

GOVERNMENT OF
Commonwealth Relations Department



Cape Town Agreement 1927

and

**Joint Statement issued by
the Government of India
and the Government of the
Union of South Africa after
the conclusion of Second
Round Table Conference at
Cape Town, 1932**

**Announcement made simultaneously in India and South Africa on the
21st February 1927. of the terms of the Cape Town Agreement, 1926**

1. It was announced in April 1926 that the Government of India and the Government of the Union of South Africa had agreed to hold a Round Table Conference to explore all possible methods of settling the Indian question in the Union in a manner which would safeguard the maintenance of western standards of life in South Africa by just and legitimate means. The Conference assembled at Cape Town on December 17th and its session finished on January 12th. There was, in these meetings, a full and frank exchange of views which has resulted in a truer appreciation of mutual difficulties and a united understanding to co-operate in the solution of a common problem in a spirit of friendliness and good-will.

Both Governments re-affirm their recognition of the right of South Africa to use all just and legitimate means for the maintenance of western standards of life.

2. The Union Government recognises that Indians domiciled in the Union who are prepared to conform to western standards of life, should be enabled to do so.

3. For those Indians in the Union who may desire to avail themselves of it, the Union Government will organise a scheme of assisted emigration to India or other countries where western standards are not required. Union domicile will be lost after 3 years' continuous absence from the Union, in agreement with the proposed revision of the law relating to domicile which will be of general application. Emigrants under the assisted emigration scheme who desire to return to the Union within the 3 years will only be allowed to do so on refund to the Union Government of the cost of the assistance received by them.

4. The Government of India recognise their obligation to look after such emigrants on their arrival in India.

5. The admission into the Union of the wives and minor children of Indians permanently domiciled in the Union will be regulated by paragraph 3 of Resolution XXI of the Imperial Conference of 1918.

6. In the expectation that the difficulties with which the Union has been confronted will be materially lessened by the agreement now happily reached between the two Governments, and in order that the agreement may come into operation under the most favourable auspices and have a fair trial, the Government of the Union of South Africa have decided not to proceed further with the Areas Reservation and Immigration and Registration (Further Provision) Bill.

7. The two Governments have agreed to watch the working of the agreement now reached and to exchange views from time to time as to any changes that experience may suggest.

8. The Government of the Union of South Africa have requested the Government of India to appoint an agent in order to secure continuous and effective co-operation between the two Governments.

Annex containing summary of the conclusions reached by the Round Table Conference on the Indian question in South Africa, 1927

Scheme of assisted emigration.—(1) Any Indian of 16 years or over may avail himself of the scheme. In case of a family, the decision of the father will bind the wife and minor children under 16 years.

(2) Each person of 16 years of age or over will receive a bonus of £20 and each child under that age a sum of £10. No maximum shall be fixed for a family. A decrepit adult who is unable to earn his living by reason of a physical disability may, at the discretion of the Union authorities, receive a pension in lieu of or in addition to the bonus. The pension will be paid through some convenient official agency in India out of a fund provided by the Union Government to such amount as they may determine. It is expected that the amount required will not exceed £500 per annum in all.

In every case the bonus will be payable in India on arrival at destination or afterwards, through some banking institution of repute.

(3) Free passage, including railway fares to port of embarkation in South Africa and from port of landing in India to destination inland, will also be provided.

(4) Emigrants will travel to India *via* Bombay as well as *via* Madras. Emigrants landing at Bombay will be sent direct from the ship to their destination at the expense of the Union Government.

Survey and certification of ships shall be strictly supervised and conditions on the voyage, especially in respect of sanitary arrangements, feeding and medical attendance, improved.

(5) Before a batch of emigrants leaves the Union, information will be sent to some designated authority in India at least one month in advance giving (a) a list of intending emigrants and their families, (b) their occupation in South Africa and the occupation or employment which they would require in India, and (c) the amount of cash and other resources which each possesses. On arrival in India emigrants will be (i) advised, and so far as possible, protected against squandering their cash or losing it to adventurers, and (ii) helped, as far as possible, to settle in occupations for which they are best suited by their aptitude or their resources. Any emigrant wishing to participate in emigration schemes authorised by the Government of India will be given the same facilities in India as Indian nationals.

(6) An assisted emigrant wishing to return to the Union will be allowed to do so within three years from the date of departure from South Africa. As condition precedent to re-entry, an emigrant shall refund in full to some recognised authority in India the bonus and cost of passage including railway fares received on his own behalf and if he has a family, on behalf of his family. A *pro rata* reduction will, however, be made (i) in respect of a member of the family who dies in the *interim* or a daughter who marries in India and does not return, and (ii) in other cases of unforeseen hardship, at the discretion of the Minister.

(7) After expiry of three years Union domicile will be lost in agreement with the proposed revision of the law relating to domicile which will be of general application. The period of three years will run from the date of departure from a port in the Union and expire on the last day of the third year. But to prevent the abuse of the bonus and free passage by persons who wish to pay temporary visits to India or elsewhere no person availing himself of the benefits of the scheme will be allowed to come back to the Union within less than *one* year from the date of his departure. For purposes of re-entry within the time limit of three years, the unity of the family group shall be recognised though in cases of unforeseen hardship the Minister of the Interior may allow one or more members

of the family to stay behind. A son who goes with the family as a minor, attains majority outside the Union, marries there and has issue will be allowed to return to South Africa, but only if he comes with the rest of his father's family. In such cases he will be allowed to bring his wife and child or children with him. But a daughter who marries outside the Union will acquire the domicile of her husband and will not be admitted into the Union unless her husband is himself domiciled in the Union.

II. Entry of wives and minor children.—To give effect to paragraph 3 of the Reciprocity Resolution of the Imperial Conference of 1918 which intended that an Indian should be enabled to live a happy family life in the country in which he is domiciled, the entry of wives and children shall be governed by the following principles:—

(a) The Government of India should certify that each individual for whom a right of entry is claimed, is the lawful wife or child, as the case may be, of the person who makes the claim.

(b) Minor children should not be permitted to enter the Union unless accompanied by the mother, if alive, provided that

(i) the mother is not already resident in the Union, and

(ii) the Minister may, in special cases, permit the entry of such children unaccompanied by their mother.

(c) In the event of divorce no other wife should be permitted to enter the Union unless proof of such divorce to the satisfaction of the Minister has been submitted.

(d) The definition of wife and child as given in the Indians Relief Act (No. 22 of 1914) shall remain in force.

III. Upliftment of Indian community.—(1) The Union Government firmly believe in and adhere to the principle that it is the duty of every civilised Government to devise ways and means and to take all possible steps for the uplifting of every section of their permanent population to the full extent of their capacity and opportunities, and accept the view that in the provision of educational and other facilities the considerable number of Indians who remain part of the permanent population should not be allowed to lag behind other sections of the people.

(2) It is difficult for the Union Government to take action, which is considerably in advance of public opinion, or to ignore difficulties arising out of the constitutional system of the Union under which the functions of Government are distributed between the Central Executive and the Provincial and minor local authorities. But the Union Government are willing:

(a) in view of the admittedly grave situation in respect of Indian education in Natal, to advise the provincial administration to appoint a provincial commission of inquiry and to obtain the assistance of an educational expert from the Government of India for the purpose of such inquiry;

(b) to consider sympathetically the question of improving facilities for higher education by providing suitable hostel accommodation at the South African Native College at Fort Hare and otherwise improving the attractiveness of the institution for Indians;

(c) to take special steps under the Public Health Act for an investigation into sanitary and housing conditions in and around Durban which will include the question of—

(i) the appointment of advisory committees of representative Indians; and
(ii) the limitation of the sale of municipal land subject to restrictive conditions.

(3) The principle underlying the Industrial Conciliation Act (No. 11 of 1924) and the Wages Act (No. 27 of 1925) which enables all employes including Indians to take their places on the basis of equal pay for equal work will be adhered to.

(4) When the time for the revision of the existing trade licensing laws arrives, the Union Government will give all due consideration to the suggestions made by the Government of India Delegation that the discretionary powers of local authorities might reasonably be limited in the following ways:—

- (1) The grounds on which a licence may be refused should be laid down by statute.
- (2) The reasons for which a licence is refused should be recorded.
- (3) There should be a right of appeal in cases of first applications and transfers, as well as in cases of renewals, to the courts or to some other impartial tribunal.

IV. **Appointment of Agent.**—If the Government of the Union of South Africa make representations to the Government of India to appoint an agent in the Union in order to secure continuous and effective co-operation between the two Governments the Government of India will be willing to consider such a request.

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Statement made in the Legislative Assembly and the Council of State, on Tuesday, the 5th April, 1932.

1. In accordance with paragraph 7 of the Cape Town Agreement of 1927 delegates of the Government of the Union of South Africa and of the Government of India met at Cape Town from January 12th to February 4th, 1932 to consider the working of the Agreement and to exchange views as to any modifications that experience might suggest. The delegates had a full and frank discussion in the Conference which was throughout marked by a spirit of cordiality and mutual good-will.

2. Both Governments consider that the Cape Town Agreement has been a powerful influence in fostering friendly relations between them and that they should continue to co-operate in the common object of harmonising their respective interests in regard to Indians resident in the Union.

3. It was recognised that the possibilities of the Union's scheme of assisted emigration to India are now practically exhausted owing to the economic and climatic conditions of India as well as to the fact that 80 per cent. of the Indian population of the Union are now South-African-born. As a consequence the possibilities of land-settlement outside India, as already contemplated in paragraph 3 of the Agreement, have been further considered. The Government of India will co-operate with the Government of the Union in exploring the possibilities of a colonisation scheme for settling Indians, both from India and from South Africa, in other countries. In this investigation, which should take place during the course of the present year a representative of the Indian community in South Africa will, if they so desire, be associated. As soon as the investigation has been completed the two Governments will consider the results of the inquiry.

4. No other modification of the Agreement is for the present considered necessary.

5. Before passing on to the Transvaal Asiatic Tenure (Amendment) Bill, Honourable Members would, perhaps, like me to comment on the more important points in the settlement which I have just announced.

(1) Recognition by the two Governments of the need of continued co-operation in the common object of harmonising their respective interests in regard to Indians resident in the Union justifies the hope that friendly relations between South Africa and India, which are of such vital importance to the Indian community in the Union will continue.

(2) It had become increasingly evident for some time before the Conference met at Cape Town that Indian opinion both in South Africa and in India had become unfavourable to the scheme of assisted emigration to India. This was due to no shortcoming on the part of either Government but primarily to climatic and economic causes, and the fact that 80 per cent. of the Indian population of South Africa were born in the Union. The recognition of the Union Government that the possibilities of this scheme are now practically exhausted should be received with considerable relief by Indian opinion on both sides of the ocean.

(3) The proposal that the possibilities of land-settlement outside India should be examined merely carries out an integral part of the 1927 Agreement. It may be welcomed on two grounds:—

(i) If it results in a satisfactory scheme of land settlement, it may provide an outlet, especially to the younger generation of Indians in South Africa, in a country where they may have greater opportunities both for economic development and for political self-expression.

(ii) The association of a representative of the South African Indian Congress in the investigation will not only be a valuable safeguard for the inquiry, but constitutes an experiment in collaboration between the Union Government and the Indian community in South Africa which, it is hoped, will be extended to other fields.

(4) The Agreement stands unmodified except as regards the scheme of assisted emigration to India, and the proposed exploration of the possibilities of land settlement elsewhere. This means, to mention only two points out of the last Agreement, that the Government of the Union continue to adhere to the policy of unlifting the permanent section of their Indian population, and that the Government of India will continue to maintain in South Africa an Agent whose presence has admittedly proved most helpful alike to the Indian community in South Africa and to the promotion of friendship between the two countries.

6. I shall now endeavour to deal with the Transvaal Asiatic Tenure (Amendment) Bill. The Conference decided that it should be considered by a sub-committee consisting of two representatives of each Delegation. After discussion in the sub-committee Dr. Malan, who was one of Union representatives, agreed to place informally before members of the Select

Committee, which had prepared Bill suggestions of the Union States from India. Results of this consultation may be summarised as follows:—

- (1) Clause 5 of the Bill which embodied the principle of segregation by providing for the earmarking of areas for the occupation or ownership of land by Asiatics has been deleted. Instead, the Gold Law is to be amended to empower the Minister of the Interior after consultation with the Minister of Mines to withdraw any land from the operation of sections 130 and 131 in so far as they prohibit residences upon or occupation of any land by coloured persons. This power will be exercised after inquiry into individual cases by an impartial commission presided over by a judge, to validate present illegal occupations and to permit exceptions to be made in future from occupational restrictions of Gold Law. It is hoped that liberal use will be made of this new provision of the law so as to prevent the substantial dislocation of Indian business, which strict application of the existing restrictions would involve, and to provide Indians in future with reasonable facilities to trade in the mining areas without segregation.
- (2) The Bill has also been amended so as to protect fixed property acquired by Asiatic companies up to 1st March 1930, which are not protected by section 2 of Act 37 of 1919. This will have the effect of saving many Indian properties which, though not acquired in contravention of the letter of the Act of 1919, were acquired contrary to its spirit.
- (3) Local bodies whom, clause 10 of the Bill required to refuse certificates of fitness to an Asiatic to trade on the ground that the applicant may not lawfully carry on business on the premises for which the licence is sought, shall have to treat a certificate issued by a competent Government officer to the effect that any land has been withdrawn from the restrictive provisions of sections 130 and 131 of the Gold Law as sufficient proof that a coloured person may lawfully trade on such land. As it is proposed to maintain hereafter a register of all lands in proclaimed areas where Asiatic occupation is permitted, such a provision should prove a valuable safeguard to the Indian community.

7. As against these important concessions, it has to be recognised that the recommendations of the Indian Delegation that areas like Springs and de-proclaimed land, to which the restrictions of clauses 130 and 131 do not at present apply, should not be made subject to them, and that leases for ten years or more should not be treated as fixed property have not been accepted. On the balance, however, the amendments which, subject to ratification by the Union Parliament, have been made in the Bill represent a substantial advance on the original Bill.

8. I must apologise to the House for the length of the statement. I have endeavoured to make it as brief as is compatible with clarity. Government had hoped that it would be possible to make the announcement earlier, but this was found impossible as the results of the Conference have to be published in both countries simultaneously, and the Union Parliament re-assembles only to day after the Easter recess. Government trust, however, that keeping in view the difficulties inherent in the problem, and after consideration of the statement which has been made to-day, Honourable Members will feel satisfied with the results achieved.