

No. 7830

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
PORTUGAL**

**Convention relative to the construction of connecting rail-
ways between Swaziland and Mozambique. Signed
at Lisbon, on 7 April 1964**

Official texts: English and Portuguese.

*Registered by the United Kingdom of Great Britain and Northern Ireland on
18 June 1965.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
PORTUGAL**

**Convention relative à la construction d'une liaison ferro-
viaire entre le Souaziland et le Mozambique. Signée à
Lisbonne, le 7 avril 1964**

Textes officiels anglais et portugais.

*Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le
18 juin 1965.*

No. 7830. CONVENTION¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF PORTUGAL RELATIVE TO THE CONSTRUCTION OF CONNECTING RAILWAYS BETWEEN SWAZILAND AND MOZAMBIQUE. SIGNED AT LISBON, ON 7 APRIL 1964

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") and the Government of the Republic of Portugal (hereinafter referred to as "the Portuguese Government");

Desiring to co-operate fully with a view to the development of the resources of Swaziland and Mozambique;

Considering that the construction of connecting railways between Swaziland and Mozambique and the maintenance of adequate facilities over such railways and at the Port of Lourenço Marques will contribute to that end;

Have agreed as follows :

Article I

The Government of the United Kingdom and the Portuguese Government shall encourage, each in their respective spheres, the use of the Port of Lourenço Marques for traffic between Swaziland and territories overseas for which that Port is the natural outlet or inlet.

Article II

(1) The Portuguese Government shall extend the existing railway between Lourenço Marques and Goba to the frontier with Swaziland (the said railway as so extended being, in this Article, referred to as "the railway") to a point to be determined by agreement between the Swaziland Railway Board and the Administration of the Caminhos de Ferro de Moçambique (hereinafter jointly referred to as "The Railway Administrations"), the work to be done within the times and in accordance with a programme of construction, including the provision of the necessary equipment, to be agreed between the Railway Administrations.

¹ Came into force on 7 April 1964, upon signature, in accordance with article XII.

(2) The Portuguese Government shall maintain the railway in a state of efficiency adequate to meet the requirements of the traffic proceeding to and from Swaziland.

(3) The Portuguese Government shall from time to time effect on the railway the technical improvements they consider justified having regard to the minimum amount of traffic expected to and from Swaziland in accordance with the estimates of traffic provided by the Swaziland Railway Board under Article V of this Convention.

(4) The Portuguese Government shall from time to time execute such further works, acquire such additional equipment and introduce such further technical improvements, as may be needed to meet the requirements of traffic in excess of the traffic estimated in accordance with Article V, provided that reasonable notice is given by the Swaziland Railway Board of such requirements, and that they do not involve an appreciable alteration in the economic structure of the operation of the railway.

(5) The Portuguese Government shall maintain the Port of Lourenço Marques in a state of efficiency adequate to meet the requirements of the traffic to and from Swaziland, and for this purpose they will from time to time introduce such improvements, including dredging of the harbour, as, having regard to prevailing circumstances, they consider advisable.

Article III

(1) The Government of the United Kingdom shall secure the construction by the Swaziland Railway Board of a railway (hereinafter referred to as "the new railway") from the point on the frontier with Mozambique to be determined as provided in Article II (1) of this Convention to Ngwenya, within the times and in accordance with a programme of construction to be agreed between the Railway Administrations. To this end the equipment, particulars of which shall be agreed between the Railway Administrations, necessary for the technical and economic use and development of the new railway and for the expeditious handling of railway traffic, shall be acquired by the Board.

(2) The Swaziland Railway Board shall maintain the new railway in a state of efficiency adequate to meet the requirements of the traffic proceeding to and from Mozambique.

(3) The Swaziland Railway Board shall from time to time effect on the new railway the technical improvements they consider justified having regard to the minimum amount of traffic expected to and from Swaziland in accordance with the estimates of traffic provided by the Board under Article V of this Convention.

(4) Such further works as may be needed to meet the requirements of traffic in excess of the traffic estimated in accordance with Article V and in respect of which notice has been given by the Swaziland Railway Board under Article II (4) of this Convention shall be executed by the Board.

Article IV

(1) The Contracting Governments, recognising the substantial investment involved in the construction of the railway link between Swaziland and the Port of Lourenço Marques provided for by this Convention, agree that it shall be the objective of their policy that it should be used for Swaziland traffic to the maximum extent consistent with the efficient and economic employment of the transport resources available in Swaziland and Mozambique.

(2) The Government of the United Kingdom shall, in accordance with Article I, ensure that all reasonable steps will be taken by the Government of Swaziland to attract to the railways connecting Swaziland with the Port of Lourenço Marques traffic to and from Swaziland for which that Port is the natural outlet and inlet.

Article V

(1) The Swaziland Railway Board shall, not later than three months from the date of entry into force of this Convention and subsequently from time to time give to the Portuguese Government an estimate to the best of their ability of the traffic to and from Swaziland expected on the railways.

(2) If at any time during the currency of the present Convention—

- (i) the amount of traffic on the railways to and from Swaziland during any period exceeding six consecutive months falls substantially below that estimated by the Board in accordance with paragraph (1) of this Article; or
- (ii) it is established that the use of the railways for traffic to and from Swaziland is being prevented or is likely to be prevented by any change in circumstances affecting such use outside the control of the Contracting Governments or not expressly contemplated in the present Convention

then the Railway Administrations shall, upon the request of either of them, consult together with a view to taking such reasonable steps in furtherance of the policy objective referred to in Article IV (1) as they may consider necessary.

Article VI

(1) Matters concerning the co-ordination of the operation of the railways covered by the present Convention shall be the subject of Working Agreements to be concluded between the Railway Administrations.

(2) The Working Agreements shall provide for the possibility of amendments or additions to be agreed between the Railway Administrations, it being understood that if any of these affect questions of principle contained in this Convention they shall require the prior approval of Contracting Governments.

(3) The tariffs and other railway charges in respect of through traffic between stations in Swaziland and stations in Mozambique shall be at such rates as are from time to time agreed by the Railway Administrations and, in fixing such tariffs and charges, due consideration shall be given to the need to attract the maximum volume of traffic and to ensure that the railways connecting Swaziland with the Port of Lourenço Marques are operated on a sound financial basis.

Article VII

(1) If the Swaziland Railway Board desires that the operation of the new railway should be undertaken by the Administration of the Caminhos de Ferro de Moçambique on behalf of the Board, such operation shall be on such terms and subject to such conditions as may be agreed between the Railway Administrations.

(2) The Contracting Governments shall concede to personnel employed by the Caminhos de Ferro de Moçambique for operation, maintenance and inspection of the new railway all facilities for passage of the border and for residence in Swaziland, together with all such other facilities as may be necessary for the exercise of their functions.

(3) Customs, immigration and other formalities necessary for the fulfilment of the object of this Article shall be regulated in a special agreement.

Article VIII

For a period of twenty years from the date of entry into force of this Convention, the transit or re-exportation of goods coming from or consigned to Swaziland through Mozambique shall be free of customs duties, and during such period of twenty years no customs charges shall be levied in respect of such goods other than the customs charges leviable at the date of entry into force of this Convention on goods of the same class coming from or consigned to the neighbouring Territories of the Republic of South Africa, Southern and Northern Rhodesia and Nyasaland.

Article IX

Without prejudice to the provisions of Article VIII the Portuguese Government shall apply the same regulations to goods in transit through the Port of Lourenço Marques and coming from or consigned to Swaziland as those in force from time to time in respect of goods of the same class in transit through that port and coming from or consigned to the Republic of South Africa. Such goods shall not be subject to any taxes, dues or charges of any kind other or higher than those charged on goods consigned to and from any of the neighbouring Territories of the Republic of South Africa, Southern and Northern Rhodesia and Nyasaland.

Article X

(1) The passage of persons, goods, vehicles, railway carriages and wagons between Swaziland and Mozambique by railway shall not be liable in either territory to any interference or restriction except those which are required by police, customs, health and statistical regulations.

(2) The regulations mentioned in paragraph (1) of this Article shall be so framed as to avoid unnecessary delays which might prevent the rapid transit of persons or goods between Swaziland and Mozambique.

(3) Persons, goods, railway carriages, vehicles and wagons in transit by railway between Swaziland and Mozambique shall not be subjected in either territory to any discrimination based on nationality, destination or place of origin.

Article XI

(1) Upon the request in writing by one Contracting Government to the other, any dispute about the interpretation or application of the present Convention shall be referred within one month after the date of receipt of any such request to two arbitrators, one to be appointed by each Contracting Government.

(2) The two arbitrators shall give their decision within four months of the date on which they are appointed, but if they cannot agree on a decision within that time, they shall refer the dispute to a third arbitrator appointed by them, who shall himself decide it within four months of the date on which he is appointed, and if the two arbitrators are unable to agree on the appointment of the third arbitrator, he shall be appointed by a third Power designated by the Contracting Governments.

(3) The decision of the two arbitrators or the third arbitrator, if appointed, shall be final and binding on the Contracting Governments.

Article XII

This Convention shall enter into force on the date of signature thereof.

Article XIII

(1) This Convention shall remain in force for a period of twenty years from the date of its signature and, if neither of the Contracting Governments shall have given notice of termination to the other two years before the date of expiration of this period, it shall remain in force until the expiration of two years from the date on which either of the Contracting Governments shall have denounced it. In the absence of agreement to the contrary between the Contracting Governments, the provisions of Article VIII shall cease to have effect at the end of the period of twenty years aforesaid.

(2) Ten years after the date of entry into force of this Convention, either of the Contracting Governments may request a revision of its terms by giving four months notice to the other Contracting Government on the expiration of which the Contracting Governments shall enter into discussions to consider such revision and, unless and until agreement thereon is reached, the provisions of this Convention shall continue to be binding on each of the Contracting Governments.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed the present Convention.

DONE in duplicate at Lisbon the seventh day of April, 1964, in the English and Portuguese languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain
and Northern Ireland :

Archibald Ross

For the Government of the Republic of Portugal :

A. FRANCO NOGUEIRA
