plantas contra doenças, insectos e parasitas nocivos, ou para evitar a sua degenerescencia ou extinção ;
- (c) Armas, munições e material de guerra e, em circumstancias excepcionais, outros artigos militares ;
- (d) Exportação de tesouros nacionais de valor artístico, histórico ou arqueológico ;
- (e) Mercadorias monopolizadas pelo Estado ;
- (f) Mercadorias fabricadas nas prisões ou penitenciárias ;
- (g) Tornar extensivas á importação as proibições ou restrições que existam ou venham a ser impostas sobre a produção, venda, transporte ou consumo de produtos locais similares ;
- (h) Imposição de condições respeitantes á exportação de certos produtos para garantir a sua qualidade e a defêsa do seu bom nome, e, ao mesmo tempo, para salvaguardar os interesses dos compradores no estrangeiro.

As medidas proibitivas ou restrictivas do comercio acima mencionadas só poderão adoptar-se quando forem applicadas ao mesmo tempo, da mesma maneira e na mesma amplitude a outros países onde prevaleçam motivos análogos que as justifiquem e, em caso algum, poderão constituir uma restrição disfarçada do intercambio entre Moçambique e a União.

(2) Se sobrevierem circumstancias que possam tornar necessária a imposição de quaisquer proibições ou restrições á importação, não previstas na parte (1) deste artigo, o Govêrno Português e o Govêrno da União, obrigam-se a não impôr sem aviso prévio quaisquer restrições ou proibições que coloquem os produtos da União ou de Moçambique em situação menos favorável do que os de qualquer outro paiz, com excepção dos mencionados nas alíneas (a), (b) e (c) do artigo 45.

D. Relativamente á Parte IV (Disposições Diversas), que o artigo 56 seja substituído como segue :

ARTIGO 56.

Tôdas as divergencias que se suscitarem relativamente á interpretação ou á execução desta Convenção, e que não possam ser resolvidas por negociações directas entre o Govêrno Português e o Govêrno da União, serão submetidas a arbitragem, nomeando o Govêrno Português para esse efeito seu arbitro o Juiz Presidente do Tribunal da Relação de Moçambique e o Govêrno da União o Juiz Presidente do Supremo Tribunal da África do Sul. Se estes dois juizes não

chegaram a acordo, escolherão um árbitro de desempate, e, se não houver entendimento sobre esta escolha, o Presidente do Tribunal Permanente de Justiça Internacional da Haia será solicitado para fazer a necessária nomeação. O julgamento far-se-á *ex aequo et bono* e nos termos do compromisso arbitral que se ha-de celebrar para cada caso. Este artigo não é applicável ao artigo 32 da Convenção excepto se a divergencia fôr sobre o facto do porto de Lourenço Marques estar recebendo ou não quarenta e sete e meio por cento do tráfego conforme o disposto no referido artigo.

Este acordo será ratificado pelos dois Govêrnos e a troca de ratificações terá lugar em Pretória no mais curto prazo possível; mas os artigos que foram substituídos entrarão em vigôr a partir da data da assinatura deste acordo e os artigos eliminados deixam de vigorar a partir da mesma data e todos os outros artigos da Convenção continuarão em vigôr como anteriormente.

Em fé do que os representantes dos dois Govêrnos assinaram o presente acôrdo de revisão das clausulas da Convenção.

Feito em Lourenço Marques, em triplicado e em português, inglês e afrikaans, aos dezassete dias do mês de Novembro de mil novecentos e trinta e quatro.

PATRICK DUNCAN.

O. PIROW.

A. P. J. FOURIE.

JOSÉ RICARDO

PEREIRA CABRAL.

JOSÉ D'ALMADA.