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THE GOVERNMENT OF FRANCE

Note by the Secretariat

1. The text of the "Réformes Outre-Mer" mentioned in the Secretariat note of 8 April 1959 (see A/4096, section II) and the text of the French Constitution and ordinances enacting organic laws relating to the community (see A/4096, section III), which were to be reproduced at a later stage, are presented herewith as an addendum to the above-mentioned note.
2. The table of contents gives the complete list of the various legislative and regulatory documents communicated by the representative of France. The texts reproduced in extenso in this note are marked with an asterisk. The others may be consulted in the Secretariat.

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A. Réformes outre-mer

I. ACT NO. 56-619 OF 23 JUNE 1956 AUTHORIZING THE GOVERNMENT
TO INSTITUTE REFORMS AND TAKE MEASURES TO ENSURE THE
DEVELOPMENT OF THE TERRITORIES FOR WHICH THE MINISTRY
FOR OVERSEAS FRANCE IS RESPONSIBLE

After consultation with the Assembly of the French Union,
The National Assembly and the Council of the Republic have deliberated,
The National Assembly has adopted,
The President of the Republic promulgates the following Act:

Title I

Provisions concerning the reform of institutions, administrative
structures, and economic and social organization

Article 1. Without prejudice to the expected reform of Title VIII of the
Constitution, in order to give the overseas peoples a more direct share in the
management of their own interests, measures of administrative decentralization and
devolution shall be introduced within the Territories, Groups of Territories and
central services for which the Ministry for Overseas France is responsible.

To this end, decrees made in the manner prescribed by article 6 of
Act No. 48-1268 of 17 August 1948, on the report of the Minister for Overseas
France and, as appropriate of the Ministers concerned, may:

(1) Modify the role and powers of administration and management of the
general governments with a view to transforming them into co-ordinating bodies,
and modify the composition and functions of the Grand Councils and of the
Representative Assembly of Madagascar;

(2) Institute Government Councils in all the Territories and in addition,
in Madagascar, Provincial Councils responsible, in particular, for administering
the territorial services;

(3) Grant broadened deliberative powers, in particular for the organization
and administration of the territorial services, to the Assemblies of the
Territories as well as to the Representative Assembly and Provincial Assemblies of
Madagascar; regarding the exercise of their functions, which will be defined in
the decrees to be issued, the assemblies may, when the decrees made under this
article authorize them to do so, abrogate or modify any regulation governing
matters falling within the said functions;

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(4) Determine the conditions for the establishment and operation, as well as the functions, of the councils in the administrative circonscriptions and rural communities, and the procedure for the grant of legal status to these circonscriptions, without prejudice to the establishment of new municipalities.

The decrees made in pursuance of this article may modify, abrogate or reproduce in the form of regulations existing legislative provisions.

They shall be simultaneously filed with the secretariat of the National Assembly and submitted to the Assembly of the French Union, which shall have fifteen days in which to express its opinion.

Act. No. 57-702 of 19 June 1957. "The National Assembly shall decide on their adoption, rejection or modification within a period of two months and transmit them to the Council of the Republic. The latter shall have forty-five days from the date of transmission in which to state its decision.

"The consideration of the decrees must be completed by Parliament within a period of one hundred and thirty-five days from the date on which they are filed with the secretariat of the National Assembly."

The Government text shall be adopted or reconsidered should either assembly fail to reach a decision.

On the expiry of this time limit, the decrees, if they have not been modified or rejected by Parliament, shall come into force in the form in which Parliament shall have adopted them.

Article 2. The Assemblies of the Territories or Groups of Territories, the Representative Assemblies and, where appropriate, the Provincial Assemblies of Madagascar may decide that breaches of the regulations resulting from their deliberations, if not already punishable with greater penalties under the law in force, shall be punishable with imprisonment for a term not exceeding three months or with a fine not exceeding 200,000 French francs or both these penalties, according to a scale determined, for each category of offences, by the Chief Administrator of the Group of Territories, the Chief Administrator of the Territory or the Chief Provincial Administrator, upon the proposal of the Assembly.

Article 3. The Government may, by decree made in the Council of Ministers on the report of the Minister for Overseas France and, where appropriate, of the Ministers concerned, and after consultation with the Council of State, introduce a

reform of the public services in the Overseas Territories aimed at defining, on the one hand, the State services responsible for administering the interests of the State and, on the other hand, the territorial services responsible for administering the interests of the Territories, as well as for assigning their respective functions to those services. The purpose of this reform shall be:

- On the one hand, to facilitate the access of native-born civil servants to all ranks in the administration;
- On the other hand, to establish independent regulations pertaining to the civil service overseas, applicable to the territorial services.

For this purpose, the Government shall determine the conditions for the constitution of territorial establishments and the definition of the regulations applicable to them and their methods of remuneration, especially as regards basic pay while ensuring that established officials and employees of the government railways who are currently employed will retain their acquired rights, in particular with respect to salaries, social benefits, pensions and regular professional advancement.

In pursuance of the above paragraphs and without prejudice to their provisions, the general regulations applicable to the employees of the territorial services shall be defined by an order made by the Chief Administrator of the Territory in Government Council, after deliberation by the Territorial Assembly.

The regulations applicable to the individual categories of employees of these services, the methods and rates of their remuneration, the rules governing vacations and social benefits shall be determined by an order made by the Chief Administrator of the Territory in Government Council after consultation with the Territorial Assembly, without prejudice to the rights of any officials permanently transferred to the services.

Article 4. The Government may, in the manner prescribed in article 3 above and without prejudice to Act No. 46-860 of 30 April 1946 and the legislative provisions relating thereto, take all measures to raise the standard of living in the Territories for which the Ministry for Overseas France is responsible, to promote economic development and social advancement and to facilitate economic and financial co-operation between Metropolitan France and those territories, especially:

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By the general dissemination and the standardizing of education;

By organizing and supporting the production of goods necessary for the economic equilibrium of the Territories and the needs of the franc area;

By introducing modern methods of rural development and establishing a land-registration plan whereby the customary rights of the indigenous inhabitants will be respected;

By establishing and enforcing the registration of births, marriages and deaths;

By establishing suitable credit and savings facilities;

By amending financial laws and regulations in any way likely to promote private investment overseas, without prejudice to the prerogatives of the Territorial Assemblies;

By taking all measures to ensure social advancement.

The Government shall make all necessary arrangements to ensure on a permanent basis and at the level of the Office of the President of the Council the co-ordination of economic and financial measures affecting Metropolitan France and the Overseas Territories alike.

Article 5. The decrees referred to in articles 3 and 4 may modify or abrogate legislative provisions, with the exception of those concerning the organization and protection of labour, or extend to the Territories all or part of the legislative provisions in force in Metropolitan France. These decrees shall come into force on publication in the Journal Officiel of the French Republic, but they shall become definitive only after the procedures and time limits provided for in article 1 have been observed.

Article 6. Decrees made under Title I of this Act may prescribe either the penalties specified by earlier laws on the same subjects, provided that the classification of offences and the nature and amount of the penalties applicable may not be changed, or the penalties prescribed under article 471, 15^o, of the Penal Code, or imprisonment for a term not exceeding three months or a fine not exceeding 300,000 French francs or both these penalties.

Article 7. The powers conferred on the Government under articles 1, 3, 4 and 5 of this Act shall expire on 1 March 1957.

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Title II

Provisions concerning the Trust Territories of
Togoland and the Cameroons

Article 8. The Government is hereby authorized to establish, by decree in the Council of Ministers, after consultation with the Territorial Assembly and the Council of State, a statute for Togoland. This statute must accord with the purposes defined in the Trusteeship Agreement and with the principles laid down in the Preamble to the French Constitution. It shall specify the division of competence and financial costs between the State and the Territory, the powers of the local assembly and of the local executive and its members, and the rights and freedoms guaranteed to Togoland.

A referendum to be held on the basis of universal suffrage and by secret ballot, the date of and procedure for which shall duly be determined by decree in the Council of Ministers with the agreement of the Territorial Assembly, shall enable the populations to choose between the statute referred to in the foregoing paragraph and the maintenance of trusteeship as provided for in the Agreement of 13 December 1946.

The statute shall enter into force provisionally immediately upon its publication in the Journal Officiel of Togoland. Subject to the signing of the international instrument terminating trusteeship, the statute shall become definitive if the results of the referendum provided for in the preceding paragraph are favourable to it.

As long as the statute remains provisional in character, such trusteeship as seems advisable, to be defined by the transitional provisions of the statute, shall be exercised over the powers of the local authorities.

Article 9. Taking into account the Trusteeship Agreements, the Government, by decrees made after consultation with the Territorial Assembly and the Assembly of the French Union, may, with respect to the Cameroons, introduce institutional reforms and establish provinces, provincial assemblies and provincial councils.

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Title III

Provisions concerning the institution of universal suffrage and of the single electoral college

Article 10. In the territories for which the Ministry for Overseas France is responsible, elections to the National Assembly, to the Territorial Assemblies, to the Provincial Assemblies of Madagascar, to the conseils de circonscription and to the Municipal Assemblies shall be held on the basis of universal suffrage of citizens of both sexes, irrespective of their personal status, who are over the age of twenty-one, are duly registered in the roll of electors and are not disqualified for any reason specified by law.

The penalties which entail disqualification from registration in the rolls of electors shall be those established by the laws in force in Metropolitan France.

Article 11. The methods of balloting for the elections referred to in article 10 may not be modified except by law, with the exception of elections to the conseils de circonscription and to the Municipal Assemblies organized under article 53 of Act No. 55-1489 of 18 November 1955.

Article 12. The election of members of the National Assembly, of the Council of the Republic, of the Territorial Assemblies, of the Representative Assembly and the Provincial Assemblies of Madagascar, of the conseils de circonscription, and of the Municipal Assemblies of the communes de plein exercice, the communes de moyen exercice and the mixed communes shall be by a single electoral college.

Title IV

Miscellaneous provisions and temporary provisions concerning the institution of universal suffrage and of the single electoral college

Article 13. In the territory of French Somaliland, where the renewal of the Representative Council in March 1957 is not prescribed by the laws and regulations now in force, elections to the said Council shall be held not later than 1 May 1957.

Article 14. As a transitional measure, pending the next renewal of the National Assembly, the Territorial Assemblies and the Provincial Assemblies of Madagascar, as well as of the Municipal Assemblies referred to in article 12, in

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cases where the electors were formerly grouped into two colleges, any vacancy occurring through death, resignation or any other cause shall be filled on the basis of universal suffrage by the electoral college to which the seat concerned was formerly assigned.

As a transitional measure, pending the next renewal of the Territorial and Provincial Assemblies in the territories in which the members of the Council of the Republic are elected by a dual electoral college, any vacancy occurring through death, resignation or any other cause shall be filled by the electoral college to which the seat concerned was formerly assigned.

Article 15. An administrative regulation shall provide, if necessary, for a special revision of the rolls of electors for which it shall set the time-limits.

Article 16. All provisions contrary to Titles III and IV of this Act in particular article 3, as amended, of Act No. 51-586 of 23 May 1951 concerning the election of deputies to the National Assembly in the territories for which the Ministry for Overseas France is responsible, are hereby abrogated.

The present Act shall be enforced as a law of the State.

Done at Paris, on 23 June 1956.

By the President of the Republic:

RENE COTY

GUY MOLLET

President of the Council of Ministers,

FRANCOIS MITTERRAND

Minister of State, Guardian of the Seals,
Head of the Ministry of Justice

GASTON DEFFERRE

Minister for Overseas France

FELIX HOUPHOUET-BOIGNY

Minister Delegate to the Office of the
President of the Council

/...

II. DECREES PROVIDING FOR INSTITUTIONAL REFORMS:

(a) Overseas Territories

DECREE NO. 56-1227 OF 3 DECEMBER 1956

defining the State services in the Overseas Territories
and enumerating State personnel (as amended by Decree
No. 57-479 of 4 April 1957)

The President of the Council of Ministers,

Acting on the report of the Minister for Overseas France, the Minister of State, Keeper of the Seals, Head of the Ministry of Justice, the Minister of Economic and Financial Affairs, the Minister delegated to the Office of the President of the Council, the Minister of Foreign Affairs, the Minister of National Defence and the Armed Forces, the Minister of State for Education, Youth Matters and Sport, the Secretary of State for Public Works, Transport and Tourism, the Secretary of State for Posts, Telegraphs and Telephones, the Secretary of State in the Office of the President of the Council responsible for information and the Secretary of State in the Office of the President of the Council responsible for the public service;

Having regard to Act No. 56-619 of 23 June 1956 authorizing the Government to institute reforms and take measures to ensure the development of the territories for which the Ministry for Overseas France is responsible;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

Decrees as follows:

Article 1. (Decree No. 57-479 of 4 April 1957). "In the Overseas Territories, external affairs, defence, the protection of public freedom, the maintenance of the solidarity of the constituent elements of the Republic and economic, social and cultural expansion, monetary and financial regulations and the representation of the central power constitute general interests of the Republic which are directed and administered by State services or State offices or institutions."

Article 2. (Decree No. 57-479 of 4 April 1957). "The following accordingly constitute State services:

"I. The services which represent the central power: Chief Administrators of Groups of Territories, Territories, provinces and circonscriptions, their cabinets and secretariats.

/...

"II. The external affairs services:

"Diplomatic and consular affairs services;

"Frontier control services;

"External trade and exchange control services;

"Immigration services;

"Cultural relations and exchanges services.

"III. The general military and economic security services:

"Armed forces and their services, gendarmerie, mobile security squads, not including local constabulary (gardes-cercle) and similar units;

"Customs services;

"Administrative police services, not including rural and municipal police services;

"Code and cypher services;

"Civil defence services;

"Economic mobilization services.

"IV. Institutions and services ensuring respect for public freedoms:

"Courts of French law;

"Judicial police;

"Administrative courts;

"Labour and social welfare inspectorate.

"V. Services maintaining or supervising external communications:

"Major air services, including major meteorological and air safety services;

"Stations of the general wireless network and general system of submarine cables;

"Maritime safety services (international lighthouses and lighthouse and buoy service boats);

"Merchant shipping registration services, in so far as they are concerned with French and foreign ships and crews, and the national disabled seamen's institute;

"Harbourmaster offices.

"VI. Services and establishments ensuring the solidarity of the constituent elements of the Republic, its economic, social and cultural expansion and its monetary and financial regulations:

/...

"Treasury services;

"Financial control;

"Supervision of public and semi-public corporations;

"Planning services (general section of FIDES);

"Services for the possible allocation among the Territories of commodities and products subject to quotas;

"Higher education;

"Network of broadcasting and television stations and transmitters, with the proviso that types and times of programmes will be determined in consultation with the Territories;

"Geographic service;

"Geological mapping service;

"Services attached to the Atomic Energy Commission".

Article 3. The central power shall be represented in the Overseas Territories by the High Commissioners and Commissionners of the Republic, the governors-general and governors and the administrators of Overseas France.

Article 4. The State services in the Overseas Territories shall be administered as prescribed in article 3 of Decree No. 56-1228 of 3 December 1956.

Article 5. (Decree No. 57-479 of 4 April 1957). "The State establishment shall comprise:

"(a) Members of the armed forces, excluding auxiliary personnel;

"(b) The following personnel enumerated in Table I annexed to Decree No. 51-510 of 5 May 1951:

"Governors-general and governors;

"Administrators;

"Higher-education staff who shall belong to the establishment of the Ministry of Education;

"Labour and social-welfare inspectors;

"Staff of the treasuries of Overseas Territories;

"Port and harbour officers;

"(c) Cypher staff;

"(d) The staff of the overseas judiciary governed by the Decree of 22 August 1928."

Article 6. (Decree No. 57-479 of 4 April 1957). "All expenditures for staff and equipment of the State services in the Overseas Territories shall be borne by the State budget, together with the costs of supervision by the Overseas France inspectorate and the administrative courts inspection mission.

"The Overseas Territories shall contribute a share of the cost of the Treasury and customs services amounting to 5 per cent of the portion of the revenues of those services allocated to the Territories, provided that this contribution may not exceed two-thirds of the operational cost of the services.

"The Overseas Territories shall also share, in proportions to be determined annually by the Finance Act, the costs of the State services for which they were liable prior to this Decree.

"Loans made by State services to Territorial services and vice versa shall be subject to reciprocal repayment."

Article 7. Premises assigned to the civil or military State services in the Overseas Territories shall be State property.

Real property acquired or constituted under the general section of the Investment Fund for Economic and Social Development shall remain State property as prescribed in Decree No. 55-634 of 20 May 1955.

Article 8. (Decree No. 57-479 of 4 April 1957). "Public offices and institutions now existing shall retain their status of State institutions or Territorial institutions.

"A list of existing State offices and institutions shall be prepared before 1 March 1957, by decree made in the same manner as the present Decree."

Article 8 bis. (Decree No. 57-479 of 4 April 1957) "Territorial services shall comprise all existing public services other than those enumerated in article 2 and the State offices and institutions."

Article 9. The Minister for Overseas France, the Minister of State, Keeper of the Seals, Head of the Ministry of Justice, the Minister of Economic and Financial Affairs, the Minister delegated to the Office of the President of the Council, the Minister of Foreign Affairs, the Minister of National Defence and the Armed Forces, the Minister of State for Education, Youth Matters and Sport, the Secretary of State for the Budget, the Secretary of State for Public Works, Transport and Tourism, the Secretary of State for Posts, Telegraphs and Telephones, the Secretary of State in the Office of the President of the Council responsible

for information and the Secretary of State in the Office of the President of the Council responsible for the public service shall be responsible, each within the limits of his competence, for the execution of this Decree, which shall be published in the Journal officiel of the French Republic and inserted in the Bulletin officiel of the Ministry for Overseas France.

DECREE NO. 56-1228 OF 3 DECEMBER 1956

relating to the organization of civil public services in the Overseas Territories (as amended by Decree No. 57-480 of 4 April 1957)

The President of the Council of Ministers,

Acting on the report of the Minister for Overseas France, the Minister of State, Keeper of the Seals, Head of the Ministry of Justice, the Minister of Economic and Financial Affairs, the Minister delegated to the Office of the President of the Council, the Minister of Foreign Affairs, the Minister of National Defence and the Armed Forces, the Minister of State for Education, Youth Matters and Sport, the Secretary of State for Public Works, Transport and Tourism, the Secretary of State for Posts, Telegraphs and Telephones, the Secretary of State in the Office of the President of the Council responsible for information and the Secretary of State in the Office of the President of the Council responsible for the public service;

Having regard to Act No. 56-619 of 23 June 1956 authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible;

Having regard to Decree No. 56-1227 of 3 December 1956 defining the State services in the Overseas Territories and enumerating State personnel;

Having regard to the Act of 19 October 1946 enacting general regulations for State officials, together with Decree No. 50-1348 of 27 October 1950 enacting administrative regulations for applying the said Act to officials of certain civil establishments (cadres) who normally perform their functions in the territories for which the Ministry for Overseas France is responsible;

Having regard to Act No. 48-1450 of 20 September 1948 amending the civil and military pensions scheme;

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Having regard to Act No. 50-772 of 30 June 1950 establishing the conditions fixing the salaries and allowances of civil and military officials of the Ministry for Overseas France and the conditions of recruitment, discharge and retirement of these officials, and the decrees giving effect to the said Act;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

Decrees as follows:

Article 1. This Decree shall determine the general organization of the civil public services in the Overseas Territories and of the establishments of civil officials who are responsible for their administration.

Title I

State services and civil service establishments

Article 2. The functions vested in and general organization of the State services, as defined in article 2 of Decree No. 56-1227 of 3 December 1956, shall be determined by decrees made in Council of Ministers on the proposal of the Minister for Overseas France and of the Ministers concerned, after consultation with the Conseil d'Etat.

The procedures for applying these decrees in each Territory or Group of Territories shall be determined by orders to be made by the Chief Administrator of the Territory or by the High Commissioner.

Article 3. The State services shall be administered:

1. By officials of the French civil service establishment serving overseas; the staff for this establishment shall be recruited, on a preferential basis, from among officials of the existing general establishments of Overseas France having corresponding functions;

2. In so far as the gendarmerie, the police and the customs service are concerned, by auxiliary establishments organized locally by the Chief Administrator in the case of a Territory or by the High Commissioner in the case of a Group of Territories; their regulations and conditions of remuneration shall be similar to those of the territorial establishments on the same recruitment level; these auxiliary establishments shall be instituted by an order to be made jointly by the Minister for Overseas France and the Minister of Economic and Financial Affairs;

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3. By officials of territorial establishments placed at the disposal of the said services in conditions to be determined by administrative regulations;

4. By officials and employees of metropolitan establishments;

5. If necessary, by temporary staff.

Article 4. (Decree No. 57-480 of 4 April 1957). "Within one year from the publication of this Decree in the Journal Officiel of the French Republic, provisions shall be inserted in the special regulations governing the officials of the French civil service establishment serving overseas, excluding those referred to in article 5 (c) of Decree No. 56-1227 of 3 December 1956 defining the State services in the Overseas Territories and enumerating State personnel, to reserve not less than 66 per cent of the available posts to:

"(a) Graduates born in the Overseas Territories, who, if they satisfy the general requirements for entrance to the civil service by the regular competitive examinations, shall be admitted to a special recruitment examination;

"(b) Officials of the territorial establishment and the auxiliary State service establishment, who were born in the Overseas Territories or who have resided there continuously for ten years, and who, being selected on the basis of their qualifications, on the recommendation of a commission established for the purpose by the Minister for Overseas France, are admitted to advanced training courses which are to be organized to prepare them for the various posts on the French civil service establishment;

"(c) Officials of the territorial establishment and the auxiliary State service establishment who were born in the Overseas Territories or who have resided there continuously for ten years, and who satisfy the requirements for admission to professional examinations; these examinations shall be organized in accordance with rules similar to those which, in metropolitan France, govern admission to similar civil service establishments.

"The foregoing provisions shall apply to candidates for posts and positions that are filled by examination or any other method of recruitment, excluding appointments made by special decree of the Council of Ministers.

"In the cases provided for in paragraphs (b) and (c) above, a special quota of posts shall be reserved to each Territory or Group of Territories for recruitment in the State services operating in the Territory or Group of Territories.

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"If for a time the requirements enumerated in paragraphs (a), (b) and (c) above should make it impossible to fill all the posts so reserved, the remaining posts shall be filled by the regular recruitment of French civil service staff.

"The age limits for the various competitive and other examinations for entrance to the French civil service establishment shall be extended by five years in favour of candidates who were born in the Overseas Territories or who have resided there continuously for ten years.

"Within a period of one year similar provisions shall be made in favour of officials who are candidates for professional examinations and who were born in the Overseas Territories or have resided there continuously for ten years."

Article 5. Officials of the French civil service establishment serving overseas shall be governed by the provisions of the Act of 19 October 1946 in the same manner as officials of the same category.

Officers of the judiciary shall continue to be governed by their special regulations.

The aforementioned officials and judicial officers shall receive, for equivalent ranks, the same base salaries as officials and judicial officers of the metropolitan establishment.

Unless they opt to the contrary, in conditions to be determined by decree, they shall contribute to the general State pension scheme.

The regulations governing accessory salaries, allowances and leave of officials and judicial officers of the State establishment shall be determined by decree enacted in Council of Ministers on the report of the Minister for Overseas France, the Minister of Economic and Financial Affairs and the Secretary of State in the Office of the President of the Council responsible for the public service. Pending the enactment of the decree referred to in the foregoing paragraph, the regulations applicable shall continue to be those established by the legal provisions in force, in particular the provisions of Act No. 50-772 of 30 June 1950.

Title II

Territorial services and establishments. Inter-territorial services.

Article 6. The territorial services shall comprise the public services having responsibility for local interests, in all territories, whether or not forming part of a Group, and in Groups of Territories.

Article 7. (Decree No. 57-480 of 4 April 1957). "The general organization of the territorial public services and of the provincial public services shall be determined by an order of the Chief Administrator of the Territory in Government Council or by an order of the Chief Provincial Administrator in Provincial Council.

"In the Groups of Territories, the general organization of the services established at the Group level in accordance with article 13 of the Decree of 4 April 1957 providing for the reorganization of French West Africa and French Equatorial Africa, shall be determined by an order of the High Commissioner of the Republic, after consultation with the Grand Council.

"The cost of the territorial public services shall be borne by the territorial budget.

"The cost of the public services of common interest shall be borne by the budget of the Group of Territories.

"In the territorial public services, officials of a special State establishment to be set up by decree made after consultation with the Conseil d'Etat may be used for technical assistance missions."

Article 8. (Decree No. 57-480 of 4 April 1957). "The territorial services shall be administered by officials belonging to territorial or provincial establishments who shall have access to all ranks in the administration.

"The general regulations governing employees of the territorial services of each Territory shall be determined by the Territorial Assembly in the same manner as the fixing of duties and taxes levied under the territorial budget. These general regulations shall include the establishment of a civil service advisory committee with its headquarters in the chief town of the Territory.

"The special regulations applicable to the various establishments of employees of these services, the methods and rates of their remuneration, their pension and social security schemes, including the conditions of leave, shall be determined by an order of the Chief Administrator of the Territory in council after consultation with the Territorial Assembly and with the civil service advisory committee established under the general regulations.

"The general regulations for employees of the territorial services of Madagascar shall be determined by the Representative Assembly.

"The general regulations for employees of the provincial services of Madagascar and the special regulations for the various establishments of employees of these services shall be determined and established in accordance with the second and

third paragraphs of this article, the Provincial Assembly, the Provincial Council and the Chief Provincial Administrator being substituted for the Territorial Assembly, the Government Council and the Chief Administrator of the Territory."

Article 9. Officials belonging to existing senior and local establishments shall be permanently transferred ex officio, at a level equivalent to that of their present posts, in the territorial establishments having corresponding functions.

The application of this provision may not have the effect of reducing the remuneration or social welfare benefits of the staff members concerned or of impeding their regular professional advancement, as determined by the laws at present in force.

Article 10. In order to ensure the administration of the territorial services, until such time as all posts on the territorial establishments are filled, recourse shall also be had, under the conditions prescribed in Title III hereunder, to the services of officials belonging to the establishments enumerated in tables I and II annexed to Decree No. 51-510 of 5 May 1951 and of officers of the Overseas France judiciary.

If the number of officials of the establishments referred to in article 8 and the first paragraph of article 9, and in the first paragraph of this article should prove to be insufficient, recourse may be had to the services of officials and employees of the various metropolitan administrations of the State or other public offices and institutions. Such officials and employees shall be seconded to the territorial establishments in the manner prescribed by the Act of 19 October 1946.

Title III

Temporary provisions

Article 11. The officials of the establishments enumerated in tables I and II annexed to Decree No. 51-510 of 5 May 1951, at present in service or receiving training in schools, other than the officials referred to in Title I, shall have the benefit of the safeguards provided in article 3 of Act No. 56-619 of 23 June 1956; they shall, in all cases, continue to be governed by the

provisions of the Act of 19 October 1946 and by the special regulations of their particular establishment.

Article 12. The officials referred to in article 11 above may serve in the Overseas Territories and departments on secondment to the territorial establishments in accordance with the terms of the aforementioned Act of 19 October 1946.

They may not be re-assigned to the staff of the Ministry for Overseas France except on six months' notice.

On the expiry of their period of secondment, if this is not renewed, they shall automatically be restored to their original establishment and department.

Article 13. They may be assigned to the central department of the Ministry for Overseas France and its branches.

Article 14. (Decree No. 57-480 of 4 April 1957). "The regulations governing salaries and accessory salaries, allowances and leave of officials of the State establishment as determined in article 5 of this Decree, shall apply to the officials referred to in article 11.

"The Overseas Territories or departments shall bear the costs incurred in applying the regulations for the establishments or posts to which the officials referred to in article 11 are seconded.

If it should prove impossible to make available to the Territories officials of grades corresponding to the duties to be performed, any additional costs that this may cause shall be borne by the State budget.

Article 15. Where the officials referred to in article 11 are not assigned to one of the posts specified in the first paragraph of article 12 and in article 13 above, they shall be seconded as a matter of form to the central department of the Ministry for Overseas France. The cost of their salaries and allowances shall be borne by the State budget.

Article 16. In order to synchronize the gradual organization and expansion of the staff of the territorial establishments, until they are able to meet the needs of the Territories, with the gradual reduction in the corresponding establishments referred to in article 11 above, suitable territorial staff recruitment plans shall be established by agreement between the Minister for Overseas France and the Government Councils concerned.

Article 17. Officials of the metropolitan establishments at present serving on secondment to the general establishments enumerated in tables I and II annexed to Decree No. 51-510 of 5 May 1951 shall continue to be listed on those establishments and, as such, may be placed at the disposal of the Overseas Territories in the manner prescribed by this Title.

Article 18. (Decree No. 57-480 of 4 April 1957). "The officials referred to in article 11 above may, at their request, be permanently transferred to the territorial service establishments".

Title IV

Miscellaneous provisions

Article 19. (Decree No. 57-480 of 4 April 1957). "Officials belonging on the date of publication of this Decree in the Journal Officiel of the French Republic to the establishments enumerated in tables I and II annexed to Decree No. 51-510 of 5 May 1951, and officers of the Overseas France judiciary governed by the Decree of 22 August 1928 shall retain their acquired rights, in particular with respect to salaries, social benefits, pensions, and regular professional advancement.

"If any posts are abolished in a Territory, the Government shall re-assign the officials and judicial officers concerned within six months. They shall be transferred as a matter of priority to metropolitan departments which perform certain functions in the Overseas Territories. As many officials shall be transferred in this way as there are posts allocated in those departments for the performance of those functions.

Article 20. As a transitional measure, officials of the senior and local establishments serving at the time of publication of this Decree shall if they so request, continue in the pension scheme in which they previously participated.

Their option, which shall be final, shall be made within one year from the date of publication in the Journal Officiel of the Territory or Group of Territories in which they are serving of the order establishing the special regulations of the establishment to which they are in conformity with article 9 above.

The same option shall be available to any officials of the general establishments who, under article 18, are permanently transferred to the territorial

establishments. The option shall be exercised within one year from the date of transfer.

Article 21. Officials of the general establishments regulated by decree and officials of the senior and local establishments in service on the date of publication of this Decree who, on attaining the age limit under the pension scheme applicable to them, do not qualify for a superannuation pension, shall be granted the necessary extension of the age limit to permit them to qualify therefor, provided however that they may not continue in service beyond the age of sixty.

Article 22. Established staff of the government railways and government authorities shall have the benefit of the same safeguards as those listed in Titles II, III and IV (articles 19, 20 and 21) which are applicable to all officials, judicial officers and employees of Overseas France.

Article 22 bis (I). (Decree No. 57-480 of 4 April 1957). "The establishments provided for in Titles I and II of this Decree shall be open to candidates of both sexes."

Article 23. The procedures for the application of this Decree shall be determined as necessary by administrative regulations.

Article 24. The Minister for Overseas France, the Minister of State, Keeper of the Seals, Head of the Ministry of Justice, the Minister delegated to the Office of the President of the Council, the Minister of Economic and Financial Affairs, the Minister of State for Education, Youth Matters and Sport, the Secretary of State for the Budget, the Secretary of State for Public Works, Transport and Tourism, the Secretary of State for Posts, Telegraphs and Telephones, the Secretary of State in the Office of the President of the Council responsible for information and the Secretary of State in the Office of the President of the Council responsible for the public service, shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic and inserted in the Bulletin Officiel of the Ministry for Overseas France.

DECREE NO. 57-239 OF 24 FEBRUARY 1957

establishing the list of State offices and institutions
in the Overseas Territories

The President of the Council of Ministers,

Acting on the report of the Minister for Overseas France, the Minister of Economic and Financial Affairs and the Minister delegated to the Office of the President of the Council,

Having regard to Act No. 56-619 of 23 June 1956 authorizing the Government to institute reforms and to take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, in particular articles 3 and 4;

Having regard to article 8 of Decree No. 56-1227, as amended, of 3 December 1956, defining the State services in the Overseas Territories and enumerating State personnel, under which "a list of existing State offices and institutions shall be prepared before 1 March 1957";

Having regard to article 71 of the Act of 14 April, creating an Inter-colonial Pension Fund, and to the Decree of 1 November 1928, as amended;

Having regard to Act No. 550 of 11 October 1943, establishing the Office for Colonial Scientific Research, and to Decree No. 53-1127 of 17 November 1953 reorganizing overseas scientific and technical research;

Having regard to the Ordinance of 7 December 1943 establishing the National Locust Control Office;

Having regard to the Ordinance of 2 February 1944, as amended, transforming the Caisse centrale de la France libre into the Caisse centrale de la France d'outre-mer.

Having regard to Act No. 70 of 28 February 1944 organizing the Overseas France Railways;

Having regard to Act No. 46-860 of 30 April 1946 for the establishment, financing and execution of plans for the equipment and development of the Territories for which the Ministry for Overseas France is responsible;

Having regard to Act No. 48-951 of 8 June 1948 establishing the Institute for Stock-breeding and Veterinary Medicine in Tropical Countries;

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Having regard to article 40 of Act No. 55-1044 of 6 August 1955, together with the Inter-Ministerial Order of 25 October 1955 establishing a Seamen's Housing Office in Central Africa;

Having regard to articles D.472 to D.525 of the Code on Military Disability and War Casualty Pensions;

Having regard to Decree No. 46-1495 of 18 June 1946 establishing the Institute of Central African Studies;

Having regard to Decree No. 46-2898 of 11 December 1946 establishing the Institute of Scientific Research in Madagascar;

Having regard to Decree No. 48-1178 of 18 July 1948, as amended, reorganizing the Niger Office;

Having regard to Decree No. 50-414 of 6 April 1950 establishing an Institute of Higher Education at Dakar;

Having regard to Decrees Nos. 55-103 and 55-104 of 20 January 1955 reorganizing the system of issue of currency in French West Africa and Togoland, and the system of issue of currency in French Equatorial Africa and the Cameroons;

Having regard to Decree No. 55-642 of 20 May 1955 establishing the Office for Overseas Students;

Having regard to the Decree of 16 December 1955 establishing an Institute of Higher Education at Tananarive;

Having regard to Decree No. 56-1229 of 3 December 1956 reorganizing and decentralizing the overseas postal and telecommunication services;

Having regard to Decree No. 57-241 of 24 February 1957 concerning the Central Office of the Railways of Overseas France;

Having regard to Decree No. 57-240 of 24 February 1957 instituting the University of Dakar;

Having regard to Decree No. 57-235 of 24 February 1957 concerning the Locust Control Office;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

Decrees as follows:

Article 1. The following list of State offices and institutions now existing and operating in or on behalf of the Overseas Territories is hereby established:

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1. The Bank of Issue of French West Africa and Togoland.
2. The Bank of Issue of French Equatorial Africa and the Cameroons.
3. The Caisse Centrale de la France d'Outre-Mer.
4. The Overseas Exchange Offices.
5. The Overseas France Pension Fund.
6. The Dakar Institute of Higher Education and the University of Dakar, subject to the provisions of Decree No. 57-240 of 24 February 1957.
7. The Antananarivo Institute of Higher Education.
8. The Office for Overseas Scientific and Technical Research and its subsidiary institutes.
9. The Institute for Stock-breeding and Veterinary Medicine in Tropical Countries.
10. The Institute of Central African Studies.
11. The Institute of Scientific Research in Madagascar.
12. The National Locust Control Office, subject to the provisions of Decree No. 57-235 of 24 February 1957.
13. The Office for Overseas Students.
14. The Overseas Offices for Ex-Servicemen and War Casualties.
15. The Seamen's Housing Office in Central Africa.
16. The Niger Office.
17. The Central Office of the Railway of Overseas France.
18. The Central Office of Overseas Posts and Telecommunications.

Article 2. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal officiel of the French Republic.

DECREET NO. 57-458 OF 4 APRIL 1957

providing for the reorganization of French West Africa
and French Equatorial Africa

The President of the Council of Ministers,

Acting on the report of the Minister for Overseas France, the Minister of Economic and Financial Affairs, the Minister for the Armed Forces and National Defence and the Minister delegated to the Office of the President of the Council,

Having regard to Act No. 56-619 of 23 June 1956, authorizing the Government to institute reforms and take measures to ensure the development of the territories for which the Ministry for Overseas France is responsible, in particular articles 1 and 2;

Having regard to Act No. 47-1620 of 29 August 1947 establishing the procedure for elections to, and the composition, procedure and functions of, the group assemblies in French West Africa and French Equatorial Africa known as "Grand Councils";

Having regard to Act No. 52-130 of 6 February 1952 concerning the constitution of the group assemblies and local assemblies of French West Africa and Togoland, French Equatorial Africa and the Cameroons, and Madagascar;

Having regard to Decree No. 46-2250 of 16 October 1946 providing for the administrative reorganization of French Equatorial Africa;

Having regard to Decree No. 46-2374 of 25 October 1946 establishing Territorial Representative Assemblies in French Equatorial Africa;

Having regard to Decree No. 46-2375 of 25 October 1946 establishing Territorial Representative Assemblies in French West Africa;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

After consultation with the Assembly of the French Union;

After a decision by Parliament approving, subject to amendment, the Decree providing for the reorganization of French West Africa and French Equatorial Africa, filed with the Secretariat of the National Assembly on 4 December 1956,

Decrees as follows:

Title I

Organization of the Territories of French West Africa and French Equatorial Africa

Article 1. The Ivory Coast, Dahomey, Guinea, Upper Volta, Mauritania, Niger, Senegal and the French Sudan, the Gabon, the Middle Congo, Ubangi-Shari and Chad are Overseas Territories having civil personality and financial autonomy.

These Territories shall possess a domain divided into public and private, administered and managed by the territorial institutions and public services. Vacant and ownerless land shall form part of the private domain in the Territories.

Article 2. The Territorial institutions of the Overseas Territories, referred to in article 1, shall comprise:

a Chief Administrator of the Territory;

a Government Council;

a Territorial Assembly, with the functions and powers determined by Decree No. 57-460 of 4 April 1957 defining the powers of the Chief Administrators, Government Councils and Territorial Assemblies of the territories of French West Africa and French Equatorial Africa.

Article 3. The Conseils privés shall be abolished in each of the Territories mentioned in article 1, as from the date of the establishment of the Government Councils.

Article 4. With a view to the co-ordination of their economic, financial, social and cultural activities and the development and administration of their joint interests and domain: (1) the Ivory Coast, Dahomey, Guinea, Upper Volta, Mauritania, Niger, Senegal and the French Sudan shall constitute the French West African Group; (2) the Gabon, the Middle Congo, Ubangi-Shari and Chad shall constitute the French Equatorial African Group. These groups of territories shall have civil personality and financial autonomy. The institutions of each of these groups shall comprise:

a Chief Administrator of the Group of Territories;

an assembly, known as the Grand Council.

Each of the groups of Territories mentioned in the first paragraph of this article shall have a domain which it shall administer and manage in the manner prescribed in Titles III and IV hereunder.

Title II

The High Commissioner of the Republic

Article 5. A High Commissioner of the Republic shall be appointed to each of the Groups of Territories mentioned in the preceding article. The seat

of the High Commissioner's Office shall be determined by decree, subject to the provisions of the seventh paragraph of article 8 hereunder.

Article 6. The High Commissioner of the Republic shall be appointed by decree of the President of the Republic made in Council of Ministers. He shall perform the functions of High Commissioner and of Chief Administrator of the Group of Territories.

Within the jurisdiction of the Territories of French West Africa and French Equatorial Africa, he shall be the representative of the Government. He shall be responsible directly to the Minister for Overseas France.

The Chief Administrator of a Territory, appointed by decree in Council of Ministers shall be, by permanent delegation of the High Commissioner, the depository within that Territory of the powers of the Republic.

Article 7. The High Commissioner of the Republic shall be assisted by a General Secretary of the High Commissioner's Office, appointed by decree, who shall replace him in the event of absence or impediment in his dual capacity as High Commissioner and Chief Administrator of the group of territories and to whom the High Commissioner may delegate certain of his functions.

Article 8. The High Commissioner of the Republic shall be the depository of the powers of the Republic for all the territories under the jurisdiction of his Office.

He shall ensure the promulgation, publication and execution of acts and decrees and the application of decisions and instructions of the Minister for Overseas France.

He shall have the power to issue regulations.

He shall ensure and co-ordinate the defence of the Territories under his jurisdiction and their participation on the joint defence effort.

He shall ensure the maintenance of public order and the safety of persons and property; he shall see that justice is properly administered.

He shall proclaim martial law (état de Siège).

In case of necessity he may transfer the seat of the High Commissioner's Office, subject to a report being made to the Minister for Overseas France.

The High Commissioner shall communicate with the representatives of the Republic overseas, the authorities of foreign countries in Africa and the representatives of the Republic in those countries, and the duly accredited consular representatives of foreign governments whose jurisdiction extends to the territories of the group.

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He shall negotiate with the said authorities and representatives all agreements, in particular those referring to trade, which apply in all or part of the Territories under his jurisdiction, after consultation with the Government Councils concerned and within the scope defined by government instructions. He shall conclude these agreements subject to their approval by the Government of the Republic.

Article 9. The High Commissioner of the Republic, subject to the laws and regulations, and in particular those governing the public services of the State, shall:

- (a) organize the State services at the Group of Territories level and direct their activities;
- (b) supervise the use of all appropriations under the State budget;
- (c) be the secondary certifying officer for the budget of State civil expenditures for the territories under the jurisdiction of the High Commissioner's Office and, in that capacity he may assign to the Chief Administrators of Territories under his authority all or part of the appropriations assigned to him;
- (d) represent the State in all judicial matters and in all civil acts and proceedings subject to such delegations of authority as may be prescribed by the laws in force;
- (e) ensure general co-ordination of the activities of the State services and the joint and territorial services;
- (f) establish, after consultation with the Grand Council, the general regulations applicable to the authorities responsible for representing economic interests.

Article 10. The High Commissioner of the Republic shall report on the State officials serving in the Group of Territories; he shall exercise disciplinary authority over them as prescribed in article 80 of the Act of 19 October 1946 enacting general regulations for State officials.

He shall make appointments to all civil posts in the State services within the jurisdiction of the High Commissioner's Office, except the posts of Chief Administrator of the Territory, General Secretary to the territorial government or to the High Commissioner's Office Inspector General of

Administrative Affairs, judicial officers, Inspector General of Labour and Social Welfare, and Comptroller. The employees of the State Comptroller's Office, university professors and lecturers, Treasury accountants and officials on the general establishment of the Overseas treasuries shall continue to be governed by their own statutory regulations.

Title III

The Group of Territories

Chapter I

The Chief Administrator of a Group of Territories

Article 11. The Chief Administrator of a Group of Territories shall represent the Group in all judicial matters and in all civil acts and proceedings. In the event of litigation between the State and the Group, the Group shall be represented by the President of the Grand Council.

He shall administer the property of the Group and dispose of it in conformity with the decisions of the Grand Council.

He shall arrange for collection of the taxes, duties, fees and fees which are to accrue as reserve to the Group.

He shall have the power to issue regulations to ensure the application and execution of the decisions of the Grand Council and the operation of joint services, which shall be placed under his jurisdiction.

He shall organize the inter-Territorial services referred to in article 13 hereunder after consultation with the Grand Council.

He shall make appointments to all posts in the joint services and exercise in regard to officials of those services the disciplinary powers for which their regulations provide.

He shall be the certifying officer for the budget and budget annexes of the Group of Territories and may delegate his functions in that capacity to one or more officials of his choice acting under his responsibility. He may also appoint secondary and deputy certifying officers.

Article 12. When exceptional circumstances so require, the Chief Administrator of a Group of Territories may make orders, which shall be immediately enforceable, with a view to suspending or temporarily reducing import and export duties on mining and petroleum products, and mining and petroleum royalties.

These orders shall be subject to ratification by the Grand Council. If the Grand Council is in session, the orders shall be submitted to it. If the Grand Council is not in session, the orders shall be submitted forthwith to the Standing Committee, which shall report thereon to the Assembly with a view to their ratification. When the decision of the Grand Council has become definitive, it shall have effect from the date on which it was taken.

Chapter II

Organization of the Group of Territories

Article 13. In order to ensure co-ordination of action by the Territories, the following services may be established, apart from the general administrative bodies required for their actual operation, at the level of the Group of Territories.

1. A general financial administration, responsible both for the administration of the common interests of the Group and the financial administration of its services;
2. An economic affairs co-ordination service, assisted by a statistical survey and co-ordination service;
3. A service for the co-ordination of capital equipment and planning problems common to two or more Territories;
4. A geological and mineral prospecting service;
5. An academy to co-ordinate the educational, cultural and research services of the Territories;
6. A service for the control of the important endemic diseases;
7. A service for the control of epizootic diseases;
8. A plant health service;
9. A soil conservation service.

This list of services of common interest is restrictive. Nevertheless, this provision shall not limit the right of the Territorial Assemblies, by decision, to make the Group of Territories responsible for the establishment, organization and administration of inter-Territorial services or for the establishment, organization and financial supervision of joint public institutions, the cost of which shall be borne by the territorial budgets in proportions to be determined by an agreement approved by the Territorial Assemblies concerned.

Adjacent Territories may, by decision of their respective Assemblies, establish joint services.

Article 14. With a view to the discussion of questions of common interest, the Chief Administrator of the Group of Territories may convene an inter-Territorial conference to be attended by the Chief Administrators of Territories or their representatives and by the Vice-Presidents of the Government Councils, assisted by competent members of the Government Councils of the Territories concerned.

The conference shall be convened automatically if it is requested by a majority of the Government Councils of the Territories which comprise the Group.

Chapter III

The Grand Council

Article 15. Titles III and IV of the Act of 29 August 1947 are hereby replaced by the provisions of this Chapter and of Chapter IV hereunder.

Article 16. The Grand Council shall be responsible for the administration of the common interests of the Group of Territories.

It shall take decisions on the matters placed within its jurisdiction by the laws and regulations, in particular by articles 17, 19, 20, 22, 23, 24 and 28 to 31 of this Decree. Its decisions may provide penalties, in the manner prescribed by article 2 of the Act of 23 June 1956.

It shall give advisory opinions, in particular in the cases specified in articles 32 to 34 hereinafter.

Article 17. The Grand Council may make recommendations for the purpose of ensuring the co-ordination and possible unification of the regulations and fiscal systems of the Territories. Such recommendations shall be communicated by the Chief Administrator of the Group of Territories to the Chief Administrators of the Territories concerned, who shall refer them to the Government Councils or to the Territorial Assemblies, as the case may be.

The Grand Council may be called upon to take a decision in any matter within the jurisdiction of the Territorial Assemblies in respect of which the Assemblies of two or more Territories of the Group consider it desirable to have a set of regulations common to the Territories concerned.

If a decision taken by a Territorial Assembly in an economic or financial matter may be prejudicial to the interests of another Territory or other Territories of the Group, the Assemblies of the latter Territories may decide to refer the question to the Chief Administrator of the Group of Territories through the Chief Administrator of the Territory.

The Chief Administrator of the Group of Territories shall convene, in the manner prescribed in article 14, an inter-Territorial conference of the various Territories of the Group at which a recommendation shall be drawn up.

If the recommendation is not accepted by the Territorial Assembly concerned, the final decision shall be taken under a decree adopted in Council of Ministers,

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after consultation with the Assembly of the French Union and after the Conseil d'Etat has been heard.

Article 18. No taxes or duties of any kind may be imposed for the benefit of any treasury whatsoever on any products in movement from one Territory to another Territory in the same Group.

Article 19. The Grand Council shall decide on the opening date of its regular sessions, the duration of which shall not exceed two months. Such sessions shall, however, be governed by the rules laid down below.

The Grand Council shall hold two regular sessions each year, upon convocation by the High Commissioner. The first session shall begin during the first quarter of the year and the second before the end of October. The budget shall be considered at the second regular session. If a regular or special session adjourns and the Grand Council has not fixed the date for the opening of its next regular session, the date shall be fixed in due time by the Standing Committee.

The Grand Council shall also be convened in special session:

- (a) if at least two-thirds of its members submit a request in writing to that effect to the President, or
- (b) if the Chief Administrator of the Group of Territories makes an order to that effect.

The duration of a special session may not exceed fifteen days.

The provisions of this article shall supersede those of article 28 of the Act of 29 August 1947.

Article 20. Subject to the provisions of article 21 of this Decree, the Grand Council shall take decisions on draft legislation submitted by the Chief Administrator of the Group of Territories concerning the domanial interests of the Group.

Article 21. However, the Chief Administrator of the Group may:

1. on his own initiative arrange settlements relating to the duties and charges of the Group of Territories in suits involving a sum of less than 5 million francs C.F.A.;
2. accept on his own initiative and on an interim basis, gifts and bequests;

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3. in cases of emergency and with the concurrence of the Standing Committee, institute any proceedings on behalf of the Group of Territories or defend its interests in such proceedings.

In cases of litigation between the State and the Group of Territories, the proceedings shall be instituted and conducted on behalf of the Group of Territories by the President of the Grand Council or by a member of the Standing Committee appointed especially for that purpose by the Grand Council;

4. perform any acts for the purpose of conserving or interrupting prescription.

Article 22. The Grand Council may take a decision fixing the amount and conditions of payment of the compensation allotted to its members and also the rules applying to reimbursement of their travel expenses.

Such compensation, whatever its form, shall be fixed by reference to the salary of a category of officials serving in the Group of Territories.

No member may receive this compensation, during one and the same period, concurrently with either the compensation paid to members of the Territorial Assemblies or the salary of a member of the Government Council of a Territory of the Group.

Officials on active service or on secondment who are members of the Grand Council shall receive the difference between their salary, plus any travel expenses, and the compensation payable to members of the Grand Council, or their salary only, plus any travel expenses, if the total thereof is greater than the said compensation.

The Grand Council may also vote its President an annual lump-sum payment as a representation allowance.

The provisions of this article shall supersede those of article 27 of the Act of 29 August 1947.

Article 23. Subject to compliance with international conventions, to the provisions of article 32 of the Act of 30 December 1953 and to prior consultation with the assemblées consulaires (commercial arbitral assemblies) on matters within their jurisdiction, the Grand Council shall take decisions

on the financial implications of any proposal made by the Chief Administrator of the Group of Territories or by one of its members relating to the following matters:

1. Method of assessment and rules for the collection of duties and taxes, including customs duties, collected upon entry into the Group of Territories, and schedules of such duties and taxes;
2. Method of assessment and rules for the collection of duties collected upon departure from the Group of Territories, including customs duties, and schedules of such duties, where these apply to mining and petroleum products and to mining and petroleum royalties;
3. Contracts to be concluded and specifications to be laid down by the Group of Territories.

No concession to operate a public service applied for by or on behalf of an alien may be granted unless there is agreement between the High Commissioner and the Grand Council. In case of disagreement, the matter shall be settled by decree;

4. Schedule of fees payable by concessionaries and of charges for supplies from and performance by the public services of the Group of Territories; fees payable for occupation of public lands of the Group and other related charges;
5. Determination of costs coming under the head of "court costs", preparation of schedules of such costs, methods of payment and collection, defining of conditions to be met by the recipients and, in general, regulation of all matters relating to court costs; schedules of fees for the issue of copies of or extracts from public instruments;
6. Fiscal tariff agreements relating to taxes levied by the Group of Territories, in the cases provided by law;
7. Loans, sureties, guarantees and shares of the Group of Territories in the capital of public and semi-public corporations and, in exceptional cases, of private companies participating in the economic development of the Group of Territories;
8. Acceptance of offers to contribute to the expenditures of the Group of Territories, the share of the Group of Territories under its

budget in the expenditures of the State, of another Group of Territories or of a Territory which is not a member of a group, or of a public organization of the Group of Territories, in connexion with works which concern the Group of Territories;

9. At the request of the Assemblies of two or more Territories of the Group, the establishment or abolition of joint public institutions and inter-Territorial public services attached to the Group of Territories, as enumerated in the penultimate paragraph of article 13, and the agreements to be concluded for that purpose by the Group with the Territories concerned;

10. Subsidies and loans, contributions, refunds and royalties, borrowings, applications for loans or advances and the security to be required for them, investment of funds and alienation of property of the Group of Territories.

The Grand Council may fix a time-limit within which the assemblées consulaires shall give their advisory opinion. If they fail to do so, the Grand Council shall proceed without their opinion. This time-limit may not be less than fifteen days.

Article 24. The budget estimates of the Group of Territories and the budget annexes drawn up in local currency shall be prepared by the Chief Administrative Officer of the Group of Territories and filed by him with the Secretariat of the Grand Council at its second regular session each year. The budgets shall be considered and voted on, when balanced, by the Grand Council at that session.

The revenue and expenditure heads of the budget of the Group of Territories shall be divided into chapters and articles.

The right to amend the estimates of revenue and expenditure shall belong jointly to the Chief Administrator of the Group of Territories and to the Grand Council. However, the estimation of future revenue shall be the responsibility of the Chief Administrator of the Group of Territories. No proposal to increase expenditures or reduce revenue shall be admissible unless accompanied by a proposal for a corresponding increase in revenue or reduction in expenditure.

A separate decision shall be taken on each chapter of the budget. The budget as a whole shall then be voted upon by the Grand Council, which shall decide where appropriate on measures to be taken to ensure a true balance between revenue and expenditures, taking into account the funds required to cover the expenditures specified in the second paragraph of article 44 hereinafter.

No changes may be made in the budget during the financial year except by the Grand Council, in accordance with the procedure laid down for preparing the budget estimates and in such a manner as to ensure a continued balance between revenue and expenditures. Any transfer from one chapter to another shall be authorized by the Grand Council or, in urgent cases, by its Standing Committee, which shall report thereon to the Grand Council at its next session. No new post may be established unless it is provided for in the budget of the Group of Territories.

Article 25. Proposals for supplementary appropriations and withdrawals from the reserve fund shall be made and decided in the same manner.

In emergencies and when the Grand Council is not in session, supplementary appropriations and withdrawals from the reserve fund may be made by order of the Chief Administrator of the Group of Territories with the concurrence of the Standing Committee. Such orders shall be submitted to the Grand Council at its first session for ratification thereafter.

The sole purpose of changes so decided upon shall be to correct errors of estimation or to meet shortages of funds which have become apparent in the light of events subsequent to the preparation of the budget estimates, or to cover expenditures necessitated by unforeseeable circumstances.

Article 26. No benefit may be conferred by the Grand Council on an official or employee or on a category of officials or employees otherwise than on the proposal of the Chief Administrator of the Group of Territories.

Unless otherwise provided by law, no special service operating on extra-budgetary account may be established except by an order of the High Commissioner, made in agreement with the Minister for Overseas France and the Minister of Economic and Financial Affairs.

The establishing order shall define the conditions on which the account is to operate and provide for the supervision of its revenue and expenditures by the Grand Council.

The jurisdiction of the Chief Administrator of the Group of Territories and the Grand Council with respect to the drawing up of the schedules of charges and the budgets of bodies established by law to operate as self-governing public authorities (régies) or as offices shall be defined by the texts laying down the statutes of such bodies.

Article 27. If the Grand Council does not meet before the first day of the calendar year, or adjourns without having voted the budget or without having voted a balanced budget, the Chief Administrator of the Group of Territories shall ex officio make an order establishing a provisional budget, taking as the basis the budget for the previous year and the schedule of taxes adopted by the Grand Council. Where necessary, however, this order may prescribe any reductions in expenditures or increases in fiscal or other revenue. The Chief Administrator of the Group of Territories shall within fifteen days convene the Grand Council in a special eight-day session. If the Grand Council fails to vote a truly balanced budget by the end of the said special session, the budget shall be established in final form by the Chief Administrator of the Group of Territories, in the manner prescribed hereinabove. If the Grand Council fails to approve all the obligatory expenditures, the Chief Administrator of the Group of Territories shall ex officio enter all or part of the expenditures omitted and shall restore true balance to the budget either by deductions from uncommitted funds or the funds for miscellaneous and unforeseen expenditures or by a reduction in optional expenditures.

Article 28. The Grand Council shall take decisions enacting regulations applicable to all the Territories of the Group in the following matters of common interest:

- (a) the professions, ministerial and public offices;
- (b) civil procedure, except as regards the system of judiciary;
- (c) the activities of joint institutions and services;
- (d) the public lands of the Group of Territories. Nevertheless, State rights in respect of immovable property and easements enjoyed by the State may not be prejudiced in any way.

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Should the State subsequently allocate certain premises for the operation of public services, such premises shall enjoy the easements for the public advantage inherent in the operation of the said services;

- (e) control of the major endemic diseases;
- (f) plant health control;
- (g) epizootic disease control;
- (h) internal transport, traffic, haulage;
- (i) navigation on rivers and canals of interest to a number of Territories;
- (j) after consultation with the National Insurance Council through the Minister for Overseas France, regulations for the purpose of instituting compulsory insurance for individuals and corporate bodies whose civil liability may be involved under articles 1382 to 1386 of the Civil Code, provided that such regulations may not otherwise alter the insurance laws and regulations or be applied to coverage of risks connected with industrial accidents or occupational diseases;
- (k) methods of applying the regulations governing mineral resources;
- (l) organization of the savings banks in the Group of Territories;
- (m) tourism for the purpose of hunting; regulation of hunting in areas set aside for hunting by tourists;
- (n) Forms and terms of invitations for tenders and of contracts to be concluded in the Group of Territories for works and supplies which concern the Group, subject to compliance with the general rules applicable in such matters. These rules shall be laid down by a decree made in the manner prescribed in article 1 of the Act of 23 June 1956.

Article 29. Decisions on the matters referred to in the preceding article may be taken notwithstanding any provisions of law or regulations to the contrary enacted before the date of entry into force of this Decree, subject however to the provisions of international conventions, of the laws and regulations on the matters dealt with in the Commercial Code and the Maritime Code, of the Act of 15 December 1952, of the Act of 30 April 1946 and the decrees adopted in application thereof, of Decrees Nos. 55-625 and 55-634 of 20 May 1955 and of the ethical codes.

Article 30. The acts and decrees relating to the matters listed in article 28 of this Decree shall, however, remain in force, with the effect of regulations for the Group of Territories. These regulations may be cancelled or amended by decision of the Grand Council.

Article 31. The Grand Council shall take decisions regarding the common sections of programmes for implementing and executing the capital equipment and development plan provided for by the Act of 30 April 1946, in the manner prescribed by the decrees made in application of the said Act.

Article 32. The Grand Council shall be consulted in all cases with regard to draft regulatory orders of the Chief Administrator of the Group of Territories relating to:

- (a) the general organization of joint services and the general regulations applicable to the employees of such services;
- (b) the application, in respect of the Group of Territories, of the provisions of Act No. 52-1322 of 15 December 1952 establishing a labour code in the Territories and Associated Territories for which the Ministry for Overseas France is responsible;
- (c) the fixing for each category of offences under the regulations issued on the basis of the decisions of the Grand Council, of the scale of penalties applicable in accordance with the conditions laid down in article 2 of the Act of 23 June 1956.

Article 33. The Grand Council shall be consulted in all cases on the grant of mining exploration permits, types A and B, where such permits concern a number of Territories. In the event of disagreement between the Grand Council and the High Commissioner, the matter shall be decided pursuant to a decree made in Council of Ministers, after consultation with the Assembly of the French Union.

Article 34. The following shall in all cases be referred by the Chief Administrator of the Group of Territories to the Grand Council for its opinion:

- (a) administrative accounts relating to the execution of the budget of the Group of Territories and the budget annexes, the public authorities (régies) of the Group of Territories, and the public institutions of the Group of Territories;

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(b) the annual position of the funds of the Group of Territories.

The Grand Council may make any observations on the administrative accounts of the Group of Territories within the time-limit prescribed in article 37. Such observations shall be communicated by the President of the Grand Council to the Chief Administrator of the Group of Territories, who shall send a copy thereof to the Audit Office through the Minister for Overseas France.

Article 35. The Chief Administrator of the Group of Territories shall make a statement to the Grand Council at its budgetary session on conditions in the Group of Territories and the state of the joint services.

Article 36. The Grand Council may, through its President, request the Chief Administrator of the Group of Territories and the Minister for Overseas France to furnish any information or observations on matters within its competence. It may also ask to hear any head of a joint service in connexion with a matter with which it is dealing.

The Grand Council may ask the Chief Administrator of the Group of Territories for any information concerning action taken on its decisions and concerning the execution of the budget, and may present its observations on the subject to the Chief Administrator of the Group of Territories.

The Grand Council may assign one or more of its members to gather in the Group of Territories the information it considers necessary in order to deal with a matter within its competence.

Article 37. All matters shall be referred to the Grand Council either by the Chief Administrator of the Group of Territories or by one of the members of the Council, except matters in respect of which the right of action is vested exclusively in the Chief Administrator of the Group of Territories.

In the interval between sessions, bills submitted by the Chief Administrator of the Group of Territories for decision by the Grand Council and bills proposed by members of the Grand Council shall be filed with the Secretariat of the Standing Committee.

Bills proposed by members of the Grand Council shall be communicated, within ten days from the date of filing, to the Chief Administrator of the Group of Territories, who may state his views on them. The Grand Council may not, if the Chief Administrator of the Group of Territories so requests, refuse to defer consideration of the bill to its next session, but not later.

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The Chief Administrator of the Group of Territories shall be kept informed of the agenda of the Grand Council and its committees. He may attend and address the meetings of the committees of the Grand Council or send a representative to attend them.

Bills and proposals submitted to the Grand Council for decision shall be considered by the Council at the session during which they were filed or, at the latest, at the following session, unless the Standing Committee is delegated to act on them in the interval between the two sessions.

In matters which must be referred to the Grand Council for its opinion, the Chief Administrator of the Group of Territories may, if the Council fails to give its opinion within the time-limits prescribed above, proceed without it, after notifying the President of the Grand Council to that effect.

Article 38. The acts of the Grand Council and its Standing Committee shall be delivered in duplicate, together with an extract from the records of meetings relating to the discussion and voting thereon, to the Chief Administrator of the Group of Territories within a period of thirty clear days from the closing of the session. Upon receipt of the documents, the Chief Administrator of the Group of Territories shall transmit one set of copies to the Minister for Overseas France.

Within thirty clear days from the date of their receipt, the Chief Administrator of the Group of Territories shall put the decisions of the Grand Council or its Standing Committee into effect or shall either refer them back to the Grand Council for second reading, or refer them to the Minister for Overseas France for the purpose of annulment, in the manner prescribed by articles 39 and 40.

If the Chief Administrator of the Group of Territories requests the Minister for Overseas France to annul a decision, he shall so advise the President of the Grand Council or, in the interval between the sessions of the Grand Council, the Chairman of the Standing Committee.

Article 39. The Minister for Overseas France may take action to annul decisions of the Grand Council and its Standing Committee on grounds of excess of power or of violation of the law, by means of a decree made in the form of an administrative regulation.

If, for any reason whatever, a decision of the Grand Council or its Standing Committee which has been submitted to the Minister for annulment has not been annulled within a period of ninety clear days from the date of its communication to the Chief Administrator of the Group of Territories, the Chief Administrator shall put it into effect not later than eight clear days after the expiry of the abovementioned period.

The decisions of the Grand Council or the Standing Committee in customs matters shall continue to be subject to the provisions of article 3 of the Decree of 14 October 1954.

Article 40. The Chief Administrator of the Group of Territories may, within the period of thirty clear days prescribed in article 38, invite the Grand Council to rule at second reading, on decisions taken by it or its Standing Committee, if he considers them to be inconsistent with the general interest or the orderly administration of the Group of Territories.

In that case, the periods prescribed by articles 38 and 39 shall run from the date on which the Chief Administrator of the Group of Territories receives the new decision of the Grand Council.

Article 41. Pending the publication of the orders of the Chief Administrator of the Group of Territories putting into effect the decisions of the Grand Council or its Standing Committee, all taxes, duties, charges and fees shall be levied on the former bases and in accordance with the previous schedules.

Decisions taken by the Grand Council or its Standing Committee, at a session which began before 1 January, in the matter of direct taxes or of duties or charges treated as such, shall have effect as from that date, even if they could not be made enforceable by then.

Similarly, if it has not been possible to put the budget into effect before 1 January, the Chief Administrator of the Group of Territories shall be authorized to make provisional monthly appropriations on the basis of the appropriations in the budget for the preceding year. Further appropriations may be made each month until the budget is put into effect.

Article 42. A code of the regulations resulting from the decisions of the Grand Council and a code of administrative regulations made by the Chief

Administrator of the Group of Territories shall be established under orders to be made by the Chief Administrator of the Group of Territories and published in the Journal Officiel of the Group of Territories. The said codes shall be brought up to date annually.

Article 43. The Chief Administrator of the Group of Territories shall each month communicate to the Standing Committee of the Grand Council a detailed report, as at the end of the preceding month, of budgetary receipts, obligations, orders of assignment and payment issued against the budget, the budget annexes and the extra-budgetary accounts of the Group of Territories.

He shall also communicate to the Standing Committee a quarterly summary concerning the execution of the budget of the Group of Territories, as shown by the consolidated accounting report and the periodic reports submitted by the assistant certifying officers.

The Standing Committee may, in order to verify that deductions of expenditures under the budget are in order, request the production of particular payment orders.

The Standing Committee shall receive quarterly reports concerning the status of works being carried out under the budget of the Group of Territories and under the section relating to the Group of Territories in the Investment Fund for the Economic and Social Development of the Overseas Territories, instituted under the Act of 30 April 1946.

The Standing Committee may request the Grand Council to appoint one of the Council's members to ascertain on the spot the progress being made with particular works being carried out under the budget of the Group of Territories.

The provisions of this article shall supersede those of article 65 of the Act of 29 August 1947.

Chapter IV

Budget of the Group of Territories

Article 44. The budget of the Group of Territories shall cover:

- (a) The debts of the Group of Territories;
- (b) Contributions and assessments payable by the Group of Territories under legislative or contractual provisions;

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- (c) Expenditure for supervision of common public services;
- (d) Operating costs of common public services and institutions, agencies and operations established at the territorial group level. A schedule of posts indicating the establishment of the services shall be annexed to the budget documents;
- (e) General capital expenditures not covered by the territorial budgets;
- (f) Any subsidies granted by the Grand Council in aid of the budgets of the Territories in the Group.

The budgetary appropriations shall cover expenditure relating to:

- (a) Settlement of due debts and covering of previous budget deficits;
- (b) Contributions, assessments and expenditures imposed under legislative provisions. A decree made in the manner prescribed by article 1 of the Act of 23 June 1956 shall specify the manner in which this paragraph shall be applied.

Article 45. Revenue for financing the budget of the Group of Territories shall be derived from:

- (a) Revenue from duties and taxes levied on imports into the Group of Territories;
- (b) One-half of the mining and petroleum royalties and one-half of the duties levied on exports of mineral and petroleum products from the Territories of the Group;
- (c) Income from the property of the Group;
- (d) Revenue of the services of the Group;
- (e) Fees paid by concessionnaires, farmers and other operators of Group services;
- (f) Interest on loans and security deposits, sums realized from borrowings and from financial investments or participations resulting from agreements signed or contracts concluded on behalf of the Group;
- (g) Gifts and bequests to the Group and unforeseen and miscellaneous revenue;
- (h) Withdrawals from the reserve fund of the Group and any other revenue accruing to the Group.

Article 46. Any funds available under the budget of the Group of Territories at the end of the financial year, after the expenditures specified in article 44 have been met and payment has been made into the reserve fund of the Group of Territories of the amount necessary to maintain the statutory minimum level, shall be refunded to the treasuries of the Territories of the Group, by decision of the Grand Council, in proportion to the actual volume of production and consumption activities taxed in each of the Territories.

Title IV

Miscellaneous and temporary provisions

Article 47. This Decree shall enter into force in the manner prescribed by article 1 of the Act of 23 June 1956. Nevertheless, subject to the provisions of the second paragraph of this article, the provisions of paragraphs 24 and 25 and the last sub-paragraph of article 38 and of article 46 of the aforementioned Act of 29 August 1947 shall remain provisionally in force until 31 December 1957 at the latest.

The provisions of article 13, article 23, paragraphs 1 and 2, and articles 44 and 45 of this Decree shall take effect not later than 1 January 1958. They may enter into force before that date in accordance with procedures established by orders made by the High Commissioner of the Republic, which shall adjust, as necessary, the provisions of the Act of 29 August 1947, referred to in the preceding paragraph.

Article 48. All laws and regulations conflicting with this Decree, in particular, the Decree of 18 October 1904 providing for the reorganization of the Office of the Governor-General of French West Africa, the Decree of 4 December 1920 providing for the reorganization of the Government Council of French West Africa and its Standing Committee, articles 2 to 5 of the Decree of 4 December 1920 providing for the administrative reorganization of Senegal, articles 2 to 8 and 12 to 19 of the Decree of 16 October 1946 providing for the administrative reorganization of French Equatorial Africa, the Decree of 22 December 1946 providing for the establishment of conseils privés in the Territories of French West Africa, excluding Senegal, and subsequent amending texts, are hereby rescinded.

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However, nothing in these provisions shall be an impediment in the areas with which the Organisation commune des régions sahariennes is concerned, to measures taken under Act No. 57-27 of 10 January 1957.

Article 49. The High Commissioner of the Republic shall make orders as necessary establishing procedures for the application of this Decree.

Article 50. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic.

DECREE NO. 57-459 OF 4 APRIL 1957

laying down the conditions for the establishment
and operation of Government Councils in the
Territories of French West Africa and French
Equatorial Africa

The President of the Council of Ministers,

Acting on the reports of the Minister for Overseas France, the Minister of Economic and Financial Affairs and the Minister delegated to the office of the President of the Council,

Having regard to Act No. 56-619 of 23 June 1956, authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, particularly article 1 thereof;

Having regard to Decrees Nos. 46-2374 and 46-2375 of 25 October 1946 providing for the establishment of territorial assemblies in French Equatorial Africa and French West Africa,

Having regard to Act No. 52-130 of 6 February 1952 concerning the establishment of group assemblies and local assemblies in various territories for which the Ministry for Overseas France is responsible;

Having regard to Decree No. 57-458 of 4 April 1957 providing for the reorganization of French West Africa and French Equatorial Africa;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

Having consulted the Assembly of the French Union;

After a decision by Parliament approving, subject to amendment, the Decree laying down the conditions for the establishment and operation of Government councils in the Territories of French West Africa and French Equatorial Africa, filed with the Secretariat of the National Assembly on 4 December 1956,

Decrees as follows:

Article 1. This Decree lays down the conditions and procedures for the establishment and operation of the Government Councils established in the Territories of French West Africa and French Equatorial Africa by Decree No. 57-4 of 4 April 1957 aforesaid.

Article 2. The Government Council shall be presided over by the Chief Administrator of the territory.

The Territorial Assembly shall elect, in the manner prescribed by the following articles, not less than six nor more than twelve members of the Government Council, who shall have the title of Minister.

The Government Councillor obtaining the largest number of votes shall assume the title of Vice-President of the Government Council.

The Government Council shall have the right to resign if it considers that it no longer enjoys the confidence of the Territorial Assembly.

On matters within their competence, the members of the Government Council shall be required to answer any questions or requests for explanations from members of the Territorial Assembly.

Article 3. The Ministers shall be French citizens in possession of their civil and political rights and not less than 25 years of age. The Ministers shall be liable under criminal law for any crimes or offences committed in the performance of their functions.

Article 4. No one may be a member of more than one Government Council of territories for which the Ministry for Overseas France is responsible.

Article 5. The members of the Government Council shall be elected by the Territorial Assembly from within or outside its membership by triple ballot, without splitting of votes or preferential voting.

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The electors may vote for a single list only, without deletion or addition of names or modification of the order in which the candidates are listed. Any ballot paper not satisfying these conditions shall be void.

Each member of the Assembly may cast one vote for one of the lists submitted.

If no list obtains a majority of the votes cast by the members of the Assembly on the first two ballots, the third ballot shall be decided by a relative majority.

Article 6. The lists of candidates shall be delivered to the President of the Assembly no later than the day before the day on which the first ballot is to be held.

New lists may be drawn up after each ballot. They shall be delivered to the President of the Assembly not later than three hours before the opening of the meeting scheduled to hold the second or third ballot.

The lists shall be read out before the commencement of each ballot.

Each list shall include as many names as there are members to be elected.

Candidates who are not members of the Territorial Assembly shall satisfy the conditions of eligibility laid down for the election of Territorial Councillors.

They shall be subject to the same conditions with regard to ineligibility and the offices incompatible with membership.

Article 7. The validity of the election may be challenged by the candidates or by the members of the Territorial Assembly. The other provisions of articles 20 to 23, inclusive, of the above-mentioned Decrees of 25 October 1946 shall apply to disputes concerning elections to the Government Council.

Article 8. Ministers may not continue in office beyond the term of the Assembly which elected them; nevertheless, their term shall be extended to the date of installation of the new Government Council, which shall take place not later than fourteen days after the opening of the first session of the new Assembly.

Article 9. Ministers shall be required to maintain secrecy regarding the proceedings of the Council and the matters referred to it.

Article 10. A Minister may not at the same time exercise the functions of: Member of the Government of the Republic;

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President of the Territorial Assembly;

Chairman or member of the Standing Committee of the Territorial Assembly.

A Minister who finds that he holds one of the incompatible offices specified above shall opt within fifteen days. If, at the end of that period, he has not made known his choice, he shall be deemed to have relinquished the office of Minister.

Article 11. Ministers may submit their resignation to the President of the Government Council.

Article 12. A Minister may be removed from office by the Chief Administrator of the Territory on the proposal of the Vice-President of the Government Council.

Article 13. If a Minister's seat becomes vacant through death, resignation or any cause whatsoever, such vacancy shall be filled in the following manner; if there are several seats to be filled an election shall be held in the manner prescribed by articles 5 and 6; if a single seat is to be filled an election by uninominal ballot shall be held, the first two ballots being decided by an absolute majority and the third ballot by a relative majority.

Article 14. In addition to reimbursement of their transportation and travel expenses, the Vice-President and the Ministers shall receive an annual allowance, payable monthly, the amount of which shall be fixed uniformly by the Territorial Assembly with reference to the salary of a category of officials serving in the Territory.

Article 15. The expenditures necessary for the operation of the Government Council, in particular those relating to the compensation payable to Ministers, the installation and equipment of the Council and the travel of its members, shall be borne by the territorial budget.

Article 16. The Government Council shall sit in the chief town of the Territory, unless otherwise decided by an order of the Chief Administrator of the Territory.

The agenda shall be prepared by the President of the Government Council.

The Chief Administrator of the Territory shall provide a Secretariat for the Council and shall be responsible for the safekeeping of the Council's records. These records shall include those of the conseil privé.

The General Secretary of the Territory may attend the meetings of the Council.

Article 17. The Government Council may not be dissolved except by a decree made in Council of Ministers after consultation with the Territorial Assembly.

Article 18. The provisions of this decree shall enter into force in respect of each of the Territories of French West Africa and French Equatorial Africa no later than 1 July 1957.

Article 19. The procedures for the application of this Decree shall be determined, as necessary, by orders to be made by the Chief Administrators of the Territories.

Article 20. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic.

DECREE NO. 57-460 OF 4 APRIL 1957

defining the powers of the Chief Administrators, Government Councils and Territorial Assemblies of the territories of French West Africa and French Equatorial Africa

The President of the Council of Ministers,

Acting on the reports of the Minister for Overseas France, the Minister of Economic and Financial Affairs and the Minister delegated to the Office of the President of the Council,

Having regard to Act No. 56-619 of 23 June 1956, authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, particularly Article 1 thereof;

Having regard to Decrees Nos. 46-2374 and 46-2375 of 25 October 1946 providing for the establishment of Territorial Assemblies in French Equatorial Africa and in French West Africa,

Having regard to Act No. 55-1489 of 18 November 1955 providing for municipal reorganization in Africa and in Madagascar;

Having regard to Act No. 46-860 of 30 April 1956 for the establishment, financing and execution of plans for the equipment and development of the Territories for which the Ministry for Overseas France is responsible;

Having regard to Decree No. 57-458 of 4 April 1957 providing for the reorganization of French West Africa and French Equatorial Africa;

Having regard to Decree No. 57-459 of 4 April 1957 laying down the conditions for the establishment and operation of Government Councils in the territories of French West Africa and French Equatorial Africa;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

Having regard to the opinion of the Assembly of the French Union;

Having regard to the decision by Parliament approving, subject to amendment, the Decree defining the powers of the Government Councils in the Territories of French West Africa and French Equatorial Africa and broadening the powers of the Territorial Assemblies of the said Territories, filed with the Secretariat of the National Assembly on 4 December 1956,

Decrees as follows:

Part I

The Chief Administrator of the Territory

Article 1. The powers of the Republic shall be vested, within the Territory, by permanent delegation of the High Commissioner, in the Chief Administrator of the Territory.

The Chief Administrator of the Territory shall be appointed by decree made in Council of Ministers. He shall rank under the Minister for Overseas France and the High Commissioner of the Republic in the Group of Territories.

He shall be responsible to and receive instructions from the Government. He shall exercise authority over all the State services functioning in the Territory.

Within the Territory, the Chief Administrator of the Territory shall represent the Republic and the Group of Territories in all judicial matters and in all civil acts and proceedings.

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Under the authority of the High Commissioner, he shall be responsible for the maintenance of public order in the Territory. He shall have the right of requisition.

He shall communicate with the Chief Administrators of neighbouring Territories, with the Chief Administrators of the Territories of the Group, and with the High Commissioner of the Republic, having jurisdiction over the Territory.

Article 2. The Chief Administrator of the Territory shall be the representative of the Territory.

The Chief Administrator of the Territory shall perform his functions in accordance with the laws and regulations in force.

He shall be the chief administrative officer of the Territory.

Article 3. The Chief Administrator of the Territory shall be assisted by a General Secretary, appointed by decree, who shall replace him in the event of absence or impediment in his dual capacity as representative of the Government and Chief Administrator of the Territory, and to whom he may delegate his powers.

Title II

Functions of the Government Councils

Article 4. The Government Council, presided over by the Chief Administrator of the Territory and under his high authority, shall be responsible for administration of the territorial services.

Article 5. In the absence of the Chief Administrator of the Territory, the Vice-President shall preside over the Government Council.

Chapter I

Collective functions

Article 6. The Government Council shall act in matters within its competence as defined in this chapter. All its members shall be jointly responsible for such decisions as it takes under their collective functions.

All proposals relating to matters concerning the Territory to be submitted to the Territorial Assembly and its Standing Committee for consideration shall be drawn up in Government Council.

Article 7. Regulatory decisions concerning the administration of territorial affairs, including orders on which the Territorial Assembly must first be consulted, shall be taken in the Government Council.

The Council shall delegate the Minister competent to give the Assembly any explanations which may be required concerning the application of the Assembly's decisions.

Article 8. Orders or decisions relating to the following subjects, in particular, shall be adopted in Government Council:

- (a) financial regulation of internal trade and prices;
- (b) organization of fairs and markets;
- (c) measures for applying the regulations concerning assistance to production;
- (d) establishment of institutions representing economic interests after consultation with the Territorial Assembly;
- (e) organization of chiefdoms, after consultation with the Territorial Assembly;
- (f) establishment, elimination and modification of circonscriptions administratives in the Territory and modification of their boundaries, after consultation with the Territorial Assembly;
- (g) establishment, constitution, organization and operation of rural communities and conseils de circonscription, after consultation with the Territorial Assembly;
- (h) establishment of communes, other than communes de plein exercice, after consultation with the Territorial Assembly;
- (i) establishment of registry offices;
- (j) expansion of fundamental education;
- (k) the special regulations applicable to the territorial civil service establishments, salary scales, leave provisions, social benefits and pensions, after consultation with the Territorial Assembly;
- (l) the regulations adopted to give effect to legislation concerning labour and working conditions.

Article 9. The directors of territorial public services placed under the direct control of the Ministers shall be appointed by the Chief Administrator of

the Territory in Government Council, on the recommendation of the Minister having jurisdiction over the service in question.

Article 10. The Government Council shall decide all questions concerning the administration of domanial and financial interests and territorial public works.

However, in respect of the subjects listed in articles 28 and 31, it shall decide only on measures to give effect to the decisions of the Territorial Assembly.

Article 11. When exceptional circumstances so require, the Chief Administrator of the Territory may, by orders made in Government Council, take such immediately enforceable decisions as are necessary to suspend or temporarily reduce export duties, with the exception of those on mining and petroleum products, and indirect taxes on production, movement and consumption of goods.

Such decisions shall be subject to ratification by the Territorial Assembly. If the latter is in session, the decisions shall be submitted to it immediately. If the Territorial Assembly is not in session, the decisions shall be submitted to the Standing Committee at its first meeting thereafter; the latter shall report thereon to the Assembly at its next session, with a view to their ratification. When the decision of the Assembly has become definitive, it shall have effect from the date on which it was taken.

Article 12. If the Chief Administrator of the Territory considers that a decision of the Government Council exceeds the Council's powers or is likely to prejudice national defence, public order or the maintenance of security or public freedoms, he shall refer it through the High Commissioner, to the Minister for Overseas France. The latter may annul the decision by a decree made after consultation with the Conseil d'Etat. Such decree shall be issued within the three months following the date of the decision. During this period the decision shall be suspended.

Article 13. Subject to the powers of the Administrative Disputes Council, appeal against decisions of the Government Council may be lodged with the Conseil d'Etat ruling as an administrative disputes court.

Article 14. Any decision taken by the Government Council in the absence from the Chair of the Chief Administrator of the Territory, his legal deputy or the Vice-President, shall be null and void.

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The Chief Administrator of the Territory shall by means of an order accompanied by a statement of his reasons, declare the meeting illegal, pronounce any decisions taken null and void and take such steps as are required to ensure the immediate adjournment of the Council.

He shall report on the matter to the Minister for Overseas France through the High Commissioner.

Article 15. The Vice-President shall lay annually before the Government Council for its opinion the report which he is required to submit to the Assembly on the general activities of the Government Council and the functions of the territorial public services.

Chapter II

Individual functions

Article 16. Each Minister shall be made responsible, by delegation from the Chief Administrator of the Territory, after consultation with the Vice-President, for the administration of one or more territorial public services.

Article 17. The functions of the Ministers shall be defined by an order made by the Chief Administrator of the Territory, countersigned by the Vice-President and published in the Journal Officiel.

Article 18. Each Minister shall be responsible to the Government Council for the functioning of the public services and the conduct of the affairs of the administrative branch within his jurisdiction and shall report regularly to the Government Council thereon.

Article 19. A Minister may be made responsible for an administrative branch having one or more divisions, the administration of which is entrusted to other Ministers but whose activities he co-ordinates.

Article 20. The Minister responsible for the operation of a branch or division of the territorial administration shall take all decisions concerning the conduct of affairs within the jurisdiction of the territorial public services with which his branch or division is concerned, except for matters within the jurisdiction of the Government Council or the Territorial Assembly.

He may set up a secretariat within the limits of the budgetary appropriations voted by the Assembly.

He shall direct the services of his branch or division with the assistance of heads of department (chefs de service) to whom he shall delegate all necessary powers.

He shall be responsible for ensuring that his services carry out the decisions of the Government Council and of the Territorial Assembly.

Article 21. The Minister shall submit to the Government Council, after preparation by his services, such matters as require the making of an order or the taking of a decision in Government Council.

He shall also present to the Government Council such proposals and reports on matters falling within the jurisdiction of his branch or division as are required to be submitted to the Territorial Assembly. He shall be responsible for following the discussion of such matters and speaking in support of them in the Territorial Assembly, in accordance with the instructions of the Government Council. He may be assisted in this by officials of his services.

Article 22. In accordance with the staff regulations of the officials and employees concerned and on the recommendation of the Minister to whom they are responsible, the Chief Administrator of the Territory shall:

- appoint and promote personnel of the territorial establishments;
- assign officials and employees to posts in the territorial public services and impose or recommend, as appropriate, any necessary disciplinary measures against such officials and employees.

The Chief Administrator of the Territory, acting in Government Council, may delegate the powers specified in the two preceding paragraphs to each of the Ministers concerned as part of their functions and in respect of certain categories of staff.

Reports on territorial public service employees shall be made successively by the officials responsible for making such reports under the general and special regulations applicable to the civil service establishments and by the Minister responsible for the service to which they are assigned.

Article 23. In addition to the general obligation specified in article 9 of Decree No. 57-459 of 4 April 1957 laying down the conditions for the establishment and operation of Government Councils in the Territories of French West Africa and French Equatorial Africa, each member of the Government

Council shall be bound, in respect of his individual actions on behalf of the branch or division for which he is responsible, by the same rules of professional secrecy as apply to public service officials.

Article 24. Where necessary, detailed procedures for the application of this Title shall be issued in the form of orders made by the Chief Administrator of the Territory and countersigned by the Vice-President.

Title III

Functions of the Territorial Assemblies

Article 25. Title III of Decrees Nos. 46-2374 and 46-2375 of 25 October 1946 providing for the establishment of territorial representative assemblies in French Equatorial Africa and in French West Africa is hereby replaced by the following provisions:

Article 26. The Assembly shall vote the budget of the Territory.

It shall take decisions on the matters placed within its jurisdiction by the laws and regulations, in particular by articles 27 to 29, 31, 36, 39 and 40 of this Decree. Its decisions may provide penalties, in the manner prescribed by article 2 of the Act of 23 June 1956.

It shall give advisory opinions, in particular in the cases specified in articles 41 to 43 hereunder.

Article 27. The Assembly may take a decision fixing the amount and conditions of payment of the monthly compensation allotted to its members and also the rules applying to reimbursement of their travel expenses.

Such compensation, whatever its form, shall be fixed by reference to the salary of a category of officials serving in the Territory.

No member may receive this compensation concurrently with the compensation paid to members of the Government Council or that paid to members of the Constitutional Assemblies.

Officials on active service or on secondment, who are members of the Assembly, shall receive the difference between their salary, plus any travel expenses, and the compensation payable to members of the Assembly, or their salary only, plus any travel expenses, if the total thereof is greater than the said compensation.

The Assembly may also vote its President an annual lump sum payment as a representation allowance.

The provisions of this article shall supersede those of articles 18 of Decrees Nos. 46-2374 and 46-2375 of 25 October 1956.

Article 28. In matters relating to domanial interests and territorial public works, the Assembly shall take decisions on all proposals made by the Chief Administrator of the Territory in Government Council, dealing with the following subjects:

- (a) Settlements relating to duties and charges of the Territory in suits involving a sum of more than 10 million francs CFA;
- (b) Acceptance or refusal of gifts or bequests to the Territory, involving encumbered immovable property. By a decision taken in Government Council, the Chief Administrator of the Territory may accept all such gifts or bequests on an interim basis. The subsequent decision of the Assembly shall have effect as from the date of such provisional acceptance. In urgent cases, the Chief Administrator of the Territory may by himself take all necessary interim measures and accept gifts and bequests;
- (c) Transfer of immovable property of the Territory;
- (d) Selection of the method of operating public works in the Territory;
- (e) Granting of agricultural and forestry concessions and temporary foresting permits for periods exceeding five years;
- (f) Classification and declassification of public land and, in particular, of territorial main roads, aerodromes operated under the territorial budget, canals and fords.

Article 29. After decision by the Territorial Assembly, the Government Council shall grant type B mining exploration permits.

Article 30. The Chief Administrator of the Territory shall represent the Territory in all judicial matters and in all civil acts and proceedings.

Article 31. Subject to international conventions, to the provisions of article 32 of the Act of 31 December 1953, to the functions of the Grand Council, and to prior consultation with the assemblées consulaires on matters within their jurisdiction, the Assembly shall take decisions on the financial implications of any proposal made by the Government Council or by one of its members relating to the following matters:

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(a) Determination of taxes, charges, apportioned charges, duties and contributions of all kinds, including customs duties, which may be levied in aid of the territorial budget, establishment of their method of assessment, rules for their collection and schedules of such duties and taxes, and maximum amounts of additional centime tax which may be collected in aid of communities or public institutions in the Territory.

No taxes or duties of any kind may be imposed for the benefit of any treasury whatsoever on any products in movement from one Territory to another Territory in the same Group.

(b) Contracts to be concluded and specifications to be laid down by the Territory. No concession applied for by or on behalf of an alien may be granted unless there is agreement between the Chief Administrator of the Territory and the Territorial Assembly. In case of disagreement, the High Commissioner shall make an order ruling on the application;

(c) Schedules of fees payable by persons holding licences to operate public services in the Territory, and of charges for supplies from and performance by the territorial services;

(d) Maximum rates of duties and taxes of all kinds to be collected in aid of secondary units and public agencies functioning within the Territory, with the exception of communes governed by the Act of 18 November 1955;

(e) Fees payable for occupation of public lands of the Territory and other related charges;

(f) Regulations governing charges for services and for the provision of materials, labour and work;

(g) Fiscal tariff agreements in the cases provided by law;

(h) Loans, sureties, guarantees and shares of the Territory in the capital of public and semi-public corporations and, in exceptional cases, of private companies participating in the economic development of the Territory;

(i) Establishment and abolition of territorial public services and territorial public institutions;

(j) Determination of the number of scholarships and other school grants payable out of territorial funds in accordance with the regulations in force;

(k) Conditions for the grant of settlers' installation loans out of territorial funds;

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- (l) Grants, offers of assistance and loans from the territorial budget to the budgets of other public organizations or public institutions of the Territory, the Group of Territories or the State;
- (m) Contributions, refunds and fees payable to public institutions in the Territory, the Group of Territories or the State;
- (n) Borrowings or applications by the Territory for loans or advances from the State, the Caisse centrale de la France d'outre-mer or other public credit institutions, and resources of the Territory assigned as security for such loans or advances.

The Assembly may fix a time-limit within which the assemblées consulaires shall give their opinion. If they fail to do so, the Assembly shall proceed without their opinion. This time-limit may not be less than fifteen days from the date on which notice of the request for an opinion is given.

Article 32. The budget estimates of the Territory and the budget annexes, drawn up in local currency, shall be prepared by the Government Council and submitted to the Assembly at its second regular session each year by the Minister responsible. They shall be considered and voted, when truly balanced, by the Assembly at that session.

The revenue and expenditure heads of the territorial budget shall be divided into chapters and articles.

The revenue of the territorial budget shall consist of the following:

- (a) Revenue from taxes, duties, charges, apportioned charges, contributions and fees levied in aid of the territorial budget;
- (b) Revenue obtained from the furnishing of supplies and performance by the territorial public services;
- (c) Income from territorial public land and fees payable by concessionaires, farmers and other operators of territorial public services;
- (d) Grants-in-aid, subsidies, advances and contributions;
- (e) Sums realized from borrowings;
- (f) Gifts, bequests, unforeseen revenue and miscellaneous income;
- (g) Withdrawals from the reserve fund and any other revenue which may accrue to the territorial treasury.

The territorial budget shall cover the following items of expenditure:

1. The debts of the Territory;
2. Cost of the territorial public services and of the institutions, agencies and operations under their jurisdiction. A schedule of posts indicating the number of personnel shall be annexed to the budget documents;
3. The cost of territorial public works, maintenance and equipment;
4. Contributions, loans, subsidies, refunds, participations and grants-in-aid approved in the interests of the Territory;
5. Contributions and assessments payable by the Territory under legislative or contractual provisions.

Article 33. The right to amend the estimates of revenue and expenditure shall belong jointly to the Chief Administrator of the Territory in Government Council and to the Assembly. However, the estimation of future revenue shall be the responsibility of the Chief Administrator of the Territory acting in Government Council. No proposal to increase expenditures or reduce revenue shall be admissible unless accompanied by a proposal for a corresponding increase in revenue or reduction in expenditure.

A separate decision shall be taken on each chapter of the budget. The budget as a whole shall then be voted upon by the Assembly which shall decide where appropriate on measures to be taken to ensure a true balance between revenue and expenditure, taking into account the funds required to cover the expenditures specified in article 49 hereinafter.

No changes may be made in the budget during the financial year except by the Assembly, in accordance with the procedure laid down for preparing the budget estimate and in such a manner as to ensure a continued balance between revenue and expenditure. Any transfer from one chapter to another and any supplementary appropriation or withdrawal from the reserve fund shall be authorized by the Assembly or, in urgent cases, by the Standing Committee which shall report thereon to the Assembly at its next session. No new post may be established unless it is provided for in the territorial budget.

In emergencies and when the Assembly is not in session, supplementary appropriations and withdrawals from the reserve fund may be made by order of the Chief Administrator of the Territory in Government Council, with the concurrence of the Standing Committee. Such orders shall be submitted for ratification to the Assembly at its first session thereafter. The sole purpose of changes so decided upon shall be to correct errors of estimation or to meet shortages of funds which become apparent in the light of events subsequent to the preparation of the budget estimates, or to cover expenditures necessitated by unforeseeable circumstances.

No direct or indirect benefit may be conferred by the Assembly on an official or employee or on a category of officials or employees, otherwise than on the proposal of the Chief Administrator of the Territory made in the Government Council.

Article 34. If the Assembly does not meet before the first day of the calendar year, or adjourns without having voted the budget or without having voted a truly balanced budget, the Chief Administrator shall ex officio make an order in Government Council establishing a provisional budget, taking as the basis the budget for the previous year and the schedule of taxes adopted by the Assembly. Where necessary, however, this order may prescribe any reductions in expenditures or increases in fiscal or other revenue. The Chief Administrator, acting in Government Council, shall within fifteen days convene the Assembly in a special eight-day session. If the Assembly fails to vote a truly balanced budget by the end of the said special session, the budget shall be established in final form by the Chief Administrator in Government Council, in the manner prescribed hereinabove. Any new revenue created in this way shall, if derived from direct taxes or from duties or charges treated as such, be payable as of 1 January.

If the Assembly fails to approve all the obligatory expenditures, the Chief Administrator shall ex officio enter the expenditures all or part of which have been omitted and shall restore true balance to the budget either by deductions from uncommitted funds or the funds for miscellaneous and unforeseen expenditures or by a reduction in optional expenditures.

Article 35. Unless otherwise provided by law, no special service operating on extra-budgetary account may be established except by an order made by the High Commissioner after consultation with the Comptroller. In the event of disagreement, the High Commissioner shall refer the matter for decision to the Minister for Overseas France and the special service may not be authorized without the agreement of the Minister of Economic and Financial Affairs. The establishing order shall define the conditions on which the account is to operate and provide for the supervision of its revenue and expenditures by the Territorial Assembly.

The jurisdiction of the Chief Administrator and the Territorial Assembly with respect to the drawing up of the schedules of charges and the budgets of bodies established by law to operate as self-governing public authorities (régies) or as public offices shall be defined by the texts laying down the statutes of such bodies.

Article 36. The Assembly shall take decisions enacting territorial regulations in the following matters:

1. The general regulations applicable to employees of the territorial establishments, pursuant to the decrees concerning the public service provided for in article 3 of the Act of 23 June 1956;
2. Customary law relating to civil status and regulation of civil status within the framework of the relevant legislation;
3. Verification, description and codification of traditional customs; adaptation of customs to social evolution; immovable property and immovable property rights regulated by custom and, in particular, definition of the customary rights to be treated as real rights capable of establishing credit; in general, all matters coming under local law;
4. The public lands of the Territory, including vacant and ownerless lands, which form part of the Territory's private domain. Nevertheless, rights in respect of immovable property and easements enjoyed by the State or the Group of Territories on the date of this Decree may not be prejudiced in any way;

Should the State or the Group of Territories subsequently allocate certain premises for the operation of public services, such premises shall enjoy the easements for the public advantage inherent in the operation of the said services;

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5. Internal trade, handicrafts and all occupations relating to those activities, such as those of salesmen, pedlars and the like;
6. Agriculture, forests, regulation of inland water resources, soil conservation and the protection of nature and plant-life;
7. Stockraising, the movement, sale and slaughter of cattle;
8. River and coastal fishing, without prejudice to the provisions of the Act of 1 March 1888;
9. Tourism and hunting outside the areas set aside for hunting by tourists;
10. Traditional local beverages; manufacture and sale of beverages; conditions of hygiene and safety in retail liquor establishments;
11. Preparation of products for export, not including the fixing of standards, which shall continue to be regulated by decree;
12. Inland waterways, not including inter-territorial waterways;
13. Mutual societies, subject to the provisions of Decree No. 56-1155 of 13 November 1956 concerning rural development mutual societies and of any general laws which may be enacted in this field;
14. Producers' and consumers' associations, co-operatives;
15. Establishment of savings banks, not including postal savings banks and savings banks belonging to the Group of Territories;
16. Public hygiene, thermal springs, the protection of public health and the insane;
17. Societies working in health, education and training; care of delinquent and abandoned children;
18. Town planning; regulation of dangerous, unsuitable and insanitary premises; environmental conditions, low-cost housing, rents;
19. Primary and secondary education, vocational and technical education, not including study programmes, examination programmes and procedures, certificates and diplomas and teachers' qualifications;
20. Regulations concerning scholarships granted out of the Territory's budgetary funds;
21. Public libraries, cultural centres;

22. Sports and physical education;
23. Welfare, assistance, relief and allowances, lotteries;
24. Protection of monuments and historic sites;
25. Prison system;
26. The conditions in which aliens are required to obtain administrative authorization before engaging in certain professions and commercial and industrial occupations;
27. Procedure and conditions for acceptance of tenders and award of contracts, subject to the general rules applicable in these matters. These rules shall be established by a decree made in the manner prescribed by article 1 of the Act of 23 June 1956.

Article 37. Decisions on the matters referred to in the preceding article may be taken notwithstanding any provisions of law or regulations to the contrary enacted before the date of entry into force of this Decree, subject, however, to the provisions of international conventions, of the laws and regulations on the matters dealt with in the Commercial Code and the Maritime Code, of the Act of 15 December 1952, the Act of 30 April 1946 and Decrees Nos. 55-625 and 55-634 of 20 May 1955, and of the laws and regulations respecting the prevention of fraud and the inspection of weights and measures.

Article 38. The acts and decrees relating to the matters listed in article 36 above shall, however, remain in force, with the effect of territorial regulations in these matters.

These territorial regulations may be cancelled or amended by decision of the Assembly.

Article 39. The Assembly shall decide on the opening date and duration of its regular sessions. Such sessions shall, however, be governed by the following rules:

The Assembly shall hold two regular sessions each year. The first shall begin during the second quarter of each year and the second during the fourth quarter. The budget shall be considered at the second regular session. If a regular or special session adjourns and the Assembly has not fixed the date for the opening of its next regular session, the date shall be fixed in due time by the Standing Committee. The duration of a regular session may not exceed two months.

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The Assembly may also be convened in special session:

- (a) if at least two-thirds of its members submit a request in writing to that effect to the President;
- (b) if the Chief Administrator of the Territory makes an order to that effect in Government Council.

The duration of a special session may not exceed one month.

The provisions of this article shall supersede those of article 24 of each of the Decrees Nos. 46-2374 and 46-2375 of 25 October 1946.

Article 40. The Assembly shall take decisions regarding the territorial section of programmes for implementing and executing the capital equipment and development plan provided for by the Act of 30 April 1946, in the manner prescribed by the decrees made in application of the said Act.

Article 41. The Assembly shall be consulted in all cases with regard to draft regulatory orders made in Government Council and relating to:

- (a) the general organization of the territorial public services;
- (b) the organization of chiefdoms;
- (c) the special regulations applicable to employees of the territorial public service establishments, method and scales of remuneration, leave provisions, social benefits and the pension scheme applicable to such employees;
- (d) labour and social security provisions, in particular, the application in respect of the Territory of the provisions of Act No. 52-1322 of 15 October 1952 establishing a labour code in the Territories and Associated Territories for which the Ministry for Overseas France is responsible;
- (e) officials of the French civil service establishments who are seconded to territorial public services;
- (f) the establishment, organization and operation of Mixed Communes;
- (g) the establishment of institutions representing economic interests;
- (h) measures to encourage production;
- (i) the fixing, for each category of offences under the regulations issued on the basis of the decisions of the Territorial Assembly, of the scale of penalties applicable in accordance with the conditions laid down in article 2 of Act No. 56-619 of 23 June 1956.

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Article 42. The Assembly shall be consulted in all cases on the grant of type A mining exploration permits, where such permits concern the Territory alone. In the event of disagreement between the Assembly and the authority competent to issue the permits, the matter shall be decided pursuant to a decree made in Council of Ministers, after consultation with the Assembly of the French Union.

Article 43. The following shall in all cases be referred to the Assembly by the Government Council:

(a) administrative accounts relating to the execution of the territorial budget and the budget annexes, public authorities (régies) of the Territory and the territorial public institutions;

(b) the annual position of the Territory's funds.

Any observations which the Assembly may decide to make on the accounts of the Territory within the time-limit specified in article 46 shall be communicated by the President of the Assembly to the Chief Administrator of the Territory, who shall send a copy thereof to the Audit Office through the High Commissioner and the Minister.

Article 44. The Assembly may, through its President, request the Chief Administrator of the Territory and the Minister for Overseas France to furnish any information and observations on matters within its competence. It may ask to hear any Minister in connexion with a matter with which it is dealing.

It may ask the Government Council for any information concerning action taken on its decisions and concerning the execution of the budget, and may present its observations on the subject to the Government Council.

The Assembly may assign one or more of its members to gather in the Territory the information it considers necessary in order to deal with a matter within its competence.

Article 45. All matters shall be referred to the Assembly by the Government Council or by one of its members, except matters in respect of which the right of action is vested exclusively in the Chief Administrator of the Territory.

In the interval between sessions, bills submitted by the Government Council for decision by the Assembly and bills proposed by members of the Assembly itself shall be filed with the Secretariat of the Standing Committee.

Members' bills shall be communicated, within ten days from the date of filing, to the Government Council, which may give its opinion on them. The Territorial Assembly may not, if the Government Council so requests, refuse to defer consideration of the bill to its next session, but not later.

The Government Council shall be kept informed of the agendas of the Assembly and its committees. Its members may attend and address the meetings of the Assembly's committees or be represented at them.

Bills and proposals submitted to the Assembly for decision shall be considered by the Assembly at the session during which they were filed, or, at the latest, at the following session, unless the Standing Committee is delegated to act on them in the interval between the two sessions.

In matters which must be referred to the Assembly for its opinion, the Government Council may, if the Assembly fails to give its opinion within the time-limit prescribed above, proceed without it, after notifying the President of the Assembly to that effect.

Article 46. The acts of the Assembly and its Standing Committee shall be delivered in triplicate, together with an extract from the records of meetings relating to the discussion and voting thereon, to the Chief Administrator of the Territory within a period of thirty clear days from the closing of the session. Upon receipt of the documents, the Chief Administrator of the Territory shall transmit them to the Minister for Overseas France and to the High Commissioner.

Within thirty clear days from the date of their receipt, the Chief Administrator of the Territory shall put the decisions of the Assembly or its Standing Committee into effect or shall refer them either to the Assembly for second reading or to the Minister for Overseas France through the High Commissioner for the purpose of annulment, in the manner prescribed by articles 47 and 48 hereinbelow.

If the Chief Administrator of the Territory requests the Minister for Overseas France to annul a decision of the Territorial Assembly or its Standing Committee, he shall so advise the President of the Assembly or, in the interval between the sessions of the Assembly, the Chairman of the Standing Committee.

Decisions of the Assembly or its Standing Committee concerning economic and financial matters shall be communicated through the Chief Administrators of the Territories to the Presidents of the Territorial Assemblies of the other Territories or to the Chairmen of their Standing Committees.

In the absence of a request for annulment, these decisions shall be put into effect on the expiry of a period of sixty days from the date of their communications by the Chief Administrator of the Territory to the Chief Administrators of the other Territories of the Group. Nevertheless, if during this period, a Territorial Assembly of the Group, or its Standing Committee, decides that a particular decision is prejudicial to the interests of the Territory, the procedure prescribed by articles 14 and 17 of the Decree providing for the reorganization of French West Africa and French Equatorial Africa shall be applicable.

Article 47. The Minister for Overseas France may take action to annul decisions of the Assembly and its Standing Committee on grounds of excess of power or of violation of the law, by means of a decree made in the form of an administrative regulation.

If a decision of the Assembly or its Standing Committee which has been submitted to the Minister for Overseas France for annulment is not annulled within a period of ninety clear days from the date of its communication to the Chief Administrator of the Territory, the latter shall put it into effect not later than eight clear days after the expiry of the above-mentioned period.

The decisions of the Assembly or its Standing Committee in customs matters shall continue to be subject to the provisions of article 3 of the Decree of 14 October 1954.

Article 48. The Chief Administrator of the Territory may, within the period of thirty clear days prescribed in article 46, invite the Assembly to rule at second reading on decisions taken by it or by its Standing Committee, if he considers them to be inconsistent with the general interests or the orderly administration of the Territory.

In that case, the periods prescribed by articles 46 and 47 shall run from the date on which the Chief Administrator of the Territory receives the new decision of the Assembly.

Article 49. The Territorial budgetary appropriations shall cover expenditure relating to:

- (a) settlement of due debts and covering of previous budget deficits;
- (b) contributions, assessments and expenditures imposed under legislative provisions.

A decree made in the manner prescribed by article 1 of the Act of 23 June 1956 shall specify the manner in which this paragraph shall be applied.

Article 50. Pending publication of the orders of the Chief Administrator of the Territory putting the decisions of the Assembly or its Standing Committee into effect, all taxes, duties, charges and fees shall be levied on the former tax bases and in accordance with the previous schedules.

Decisions taken by the Assembly or its Standing Committee, at a session which began before 1 January, in the matter of direct taxes or of duties or charges treated as such, shall have effect as from that date, even if they could not be made enforceable by them.

Similarly, if it has not been possible to put the budget into effect before 1 January, the Chief Administrator of the Territory shall be authorized to make provisional monthly appropriations on the basis of the budgetary appropriations for the previous year. Further appropriations may be made each month until the budget is put into effect.

Article 51. A code of the territorial regulations resulting from the decisions of the Assembly and a code of the administrative regulations made by the Chief Administrator of the Territory shall be established under orders made by the Chief Administrator in Government Council and published in the Journal officiel of the Territory. The said codes shall be brought up to date annually.

Title IV

Miscellaneous and temporary provisions

Article 52. This Decree shall enter into force in the manner prescribed by article 1 of the Act of 23 June 1956. Nevertheless, subject to the provisions of the second paragraph of this article, the provisions of paragraphs 24 and 25 of article 39, and of article 46 of Act No. 47-1620 of 29 August 1947 defining

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the method of election, composition, functioning and competence of the Group Assemblies in French West Africa and French Equatorial Africa, shall remain provisionally in force until 1 July 1957 at the latest.

Orders shall be made by the High Commissioner before 1 July 1957 with a view to adapting the above-mentioned provisions of the Act of 29 August 1947 and to transferring to the territorial institutions the functions devolving upon them under this Decree, in particular in fiscal and budgetary matters and in the establishment and organization of the territorial public services and their establishments of employees, and the determination of the regulations applicable to them.

Article 53. All laws and regulations conflicting with this Decree are hereby rescinded, with respect to French West Africa and French Equatorial Africa.

However, nothing in the provisions of this Decree shall be an impediment, in the areas with which the Organisation commune des régions sahariennes is concerned, to measures taken under Act No. 57-27 of 10 January 1957.

Article 54. The Chief Administrators of Territories shall make orders, as necessary, determining the procedures for the application of this Decree.

Article 55. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic.

DECREE NO. 57-461 OF 4 APRIL 1957

laying down the conditions for the establishment and
operation of rural communities in French West Africa
and French Equatorial Africa

The President of the Council of Ministers,

Acting on the report of the Minister for Overseas France, the Minister of Economic and Financial Affairs and the Minister delegated to the Office of the President of the Council,

Having regard to Act No. 56-619 of 23 June 1956 authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, in particular, article 1, paragraph 4, thereof,

Having regard to the Decree of 30 December 1912, as amended, concerning the financial administration of the Overseas Territories,

Having regard to the Act of 5 April 1884 concerning municipal organization, in particular, articles 169 to 179 thereof,

Having regard to Act No. 55-1489 of 18 November 1955 providing for municipal reorganization in Africa and Madagascar,

Having heard the Conseil d'Etat,

Having heard the Council of Ministers,

Having consulted the Assembly of the French Union,

After a decision by Parliament approving, subject to amendment, the Decree laying down the conditions for the establishment and operation of rural communities in French West Africa and French Equatorial Africa, filed with the Secretariat of the National Assembly on 4 December 1956,

Decrees as follows:

Article 1. In the Territories of French West Africa and French Equatorial Africa the Chief Administrators may, by orders made in Government Council after consultation of the Territorial Assembly, establish rural communities possessing legal status, where such communities have sufficient resources to balance a budget.

These rural communities may be formed of circonscriptions administratives, parts of circonscriptions administratives or groups of circonscriptions administratives.

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Article 2. The rural community shall be administered by a rural community council.

Article 3. The rural community may bring actions at law and shall be represented in court by the president of its council.

Article 4. The rural community shall have a budget, which shall be approved by its council and put into effect by the Chief Administrator of the Territory, who shall supervise its administration.

The council shall take decisions on all measures affecting the domain and the domanial interests of the community; it shall, in particular, decide on the programme of economic and social projects to be carried out with funds from the community budget and shall take all necessary decisions for its application.

Article 5. The Chief Administrator of the Territory shall determine, by an order, the manner in which administrative and financial supervision (tutelle) over rural communities shall be exercised. Such supervision shall be defined by reference to the provisions of Act No. 55-1489 of 18 November 1955 providing for municipal reorganization in French West Africa, French Equatorial Africa, Togoland, the Cameroons and Madagascar.

He shall exercise this supervision himself or he may delegate its exercise to the chief officers of the circonscriptions administratives. However, the Chief Administrator may take the place of the person delegated by him whenever he considers it advisable to do so.

Article 6. With respect to their domain, finances and budget, rural communities shall be separate and distinct from other public communities.

Two or more rural community budgets may not be combined, nor may the budget of a rural community be combined with the budget of a commune de plein exercice, a commune de moyen exercice or a mixed commune.

When a new commune or a new rural community is established, there shall be a redistribution of property between the communities affected thereby.

Any rural community may contribute to the budgetary expenditure of another public community where such expenditure relates to matters of common interest.

Article 7. The budget of a rural community shall be truly balanced when approved.

If the budget is not approved in time, the supervisory authority shall order the council of the community concerned to convene in special session and shall

set the date therefor. The council shall then decide the matter within a period of eight days and the budget shall immediately be referred back to the supervisory authority.

If a truly balanced budget is not approved after a second deliberation or is not referred back to the supervisory authority within one month, the Chief Administrator of the Territory shall make the necessary adjustments and balance the budget.

If the budget for the next financial year is not approved in true balance, the Chief Administrator of the Territory, in Government Council, shall establish it ex officio. In addition, the council of the rural community concerned may be dissolved by an order of the Chief Administrator of the Territory, made in Government Council; in such case the Chief Administrator of the Territory shall appoint a special delegation. A new rural community council shall then be established within three months.

If a rural community council fails to approve a truly balanced budget over a period of at least three successive years, the Chief Administrator of the Territory shall, by an order made in Government Council, either declare the council concerned dissolved and appoint a special delegation pending the establishment of a new council as described above, or withdraw legal status from the rural community or combine the community with another rural community. If a rural community is dissolved or combined with another rural community, the future disposition of its domain shall be regulated by an order of the Chief Administrator of the Territory.

Article 8. The general rules and special procedures for the application of this Decree shall be laid down by the Chief Administrators of Territories in orders made in Government Council, after consultation with the Territorial Assembly.

These orders shall determine, in particular:

- (a) the composition of the rural community councils and the conditions in which they are to operate and perform their functions;
- (b) the items of the budget and, in particular, the nature of the regular and extraordinary funds available to the rural communities, as well as the authority of the latter to contract loans;

- (c) the procedures for the execution and audit of the said budgets;
- (d) the conditions in which a rural community may be required to share in, or may contribute to, expenditure incurred by another public community for a common purpose;
- (e) the rules applicable to any associations the establishment of which may be authorized between the public communities of a circonscription, as defined with respect to communes in articles 169 to 179 of the Act of 5 April 1884 as amended.

Article 9. The conditions governing the appointment of accountants for rural communities and the accounting rules applicable to such communities shall be determined by an order of the Chief Administrator of the Territory.

Independently of the conditions governing the exercise of administrative and financial supervision prescribed in article 5 above, supervision of financial and accounting operations shall be exercised by the Comptroller's Office, in accordance with article 17 of Decree No. 52-1356 of 19 December 1952. It shall also be exercised either on a permanent basis by the chief officer of the circonscription administrative or on a contingent basis by the administrative affairs inspectors.

Article 10. All provisions which conflict with this Decree are hereby rescinded.

Article 11. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic.

DECREE NO. 57-462 OF 4 APRIL 1957

Providing for the reorganization of Madagascar

The President of the Council of Ministers,

Acting on the report of the Minister for Overseas France, the Minister of Economic and Financial Affairs, the Minister for the Armed Forces and National Defence and the Minister delegated to the Office of the President of the Council,

Having regard to Act No. 56-619 of 23 June 1956, authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, in particular articles 1 and 3;

Having regard to the Decree of 11 December 1895 relating to the powers of the Resident-general of Madagascar;

Having regard to the Decree of 30 July 1897 establishing the office of Governor-General of Madagascar;

Having regard to Decree No. 46-2509 of 9 November 1946 providing for the administrative reorganization of Madagascar;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

Having regard to the opinion of the Assembly of the French Union;

Having regard to the decision by Parliament approving, subject to amendment, the Decree providing for the reorganization of Madagascar, filed with the Secretariat of the National Assembly on 4 December 1956,

Decrees as follows:

Article 1. In order to ensure the co-ordination and administration of the interests of the island and its dependencies as a whole, Madagascar shall constitute a territorial unit which shall have its own institutions and shall comprise the Provinces of Fianarantsoa, Majunga, Tamatave, Tananarive, Tuléar and Diégo-Suarez.

These Provinces shall constitute public communities, having institutions responsible for the management and administration of matters of concern to the Province.

Title I

The High Commissioner of the Republic

Article 2. In Madagascar the administration of the affairs of the State shall be under the jurisdiction of a High Commissioner of the Republic.

The seat of the High Commissioner's Office shall be determined by decree, subject to the provisions of the seventh paragraph of article 5 hereunder.

Article 3. The High Commissioner of the Republic shall be appointed by decree of the President of the Republic made in Council of Ministers. He shall perform the functions of High Commissioner and of Chief Administrator of the Territory.

Within the jurisdiction of Madagascar he shall be the representative of the Government. He shall be directly responsible to the Minister for Overseas France.

Article 4. The High Commissioner of the Republic shall be assisted by a General Secretary of the High Commissioner's Office, appointed by decree, who shall replace him in the event of absence or impediment in his dual capacity as High Commissioner and Chief Administrator of the Territory and to whom the High Commissioner may delegate certain of his functions.

The Chief Provincial Administrators shall be the permanent representatives of the High Commissioner of the Republic in the Provinces of Madagascar; they shall be under his authority and shall receive his directions and carry out his instructions.

The Chief Provincial Administrators shall be appointed by decree of the Council of Ministers on the proposal of the Minister for Overseas France; their status shall be defined and their rank in the general civil service organizations established by an administrative regulation.

Article 5. The High Commissioner of the Republic shall be the depository of the powers of the Republic in respect of all the Provinces of Madagascar.

He shall ensure the promulgation, publication and execution of acts and decrees and the application of decisions and instructions of the Minister for Overseas France.

He shall have the power to issue regulations.

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He shall ensure and co-ordinate the defence of Madagascar and its participation in the joint defence effort. Units of the land, sea and air forces and the frontier security forces shall be under his jurisdiction.

He shall ensure the maintenance of public order and the safety of persons and property; he shall see that justice is properly administered.

He shall proclaim martial law.

In case of necessity, he may transfer the seat of the High Commissioner's Office, subject to a report being made to the Minister for Overseas France.

He may determine rectifications to be made in the boundaries between two Provinces, by orders made with the concurrence of the Provincial Assemblies concerned.

He shall communicate with the representatives of the Republic overseas, the authorities of foreign countries in Africa and Asia and the representatives of the Republic in those countries, and the duly accredited consular representatives of foreign governments whose jurisdiction extends to Madagascar.

The High Commissioner, after consultation with the Government Council, shall negotiate with the said authorities and representatives all agreements, in particular those referring to trade, which apply in all or part of the Territory under his jurisdiction, within the scope defined by government instructions, and shall conclude such agreements subject to their approval by the Government of the Republic.

Article 6. The High Commissioner of the Republic, subject to the laws and regulations, and in particular to those governing the public services of the State, shall:

- (a) organize the State services and direct their activities;
- (b) supervise the use of all appropriations under the State budget;
- (c) be the secondary certifying officer for the budget of State civil expenditures for Madagascar and, in that capacity, he may delegate the right to sign his name; he may also assign to the Chief Provincial Administrators under his authority all or part of the appropriations assigned to him;
- (d) represent the State in all judicial matters and in all civil acts and proceedings, subject to such delegations of authority as may be prescribed by the laws in force;

(e) ensure general co-ordination of the activities of the State services and the services of the public communities of Madagascar;

(f) establish after consultation with the Representative Assembly, the general regulations applicable to the authorities responsible for representing economic interests;

(g) grant type A mining exploration permits on the advice of the Representative Assembly, notwithstanding the provisions of article 9 of Decree No. 54-1110 of 13 November 1954.

Article 7. The High Commissioner of the Republic shall report on the State officials serving within the jurisdiction of the High Commissioner's Office. He shall exercise disciplinary authority over the as prescribed in article 80 of the Act of 19 October 1946 enacting general regulations for State officials.

He shall make appointments to all civil posts in the State services within the jurisdiction of the High Commissioner's Office, except the posts of General Secretary of the High Commissioner's Office, Chief Provincial Administrator, Inspector General of Administrative Affairs, judicial officers, Comptroller and Inspector General of Labour and Social Welfare. The employees of the State Comptroller's Office, university professors and lecturers, Treasury accountants and officials on the general establishment of the Overseas treasuries shall continue to be governed by their own statutory regulations.

He shall appoint in particular the deputies to the Chief Provincial Administrators from among the members of the administrative staff of Overseas France.

Title II

Organization of Madagascar

Article 8. The Territory of Madagascar shall have civil personality and administrative and financial autonomy.

It shall possess a domain, divided into public and private.

Its interests shall be managed and administered by the following institutions:

A Chief Administrator of the Territory;

A Government Council;

A Representative Assembly.

Article 9. In order to ensure general co-ordination in administrative, economic, financial, social and cultural matters, the following territorial services shall be established, apart from the general administrative bodies required for their actual operation, at the level of the Territory of Madagascar.

1. A general financial administration, responsible both for the administration of the financial interest of the Territory and for the financial administration of its services;
2. An economic affairs co-ordination service, assisted by a statistical service;
3. A service responsible for joint capital - equipment and planning projects;
4. A geological and mineral prospecting service;
5. A personnel department;
6. An academy to co-ordinate educational, cultural and research services;
7. A public health co-ordination service for the control of the important endemic diseases;
8. A service for stock-breeding and the control of epizootic diseases;
9. A plant health service;
10. A soil conservation service.

This list of services is restrictive.

Nevertheless, it shall not limit the right of the Provincial Assemblies, by decision, to make the territorial unit of Madagascar responsible for the establishment, organization and administration of the joint public services and for the establishment, organization and financial supervision of joint public

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institutions, the cost of which shall be borne by the provincial budgets in proportions to be determined by an agreement approved by the Provincial Assemblies concerned.

Article 10. The Chief Administrator shall represent Madagascar in all judicial matters and in all civil acts and proceedings. In the event of litigation between the State and the territorial unit, the latter shall be represented by the President of the Representative Assembly.

He shall ensure the general co-ordination of economic, social, administrative and financial activities and the administration of Territorial interests in Madagascar.

He shall administer the property of the Territory and dispose of it in conformity with the decisions of the Representative Assembly. He shall perform any acts for the purpose of conserving or interrupting forfeitures.

He shall arrange for collection of the taxes, duties, charges and fees which are to accrue as revenue under the budget of Madagascar.

He shall have the power to issue regulations, in particular to ensure the application and execution of the decisions of the Representative Assembly and the operation of the Territorial unit services to be placed under his authority.

He shall organize these services.

He shall make appointments to all posts in these services and exercise in regard to officials of these services the disciplinary powers for which their regulations provide.

He shall be the certifying officer for the budget and budget annexes of Madagascar, and may delegate his right of signature in that capacity to one or more officials of his choice acting under his responsibility. He may also appoint secondary and deputy certifying officers.

Article 11. With a view to the discussion of questions of common interest, the Chief Administrator of the Territory may, for the purpose convene under his chairmanship an inter-provincial conference to be attended by the Chief Provincial Administrators, assisted by competent members of the Government Council and the Vice-Presidents of the Provincial Councils concerned.

Title III

The Provinces of Madagascar

Article 12. The Provinces comprising Madagascar shall be public communities, having civil personality and administrative and financial autonomy.

They shall possess a domain, divided into public and private. Vacant and ownerless land shall belong to the private domain of the Provinces.

The interests of each Province shall be managed and administered by the following institutions:

- the Chief Provincial Administrator;
- a Provincial Council;
- a Provincial Assembly.

Article 13. The Chief Provincial Administrator shall be both the representative of the High Commissioner and the representative of the Chief Administrator of the Territory. By permanent delegation from the High Commissioner, he shall be the depositary of the powers of the Republic in the Province.

The Chief Provincial Administrator shall be assisted by a deputy, appointed in the manner prescribed by article 7 above, who shall replace him in the event of absence or impediment and to whom he may delegate certain of his functions.

Article 14. The Chief Provincial Administrator, as the representative of the Province and the chief administrator of the public services of the Province, shall exercise the powers provided by the laws and regulations in force, including the power to issue regulations, without prejudice to the powers granted to the Provincial Councils and Provincial Assemblies under the decrees made pursuant to article 1 of the aforementioned Act of 23 June 1956. He shall be the certifying officer for the provincial budget and budget annexes, and may delegate this power, by a special order, to any officials of his choice. He shall communicate personally and directly with the High Commissioner in his capacity as representative of the State and Chief Administrator of the Territory of Madagascar.

In the event of litigation between the State or the Territory and the Province, the Province shall be represented by the President of the Provincial Assembly.

Title IV

Miscellaneous provisions

Article 15. All laws and regulations conflicting with this Decree are hereby rescinded, and in particular:

Decree No. 45-923 of 4 May 1945 establishing the Government Council of Madagascar and its dependencies;

Articles 3 to 10, 14, 16 to 18, 21 and 24 to 26 of Decree No. 46-2509 of 9 November 1946 providing for the administrative reorganization of Madagascar.

The provisions of article 9 of the present Decree shall take effect not later than 1 January 1958. They may enter into force before that date in accordance with procedures to be determined by orders of the High Commissioner of the Republic, which will accordingly adjust the provisions of Decree No. 46-2373 of 25 October 1946.

Article 16. The High Commissioner of the Republic shall make orders, as necessary, establishing procedures for the application of this Decree.

Article 17. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic.

DECREE NO. 57-463 OF 4 APRIL 1957

laying down the conditions for the establishment and operation of the
Madagascar Government Council, defining its powers, and broadening
the powers of the Madagascar Representative Assembly

The President of the Council of Ministers,

Acting on the report of the Minister for Overseas France, the Minister of Economic and Financial Affairs and the Minister delegated to the Office of the President of the Council,

Having regard to Act No. 56-619 of 23 June 1956 authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, in particular articles 1 and 2;

Having regard to Decree No. 46-2509 of 9 November 1946 providing for the administrative reorganization of Madagascar;

Having regard to Decree No. 46-2373 of 25 October 1946 establishing a Representative Assembly and Provincial Assemblies in Madagascar;

Having regard to Decree No. 57-462 of 4 April 1957 providing for the reorganization of Madagascar;

Having regard to Act No. 46-860 of 30 April 1946 for the establishment, financing and execution of plans for the equipment and development of the Territories for which the Ministry for Overseas France is responsible;

Having regard to Act No. 52-130 of 6 February 1952 concerning the establishment of group assemblies and local assemblies in various Territories for which the Ministry for Overseas France is responsible;

Having regard to Act No. 55-1489 of 18 November 1955 providing for municipal reorganization in Africa and Madagascar;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

Having regard to the opinion of the Assembly of the French Union;

Having regard to the decision by Parliament approving, subject to amendment, the Decree laying down the conditions for the establishment and operation of the

Madagascar Government Council, defining its powers, and broadening the powers of the Madagascar Representative Assembly, filed with the Secretariat of the National Assembly on 4 December 1956,

Decrees as follows:

Title I

The Government Council

Chapter I

Establishment and operation

Article 1. The following articles determine the conditions and procedures for the establishment and operation of the Government Council instituted in Madagascar by Decree No. 57-462 of 4 April 1957 providing for the reorganization of Madagascar.

Article 2. The Government Council shall be presided over by the Chief Administrator of the Territory.

Eight members of the Government Council, who shall have the title of Minister, shall be elected by the Representative Assembly from within or outside its membership by a single uninominal ballot. Not less than one nor more than two members shall be elected from any Province.

The Government Council shall elect a Vice-President from among its own members.

The Vice-President shall preside over the Government Council in the absence of the Chief Administrator of the Territory.

The Government Council shall have the right to resign if it considers that it no longer enjoys the confidence of the Representative Assembly.

On matters within their competence the Ministers shall be required to answer any questions or requests for explanation from members of the Representative Assembly.

The Ministers shall be liable under the penal code for crimes and offences committed by them in the exercise of their functions.

Article 3. No one may be a member of more than one Government Council of the Territories for which the Ministry for Overseas France is responsible.

Article 4. Declarations of candidacy shall be delivered to the President of the Assembly not later than the day before the scheduled election date. They shall be read out before the voting begins. No candidacy may be withdrawn after the declaration has been delivered.

Candidates who are not members of the Assembly shall satisfy the conditions of eligibility laid down for the election of Provincial Councillors.

They shall be subject to the same conditions with regard to ineligibility and the offices incompatible with membership.

Article 5. The validity of the elections may be challenged by the candidates or by the members of the Representative Assembly. The other provisions of articles 21 to 24 of the aforementioned Decree of 25 October 1946 shall apply to disputes concerning elections to the Government Council.

Article 6. Ministers may not continue in office beyond the term of the Assembly that elected them; nevertheless, their tenure shall be extended to the date of installation of the new Government Council which shall take place not later than fourteen days after the opening of the first session of the new Assembly.

Article 7. The Ministers shall be required to maintain secrecy regarding proceedings of the Council and the matters referred to it.

Article 8. A Minister may not at the same time exercise the functions of:
Member of the Government of the Republic;
President of the Representative Assembly;
Chairman or member of the Standing Committee of the Representative Assembly;
Member of a Provincial Council.

A Minister who finds that he holds one of the incompatible offices specified above shall opt within fifteen days. If at the end of that period he has not made known his choice, he shall be deemed to have relinquished the office of Minister.

Article 9. Ministers may submit their resignation to the President of the Government Council.

A Minister may be removed from office by the Chief Administrator of the Territory on the proposal of the Vice-President of the Government Council.

Article 10. If a Minister's post becomes vacant through death, resignation or any cause whatsoever, such vacancy shall be filled in the manner prescribed in articles 2, 4 and 5.

Article 11. In addition to reimbursement of their transportation and travel expenses, the Vice-President of the Government Council and the Ministers shall receive an annual allowance, payable monthly, the amount of which shall be fixed uniformly by the Representative Assembly with reference to the salary of a category of officials serving in the Territory.

Article 12. The expenditures necessary for the operation of the Government Council, in particular those relating to the compensation payable to Ministers, the installation and equipment of the Council, and the travel of its members, shall be borne by the budget of the Territorial unit.

Article 13. The Government Council shall sit in the chief town of the Territory, unless otherwise decided by an order of the High Commissioner.

The agenda shall be prepared by the President.

The Chief Administrator of the Territory shall provide a secretariat for the Council and shall be responsible for the safekeeping of the Council's records. These records shall include those of the Government Council of Madagascar instituted under Decree No. 45-923 of 4 May 1945 and subsequent texts.

The General Secretary may attend the meetings of the Government Council.

Article 14. The Government Council may not be dissolved except by a decree made in Council of Ministers, after consultation with the Representative Assembly.

The decree shall prescribe a time limit within which a new Government Council shall be elected. This time limit may not exceed one month.

Chapter II

Functions of the Government Council

Article 15. The Government Council, under the high authority of the Chief Administrator of the Territory and presided over by him or by his legal deputy,

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shall be responsible for the administration of the whole Territory and, in particular, the co-ordination of economic, social, administrative and financial activities therein.

Section 1. Collective functions

Article 16. The Government Council shall act in matters within its competence as defined in this section. All its members shall be jointly responsible for such decisions as it takes under their collective functions.

All proposals relating to the interests of the Territory as a whole, to be submitted to the Representative Assembly and its Standing Committee for consideration, shall be drawn up in Government Council.

Article 17. Regulatory decisions concerning the administration of the affairs of the territorial unit, including orders on which the Representative Assembly must first be consulted, shall be taken in Government Council.

The Council shall delegate the Minister competent to give the Assembly any explanations which may be required concerning the application of the Assembly's decisions.

Article 18. Orders or decisions relating to the following subjects in particular shall be adopted in Government Council:

- (a) general regulation of economic affairs and prices;
- (b) general measures for applying the regulations concerning assistance to production;
- (c) the general rules and special procedures for applying Decree No. 57-465 of 4 April 1957 laying down the conditions for the establishment and operation of rural communities in Madagascar, after consultation with the Representative Assembly;
- (d) the general programme for the expansion of fundamental education.

Article 19. The directors of the public services placed under the direct control of the Ministers, shall be appointed by the Chief Administrator of the Territory in Government Council on the recommendation of the Minister having jurisdiction over the service in question.

Article 20. The Government Council shall decide all questions concerning the administration of domanial and financial interests and public works which concern the territorial unit, including, inter alia:

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(a) Administration of the territorial unit's public land, in particular communication routes, including canals, lakes and ponds, and the land, railway, river, sea and air installations relating thereto, and more generally all real property deemed to be of an inter-provincial nature according to a classification made in pursuance of the decisions of the Representative Assembly;

(b) Acquisition and exchange of the real property of the territorial unit within the limits of the appropriations voted by the Assembly;

(c) Changes in purpose or use, leasing and renting, and methods of administration of the property of the territorial unit;

(d) Leasing and renting of property and insurance of property within the scope of the budget appropriations;

(e) Conditions for executing public works and approval of surveys and contracts for public works carried by the budget of the territorial unit;

(f) Investment of funds in accordance with the regulations in force, transfer of securities, terms and conditions of borrowings by the territorial unit;

(g) Acceptance or refusal of gifts or bequests without encumbrances or servitudes to the Territory, and the bringing or defence of suits on behalf of the Territory, except in urgent cases when the Chief Administrator of the Territory may accept gifts and bequests and take all necessary interim measures;

(h) Remission of accounting deficits in the territorial budget;

(i) Settlements relating to duties and changes of which the schedule is determined by the Representative Assembly, in suits involving a sum of less than 10 million Francs CFA;

(j) Institution of legal proceedings on behalf of the Territory and the defence of its interests in court.

Article 21. The Government Council shall grant Type B mining exploration permits on the decision of the Representative Assembly.

Article 22. When exceptional circumstances so require, the Chief Administrator of the Territory may, by orders made in Government Council, take such immediately enforceable decisions as are necessary to suspend or temporarily reduce import and export duties and indirect taxes on the production, movement and consumption of goods.

Such decisions shall be subject to ratification by the Representative Assembly. If the latter is in session, the decisions shall be submitted to it immediately. If the Representative Assembly is not in session, the decisions shall be submitted to the Standing Committee at its first meeting thereafter; the latter shall report thereon to the Assembly at its next session, with a view to their ratification. When the decision of the Assembly has become definitive it shall have effect from the date on which it was taken.

Article 23. If the High Commissioner considers that a decision of the Government Council exceeds the Council's powers or is likely to prejudice national defence, public order, the maintenance of security, or public freedoms, he shall refer it to the Minister for Overseas France. The latter may annul the decision by a decree made after consultation with the Conseil d'Etat. Such decree shall be made within the three months following the date of the decision. During this period the decision shall be suspended.

Article 24. Subject to the powers of the Administrative Disputes Council, appeal against decisions of the Government Council may be lodged with the Conseil d'Etat ruling as an administrative disputes court.

Article 25. Any decision taken by the Government Council in the absence from the Chair of the Chief Administrator of the Territory or his legal deputy shall be null and void.

The High Commissioner shall by means of an order accompanied by a statement of his reasons, declare the meeting illegal, pronounce the decisions taken null and void, and take such steps as are required to ensure the immediate adjournment of the Council.

He shall report on the matter to the Minister for Overseas France.

Article 26. The Vice President of the Government Council shall lay annually before the Council for its opinion the report which he is required to submit to the Assembly on the general activities of the Government Council and the functioning of the public services of the territorial unit.

Section 2. Individual functions

Article 27. Each Minister shall be made responsible, by delegation from the Chief Administrator of the Territory after consultation with the Vice-President of the Government Council, for the administration of one or more public services of the territorial unit.

Article 28. The functions of the Ministers shall be defined by an order made by the Chief Administrator of the Territory and published in the Journal Officiel of Madagascar.

Article 29. Each Minister shall be responsible to the Government Council for the functioning of the public services and the conduct of the administrative affairs branch within his jurisdiction, and shall report regularly to the Council thereon.

Article 30. The Government Council may make a Minister responsible for an administrative branch having one or more divisions, the administration of which is entrusted to other Ministers, and the Minister responsible for the branch as a whole shall co-ordinate the activities of these divisions.

Article 31. The Minister responsible for the administration of a branch or division shall take all decisions concerning the conduct of affairs within the jurisdiction of the territorial public services with which his branch or division is concerned, except for matters within the jurisdiction of the Government Council or the Representative Assembly.

He may set up a secretariat within the limits of the budgetary appropriations voted by the Assembly.

He shall direct the services of his branch or division with the assistance of the heads of department (chefs de service) to whom he shall delegate all necessary powers.

He shall be responsible for ensuring that his services carry out the decisions of the Government Council and the Representative Assembly.

Article 32. The Minister shall submit to the Government Council, after preparation by his services such matters as require the making of an order or the taking of a decision in Government Council.

He shall also present to the Government Council such proposals and reports on matters falling within the jurisdiction of his branch or division as are

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required to be submitted to the Representative Assembly. He shall be responsible for following the discussion of such matters and speaking in their support in the Representative Assembly, in accordance with the instructions of the Government Council. He may be assisted in this by officials of his services.

Article 33. In accordance with the staff regulations of the officials and employees concerned and on the recommendation of the Minister to whom they are responsible, the Chief Administrator of the Territory shall:

- appoint and promote personnel of the territorial establishments belonging to the services of the territorial unit, on the basis of an equal distribution of the personnel of the said establishments between the services of the territorial unit and the provincial services, as determined by the Chief Administrator of the Territory;
- assign officials and employees to posts in the territorial services and impose or recommend, as appropriate, any necessary disciplinary measures against such officials and employees.

The Chief Administrator of the Territory, acting in Government Council, may delegate the powers specified in the two preceding paragraphs to each of the Ministers concerned as part of their functions and in respect of certain categories of staff.

Reports on public service employees of the territorial unit shall be made successively by the officials responsible for making such reports under the general and special regulations applicable to the civil service establishments and by the Minister responsible for the service to which they are assigned.

Article 34. In addition to the general obligation specified in article 8, each Minister shall be bound, in respect of his individual actions on behalf of the branch or division for which he is responsible, by the same rules of professional secrecy as apply to public service officials.

Section 3. Miscellaneous provisions

Article 35. The provisions of this Title shall enter into force not later than 1 July 1957.

Article 36. The procedures for the application of this Title shall be determined, as necessary, by orders made by the Chief Administrator of the Territory and countersigned by the Vice-President of the Government Council.

Title II

Functions of the Representative Assembly

Article 37. Titles III and IV of Decree No. 46-2373 of 25 October 1946, in so far as they refer to the Representative Assembly, are hereby replaced by the provisions of this Title and of Title III hereunder.

Article 38. The Representative Assembly shall vote the budget of the territorial unit.

It shall take decisions in the matters placed within its jurisdiction by the laws and regulations, in particular by articles 39, 41 to 44 and 49 and 52 of this Decree. Its decisions may provide penalties in the manner prescribed by article 2 of the Act of 23 June 1956.

It shall give opinions, in particular in the cases specified in articles 53 to 55 hereunder.

Article 39. The Representative Assembly may make recommendations for the purpose of ensuring the co-ordination and possible unification of the provincial regulations and fiscal systems. Such recommendations shall be communicated by the Chief Administrator of the Territory to the Chief Provincial Administrators concerned, who shall refer them to the Provincial Councils or the Provincial Assemblies, as the case may be.

The Representative Assembly may be called upon to take a decision in any matter within the jurisdiction of the Provincial Assemblies in respect of which the Assemblies of two or more Provinces consider it desirable to have a set of regulations common to the Provinces concerned.

If a decision taken by a Provincial Assembly in an economic or financial matter may be prejudicial to the interests of one or more other Provinces, the Chief Administrator of the Territory may refer the matter to the Representative Assembly, either on his own initiative or, if the matter has been submitted to him by a decision of a Provincial Assembly, on the recommendation of a conference convened in the manner prescribed by article 11 of Decree No. 57-462 of 4 April 1957 providing for the reorganization of Madagascar. The Representative Assembly shall take a decision which shall be binding on the Provincial Assemblies concerned.

Article 40. No taxes or duties of any kind may be imposed for the benefit of any treasury whatsoever on any products in movement from one Province of Madagascar to another.

Article 41. The Representative Assembly shall decide on the opening date of its regular sessions, the duration of which shall not exceed two months in length. Such sessions shall, however, be governed by the rules laid down below.

The Representative Assembly shall hold two regular sessions each year. The first session shall begin during the first quarter of the year and the second before the end of October. The budget shall be considered at the second regular session. If a regular or special session adjourns and the Representative Assembly has not fixed the date for the opening of its next regular session, the date shall be fixed in due time by the Standing Committee.

The Representative Assembly shall also be convened in special session:

- (a) if at least two-thirds of its members submit a request in writing to that effect to the President;
- (b) if the Chief Administrator of the Territory makes an order to that effect.

The duration of a special session may not exceed fifteen days.

The provisions of this article shall supersede those of article 27 of the Decree of 25 October 1946, in so far as the Representative Assembly is concerned.

Article 42. In matters relating to domanial interests and public works in connexion with capital equipment, the Representative Assembly shall take decisions on all proposals made by the Chief Administrator of the Territory in Council, dealing with the following subjects:

- (a) Settlements relating to duties and charges, the schedule of which is determined by the Assembly as provided by article 44 hereunder, in suits involving a sum of 10 million francs C F A or more;
- (b) Acceptance or refusal of gifts or bequests burdened with encumbrances or servitudes, to the territorial unit. The Government Council may accept all such gifts and bequests on an interim basis. The subsequent decision of the Assembly shall have effect as from the date of such provisional acceptance. In urgent cases, the High Commission may by himself take all necessary interim measures and accept such gifts and bequests;

- (c) Transfer of immovable property of the territorial unit;
- (d) Selection of the method of operating public works in the territorial unit;
- (e) Classification and declassification of the public land of the territorial units, in particular communication routes, including canals, lakes and ponds of an inter-provincial character, and the land, railway, river, sea and air installations relating thereto.

Article 43. The Assembly may take a decision fixing the amount and conditions of payment of the monthly compensation allotted to its members and also the rules applying to reimbursement of their travel expenses.

Such compensation, whatever its form, shall be fixed by reference to the salary of a category of officials serving in the Territory.

No member may receive this compensation concurrently with the compensation paid to members of the Provincial Assemblies, or that paid to members of the Government Council or of a Provincial Council, or that paid to members of the Constitutional Assemblies.

Officials on active service or on secondment who are members of the Assembly shall receive the difference between their salary, plus any travel expenses, and the compensation payable to members of the Assembly, or their salary only plus any travel expenses, if the total thereof is greater than the said compensation.

The Assembly may also vote its President an annual lump-sum payment as a representation allowance.

The provisions of this article shall supersede those of article 19 of Decree No. 46-2373 of 25 October 1946, in so far as the Representative Assembly is concerned.

Article 44. Subject to international conventions, to the provisions of article 32 of the Act of 31 December 1953 and to prior consultation with the assemblées consulaires on matters within their jurisdiction, the Representative Assembly shall take decisions on the financial implications of any proposal made by the Government Council or by one of its members relating to the following matters:

1. Method of assessment, rules of collection and schedules of:
 - (a) taxes, duties, charges, apportioned charges and indirect taxes, and fees of all kinds levied in aid of the budget of the territorial unit

and the Provincial budgets, including import and export duties and taxes on the production, manufacture or movement of goods, and taxes on exploration and processing;

(b) the maximum supplements to these taxes which may be collected in aid of communities and public institutions;

(c) stamp and registration duties;

2. Method of assessment and rules of collection of direct taxes based on income or turnover, to be collected in the Provinces in aid of the Provincial budget;

3. Contracts to be concluded and specifications to be laid down on behalf of the territorial unit;

No concession to operate a public service applied for by or on behalf of an alien may be granted unless there is agreement between the High Commissioner and the Representative Assembly. In case of disagreement, the matter shall be decided by decree;

4. Schedules of fees payable by concessionaries and of charges for supplies from and performance by the public services of the territorial unit; fees payable for occupation of public land of the territorial unit and other related charges;

5. Determination of costs coming under the head of "court costs", preparation of schedules of such costs, methods of payment and collection, defining of conditions to be met by the recipients and, in general, regulation of all matters relating to court costs; schedules of fees for the issue of copies of or extracts from public instruments;

6. Fiscal tariff agreements relating to taxes levied by the territorial unit in the cases provided by law;

7. Loans, sureties, guarantees, endorsements and shares of the territorial unit in the capital of public and semi-public corporations and, in exceptional cases, of private companies participating in the economic development of Madagascar;

8. Acceptance of offers to contribute to the expenditures of the territorial unit and the share of the territorial unit, under its budget, in the expenditures of the State, of a Province or of a public organization of

Madagascar, in connexion with works which concern the territorial unit;

9. Within the limits and under the conditions specified in article 9 of the aforementioned Decree of 4 April 1957, the establishment and abolition of public services and public institutions and the possible conclusion of agreements with the Provinces for that purpose;
10. Conditions for the grant of settlers' installation loans to be covered by the budget of the territorial unit;
11. Subsidies and loans from the budget of the territorial unit to the budgets of other public organizations or public institutions of Madagascar and of the State;
12. Contributions, refunds and fees payable to the public institutions of Madagascar or of the State;
13. Borrowings or applications by the territorial unit for loans or advances from the State, the Caisse Centrale de la France d'outre-mer or other public credit institutions, and resources of the territorial unit assigned as security for such loans or advances.

The Representative Assembly may fix a time-limit within which the assemblées consulaires shall give their opinion. If they fail to do so, the Representative Assembly shall proceed without their opinion. This time-limit may not be less than fifteen days from the date on which notice of the request for an opinion is given.

Article 45. The budget estimates of the territorial unit and the budget annexes, drawn up in local currency, shall be prepared by the Government Council and submitted to the Assembly at its second regular session each year by the Minister responsible. They shall be considered, and must be voted in balance by the Assembly at that session.

The revenue and expenditure heads of the territorial unit budget shall be divided into chapters and articles.

The right to amend the estimates of revenue and expenditure shall belong jointly to the Chief Administrator of the Territory in Government Council and the Assembly. However, the estimation of future budgetary revenue shall be the responsibility of the Chief Administrator of the Territory in Government Council.

No proposal to increase expenditures or reduce revenue shall be admissible unless accompanied by a proposal for a corresponding increase in revenue or reduction in expenditure.

A separate decision shall be taken on each chapter of the budget. The budget as a whole shall then be voted upon by the Representative Assembly which shall decide where appropriate on measures to be taken to ensure a balance between revenue and expenditure, taking into account the funds required to cover the expenditures specified in the second paragraph of article 64 hereunder.

No changes may be made in the budget during the financial year except by the Representative Assembly, in accordance with the procedure laid down for preparing the budget estimates and in such a manner as to ensure a continued balance between revenue and expenditure. Any transfer from one chapter to another shall be authorized by the Representative Assembly or, in urgent cases, by its Standing Committee which shall report thereon to the Representative Assembly at its next session. No new post may be established unless it is provided for in the budget.

Article 46. Supplementary appropriations and withdrawals from the reserve fund shall be proposed and approved in the same manner.

In emergencies and when the Representative Assembly is not in session, supplementary appropriations and withdrawals from the reserve fund may be made by order of the High Commissioner in Government Council with the concurrence of the Standing Committee. Such orders shall be submitted for ratification to the Representative Assembly at its next session.

The sole purpose of changes so decided upon shall be to correct errors of estimation or to meet shortages of funds which become apparent in the light of events subsequent to the preparation of the budget estimates, or to cover expenditures necessitated by unforeseeable circumstances.

No benefit may be conferred by the Representative Assembly on an official or employee or on a category of officials or employees otherwise than on the proposal of the Chief Administrator of the Territory made in Government Council.

Unless otherwise provided by law, no special service operating on extra-budgetary account may be established except by an order made by the High Commissioner, with the concurrence of the Minister for Overseas France and the Minister of Economic and Financial Affairs.

The establishing order shall define the conditions on which the account is to operate and provide for the supervision of its revenue and expenditures by the Representative Assembly.

The jurisdiction of the Government Council and the Representative Assembly with respect to the drawing up of the schedules of charges and of the budgets of bodies established by law to operate as self-governing public authorities (régies) or as public offices shall be defined by the texts laying down the statutes of such bodies.

Article 48. If the Representative Assembly does not meet before the first day of the calendar year, or adjourns without having voted the budget or without having voted a balanced budget, the High Commissioner shall, ex officio, make an order in Government Council establishing a provisional budget, taking as the basis the budget for the previous year and the schedule of taxes adopted by the Representative Assembly. Where necessary, however, this order may prescribe any reductions in expenditures or increases in fiscal or other revenue.

The High Commissioner shall, within fifteen days, convene the Representative Assembly in a special eight-day session. If the Representative Assembly fails to vote a balanced budget by the end of the said special session, the budget shall be established in final form by the High Commissioner in Government Council in the manner prescribed in the first paragraph of this article.

If the Representative Assembly fails to approve all the obligatory expenditures, the High Commissioner, in Government Council, shall ex officio enter the expenditures all or part of which have been omitted and shall restore the balance of the budget, either by deductions from uncommitted funds or the funds for miscellaneous and unforeseen expenditures or by a reduction in optional expenditures.

Article 49. The Representative Assembly shall take decisions enacting regulations applicable throughout Madagascar in the following matters of general interest:

1. The general regulations applicable to employees of the territorial establishments recruited for the services of the territorial unit and the Provincial public services pursuant to the decrees concerning the public service provided for in article 3 of the Act of 23 June 1956;

2. civil procedure, except as regards the system of judiciary;
3. the professions; ministerial and public offices;
4. determination of the conditions governing the application of local customary law; progressive harmonization and unification of various local rules and practices, as between themselves and with French civil law;
5. the public lands of the territorial unit. Nevertheless, rights in immovable property and easements enjoyed by the State may not be prejudiced in any way.

Should the State subsequently assign certain premises for the operation of public services, such premises shall enjoy the easements for the public advantage inherent in the operation of the said service;

6. general regulations concerning agriculture and forests; soil conservation; protection of nature and plant-life; plant health control and locust control.
7. general regulations concerning stockraising; epizootic disease control;
8. preparation of products for export, excluding the fixing of standards, which shall continue to be regulated by decree;
9. internal transport, traffic, haulage;
10. navigation on rivers, canals and lagoons;
11. policing of communication routes, excluding airways and waterways;
12. after consultation with the National Insurance Council through the Minister for Overseas France, regulations for the purpose of instituting compulsory insurance for individuals and corporate bodies whose civil liability may be involved under articles 1382 to 1386 of the Civil Code, provided that such regulations may not otherwise affect the substance of any insurance laws and regulations or be applied to coverage of risks connected with industrial accidents or occupational diseases;
13. methods of applying the regulations governing mineral resources;
14. organization of the savings banks in the territorial unit;
15. public hygiene, thermal springs; the protection of public health, excluding regulations governing food offences;
16. care of delinquent and abandoned children; protection of the insane;
17. control of major endemic diseases;
18. tourism;

19. town planning; regulation of dangerous, unsuitable and insanitary premises;
20. protection of monuments and historic sites;
21. the prison system;
22. the conditions in which aliens were required to obtain administrative authorization before engaging in certain professions and commercial and industrial occupations;
23. procedure and conditions for acceptance of tenders and awarding contracts in the Territory for work and supplies required for the territorial unit, subject to observance of the general rules applicable in such matters.

These rules shall be established by a decree made in the manner prescribed by article 1 of the Act of 23 June 1956.

Article 50. Decisions on the matters referred to in article 49 may be taken notwithstanding any provisions of law or regulations to the contrary enacted before the date of entry into force of this Decree, subject, however, to the provisions of international conventions, of laws and regulations on the matters dealt with in the Commercial Code and the Maritime Code, of the Act of 15 December 1952, the Act of 30 April 1946 and the decrees issued in application thereof, of Decrees Nos. 55-634 and 55-625 of 20 May 1955, and of the ethical codes.

Article 51. The acts and decrees relating to the matters listed in article 49 of this Decree shall, however, remain in force with the effect of regulations applicable to the Territory of Madagascar and dependencies. These regulations may be cancelled or amended by decision of the Representative Assembly.

Article 52. The Representative Assembly shall decide on programmes to implement and execute the capital equipment and development plan provided for by the Act of 30 April 1946, in the manner prescribed in the decrees made in application of the said Act, after consultation with the Provisional Assemblies on the aspects of the programme which concern the Provinces individually.

Article 53. The Representative Assembly shall be consulted in all cases with regard to draft regulatory orders to be made in Government Council, concerning:

- (a) the general organization of the public services in the territorial unit;

- (b) the special regulations applicable to employees of the territorial establishment mentioned in article 49 (1), the method and scales of remuneration, leave provisions, social benefits and the pension scheme applicable to such employees;
- (c) labour and social security provisions, in particular, the application in respect of the Territory of the provisions of Act No. 52-1322 of 15 December 1952 establishing a labour code in the Territories and associated territories for which the Ministry for Overseas France is responsible;
- (d) officials of the State civil service who are seconded to services of the territorial unit;
- (e) the organization and operation of Mixed Communes;
- (f) the fixing, for each category of offences under the regulations issued on the basis of the decisions of the Representative Assembly, of the scale of penalties applicable in accordance with the conditions laid down in article 2 of the Act of 23 June 1956.

Article 54. The Representative Assembly shall be consulted in all cases on the grant of type A general mining exploration permits. In the event of disagreement between the Representative Assembly and the High Commissioner, the matter shall be decided pursuant to a decree made in Council of Ministers, after consultation with the Assembly of the French Union.

Article 55. The following shall in all cases be referred to the Representative Assembly for its opinion by the Government Council:

- (a) administrative accounts relating to the execution of the budget and the budget annexes, the public authorities (régies) and public institutions of the territorial unit;
- (b) the annual position of the funds of the territorial unit.

The Representative Assembly may make any observations on the administrative accounts of the territorial unit within the time-limit specified in article 58. Such observations shall be communicated by the President of the Assembly to the Government Council, which shall send a copy thereof to the Audit office through the Minister for Overseas France.

Article 56. The Vice-President of the Government Council shall report to the Representative Assembly at its budgetary session on the position of Madagascar and the state of the public services of the territorial unit.

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Article 57. The Assembly may, through its President, request the Chief Administrator of the Territory and the Minister for Overseas France to furnish any information or observations on matters within its competence. It may ask to hear any Minister in connexion with any matter with which it is dealing.

It may ask the Government Council for any information concerning action taken on its decisions and concerning the execution of the budget, and may make observations thereon.

The Representative Assembly may assign one or more of its members to gather in the Territory the information it considers necessary in order to deal with a matter within its competence.

Article 58. Matters shall be referred to the Representative Assembly by the Government Council or by one of its members.

In the interval between sessions, bills submitted by the Government Council for decision by the Representative Assembly and bills proposed by members of the Representative Assembly shall be filed with the Secretariat of the Standing Committee.

Members' bills shall be communicated within ten days from the date of filing to the Government Council, which may give its opinion on them. The Representative Assembly may not, if the Government Council so requests, refuse to defer consideration of the bill to its next session, but not later.

The Government Council shall be kept informed of the agendas of the Representative Assembly and its committees. Its members may attend and address the meetings of the Assembly's committees or be represented at them.

Bills and proposals submitted to the Representative Assembly for decision shall be considered by the Assembly at the session during which they were filed or at the latest, at the following session, unless the Standing Committee is delegated to act on them in the interval between the two sessions.

In matters which must be referred to the Representative Assembly for its opinion, the Government Council may, if the Assembly fails to give its opinion within the time-limit prescribed above, proceed without it, after notifying the president of the Assembly to that effect.

Article 59. The acts of the Representative Assembly and its Standing Committee shall be delivered in duplicate, together with an extract from the records of meetings relating to the discussion and voting thereon, to the High

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Commissioner within thirty clear days from the closing of the session. Upon receipt of the documents, the High Commissioner shall transmit one set thereof to the Minister for Overseas France.

Within thirty clear days from the date of their receipt, the Chief Administrator of the Territory shall put the decisions of the Representative Assembly or of the Standing Committee into effect or shall refer them either to the Representative Assembly for second reading or to the Minister for Overseas France for the purpose of annulment, in the manner prescribed by articles 60 and 61. If the High Commissioner requests the Minister for Overseas France to annul a decision, he shall so advise the President of the Representative Assembly or, in the interval between the Assembly's sessions, the Chairman of the Standing Committee.

Article 60. The Minister for Overseas France may take action to annul decisions of the Representative Assembly and its Standing Committee on grounds of excess of power or of violation of the law by means of a decree made in the form of an administrative regulation.

If, for any reason, a decision of the Representative Assembly or of its Standing Committee, which has been submitted to the Minister for annulment, is not annulled within a period of ninety clear days from the date of its communication to the High Commissioner, the latter shall put it into effect not later than eight clear days after the expiry of the above-mentioned period.

The decisions of the Representative Assembly or of the Standing Committee in customs matters shall continue to be subject to the provisions of article 3 of the Decree of 14 October 1954.

Article 61. The High Commissioner may, within the period of thirty clear days prescribed in article 59, invite the Representative Assembly to rule at second reading on decisions taken by it or by its Standing Committee, if he considers them to be inconsistent with the general interests or the orderly administration of the territorial unit.

In that case, the periods prescribed by articles 59 and 60 shall run from the date on which the High Commissioner receives the new decision of the Representative Assembly.

Article 62. Pending publication of the orders of the Chief Administrator of the Territory in Council putting the decisions of the Representative Assembly or its

Standing Committee into effect, all taxes, duties, charges and fees shall be levied on the former tax bases and in accordance with the previous schedules.

Decisions taken by the Representative Assembly or its Standing Committee at a session which began before 1 January in the matter of direct taxes or of duties or charges treated as such, shall have effect as from that date even if they could not be made enforceable by them.

Similarly, if it has not been possible to put the budget into effect before 1 January, the Chief Administrator of the Territory shall be authorized to make provisional monthly appropriations on the basis of the budgetary appropriations for the previous year. Further appropriations may be made each month until the budget is put into effect.

Article 63. A code of the regulations resulting from the decisions of the Representative Assembly and a code of the regulations adopted in Government Council shall be established under orders made in Government Council and published in the Journal officiel of Madagascar. The said codes shall be brought up to date annually.

Title III

Budget of Madagascar and Dependencies

Article 64. The budget of the territorial unit shall cover;

- (a) The debts of the Territory;
- (b) Contributions and assessments payable by the Territory under legislative or contractual provisions;
- (c) Operating costs of the public services of the territorial unit and of institutions, agencies and operations established at the level of the territorial unit, with the exception of those referred to in the last paragraph of article 9 of the afore-mentioned Decree of 4 April 1957. A schedule of posts indicating the establishment of the services of the territorial unit shall be annexed to the budget documents;
- (d) General capital expenditures not covered by the provincial budgets;
- (e) Contributions, loans, subsidies, refunds, participations and grants-in-aid approved in the interest of the territorial unit;
- (f) Any subsidies or refunds granted by the Representative Assembly in aid of the provincial budgets of Madagascar.

The budgetary appropriations shall cover expenditure relating to:

- (a) Settlement of due debts and covering of previous budget deficits;
- (b) Contributions, assessments and expenditure imposed under legislative provisions. A decree made in the manner prescribed by article 1 of the Act of 23 June 1956 shall specify the manner in which this paragraph shall be applied.

Article 65. Revenue for financing the budget of the territorial unit shall be derived from:

- (a) Revenue from duties and taxes levied on imports into Madagascar and dependencies;
- (b) One half of the mining and petroleum royalties and one half of the duties levied on exports of mineral and petroleum products from Madagascar and dependencies;
- (c) Taxes on exploration and processing.
- (d) Income from the property of the territorial unit;
- (e) Revenue of the services of the territorial unit;
- (f) Fees paid by concessionaires, farmers and other operators of services in the territorial unit;

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(g) Issue taxes, if not otherwise allocated;

(h) Interest on loans and security deposits, sums realized from borrowings and from financial investments or participations resulting from agreements signed or contracts concluded on behalf of the territorial unit;

(i) Gifts and bequests to the territorial unit and unforeseen and miscellaneous revenue;

(j) Withdrawals from the reserve fund of the territorial unit and any other revenue accruing to the territorial unit.

Article 66. Any funds available under the budget of the territorial unit at the end of the financial year, after the expenditures specified in article 64 have been met and payment has been made into the reserve fund of the territorial unit of the amount necessary to maintain the statutory minimum level, shall be refunded to the provincial treasuries by decision of the Representative Assembly, in proportion to the actual volume of production and consumption activities taxed in each of the Provinces and to the size of its population.

PART IV

Miscellaneous Provisions

Article 67 This Decree shall enter into force in the manner prescribed by article 1 of the Act of 23 June 1956. Nevertheless, subject to the provisions of the second paragraph of this article, the provisions of paragraphs 24 and 25 and of the last sub-paragraph of article 37 and the provisions of article 46 of Decree No.46-2373 of 25 October 1946 providing for the establishment of a Representative Assembly and Provincial Assemblies in Madagascar shall remain provisionally in force until 31 December 1957.

The provisions of article 9 of Decree No.57-462 of 4 April 1957 providing for the reorganization of Madagascar and the provisions of paragraphs (1) and (2) of article 44 and articles 64 and 65 of this Decree shall take effect not later than 1 January 1958. They may enter into force before that date in accordance with procedures to be established by orders made by the High Commissioner of the Republic, which shall adjust, as necessary, the provisions of the Decree of 25 October 1946, referred to in the preceding paragraph.

Article 68. All laws and regulations conflicting with this Decree, in particular, articles 11, 12, 13, 15, 19 and 20 of the afore-mentioned Decree of 9 November 1946, are hereby rescinded.

Article 69. The High Commissioner of the republic shall make orders as necessary establishing procedures for the application of this Decree.

Article 70. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French republic.

DECREE NO. 57-464 OF 4 APRIL 1957

laying down the conditions for the establishment and operation
of the Madagascar Provincial Councils, defining their powers and
broadening the powers of the Madagascar Provincial Assemblies

The President of the Council of Ministers,

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Acting on the reports of the Minister for Overseas France, the Minister of Economic and Financial Affairs and the Minister delegated to the Office of the President of the Council,

Having regard to Act No. 56-619 of 23 June 1956, authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, particularly articles 1 and 2 thereof;

Having regard to Decree No. 46-2373 of 25 October 1946 providing for the establishment of a Representative Assembly and Provincial Assemblies in Madagascar;

Having regard to Decree No. 46-2509 of 9 November 1946 providing for the administrative reorganization of Madagascar;

Having regard to Act No. 46-860 of 30 April 1946 for the establishment, financing and execution of plans for the equipment and development of the Territories for which the Ministry for Overseas France is responsible;

Having regard to Act No. 52-130 of 6 February 1952 concerning the establishment of group assemblies and local assemblies in various Territories for which the Ministry for Overseas France is responsible;

Having regard to Act No. 55-1489 of 18 November 1955 providing for municipal reorganization in Africa and Madagascar;

Having regard to Decree No. 57-462 of 4 April 1957 providing for the reorganization of Madagascar and Decree No. 57-463 of 4 April 1957 laying down the conditions for the establishment and operation of the Madagascar Government Council, defining its powers, and broadening the powers of the Madagascar Representative Assembly;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

Having regard to the opinion of the Assembly of French Union;

Having regard to the decision by Parliament approving, subject to amendment, the Decree laying down the conditions for the establishment and operation of the Madagascar provincial councils, defining their powers, and broadening the powers of the Madagascar provincial assemblies, filed with the Secretariat of the National Assembly on 4 December 1956,

Decrees as follows:

Title I

The Provincial Council

Chapter I

Establishment and operation

Article 1. Each Provincial Council shall consist of six members, elected in the manner prescribed by the following articles, and shall be presided over by the Provincial Administrator or his lawful alternate.

The names of the members of the Provincial Council shall be published in the Journal Officiel of Madagascar and dependencies.

Article 2. Members of the Provincial Council shall be liable under the penal code for any crimes or offences committed by them in the exercise of their functions.

Article 3. No one may be a member of more than one Provincial Council.

Article 4. The members of the Provincial Council shall be elected by the Provincial Assembly from within or outside its membership, by triple ballot, without splitting of votes or preferential voting.

The Provincial Council shall elect a Vice-Chairman.

The electors may vote for a single list only, without deletion or addition of names or modification of the order in which the candidates are listed. Any ballot paper not satisfying these conditions shall be void.

Each member of the Assembly may cast one vote for one of the lists submitted.

If no list obtains a majority of the votes cast by the members of the Assembly on the first two ballots, the third ballot shall be decided by a relative majority.

Article 5. Two clear days shall elapse between the announcement of the results of the first ballot and the opening of the second ballot.

If a third ballot is held, it shall take place not earlier than one clear day after the announcement of the results of the second ballot and not later than the seventh day following the first ballot.

Article 6. The lists of candidates shall be delivered to the President of the Assembly not later than the day before the day on which the first ballot is to be held.

New lists may be drawn up after each ballot. They shall be delivered to the President of the Assembly not later than three hours before the opening of the meeting scheduled to hold the second or third ballot.

The lists shall be read out before the commencement of each ballot.

Each list shall include as many names as there are members to be elected.

Candidates who are not members of the Provincial Assembly shall be subject to the conditions with regard to eligibility, ineligibility, and the offices incompatible with membership laid down in articles 7 to 10 of the afore-mentioned Act of 6 February 1952.

The submission of more than one list bearing the same title or connected with the same party or organization shall be prohibited.

Article 7. The validity of the election may be challenged by the candidates or by the members of the Provincial Assembly. The other provisions of articles 21 to 24, inclusive, of the above-mentioned Decrees of 25 October 1946 shall apply to disputes concerning elections to the Provincial Councils.

Article 8. The term of office of members of the Provincial Councils shall be the same as that of members of the Provincial Assembly. It may not extend beyond the latter term if the Provincial Assembly should be renewed or dissolved.

Nevertheless, the term of office of members of the Provincial Council shall not expire until the date of installation of the new Provincial Council, which shall take place not later than fourteen days after the opening of the first session held by the Assembly after the expiry of the term of office aforesaid.

Article 9. Members of the Provincial Council shall be required to maintain secrecy regarding the proceedings of the Council and the matters referred to it.

Article 10. A member of the Provincial Council may not at the same time exercise the functions of:

Member of the Government of the Republic;

President of the Representative Assembly and President of the Provincial Assembly;

Chairman or member of a Standing Committee;

Member of a Government Council.

A member of the Provincial Council who finds that he holds one of the incompatible offices specified above shall opt within fifteen days. If at

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the end of that period he has not made known his choice, he shall be deemed to have relinquished his membership in the Provincial Council.

Article 11. The Provincial Council may resign if it considers that it no longer enjoys the confidence of the Provincial Assembly.

On matters within their competence, members of the Provincial Council shall be required to answer any questions or requests for explanation which may be made by members of the Provincial Assembly.

Article 12. Members of the Provincial Council may submit their resignation to the chairman of the Provincial Council.

A Council member may be removed from office by the Chief Provincial Administrator on the proposal of the vice-chairman of the Provincial Council.

Article 13. If a seat on the Provincial Council becomes vacant through death, resignation or any cause whatsoever, it shall be filled in the manner prescribed by articles 4, 5 and 6.

Article 14. If there are several seats to be filled, an election shall be held in the manner prescribed in the foregoing article.

If a single seat is to be filled, an election by uninominal ballot shall be held, the first two ballots being decided by an absolute majority, and the third ballot by a relative majority.

Article 15. In addition to reimbursement of their transportation and travel expenses, members of the Provincial Councils shall receive an annual compensation, payable monthly, the amount of which shall be fixed uniformly by the Provincial Assembly with reference to the salary of a category of officials serving in the Province.

Officials who are members of the Provincial Council shall be placed on secondment for the duration of their term of office.

They shall receive payment of an amount representing the difference between their salary and the compensation payable to a Provincial Councillor, or their salary only if it exceeds that compensation.

Article 16. The expenditures necessary for the operation of the Provincial Council, in particular those relating to the compensation payable to Council members, the installation and equipment of the Council and the travel of its members, shall be borne by the provincial budget.

Article 17. The Provincial Council shall sit in the chief town of the Province, unless otherwise decided by an order of the Chief Provincial Administrator. The agenda shall be prepared by the Chairman. The Chief Provincial Administrator shall provide a secretariat for the Council and shall be responsible for the safekeeping of the Council's records.

The assistant to the Chief Provincial Administrator may attend the meetings of the Council.

Article 18. The Provincial Council may not be dissolved except by a decree made in the Council of Ministers after consultation with the Provincial Assembly.

Chapter II

Functions

Article 19. The Provincial Council, under the high authority of the Chief Provincial Administrator and presided over by him or by the Vice-Chairman, shall be responsible for the administration of the Province.

Section 1. Collective functions

Article 20. The Chief Provincial Administrator in Provincial Council shall direct the provincial public services.

The Council shall act in matters within its competence as defined in this section. All its members shall be jointly responsible for such decisions as it takes, under their collective functions. All proposals relating to matters concerning the Province, to be submitted to the Provincial Assembly or its Standing Committee for consideration, shall be drawn in Provincial Council.

Article 21. Regulatory decisions falling within the powers granted to the Provincial Administrator for the administration of provincial affairs, including orders on which the Provincial Assembly must first be consulted, shall be taken in Provincial Council.

The Council shall delegate whichever of its members is competent to furnish the Assembly any explanations which may be required concerning the application of the Assembly's decisions.

Article 22. Orders or decisions relating to the following subjects in particular shall be adopted in Provincial Council:

- (a) financial regulations of internal trade and prices and measures for applying the regulations concerning assistance to production, under the general regulations established by orders made by the Chief Administrator of the Territory in Government Council;
- (b) organization of fairs and markets;
- (c) establishment of institutions representing economic interests;
- (d) operation of traditional units, after consultation with the Provincial Assembly;
- (e) establishment, elimination and modification of circonscriptions administratives in the Province and modification of their boundaries, after consultation with the Provincial Assembly;

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(f) establishment, constitution, organization and operation of rural communities and conseils de circonscription, after consultation with the Provincial Assembly;

(g) establishment of communes, other than communes de plein exercice;

(h) establishment of registry offices;

(i) measures for applying in the Province the general programme for the expansion of fundamental education;

(j) establishment of the cadastre.

Article 23. The directors of provincial public services placed under the direct control of the members of the Provincial Council shall be appointed by the Provincial Administrator in Provincial Council, on the recommendation of the members of the Provincial Council having jurisdiction over the service in question.

Article 24. The provincial council shall decide on all questions concerning the administration of domanial, financial and economic interests and provincial public works.

However, in respect of the subjects listed in Articles 42 and 44, it shall decide only on measures to give effect to the decisions of the Provincial Assembly

Article 25. If the Provincial Administrator considers that a decision of the Provincial Council exceeds the Council's powers or is likely to prejudice national defence, public order, the maintenance of security or public freedoms, he shall refer it to the High Commissioner. The latter may submit the decision to the Minister for Overseas France who may annul it, by a decree made after consultation with the Conseil d'Etat. Such decree shall be made within the three months following the date of the decision. During this period the decision shall be suspended.

Article 26. Subject to the powers of the Administrative Disputes Council, appeals against decisions of the Provincial Council may be lodged with the Conseil d'Etat ruling as an administrative disputes court.

Article 27. Any decision taken by the Provincial Council in the absence from the Chair of the Provincial Administrator, his lawful alternate or the Vice-Chairman, shall be null and void.

In the event of such a decision, the Provincial Administrator shall, by means of an order accompanied by a statement of his reasons, declare the meeting illegal, pronounce the decisions taken null and void and take such steps as are required to ensure the immediate adjournment of the Council.

He shall report on the matter to the Minister for Overseas France through the High Commissioner.

Article 28. The Provincial Administrator shall lay annually before the Provincial Council for its opinion the report on the situation in the Province and the functioning of the provincial public services. This report shall be presented to the Assembly by the Vice-Chairman.

Section 2. Individual functions

Article 29. Each member of the Provincial Council shall be made responsible, by delegation from the Provincial Administrator, after consultation with the Vice-Chairman, for the administration of one or more provincial public services.

Such delegation may be withdrawn or modified.

The public services referred to in the first paragraph of this article shall be grouped by the Provincial Administrator in administrative branches and divisions.

Article 30. The functions of the members of the Provincial Council shall be defined by an order made by the Provincial Administrator, countersigned by the Vice-Chairman and published in the Journal officiel of Madagascar and Dependencies.

Article 31. Each member of the Provincial Council shall be responsible to the Provincial Administrator in Provincial Council for the functioning of the public services and the conduct of the administrative affairs branch within his jurisdiction and shall report regularly to the Provincial Administrator in Provincial Council thereon.

Article 32. The Provincial Administrator may make a member of the Provincial Council responsible for an administrative branch having one or more divisions the administration of which is entrusted to other members of the Provincial Council, and the member responsible for the branch as a whole shall co-ordinate the activities of these divisions.

Article 33. The member of the Provincial Council responsible for the administration of a branch or division of the provincial administration shall take all decisions concerning the conduct of affairs within the jurisdiction of the provincial public services with which his branch or division is concerned, except for matters within the jurisdiction of the Provincial Administrator, the Provincial Council or the Provincial Assembly.

He may set up a secretariat within the limits of the budgetary appropriations voted by the Assembly.

He shall direct the services of his branch or division with the assistance of the heads of departments (chefs de service) to whom he may delegate all necessary powers.

He shall be responsible for ensuring that his services carry out the decisions of the Provincial Council and the Provincial Assembly.

Article 34. He shall submit to the Provincial Administrator in Provincial Council, after preparation by his services, such matters as require the making of an order or the taking of a decision by the Provincial Administrator.

He shall also present to the Provincial Council such proposals and reports on matters falling within the jurisdiction of his branch or division as are required to be submitted to the Provincial Assembly. He shall be responsible for following the discussion of such matters and speaking in their support in the Provincial Assembly, in accordance with the instructions of the Council. He may be assisted in this by officials of his services.

Article 35. In accordance with the staff regulations of the officials and employees concerned and on the recommendation of the member of the Provincial Council to whom they are responsible, the Provincial Administrator shall:

- appoint and promote personnel of the provincial and territorial establishments belonging to the public services of the Province, on the basis of an equal distribution of the personnel of the said establishments between the services of the various provinces and those of the territorial unit, as determined by the Chief Administrator of the Territory.
- assign officials and employees to posts in the Provincial services and impose or recommend, as appropriate, any necessary disciplinary measures against such officials and employees.

Reports on public service employees of the Province shall be made successively by the officials responsible for making such reports under the general and special regulations applicable to the civil service establishments and by the member of the Provincial Council, responsible for the service to which they are assigned.

Article 36. In addition to the general obligation specified in article 9 above, each member of the Provincial Council shall be bound, in respect of his individual actions on behalf of the branch or division for which he is responsible, by the same rules of professional secrecy as apply to public service officials.

Section 3. Miscellaneous Provisions

Article 37. The provisions of this Title shall enter into force in respect of each province of Madagascar not later than 1 July 1957.

Article 38. The procedures for the application of this Title shall be determined, as necessary, by orders made by the Chief Administrator of the Territory.

Title II

Functions of the Provincial Assemblies

Article 39. Titles III and IV of Decree No. 46-2373 of 25 October 1946 establishing a Representative Assembly and provincial assemblies in Madagascar, in so far as they refer to the provincial assemblies of Madagascar, are hereby replaced by the following provisions.

Article 40. The Provincial Assembly shall vote the budget of the Province. It shall take decisions in the matters placed within its jurisdiction by the laws and regulations, in particular by articles 41 to 44 and 49 of this Decree. Its decisions may provide penalties, in the manner prescribed by article 2 of the Act of 23 June 1956. It shall give opinions, in particular in the cases specified in articles 52 to 55 hereinafter.

Article 41. The Provincial Assembly shall decide on the opening date and the length of its regular sessions. Such sessions shall, however, be governed by the rules laid down below:

The Assembly shall hold two regular sessions each year, upon convocation by the Provincial Administrator. The first session shall begin during the second quarter of the year and the second session during the fourth quarter. The budget shall be considered at the second regular session. If a regular or special session adjourns and the Assembly has not fixed the date for the opening of its next regular session, the date shall be fixed in due time by the Standing Committee. The length of each regular session may not exceed two months.

The Assembly shall also be convened in special session:

- (a) if at least two-thirds of its members submit a request in writing to that effect to the President; or
- (b) if the Provincial Administrator makes an order to that effect.

The duration of a special session may not exceed fifteen days.

The provisions of this article shall supersede those of article 27 of Decree No. 46-2373 of 25 October 1946, in so far as the provincial assemblies of Madagascar are concerned.

Article 42. In matters relating to domanial interests and provincial public works, the Assembly shall take decisions on all proposals made by the Provincial Administrator in Provincial Council, dealing with the following subjects:

- (a) Settlements relating to provincial duties and charges in suits involving a sum exceeding 10 million francs CFA;
- (b) Acceptance or refusal of gifts or bequests burdened with encumbrances or servitudes, to the Province. The Provincial Administrator may, by a decision taken in Provincial Council, accept all such gifts or bequests on an interim basis. The subsequent decision of the Assembly shall have effect as from the date of such provisional acceptance. In urgent cases, the Provincial Administrator may by himself take all necessary interim measures and accept gifts and bequests;
- (c) Transfer of immovable property of the Province;
- (d) Selection of the method of operating public works in the Province;
- (e) Granting of agricultural concessions for areas exceeding 500 hectares, forestry concessions for areas exceeding 1,000 hectares and temporary logging permits for periods exceeding five years;
- (f) Classification and declassification of the public land of the Province, in particular communication routes, including canals, lakes and ponds of a provincial character, and the land, railway, river, sea and air installations relating thereto; classification and declassification of irrigation canals.

Article 43. The amount and conditions of payment of the compensation allotted to members of the Provincial Assemblies and also the rules applying to reimbursement of their travelling expenses shall be decided by the Provincial Assembly of which they are members.

Such compensation, whatever its form, shall be fixed by reference to the salary of a category of officials serving in the Province.

No member may receive this compensation concurrently with the salary paid to members of the Government Council or of a Provincial Council.

Officials on active service or secondment who are members of the Assembly shall receive the difference between their salary, plus any travelling expenses, and the compensation payable to members of the Assembly, or their salary only, plus any travelling expenses, if the total thereof is greater than the said compensation.

The Assembly may also vote its President an annual lump-sum payment as a representation allowance.

The provisions of this article shall supersede those of article 19 of Decree No. 46-2373 of 25 October 1946, in so far as the provincial assemblies are concerned.

Article 44. Subject to international conventions, to the provisions of article 32 of the Act of 31 December 1953, to the functions of the Representative Assembly and to prior consultation with the assemblées consulaires on matters within their jurisdiction, the Assembly shall take decisions on the financial implications of any proposal made by the Provincial Administrator in Provincial Council or by any member of the Council relating to the following matters:

(a) Determination of the taxes, charges, apportioned charges and other taxes of all kinds to be levied in aid of the provincial budget; determination of the method by which they are to be assessed, rules of collection and schedules; maximum tax supplements which may be collected in aid of communities or public institutions of the Province.

No taxes or duties of any kind may be imposed for the benefit of any treasury whatsoever on any products in movement from one province to another.

(b) Contracts to be concluded and specifications to be laid down by the Province. No concession applied for by or on behalf of an alien may be granted unless there is agreement between the Provincial Administrator and the Provincial Assembly. In case of disagreement, the High Commissioner shall make an order ruling on the application;

(c) Schedules of fees payable by persons holding licences to operate public services in the Province, and of charges for supplies from and performance by the provincial services;

(d) Maximum rates of duties and taxes of all kinds to be collected in aid of secondary units and public agencies functioning within the Province, with the exception of communes governed by the Act of 18 November 1955;

(e) Fees payable for occupation of public lands of the Province and other related charges, except those relating to public lands of territorial units and other public units or institutions of Madagascar;

(f) Regulations governing charges for work and provision of equipment and materials;

(g) Fiscal tariff agreements, in the cases provided by law;

(h) Loans, sureties, guarantees, offers of assistance and shares of the Province in the capital of public and semi-public corporations and, in exceptional cases, of private companies participating in the economic development of the Province;

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- (i) Establishment and abolition of provincial public services and provincial public institutions;
- (j) Determination of the number of scholarships and other school grants payable out of provincial funds in accordance with the regulations in force;
- (k) Conditions for the grant of settlers installation loans out of provincial funds;
- (l) Grants and loans from the provincial budget to the budgets of other public organizations or public institutions of the Province;
- (m) Contributions, refunds, and fees payable to public institutions of the Province;
- (n) Borrowings or applications by the Province for loans or advances from the State, the Caisse centrale de la France d'outre-mer or other public credit institutions, and the resources of the Province assigned as security for such loans or advances.

The Assembly may fix a time-limit within which the assemblées consulaires shall give their opinion. If they fail to do so, the Assembly shall proceed without their opinion. This time-limit may not be less than fifteen days from the date on which notice of the request for an opinion is given.

Article 45. The budget estimates of the Province and the budget annexes, drawn up in local currency, shall be prepared by the Provincial Administrator, drawn up in the Provincial Council and submitted to the Assembly at its second regular session each year by the Provincial Administrator. They shall be considered and voted when truly balanced, by the Assembly at that session. The revenue and expenditure heads of the Provincial budget shall be divided into chapters and articles.

The revenue of the Provincial budget shall consist of the following:

- (a) Revenue from taxes, duties, charges, apportioned charges, contributions and fees levied in aid of the provincial budget, including export duties in respect of the products exported from each province, subject to the provisions of article 65, paragraph b, of Decree No. 57-463 of 4 April 1957, laying down the conditions for the establishment and operation of the Madagascar Government Council, defining its powers and broadening the powers of the Madagascar Representative Assembly;

- (b) Revenue obtained from the furnishing of supplies and performance by the provincial public services;
- (c) Income from provincial public land and fees payable by concessionaries, farmers and other operators of provincial public services;
- (d) Grants-in-aid, subsidies, advances, refunds and contributions;
- (e) Sums realized from borrowings;
- (f) Gifts, bequests, unforeseen revenue and miscellaneous income;
- (g) Withdrawals from the reserve fund and any other revenue which may accrue to the provincial treasury.

The Provincial budget shall cover the following items of expenditure:

- (1) The debts of the Province;
- (2) Cost of the provincial public services and of the institutions, agencies and **operations** under their jurisdiction. A schedule of posts indicating the number of personnel shall be annexed to the budget documents;
- (3) The cost of provincial public works, maintenance and equipment;
- (4) Contributions and assessments payable by the Province under legislative or contractual provisions.

Article 46. The right to amend the estimates of revenue and expenditure shall belong jointly to the Provincial Council and to the Assembly. However the estimation of future revenue yields shall be the responsibility of the Provincial Administrator acting in Provincial Council. No proposal to increase expenditures or reduce revenue shall be admissible unless accompanied by a proposal for a corresponding increase in revenue or reduction in expenditure.

A separate decision shall be taken on each chapter of the budget. The budget as a whole shall then be voted upon by the Assembly, which shall decide where appropriate on measures to be taken to ensure a true balance between revenue and expenditures, taking into account the funds required to cover the expenditures specified in article 61 hereinafter.

No changes may be made in the budget during the financial year except by the Assembly, in accordance with the procedure laid down for preparing the budget estimates and in such a manner as to ensure a continued balance between revenue and expenditure. Any transfer from one chapter to another shall be authorized by the Assembly or, in urgent cases, by its Standing Committee, which shall report thereon to the Assembly at its next session. No new post may be established unless it is provided for in the provincial budget.

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Supplementary appropriations and withdrawals from the reserve fund shall be proposed and decided upon in the same manner.

In emergencies and when the Assembly is not in session, supplementary appropriations and withdrawals from the reserve fund may be made by order of the Provincial Administrator in Provincial Council, with the concurrence of the Standing Committee. Such orders shall be submitted for ratification to the Assembly at its first session thereafter. The sole purpose of changes so decided upon shall be to correct errors of estimation or to meet shortages of funds which become apparent in the light of events subsequent to the preparation of the budget estimates, or to cover expenditures necessitated by unforeseeable circumstances.

No direct or indirect benefit may be conferred by the Assembly on an official or employee, or on a category of officials or employees, otherwise than on the proposal of the Provincial Administrator made in Provincial Council.

Article 47. If the Assembly does not meet before the first day of the calendar year or adjourns without having voted the budget or without having voted a truly balanced budget, the Provincial Administrator shall, ex officio, make an order in Provincial Council establishing a provisional budget, taking as the basis the budget for the previous year and the schedule of taxes adopted by the Assembly. Where necessary, however, this order may prescribe any reductions in expenditures or increases in fiscal or other revenue. The Provincial Administrator, acting in Provincial Council, shall within fifteen days convene the Assembly in a special eight-day session. If the Assembly fails to vote a truly balanced budget by the end of the said special session, the budget shall be drawn up in final form by the Provincial Administrator in Provincial Council, in the manner prescribed hereinabove. Any new revenue created in this way shall, if derived from direct taxes, or from duties or charges treated as such, be payable as of 1 January.

If the Assembly fails to approve all the obligatory expenditures, the Provincial Administrator shall, ex officio, enter the expenditures all or part of which have been omitted and shall restore true balance to the budget either by deductions from uncommitted funds or the funds for miscellaneous and unforeseen expenditures or by a reduction in optional expenditures.

Article 48. Unless otherwise provided by law, no special service operating on extra-budgetary account may be established except by an order made by the High Commissioner, after consultation with the Comptroller. In the event of disagreement, the High Commissioner shall refer the matter for decision to the Minister for Overseas France and the special service may not be authorized without the agreement of the Minister of Economic and Financial Affairs. The establishing order shall define the conditions on which the account is to operate and provide for the supervision of its revenue and expenditures by the Provincial Assembly.

The jurisdiction of the Provincial Council and the Provincial Assembly with respect to the drawing up of the schedules of charges and the budgets of bodies established by law to operate as self-governing public authorities (régies) or as public offices shall be defined by the texts laying down the statutes of such bodies.

Article 49. The Provincial Assembly shall take decisions enacting provincial regulations in the following matters:

1. The general regulations applicable to employees of the provincial establishments, pursuant to the decrees concerning the public service provided for in article 3 of the Act of 23 June 1956, but without prejudice to the interchangeability of officials as between one province and another;
2. Customary law relating to civil status and regulation of civil status within the framework of the relevant legislation;
3. Verification, description and codification of customs; adaptation of customs to social evolution; immovable property and immovable property rights governed by custom, including definition of the customary rights to be treated as real rights capable of establishing credit in connexion with real property, agriculture or handicrafts, as well as procedures for the verification of such rights and the establishment and execution of corresponding real property guarantees; in general, all matters coming under local law.
4. The public lands of the Province. Nevertheless, rights in respect of immovable property and easements enjoyed by the State or the Territory on the date of this Decree may not be prejudiced in any way, it being understood that

the State shall retain ownership of military hospitals, operation of which has already been entrusted to the Provincial Assembly.

Should the State or the Territory subsequently allocate certain premises for the operation of public services, such premises shall enjoy the easements for the public advantage inherent in the operation of the said services;

5. Internal trade, handicrafts and all occupations relating to those activities, such as those of salesmen, pedlars and the like, excluding the conditions under which prior administrative authorization must be obtained before engaging in such occupations;

6. Agriculture, stockraising, forestry, within the framework of the general regulations based on the decisions of the Representative Assembly;

7. Regulation of inland water resources;

8. The movement, sale and slaughter of cattle;

9. River and coastal fishing, without prejudice to the provisions of the Act of 1 March 1888;

10. Hunting;

11. Traditional local beverages; manufacture and sale of beverages; conditions of hygiene and safety in retail liquor establishments;

12. Mutual societies, subject to any general laws which may be enacted in this field and to the provisions of Decree No. 56-1135 of 13 November 1956 concerning rural development mutual societies in the Overseas Territories;

13. Producers' and consumers' associations, co-operatives;

14. Societies working in health, education and training;

15. Environmental conditions, low-cost housing, rents;

16. Primary and secondary education, vocational and technical education, not including examination programmes and procedures, certificates and diplomas, and teachers' qualifications;

17. Regulations concerning scholarships granted out of the Province's budgetary funds;

18. Public libraries, cultural centres;

19. Sports and physical education;

20. Welfare, assistance, relief and allowances, lotteries;

21. Procedures and conditions for acceptance of tenders and award of contracts, subject to the general rules applicable in these matters. These rules shall be laid down by a decree made in the manner prescribed by article 1 of the Act of 23 June 1956;

22. Procedures for the application within the Province of regulations decided upon by the Representative Assembly in so far as the latter has given the Provincial Assemblies the responsibility of establishing such procedures.

Article 50. Decisions on the matters referred to in the preceding article may be taken notwithstanding any provisions of law or regulations to the contrary enacted before the date of entry into force of this Decree, subject however to the provisions of international conventions, of the laws and regulations relating to the matters dealt with in the Commercial Code and the Maritime Code, of the Act of 15 December 1952, the Act of 30 April 1946 and the decrees made in application thereof, Decrees Nos. 55-625 and 55-634 of 20 May 1955 and of the laws and regulations relating to the prevention of fraud and the inspection of weights and measures.

Article 51. The acts and decrees relating to the matters listed in article 49 hereinabove shall, however, remain in force, with the effect of provincial regulations in these matters.

These provincial regulations may be cancelled or amended by decision of the Assembly.

Article 52. The Provincial Assembly shall be consulted in all cases regarding the provincial section of programmes for implementing and executing the capital equipment and development plan provided for by the Act of 30 April 1946 and the decrees made in application thereof.

Article 53. The Provincial Assembly shall be consulted in all cases by the Provincial Administrator with regard to draft regulatory orders made in Provincial Council and relating to:

- (a) The general organization of the provincial public services;
- (b) The operation of traditional units;
- (c) The special regulations applicable to employees of the provincial establishments, method and scales of remuneration, leave provisions, social benefits and the retirement scheme applicable to such employees;

- (d) Officials of the French civil service establishments and of the territorial establishments who are seconded to the provincial services;
- (e) The establishment of communes other than communes de plein exercice;
- (f) The establishment of institutions representing economic interests;
- (g) Measures to encourage production;
- (h) The fixing, for each category of offences under the regulations issued on the basis of the decisions of the Provincial Assembly, of the scale of penalties applicable in accordance with the conditions laid down in article 2 of Act No. 56-619 of 23 June 1956.

Article 54. The Assembly shall be consulted on all matters in respect of which such consultation is required by law or regulation and also on all matters which the Representative Assembly deems useful to submit to it.

Article 55. The following shall in all cases be referred to the Provincial Assembly by the Provincial Administrator:

- (a) Administrative accounts relating to the execution of the provincial budget and the budget annexes, the public authorities (régies) of the Province and the provincial public institutions;
- (b) The annual position of the Province's funds.

Any observations which the Assembly may decide to make on the accounts of the Province within the time-limit specified in article 58 shall be communicated by the President of the Assembly to the Provincial Administrator who shall send a copy thereof to the Audit Office through the High Commissioner and the Minister for Overseas France.

Article 56. The Assembly may, through its President, request the Provincial Administrator and the High Commissioner to furnish any information and observations on matters within its competence. It may ask to hear any member of the Provincial Council in connexion with a matter with which it is dealing.

It may ask the Provincial Administrator or the competent member of the Provincial Council for any information concerning action taken on its decisions and concerning the execution of the budget, and may present its observations on the subject to the Provincial Council.

The Assembly may assign one or more of its members to gather in the Province the information it considers necessary in order to deal with a matter within its competence.

Article 57. All matters shall be referred to the Provincial Assembly by the President of the Provincial Council or by one of the members of the Assembly, except matters in respect of which the right of action is vested exclusively in the Provincial Administrator.

In the interval between sessions, bills submitted by the Provincial Council for decision by the Assembly, and bills proposed by members of the Assembly itself, shall be filed with the Secretariat of the Standing Committee.

Members' bills shall be communicated, within ten days from the date of filing, to the Provincial Council, which may give its opinion on them. The Assembly may not, if the Provincial Council so requests, refuse to defer consideration of the bill to its next session, but not later.

The Provincial Administrator shall be kept informed of the agendas of the Assembly and its committees. He may attend and address the meetings of the Assembly's committees or be represented at them.

Bills and proposals submitted to the Assembly for decision shall be considered by the Assembly at session during which they were filed, or, at the latest, at the following session, unless the Standing Committee is delegated to act on them in the interval between sessions.

In matters which must be referred to the Assembly for its opinion, the Provincial Administrator in Provincial Council may, if the Assembly fails to give its opinion within the time-limit prescribed above, proceed without it, after notifying the President of the Assembly to that effect.

Article 58. The acts of the Assembly and its Standing Committee shall be delivered in triplicate, together with an extract from the record of meetings relating to the discussion and voting thereon, to the Provincial Administrator within a period of thirty clear days from the closing of the session. Upon receipt of the documents, the Provincial Administrator shall transmit them to the Minister for Overseas France and to the High Commissioner.

Within thirty clear days from the date of their receipt, the Provincial Administrator shall put the decisions of the Assembly or its Standing Committee

into effect or shall refer them either to the Assembly for second reading, or to the High Commissioner. The latter may request the Minister for Overseas France to annul the decision in question. Such annulment shall be effected in the manner prescribed by articles 59 and 60 hereinafter.

If the High Commissioner requests the Minister for Overseas France to annul a decision of the Provincial Assembly or its Standing Committee, he shall, through the Provincial Administrator, so advise the President of the Assembly or, in the interval between the sessions of the Assembly, the Chairman of the Standing Committee.

Article 59. The Minister for Overseas France may take action to annul decisions of the Assembly and its Standing Committee, on grounds of excess of power or of violation of the law, by means of a decree made in the form of an administrative regulation.

If a decision of the Assembly or its Standing Committee which has been submitted to the Minister for annulment is not annulled within a period of ninety clear days from the date of its communication to the Provincial Administrator, the latter shall put it into effect not later than eight clear days after the expiry of the above-mentioned period.

Article 60. The Provincial Administrator may, within the period of thirty clear days prescribed in article 58, invite the Assembly to rule at second reading on decisions taken by it or its Standing Committee, if he considers them to be inconsistent with the general interests or the orderly administration of the Province.

In that case, the periods prescribed by articles 58 and 59 shall run from the date on which the Provincial Administrator receives the new decision of the Assembly.

Article 61. The provincial budgetary appropriations shall cover expenditure relating to:

- (a) settlement of due debts and covering of previous budgetary deficits;
- (b) contributions, assessments and expenditures imposed under legislative provisions. A decree made in the manner prescribed by article 1 of the Act of 23 June 1956 shall specify the manner in which this paragraph shall be applied.

Article 62. Pending publication of the orders of the Provincial Administrator in Provincial Council putting the decisions of the Assembly or its Standing Committee into effect, all taxes, duties, charges and fees shall be levied on the former tax bases and in accordance with the previous schedules.

Decisions taken by the Assembly or its Standing Committee, at a session which began before 1 January, in the matter of direct taxes or of duties or charges treated as such, shall have effect as from that date, even if they could not be made enforceable by then.

Similarly, if it has not been possible to put the budget into effect before 1 January, the Provincial Council shall be authorized to make provisional monthly appropriations on the basis of the budgetary appropriations for the previous year. Further appropriation may be made each month until the budget is put into effect.

Article 63. A code of the provincial regulations, resulting from the decisions of the Assembly and a code of the administrative regulations made by the Provincial Administrator shall be established under orders made by the Provincial Administrator in Provincial Council and published in the Journal Officiel of Madagascar. The said codes shall be brought up to date annually.

Title III

Temporary and Miscellaneous Provisions

Article 64. This Decree shall enter into force in the manner prescribed by article 1 of the Act of 23 June 1956. Nevertheless, subject to the provisions of the second paragraph of this article, the provisions of paragraphs 24 and 25 of article 37 and of article 46 of Decree No. 46-2373 of 25 October 1946 providing for the establishment of a Representative Assembly and Provincial Assemblies in Madagascar, shall remain provisionally in force until 31 December 1957 at the latest.

Orders shall be made by the High Commissioner before 31 December 1957, with a view to adopting the above-mentioned provisions of the Decree of 25 October 1946 and to transferring to the provincial institutions the functions devolving upon them under this Decree, in particular in fiscal and budgetary matters, and in the establishment and organization of the provincial public services and their establishments of employees and the determination of the regulations applicable to them.

Article 65. For purposes of application to Madagascar of Act No. 55-1489 of 18 November 1955 on municipal reorganization, the powers conferred upon the Chief Administrator of the Territory acting alone or after consultation with the Territorial Assembly, with the exception of the powers listed in articles 7, 27 (paragraph 12), 38, 39, 41, 43 and 44, shall be vested in the Provincial Administrators acting alone or after consultation with the Provincial Assemblies. In so far as article 34 is concerned, decisions concerning assignment of property to communes shall be taken at the provincial or territorial level, depending on the juridical entity having jurisdiction over the property.

Article 66. All provisions of laws and regulations conflicting with this Decree, in particular articles 22 and 23 of Decree No. 46-2509 of 9 November 1946, are hereby rescinded.

Article 67. The High Commissioner shall determine, as necessary, the procedures for the application of this Decree.

Article 68. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic.

DECREE NO. 57-816 OF 22 JULY 1957

laying down the conditions for the establishment and operation of
autonomous circonscriptions in Madagascar

The President of the Council of Ministers,

Acting on the reports of the Minister for Overseas France, the Minister of State and the Minister of Finance, Economic Affairs and Planning,

Having regard to Act No. 56-619 of 23 June 1956, as amended by Act No. 57-702 of 19 June 1957, authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry of Overseas France is responsible, in particular, article 1, paragraph 4, thereof;

Having regard to the Decree of 30 December 1912, as amended, concerning the financial administration of the Overseas Territories;

Having regard to the Decree of 9 November 1946 providing for the administrative reorganization of Madagascar, as amended by Act No. 56-1117 of 10 November 1956, and, in particular, article 1 of the aforesaid Decree, and all the decrees of 4 April 1957 relating to the:

1. The reorganization of Madagascar;
2. The Government Council and the Representative Assembly of Madagascar;
3. The Provincial Councils and the Provincial Assemblies of Madagascar;
4. The rural communities in Madagascar;

Having regard to Act No. 55-1489 of 18 November 1955 relating to municipal reorganization in French West Africa, French Equatorial Africa, Togoland, the Cameroons and Madagascar;

Having heard the Conseil d'Etat,

Having heard the Council of Ministers;

Having consulted the Assembly of the French Union;

Having regard to the decision by Parliament approving, subject to amendment, the Decree laying down the conditions for the establishment and operation of

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autonomous circonscriptions in Madagascar, filed with the Secretariat of the National Assembly on 28 February 1957,

Decrees as follows:

Article 1. The autonomous circonscriptions established in Madagascar pursuant to article 1 of the above-mentioned Decree of 9 November 1946 shall possess legal status and financial autonomy. They shall be established and their limitations shall be defined by orders made by the High Commissioner in Government Council after consultation of the Provincial Assembly concerned and the Representative Assembly.

The autonomous circonscription shall constitute an economic entity comprising several districts.

Article 2. The institutions of the circonscription shall consist of the following:

- a head of the circonscription appointed by the Provincial Administrator;
- a conseil de circonscription.

Article 3. The conseil de circonscription shall be composed of the provincial councillors of the autonomous circonscription, the presidents of the rural communities and one delegate from each commune de plein exercice or commune de moyen exercice of the circonscription who shall be elected by the municipal council.

Article 4. The autonomous circonscriptions shall have a budget which shall be drawn up by the head of the circonscription and approved by the conseil de circonscription. The head of the circonscription shall be the certifying officer of the budget. He shall be responsible for drawing up the administrative accounts.

Article 5. The financial system of the autonomous circonscriptions shall be defined by orders made by the High Commissioner after consultation with the General Treasurer (trésorier général), by reference to the above-mentioned Act of 18 November 1955.

Article 6. The conseil de circonscription shall take decisions on all measures affecting the domanial interests of the autonomous circonscription, in particular, on the programme of general projects to be carried out with funds from the budget of the circonscription.

The High Commissioner shall determine by an order the manner in which administrative and financial supervision (tutelle) over autonomous circonscriptions shall be exercised. Such supervision shall be defined by reference to the provisions of the above-mentioned Act of 18 November 1955.

The head of the circonscription shall be responsible for putting the decisions of the Conseil de circonscription into effect.

Article 7. The Conseil de circonscription shall be consulted concerning all public works to be carried out in the circonscription, irrespective of the budget to which they are charged.

Article 8. The general rules and special procedures for the application of this Decree shall be laid down by the High Commissioner in orders made in Government Council after consultation with the Representative Assembly.

These orders shall determine, in particular:

- (a) The conditions in which the Conseils de circonscription are to operate;
- (b) The specific functions of these councils as defined in this Decree, particularly with respect to economic and financial matters;
- (c) The items of the budget and, in particular, the nature of the regular and extraordinary funds available to the autonomous circonscriptions, as well as the conditions under which they may contract loans;
- (d) The procedure for the execution and audit of the budgets.

Article 9. Treasury officials or tax collectors shall exercise, de jure, the functions of accountant in the autonomous circonscriptions. However, in circonscriptions in which no treasury official or tax collector resides, the functions of accountant may be temporarily vested in special employees.

The special employees vested with the functions of accountant of an autonomous circonscription shall be appointed and installed in office and shall perform their functions in the same manner as the special employees vested with the functions of municipal tax collector in communes governed by the above-mentioned Act of 18 November 1955.

The accountants of autonomous circonscriptions shall submit their accounts to the chief auditor (juge des comptes) in the manner prescribed for the accountants of communes.

The Treasury accountants shall be the depositaries of the funds of the autonomous circonscriptions; such funds shall be invested in accordance with the regulations in force.

Article 10. Such temporary measures as are necessary to give effect to this Decree in autonomous circonscriptions established prior to its entry into force shall be determined by an order of the High Commissioner.

Article 11. The Minister for Overseas France and the Minister of Finance, Economic Affairs and Planning shall be responsible, each within the limits of his competence for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic.

DECREE NO. 57-465 OF 4 APRIL 1957

laying down the conditions for the establishment and
operation of rural communities in Madagascar

The President of the Council of Ministers,

Acting on the reports of the Minister for Overseas France, the Minister for Economic and Financial Affairs and the Minister delegated to the Office of the President of the Council;

Having regard to Act No. 56-619 of 23 June 1956 authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, in particular article 1, paragraph 4, thereof;

Having regard to the amended Decree of 30 December 1912, as amended, concerning the financial administration of the Overseas Territories;

Having regard to the Act of 5 April 1884 concerning municipal organization, in particular, articles 169 to 179 thereof;

Having regard to the Decree of 9 November 1944 providing for the reorganization of rural communities in Madagascar,

Having heard the Conseil d'Etat,

Having heard the Council of Ministers,

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Having consulted the Assembly of the French Union,

Having regard to the decision by Parliament, approving, subject to amendment, the Decree laying down the conditions for the establishment and operation of rural communities in Madagascar, filed with the secretariat of the National Assembly on 4 December 1956,

Decreases as follows:

Article 1. In Madagascar, the Provincial Administrators may, by orders made in Provincial Council after consultation of the Provincial Assembly, establish rural communities possessing legal status, where such communities have sufficient resources to balance a budget.

These rural communities may be formed of circonscriptions administratives, parts of circonscriptions administratives or groups of circonscriptions administratives.

Article 2. Each rural community shall be administered by an elected rural community council.

Article 3. The rural community may bring actions at law and shall be represented in court by the president of its council.

Article 4. The rural community shall have a budget, which shall be approved by its council and put into effect by the Provincial Administrator, who shall supervise its administration.

The council shall take decisions on all measures affecting the domain and the domanial interests of the community; it shall, in particular, decide on the programme of economic and social projects to be carried out with funds from the community budget and shall take all necessary decisions for its application.

Article 5. The High Commissioner shall determine, by an order, the manner in which administrative and financial supervision (tutelle) over rural communities shall be exercised.

Such supervision shall be defined by reference to the provisions of Act No. 55-1489 of 18 November 1955 providing for municipal reorganization in French West Africa, French Equatorial Africa, Togoland, the Cameroons and Madagascar.

Article 6. With respect to their domain, finances and budget, rural communities shall be separate and distinct from other public communities.

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Two or more rural community budgets may not be combined, nor may the budget of a rural community be combined with the budget of a commune de plein exercice, a commune de moyen exercice or a mixed commune.

When a new commune or another public community is established, there shall be a redistribution of property between the communities affected thereby.

Any rural community may contribute to the budgetary expenditure of another public community, where such expenditure relates to matters of common interest.

Article 7. The budget of a rural community shall be truly balanced when approved.

If the budget is not approved in true balance, the supervisory authority shall order the council of the community concerned to convene in special session and shall set the date therefor. The Council shall then decide the matter within a period of eight days and the budget shall immediately be referred back to the supervisory authority.

If a truly balanced budget is not approved after a second deliberation or is not referred back to the supervisory authority within one month, the Provincial Administrator shall make the necessary adjustments and balance the budget.

If the budget for the next financial year is not approved in true balance, the Provincial Administrator, in Provincial Council, shall establish it ex officio. In addition, the council of the rural community concerned may be dissolved by an order of the Provincial Administrator, made in Provincial Council; in such case the Provincial Administrator shall appoint a special delegation. A new rural community council shall then be established within three months.

If a rural community council fails to approve a truly balanced budget over a period of at least three successive years, the Provincial Administrator shall, by an order made in Provincial Council, either declare the council concerned dissolved and appoint a special delegation pending the establishment of a new council as described above, or withdraw legal status from the rural community or combine the community with another rural community. If a rural community is dissolved or combined with another rural community, the future disposition of its domain shall be regulated by an order of the Provincial Administrator.

Article 8. The general rules and special procedures for the application of this Decree shall be laid down by the High Commissioner in an order made in

Government Council, after consultation with the representative assembly.

These orders shall determine, in particular:

- (a) The composition of the rural community councils and the conditions in which they are to operate and perform their functions.
- (b) The items of the budget and, in particular, the nature of the regular and extraordinary funds available to the rural communities as well as the authority of the latter to contract loans.
- (c) The procedures for the execution and audit of the said budget.
- (d) The conditions in which a rural community may be required to share in, or may contribute to, expenditure incurred by another public community for a common purpose.
- (e) The rules applicable to any associations, the establishment of which may be authorized between the public communities of a circonscription, as defined with respect to communes in articles 169 to 179 of the Act of 5 April 1884 as amended.

Article 9. The conditions governing the appointment of accountants for rural communities and the accounting rules applicable to such communities shall be determined by an order of the High Commissioner.

Independently of the conditions governing the exercise of administrative and financial supervision prescribed in article 5 above, supervision of financial and accounting operations shall be exercised by the Comptroller's office, in accordance with article 17 of Decree No. 52-1356 of 19 December 1952. It shall also be exercised either on a permanent basis by the District Commissioner or on a contingent basis by the administrative affairs inspectors and the inspectors of provincial services.

Article 10. When a rural community is established under this Decree, the Provincial Administrators shall determine by orders which shall be submitted for approval to the High Commissioner, the relations between that community and those established by the Decree of 9 November 1944.

Article 11. All provisions which conflict with this Decree are hereby rescinded.

Article 12. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his own competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic.

DECREE NO. 57-813 OF 22 JULY 1957

establishing a Government Council and broadening the powers
of the Territorial Assembly in French Somaliland

The President of the Council of Ministers,

Acting on the reports of the Minister for Overseas France, the Minister of State and the Minister of Finance, Economic Affairs and Planning,

Having regard to Act No. 56-619 of 23 June 1956, as amended by Act No. 57-702 of 19 June 1957, authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, in particular, articles 1 and 2 thereof,

Having regard to the Decree of 20 May 1896 providing for the organization of the possessions of French Somaliland and dependencies,

Having regard to the Decree of 28 August 1898 concerning the organization of French Somaliland,

Having regard to the Decree of 24 December 1914 concerning the regulatory powers of the Governor of French Somaliland,

Having regard to the Decree of 22 December 1945, as amended, providing for the establishment of the Conseil privé of French Somaliland,

Having regard to Act No. 50-1004 of 19 August 1950 establishing the method of election, composition and competence of a representative territorial assembly for French Somaliland,

Having regard to Act No. 46-860 of 30 April 1946 for the establishment, financing and execution of plans for the equipment and development of the Territories for which the Ministry for Overseas France is responsible,

Having regard to the Act of 5 April 1884 concerning municipal organization,
} in particular, articles 169 to 179 thereof,

Having regard to Act. No. 55-1489 of 18 November 1955 relating to municipal reorganization in French West Africa, French Equatorial Africa, Togoland, the Cameroons and Madagascar,

Having regard to Decree No. 56-1135 of 13 November 1956, as amended, concerning mutual rural development societies in the Overseas Territories,

Having heard the Conseil d'Etat,

Having heard the Council of Ministers,

After consultation with the Assembly of the French Union,

Having regard to the decision by Parliament approving, subject to amendment, the Decree establishing a Government Council and broadening the powers of the Territorial Assembly in French Somaliland, filed with the Secretariat of the National Assembly on 28 February 1957,

Decrees as follows:

Article 1. In French Somaliland, the Chief Administrator of the Territory shall be the representative of the Government of the Republic. He shall perform his functions in accordance with the legislation in force subject to the following provisions:

Title 1

The Government Council

Article 2. A Government Council shall be established in French Somaliland.

Chapter I

Establishment and operation

Article 3. The Government Council shall be composed of six to eight members each of whom shall have the title of Minister and shall be elected by the Territorial Assembly as prescribed by the following articles.

The Government Councillor obtaining the largest number of votes shall assume the title of Vice-President of the Government Council.

The Government Council shall be presided over by the Chief Administrator of the Territory or, in his absence, by the Vice-President of the Government Council.

The Government Council shall have the right to resign if it considers that it no longer enjoys the confidence of the Territorial Assembly.

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On matters within their competence, the Ministers shall be required to answer any questions or requests for explanations from members of the Territorial Assembly.

Article 4. The Ministers shall be French citizens in possession of their civil and political rights and not less than twenty-five years of age. They shall be liable under criminal law for any crimes or offences committed in the performance of their functions.

Article 5. No person may be a member of more than one Government Council of territories for which the Ministry for Overseas France is responsible.

Article 6. The ministers shall be elected by the Territorial Assembly, from within or outside its membership, by triple ballot, without splitting of votes or preferential voting.

The electors may vote for a single list only, without deletion or addition of names or modification of the order in which the candidates are listed. Any ballot paper not satisfying these conditions shall be void.

Each member of the Assembly may cast one vote for one of the lists submitted.

If no list obtains an absolute majority of the votes cast by the members of the Assembly on the first two ballots, the third ballot shall be decided by a relative majority.

Article 7. The lists of candidates shall be delivered to the President of the Assembly no later than the day before the day on which the first ballot is to be held.

New lists may be drawn up after each ballot. They shall be delivered to the President of the Assembly not later than three hours before the opening of the meeting scheduled to hold the second or third ballot.

The lists submitted shall be read out before the commencement of each ballot.

Each list shall include as many names as there are members to be elected.

Candidates who are not members of the Territorial Assembly shall satisfy the conditions of eligibility laid down for the elections of Territorial Councillors.

Article 8. The validity of the election may be challenged by the candidates or by the members of the Territorial Assembly. The other provisions of articles 3 to 8 of Decree No. 50-1184 of 27 September 1950 prescribing administrative

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regulations to govern the application of Title 1 of Act No. 50-1004 of 19 August 1950 establishing the method of election, composition and competence of a representative territorial assembly for French Somaliland shall apply to disputes concerning elections to the Government Council.

Article 9. Ministers may not continue in office beyond the term of the Assembly which elected them; nevertheless, their term shall be extended to the date of installation of the new Government Council, which shall take place not later than fourteen days after the opening of the first session of the new Assembly

Article 10. Ministers shall be required to maintain secrecy regarding the proceedings of the Council and the matters referred to it.

Article 11. A Minister may not at the same time exercise the functions of:

- Member of the Government of the Republic;
- President of the Territorial Assembly;
- Chairman or member of the Standing Committee of the Territorial Assembly.

A Minister who finds that he holds one of the incompatible offices specified above shall opt within fifteen days. If, at the end of that period, he has not made known his choice, he shall be deemed to have relinquished the office of Minister.

Article 12. Ministers may submit their resignation to the President of the Government Council.

A Minister may be removed from office by the Chief Administrator of the Territory on the proposal of the Vice-President of the Government Council.

Article 13. If a Minister's seat becomes vacant through death, resignation or any cause whatsoever, such vacancy shall be filled in the following manner:

- If there are several seats to be filled, an election shall be held in the manner prescribed by articles 6, 7 and 8;
- If a single seat is to be filled, an election by uninominal ballot shall be held, the first two ballots being decided by an absolute majority and the third ballot by a relative majority.

Article 14. In addition to reimbursement of their transportation and travel expenses, the Vice-President and the Ministers shall receive an annual allowance, payable monthly, the amount of which shall be fixed uniformly by the Territorial Assembly with reference to the salary of a category of officials serving in the territory.

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Article 15. The expenditures necessary for the operation of the Government Council, in particular those relating to the compensation payable to Ministers, the installation and equipment of the Council and the travel of the Ministers, shall be borne by the territorial budget.

Article 16. The Government Council shall sit in the chief town of the Territory, unless otherwise decided by order of the Chief Administrator of the Territory.

The agenda shall be prepared by the President of the Government Council.

The Chief Administrator of the Territory shall provide a secretariat for the Council and shall be responsible for safe keeping of the Council's records.

These records shall include those of the Conseil Privé.

The Secretary-General, or the official legally deputizing for the Chief Administrator of the Territory, may attend the meetings of the Government Council.

Article 17. The Government Council may not be dissolved except by a decree made in Council of Ministers after consultation with the Territorial Assembly.

Such decree shall prescribe a time-limit within which a new Government Council shall be elected. This time-limit may not exceed one month.

Chapter II

Functions of the Government Council

Article 18. The Government Council, presided over by the Chief Administrator of the Territory or by the Vice-President of the Council and under the high authority of the Chief Administrator, shall be responsible for administration of the territorial interests.

Section 1 - Collective functions

Article 19. The Government Council shall act in matters within its competence as defined in this section. The Ministers shall be jointly responsible for the decisions taken by the Government Council under their collective functions.

All proposals relating to matters concerning the Territory to be submitted to the Territorial Assembly and its Standing Committee for consideration shall be drawn up in Government Council.

Article 20. Regulatory decisions of the Chief Administrator of the Territory concerning the administration of territorial affairs, including orders on which the Territorial Assembly must first be consulted, shall be taken in the Government Council.

The Council shall delegate a qualified minister competent to give the Assembly any explanations which may be required concerning the application of the Assembly's decisions.

Article 21. Orders or other decisions of the Chief Administrator of the Territory relating to the following subjects, in particular, shall be adopted in Government Council:

- (a) financial regulation of internal trade and prices;
- (b) organization of fairs and markets;
- (c) measures for applying the regulations concerning assistance to production;
- (d) establishment of institutions representing economic interests in the Territory, after consultation with the Territorial Assembly;
- (e) organization of chiefdoms, after consultation with the Territorial Assembly;

(f) establishment, elimination and modification of circonscriptions administratives in the Territory and modification of their boundaries after consultation with the Territorial Assembly;

(g) establishment, constitution, organization and operation of rural communities and, where necessary, conseils de circonscription, after consultation with the Territorial Assembly;

(h) establishment of registry offices;

(i) expansion of fundamental education;

(j) special regulations applicable to the territorial civil service establishments, salary scales, leave provisions, social benefits and pensions, after consultation with the Territorial Assembly;

(k) regulations adopted to give effect to legislation concerning labour and working conditions.

Article 22. The directors of territorial public services placed under the direct control of the ministers shall be appointed by the Chief Administrator of the Territory in Government Council, on the recommendation of the Minister having jurisdiction over the service in question.

Article 23. The Government Council shall decide on all questions concerning the administration of domanial interests and territorial public works.

However, in respect of the subjects listed in article 45, it shall decide only on measures to give effect to the decisions of the Territorial Assembly.

Article 24. When exceptional circumstances so require, the Chief Administrator, in Government Council, may issue such immediately enforceable orders as are necessary to suspend or temporarily reduce any import or export duties and any indirect taxes on production, movement and consumption of goods.

Such orders shall be subject to ratification by the Territorial Assembly. If the latter is in session, the orders shall be submitted to it immediately. If it is not in session, the orders shall be submitted to the Standing Committee at its first meeting thereafter; the latter shall report thereon to the Territorial Assembly at its next session. When the decision of the Territorial Assembly has become definitive, it shall have effect from the date on which it was taken.

Article 25. If the Chief Administrator of the Territory considers that a decision of the Government Council exceeds the Council's powers or is likely to prejudice national defence, public order or the maintenance of security or public freedoms, he shall refer it to the Minister for Overseas France. The latter may cause the decision to be annulled by a decree made after consultation with the Conseil d'Etat. Such decree shall be issued within the three months following the date of the decision. During this period the decision shall be suspended.

Article 26. Subject to the powers of the Administrative Disputes Council, appeal against decisions of the Government Council may be lodged with the Conseil d'Etat, ruling as an administrative disputes court.

Article 27. Any decision taken by the Government Council in the absence from the Chair of the Chief Administrator of the Territory, his legal deputy or the Vice-President, or which is taken in violation of the provisions of article 16, shall be null and void.

In such case the Chief Administrator of the Territory shall, by means of an order accompanied by a statement of his reasons, declare the meeting illegal, pronounce any decisions taken null and void and take such steps as are required to ensure the immediate adjournment of the Council.

He shall report on the matter to the Minister for Overseas France.

Article 28. The Vice President of the Government Council shall lay annually before the Government Council for its opinion the report which he is required to submit to the Territorial Assembly on the general activities of the Government Council and the functioning of the territorial public services.

Section II - Individual functions

Article 29. Each Minister shall be made responsible, by delegation from the Chief Administrator of the Territory after consultation with the Vice-President of the Government Council, for the administration of one or more territorial public services.

Article 30. The functions of the Ministers shall be defined by orders made by the Chief Administrator of the Territory, countersigned by the Vice-President of the Government Council and published in the Journal officiel.

Article 31. Each minister shall be responsible to the Council for the functioning of the public services and the conduct of the affairs of the administrative branch within his jurisdiction and shall report regularly to the Council thereon.

Article 32. A Minister may be made responsible for an administrative branch having one or more divisions, the administration of which is entrusted to other members of the Government Council but whose activities he co-ordinated.

Article 33. The Minister responsible for the operation of a branch or division of the territorial administration shall take all decisions concerning the conduct of affairs within the jurisdiction of the territorial public services with which his branch or division is concerned, except for matters within the jurisdiction of the Government Council or the Territorial Assembly.

He may set up a secretariat within the limits of the budgetary appropriations voted by the Assembly.

He shall direct the services of his branch or division with the assistance of heads of department (chefs de service) to whom he shall delegate all necessary powers.

He shall be responsible for ensuring that his services carry out the decisions of the Government Council and the Territorial Assembly.

Article 34. Each Minister shall submit to the Government Council, after preparation by his services, such matters as require the making of an order or the taking of a decision in Government Council.

He shall also present to the Government Council such proposals and reports on matters falling within the jurisdiction of his branch or division as are required to be submitted to the Territorial Assembly. He shall be responsible for following the discussion of such matters and speaking in support of them in the Territorial Assembly, in accordance with the instructions of the Government Council. He may be assisted in this by officials of his services.

Article 35. In accordance with the staff regulations of the officials and employees concerned and on the recommendation of the Minister to whom they are responsible, the Chief Administrator of the Territory shall:

- appoint and promote personnel of the territorial establishments,
- assign officials and employees to posts in the territorial public services and impose or recommend, as appropriate, any necessary disciplinary measures against such officials and employees.

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Reports on territorial public service employees shall be made successively by the officials who are responsible for making such reports under the general and special regulations applicable to the civil service establishments and by the Minister responsible for the service to which they are assigned.

The Chief Administrator of the Territory shall, on the recommendation of the Minister concerned, recruit contract employees who are paid from the territorial budget, after standard contracts have been approved by the Territorial Assembly.

Article 36. In addition to the general obligation specified in article 10, each Minister shall be bound, in respect of his individual actions on behalf of the branch or division for which he is responsible, by the same rules of professional secrecy as apply to public service officials.

Article 37. Where necessary, detailed procedures for the application of this chapter shall be issued in the form of orders made by the Chief Administrator of the Territory and countersigned by the Vice-President of the Government Council.

Title II

Functions of the Territorial Assembly

Article 38. The representative council of French Somaliland shall be called the Territorial Assembly.

Articles 21, 23, 33, 34, 36, 37 and 52 of the abovementioned Act of 19 August 1950 shall be replaced by the following provisions:

Article 39. The Territorial Assembly shall decide on the opening date and duration of its regular sessions. Such sessions shall, however, be governed by the following rules:

The Territorial Assembly shall hold two regular sessions each year, which shall be convened by the Chief Administrator of the Territory. The first shall begin between 15 February and 15 May; the second, or "budgetary" session at which the budget is considered, shall begin between 1 August and 31 October.

If the Assembly adjourns without having fixed the date for the opening of its next regular session, the date shall be fixed in due time by the Standing Committee. If, notwithstanding the preceding provisions, the Assembly fails to meet in regular session during one of the abovementioned periods, the Chief Administrator of the Territory may, by an order made in Government Council, change the time of the session and convene the Assembly in regular session. The duration of a regular session may not exceed two months.

The Territorial Assembly may also be convened in special session, as follows:

(a) if at least two-thirds of its members submit a request in writing to that effect to the President;

(b) if the Chief Administrator of the Territory makes an order to that effect in Government Council.

The duration of a special session may not exceed one month.

Sessions shall be opened and closed by orders made by the Chief Administrator of the Territory in Government Council.

Article 40. The Assembly shall take decisions enacting territorial regulation of the following matters:

1. The general regulations applicable to employees of the territorial establishments pursuant to the decrees concerning the public service which were issued under article 3 of the Act of 23 June 1956;

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2. Civil procedure, except as regards the system of judiciary;
3. The professions, ministerial and public offices;
4. Customary law relating to civil status and regulation of civil status within the framework of the relevant legislation;
5. Verification, description and codification of traditional customs; adaptation of customs to social evolution, immovable property and immovable property rights regulated by custom and, in particular, definition of the customary rights to be treated as real rights capable of establishing credit; in general, all matters coming under local law;
6. The public lands of the Territory, including vacant and ownerless lands which form part of the Territory's private domain.
Nevertheless, rights in respect of immovable property and easements enjoyed by the State on the date of this Decree may not be prejudiced in any way.
Should the State or the Territory subsequently allocate certain premises for the operation of public services, such premises shall enjoy the easements for the public advantage inherent in the operation of the said services.
7. Internal trade, handicrafts and all occupations relating to those activities, such as those of salesmen, pedlars and the like;
8. Mutual societies, subject to the provisions of Decree No. 56-1135 of 13 November 1956 concerning rural development mutual societies in the Overseas Territories;
9. Producers' and consumers' associations, co-operatives;
10. Agriculture, forests, regulation of inland water resources, soil conservation, protection of nature and plant-life, plant health control;
11. Stock-raising, the movement, sale and slaughter of cattle, control of epizootic diseases;
12. Coastal fishing, without prejudice to the provisions of the Act of 1 March 1888; river fishing;
13. Preparation of products for export, not including the fixing of standards, which shall continue to be regulated by decree;
14. Internal transport, traffic, haulage;
15. Navigation on rivers and canals;
16. Policing of communication routes, not airways and waterways;

17. After consultation with the National Insurance Council through the Minister for Overseas France, regulations for the purpose of instituting compulsory insurance for individuals and corporate bodies whose civil liability may be involved under articles 1382 to 1386 of the Civil Code, provided that such regulations may not affect the terms of insurance laws and regulations or coverage of risks connected with industrial accidents or occupational diseases;

18. Methods of applying the regulations governing mineral resources;

19. Organization of the savings banks in the Territory;

20. Public hygiene, control of major endemic diseases, protection of public health and the insane; thermal springs;

21. Manufacture and sale of beverages of all kinds, conditions of hygiene and safety in retail liquor establishments;

22. Societies working in health, education and training; care of delinquent and abandoned children;

23. Tourism and hunting;

24. Town planning, environmental conditions; regulation of dangerous, unsuitable and insanitary premises; low-cost housing, rents;

25. Primary and secondary education, vocational and technical education, not including study programmes, examination programmes and procedures, certificates and diplomas and teachers' qualifications;

26. Regulations concerning scholarships, subsidies, grants and educational allowances paid out of the Territory's budgetary funds;

27. Public libraries, cultural centres;

28. Sports and physical education;

29. Welfare, assistance, relief and allowances; lotteries;

30. Protection of monuments and historic sites;

31. Prison system;

32. Determination of court costs, preparation of schedules of such costs, methods of payment and collection, defining of conditions to be met by the recipients, and, in general, regulations of all matters relating to court costs; rates for providing schedules of fees for the issue of copies of or extracts from official documents;

33. The conditions in which aliens are required to obtain administrative authorization before engaging in certain professions;

34. Procedure and conditions for acceptance of tenders and award of contracts in the Territory for works and supplies which concern the Territory, subject to compliance with the general rules applicable in such matters. These rules shall be established in a decree made in the manner prescribed by article 1 of the Act of 23 June 1956.

Article 41. Decisions on the matters referred to in article 40 may be taken notwithstanding any provision of law or regulations to the contrary enacted before the date of entry into force of this Decree, subject, however, to the provisions of international conventions, the laws and regulations on the matters dealt with in the Commercial Code and the Maritime Code, of the Act of 15 December 1952, the Act of 30 April 1946 and the decrees adopted in application thereof, of Decrees Nos. 55-625 and 55-634 of 20 May 1955, and of the laws and regulations respecting the prevention of fraud and the inspection of weights and measures, and the ethical codes.

Article 42. The acts and decrees relating to the matters listed in article 40 of this decree shall, however, remain in force, with the effect of territorial regulations in these matters. These regulations may be cancelled or amended by decision of the Territorial Assembly.

Article 43. The Territorial Assembly may, in accordance with the conditions laid down in article 2 of the Act of 23 June 1956, include provision for penalties in the regulations resulting from its decisions.

Article 44. The Territorial Assembly shall take decisions regarding the local section of programmes for implementing and executing the capital equipment and development plan provided for by the Act of 30 April 1946, in the manner prescribed by the decrees made in application of the said Act.

Article 45. In matters relating to domanial interests and territorial public works, the Territorial Assembly shall take decisions on all proposals made by the Chief Administrator of the Territory in Government Council dealing with the following subjects:

(a) Institution and conduct of proceedings on behalf of the Territory, except in cases of emergency, when the decision shall be taken in Government

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Council; settlements relating to duties and changes of the Territory in suits involving a sum of more than ten million Djibouti francs.

In cases of litigation between the State and the Territory, the latter shall be represented by a Minister empowered to that effect by the Government Council;

(b) Acceptance or refusal of gifts or bequests to the Territory involving encumbered immovable property.

By a decision taken in Government Council, the Chief Administrator of the Territory may accept all such gifts or bequests on an interim basis. The subsequent decision of the Territorial Assembly shall have effect as from the date of such provisional acceptance. In urgent cases, the Chief Administrator of the Territory may, by himself take all necessary interim measures and accept gifts or bequests.

(c) Transfer of immovable property of the Territory.

(d) Selection of the method of operating public works in the Territory; concessions for projects to be carried out on the Territory's behalf. In the latter case, however, no concession may be granted to or on behalf of an alien unless there is agreement between the Assembly and the Chief Administrator of the Territory; in case of disagreement, the matter shall be settled by decree.

(e) Granting of agricultural and forestry concessions; granting of temporary forestry permits for periods exceeding five years;

(f) Classification and de-classification of territorial public land and, in particular, of territorial main roads, aerodromes operated under the territorial budget, harbours, rivers, canals, lakes, lagoons and ponds.

Article 46. Subject to international conventions, to the provisions of article 32 of Act No. 53-1336 of 31 December 1953 and to prior consultation with the assemblées consulaires on matters within their jurisdiction, the Assembly shall take decisions on the financial implications of any proposal made by the Government Council or by one of its members relating to the following matters:

(a) Determination of taxes, charges, apportioned charges, duties and contributions of all kinds which may be levied in aid of the territorial budget, establishment of their method of assessment, rules for their collection and schedules of such duties and taxes;

(b) Contracts to be concluded with concessionaires, farmers and other operators in the Territory and specifications in connexion therewith, schedules of fees payable by concessionaires, farmers and operators;

(c) Maximum rates of duties and taxes of all kinds and maximum additional tax to be collected in aid of communities, agencies and public establishments functioning within the Territory, with the exception of communes de plein exercice;

(d) Fees payable for occupation of public lands of the Territory and other related charges;

(e) Regulations governing charges for services provided by territorial public agencies, and for the provision of goods, equipment and supplies;

(f) Fiscal tariff agreements relating to taxes levied in aid of the territorial budget, in the cases provided by law;

(g) Establishment and abolition of territorial public services and territorial public institutions;

(h) Determination of the number of scholarships and other school grants payable out of territorial funds in accordance with the regulations in force; conditions for the grant, out of territorial funds, of installation loans to settlers in the Territory;

(i) Grants and loans by the Territory to communes and public communities and public institutions in the Territory; acceptance or refusal of offers of collaboration or assistance made by the State, the communes, public communities or public institutions of the Territory or of the State in connexion with work carried out with territorial funds; offers by the Territory to contribute towards or assist in carrying out works in the general interest which are financed out of budgetary funds of communes, public communities or public institutions of the Territory or the State. Contributions of the Territory towards the cost of works affecting the Territory, which are to be carried out by the State;

(j) Contributions, refunds and fees payable by the Territory to public institutions of the Territory or State;

(k) Shares of the Territory in the capital of public and semi-public corporations and, in exceptional cases, in private companies participating in the economic development of the Territory;

(l) Borrowings or applications by the Territory for loans or advances from the State, the Caisse centrale de la France d'outre-mer or other public credit institutions, and resources of the Territory assigned as security for such loans or advances;

(m) Sureties and guarantees given by the Territory in respect of obligations assumed by communes, public communities and public institutions of the Territory;

(n) Determination of conditions in which the Territory's budgetary funds may be used to encourage production.

The Assembly may fix a time-limit within which the assemblées consulaires shall give their opinion. If they fail to do so, the Assembly shall proceed without their opinion. This time-limit may not be less than fifteen days from the date on which notice of the request for an opinion is given.

Article 47. The Assembly shall decide on the granting of type B mining exploration permits.

Article 48. The Territorial Assembly may take a decision fixing the amount and conditions of payment of the monthly compensation allotted to its members and also the rules applying to reimbursement of their travel expenses.

Such compensation, whatever its form, shall be fixed by reference to the salary of a category of officials serving in the Territory.

No member may receive this compensation concurrently with the compensation paid to members of the Government Council or that paid to members of the constitutional Assemblies.

Officials on active service or secondment who are members of the Territorial assembly shall receive the difference between their salary, plus any travel expenses, and the compensation payable to members of the Territorial Assembly, or their salary only, plus any travel expenses, if the total thereof is greater than the said compensation.

The Territorial Assembly may also vote its President an annual lump-sum payment as a representation allowance.

Article 49. The Territorial Assembly shall be consulted in all cases on all matters in respect of which such consultation is required by law or regulations and, in particular, with regard to draft regulatory orders to be made in Government Council relating to:

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- (a) the general organization of the territorial public services;
- (b) the organization of chiefdoms;
- (c) the special regulations applicable to employees of the territorial public service establishments, method and scales of remuneration, leave provisions, social benefits and pension scheme applicable to such employees;
- (d) labour and social security provisions, in particular, the application in respect of the Territory of the provisions of Act No. 52-1322 of 15 December 1952 establishing a labour code in the Territories and Associated Territories under the jurisdiction of the Minister for Overseas France;
- (e) officials of the French civil service establishments who are seconded to territorial public services;
- (f) the establishment, abolition and modification of circonscriptions administratives in the Territory and modification of their boundaries;
- (g) the establishment, constitution, organization and operation of rural communities and conseils de circonscription;
- (h) the establishment of institutions representing economic interests in the Territory;
- (i) measures to encourage production;
- (j) rules governing immigration;
- (k) the fixing, for each category of offences under the regulations issued on the basis of the decisions of the Territorial Assembly, of the scale of penalties applicable in accordance with the conditions laid down in article 2 of Act No. 56-619 of 23 June 1956.

The Assembly shall also be consulted in all cases on the following matters:

1. The rules governing representation of the economic interests of the Territory;
2. The grant of type A mining exploration permits which, notwithstanding article 9 of Decree No. 54-1110 of 13 November 1954, shall be authorized by the Chief Administrator of the Territory in his capacity of representative of the State. In the event of disagreement between the Territorial Assembly and the Chief Administrator of the Territory, the matter shall be decided pursuant to a decree made in Council of Ministers, after consultation with the Assembly of the French Union;

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3. Missions which are charged to the territorial budget;
4. The appointment, as necessary, of directors to represent the Territory on the board of the institute issuing the Territory's currency;
5. Approval, subject to the application of Decree No. 56-1229 of 3 December 1956, as amended, reorganizing and decentralizing the overseas postal and telecommunications services; of domestic postal, telephone and telegraph rates, and of all plans for the establishment, equipment, supplying and maintenance of the domestic telephone and telegraph networks and radio service.

Article 50. The following shall in all cases be referred to the Assembly by the Government Council:

- (a) Administrative accounts relating to the execution of the territorial and the budget annexes, the public authorities (régies) and the territorial public institutions;
- (b) The annual position of the Territory's funds;
- (c) Income received by the accounting officer of the central administrative bureau for overseas posts and telecommunications from the sale of stamps issued on the Territory's behalf, except in so far as the provisions relating to local offices of the Decree of 3 December 1956, as amended, reorganizing and decentralizing the overseas postal and telecommunication services, shall be made applicable to the Territory by decree.

Any observations which the Assembly may decide to make on the accounts of the Territory shall be communicated by the President of the Assembly, within the time-limit specified in article 62, to the Chief Administrator of the Territory, who shall send a copy thereof to the Audit Office through the Ministry for Overseas France.

Article 51. All matters shall be referred to the Territorial Assembly by the President of the Government Council or by a member of that body, except matters in respect of which the right of action is vested exclusively in the Chief Administrator of the Territory.

In the interval between sessions, bills submitted by the Government Council for decision by the Assembly and bills proposed by members of the Assembly itself shall be filed with the Secretariat of the Standing Committee.

Members' bills shall be communicated, within ten days from the date of filing, to the Government Council, which may give its opinion on them.

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The Assembly may not, if the Government Council so requests, refuse to defer consideration of the bill to its next session at the latest.

The Government Council shall be kept informed of the agendas of the Assembly and its committees. It may delegate one of its members to attend and address the meetings of the Assembly's committee or be represented at them.

Bills and proposals submitted to the Assembly for decision shall be considered by the Assembly at the session during which they were filed, or at the latest, at the following session unless the Standing Committee is delegated to act on them in the interval between sessions.

In matters which must be referred to the Assembly for its opinion, the Chief Administrator of the Territory in Government Council may, if the Assembly fails to give its opinion within the time-limit prescribed above, proceed without it after notifying the President of the Assembly to that effect.

Article 52. The acts of the Territorial Assembly and its Standing Committee shall be delivered in duplicate, together with an extract from the records of meetings relating to the discussion and voting thereon, within a period of thirty clear days from the closing of the session. Upon receipt of the documents, the Chief Administrator of the Territory shall transmit one copy thereof to the Minister for Overseas France.

The Chief Administrator of the Territory shall give effect to the decisions of the Territorial Assembly or its Standing Committee or shall refer them to the Territorial Assembly for second reading, or to the Minister for Overseas France for annulment in the manner prescribed by articles 53 and 54 below. Should the Chief Administrator of the Territory request the Minister for Overseas France to annul a decision, he shall so advise the President of the Territorial Assembly or, in the intervals between the latter's sessions, the Chairman of the Standing Committee.

Article 53. With regard to the matters listed in articles 39, 40 and 43 to 48, upon which the Territorial Assembly is competent to act, the Chief Administrator of the Territory may, within a period of thirty clear days from the date on which it was submitted to him, request the Territorial Assembly to reconsider in second reading any decision taken by the Assembly or by its Standing Committee which he considers not to be in the public interest or conducive to sound administration of the Territory.

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In such case, the period specified in article 54 below shall run from the date of receipt by the Chief Administrator of the Territory of the new decision adopted by the Territorial Assembly.

Article 54. The Minister for Overseas France may take action to annul decisions of the Territorial Assembly and its Standing Committee on grounds of excess of power or of violation of the law, by means of a decree made in the form of an administrative regulation.

If a decision of the Assembly or its Standing Committee which has been submitted to the Minister for annulment is not annulled within a period of ninety clear days from the date of its communication to the Chief Administrator of the Territory, the latter shall put it into effect not later than eight clear days after the expiry of the above-mentioned period.

The decisions of the Territorial Assembly or its Standing Committee in customs matters shall continue to be subject to the provisions of article 3 of Decree No. 54-1020 of 14 October 1954.

Article 55. Pending publication of the orders made by the Chief Administrator in Council putting the decisions of the Territorial Assembly or its Standing Committee into effect, all taxes, duties, charges and fees shall be levied on the former tax bases and in accordance with the previous schedules.

Decisions taken by the Territorial Assembly or its Standing Committee at a session which began before 1 January in the matter of direct taxes or of duties or charges treated as such shall have effect as from that date, even if they could not be made enforceable by then.

Similarly, if it has not been possible to put the budget into effect before 1 January, the Chief Administrator of the Territory shall be authorized to make provisional monthly appropriations on the basis of the budgetary appropriations for the previous year. Further appropriations may be made each month until the budget is put into effect.

Article 56. A code of regulations resulting from the decisions of the Territorial Assembly and a code of the administrative regulations made by the Chief Administrator of the Territory shall be established under orders made by the Chief Administrator in Council and published in the Journal officiel of the Territory. The said codes shall be brought up to date annually.

Title III

Rural communities

Article 57. The Chief Administrator of the Territory of French Somaliland may, by orders made in Government Council after consultation of the Territorial Assembly, establish rural communities possessing legal status, provided that such communities have sufficient resources to balance a budget.

These rural communities may be formed of circonscriptions administratives, parts of circonscriptions administratives or groups of circonscriptions administratives.

The rural community shall be administered by a rural community council.

The provisions of articles 3 to 9 of the Decree of 4 April 1957 laying down the conditions for the establishment and operation of rural communities in French West Africa and French Equatorial Africa shall apply to the rural communities in French Somaliland.

Title IV

Miscellaneous provisions

Article 58. Communes de plein exercice may be established in French Somaliland by orders made by the Chief Administrator of the Territory upon receipt of an advisory opinion to that effect from the Territorial Assembly, reached by an absolute majority of its members.

Pending the enactment of legislation establishing the rules applicable to communes de plein exercice in the Territory, such communes shall provisionally be governed by the following provisions:

- The Decree of 8 March 1879, as amended, concerning the municipal organization of communes de plein exercice in certain Overseas Territories;
- Articles 169 to 179 of the Act of 5 April 1884 concerning municipal organization;
- Articles 2, 31 to 33, 56 and 58 of Act No. 55-1489 of 18 November 1955 concerning municipal reorganization in French West Africa, French Equatorial Africa, Togoland, the Cameroons and Madagascar.

Article 59. All legislative enactments and executive orders conflicting with this Decree and, in particular, the above-mentioned Decree of 22 September 1945, as amended, are hereby rescinded.

Article 60. The Chief Administrator of the Territory of French Somaliland shall determine by means of orders, as necessary, the procedures for the application of this Decree.

Article 61. The Minister for Overseas France and the Minister of Finance, Economic Affairs and Planning shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal Officiel of the French Republic.

DECREE NO. 57-814 OF 22 JULY 1957

establishing a Government Council and broadening the powers
of the Territorial Assembly in the Comoro Archipelago

The President of the Council of Ministers

Acting on the report of the Minister for Overseas France, the Minister of State and the Minister of Finance, Economic Affairs and Planning,

Considering Act No. 56-619 of 23 June 1956, as amended by Act No. 57-702 of 19 June 1957, authorizing the Government to carry out the reforms and take the measures likely to ensure the development of the Territories for which the Ministry for Overseas France is responsible, and in particular articles 1 and 2 of the said Act;

Considering the Decree of 9 September 1889 providing for the organization of the Colony of Mayotte and the Comoro Archipelago protectorates;

Considering the Decree of 9 April 1908 attaching the colony of Mayotte and the islands and protectorates under the authority of the said Colony to the Government-General of Madagascar;

Considering the Act of 25 July 1912 to proclaim the Islands of Anjouan, Mohéli and Grande Comore to be French colonies and attach them to the Government-General of Madagascar, together with the Decree of 23 February 1914 to issue public administrative regulations for the application of the said Act;

Considering Act No. 46-973 of 9 May 1946 granting administrative and financial autonomy to the Comoro Archipelago;

Considering the Decree of 24 September 1946 providing for the administrative reorganization of the Comoro Archipelago, as amended by the Decree of 20 July 1949;

Considering Decree No. 46-2382 of 25 October 1946 providing for the establishment of a General Council in the Comoro Archipelago;

Considering Act No. 46-860 of 30 April 1946 for the preparation, financing and carrying out of plans for the equipment and development of territories for which the Ministry for Overseas France is responsible;

Considering the Municipal Organization Act of 5 April 1884 and, in particular, articles 169 to 179 thereof;

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Considering Act No. 55-1489 of 18 November 1955 relating to municipal reorganization in French West Africa, French Equatorial Africa, Togoland, the Cameroons and Madagascar;

Considering Decree No. 56-1135 of 13 November 1956 relating to rural mutual development societies in overseas territories;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

Having consulted the Assembly of the French Union;

Considering the decision of Parliament to approve, subject to amendment, the decree to establish a government council and broaden the powers of the Territorial Assembly in the Comoro Archipelago, submitted to the National Assembly on 28 February 1957,

Decrees as follows:

Article 1. The principal executive officer in the Comoros shall be the Chief administrator of the Territory. He shall perform his duties in accordance with the legislative provisions in force, subject to the following provisions.

Part I

The Government Council

Article 2. A Government Council shall be established in the Comoros.

Chapter I

Composition and operation

Article 3. The Government Council shall consist of not less than six nor more than eight members who shall be elected by the Territorial Assembly under the conditions laid down in the following articles and bear the title of Minister.

The member of the Government Council obtaining the largest number of votes shall assume the title of Vice-President of the Government Council.

The Government Council shall be presided over by the Chief Administrator of the Territory or, in his absence, by the Vice-President of the Government Council.

The Government Council shall have the right to resign if it considers that it no longer enjoys the confidence of the Territorial Assembly.

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The Ministers shall be bound with respect to matters within their competence to answer any questions or requests for explanations, which may be made by members of the Territorial Assembly.

Article 4. A Minister must be a French citizen in the enjoyment of his civil and political rights and not under the age of twenty-five years. He shall be liable under penal law for any crime or offence committed in the performance of his duties.

Article 5. No person shall be a member of the Government Council of more than one territory for which the Ministry for Overseas France is responsible.

Article 6. The Ministers shall be elected by the Territorial Assembly from within or outside its membership, by triple ballot, without splitting of votes or preferential voting.

The electors may vote only for a single full list without deleting or adding names and without modifying the order in which the candidates are submitted. Any ballot paper which does not fulfil these conditions shall be null and void.

Each member of the Assembly may cast one vote for one of the lists submitted.

If no list obtains an absolute majority of the votes cast by the members of the Assembly in the first two ballots, the third ballot shall be decided by a relative majority.

Article 7. The lists of candidates shall be submitted to the President of the Assembly no later than the day before the day on which the first ballot is to be held.

New lists may be drawn up after each ballot. They shall be submitted to the president of the Assembly no later than three hours before the opening of the meeting convened to hold the second or third ballots.

The lists submitted shall be read out in the presence of the persons concerned before the commencement of each ballot.

Each list shall include as many names as there are members to be elected.

Candidates who are not members of the Territorial Assembly shall fulfil the conditions for eligibility laid down for the election of territorial councillors. They shall be subject to the same ineligibility and incompatibility rules as the territorial councillors.

Article 8. A suit for the nullity of the election may be filed by a candidate or by a member of the Territorial Assembly. The other provisions of article 19 of the above-mentioned Decree of 25 October 1946 shall apply to disputes concerning elections of the Government Council.

Article 9. Ministers shall not hold office beyond the term of the Assembly which elected them; nevertheless, the term of office of a Minister shall be prolonged until the date on which the new Government Council takes office, which shall be no later than fourteen days after the opening of the first session of the new Assembly.

Article 10. The Ministers shall be bound to maintain secrecy regarding the debates of the Council and the matters submitted to it.

Article 11. The office of Minister is incompatible with the following offices:

Member of the Government of the Republic;

President of the Territorial Assembly;

President or member of the Standing Committee of the Territorial Assembly.

If a Minister finds that he holds incompatible offices under the conditions described above, he must opt within fifteen days. If, at the end of that period, he has not made known his choice, he shall be deemed to have relinquished the office of Minister.

Article 12. The Ministers may submit their resignation to the President of the Government Council.

A Minister may be dismissed from office by the Chief Administrator of the Territory on the recommendation of the Vice-President of the Government Council.

Article 13. If a Minister's seat becomes vacant through death, resignation or any cause whatsoever, the vacancy shall be filled in the following manner:

If there are several seats to be filled, an election shall be held under the conditions laid down in articles 6 to 8;

If a single seat is to be filled, a uninominal ballot shall be held, the first two ballots being decided by an absolute majority and the third by a relative majority.

Article 14. In addition to reimbursement of their transportation and travel expenses, the Vice-President and the Ministers shall receive an annual remuneration, payable monthly, the amount of which shall be established uniformly by a decision of the Territorial Assembly with reference to the salary of a category of officials serving in the Territory.

Article 15. Expenditures necessary for the operation of the Government Council, in particular those relating to the remuneration of its members, the installation and equipment of the Council and travel of its members, shall be charged to the Territorial budget.

Article 16. The Government Council shall sit in the capital of the Territory unless otherwise provided in an order issued by the Chief Administrator of the Territory.

The agenda shall be prepared by the President of the Government Council.

Secretarial services for the Council shall be provided by the Chief Administrator of the Territory who shall also keep the records.

These records shall include those of the conseil privé.

The Assistant to the Chief Administrator of the Territory may attend the meetings of the Government Council.

Article 17. The dissolution of the Government Council shall not be proclaimed except by a decree issued by the Council of Ministers following consultation with the Territorial Assembly.

The decree shall specify the period which shall not exceed one month within which a new Government Council must be elected.

Chapter II

Powers of the Government Council

Article 18. The Government Council acting under the high authority of the Chief Administrator of the Territory and under his presidency or that of Vice-President shall be responsible for the administration of the Territory.

Section I. Collective functions

Article 19. The Government Council shall act in matters within its competence as defined in this section. All its members shall be jointly

responsible for the measures taken by it within the scope of their collective functions.

All proposals relating to matters concerning the Territory to be submitted to the Territorial Assembly and its Standing Committee for consideration shall be decided by the Government Council.

Article 20. All decisions entailing regulations taken by the Chief Administrator of the Territory concerning the administration of territorial affairs, including orders which must first be submitted to the Territorial Assembly for its opinion, shall be approved by the Government Council.

The Council shall delegate the Minister competent in the matter to give the Assembly any necessary explanation concerning the application of the decisions of the latter.

Article 21. Orders or decisions made by the Chief Administrator of the Territory relating to the following subjects in particular shall be adopted in Government Council:

- (a) economic regulations affecting domestic trade and prices;
- (b) the organization of fairs and markets;
- (c) measures for the application of regulations concerning the support of production;
- (d) the establishment, after consultation with the Territorial Assembly, of institutions which will ensure the representation of economic interests in the Territory;
- (e) the establishment, elimination and modification of administrative circonscriptions in the Territory and the revision of their boundaries, after consultation with the Territorial Assembly;
- (f) the establishment, constitution, organization and operation of rural communities and conseils de circonscription, if any, after consultation with the Territorial Assembly;
- (g) the establishment of registry offices;
- (h) special regulations for the territorial civil service establishments, salary scales, leave provisions, social benefits and pension schemes, after consultation with the Territorial Assembly;
- (i) expansion of basic education;
- (j) regulations adopted under legislation respecting working conditions and labour.

Article 22. The directors of territorial public services placed under the direct authority of Ministers shall be appointed by the Chief Administrator of the Territory in Government Council, on the recommendation of the Minister who is responsible for the service in question.

Article 23. The Government Council shall decide in all matters concerning the administration of domanial interests and territorial public works.

In respect of the subjects mentioned in article 45, however, it shall decide only on measures to give effect to the decisions of the Territorial Assembly.

Article 24. When exceptional circumstances so require, the Chief Administrator of the Territory may, by orders made in Government Council, take such immediately enforceable decisions as are necessary to suspend or reduce temporarily all import and export duties and all indirect taxes on production, movement and consumption of goods.

Such orders shall be subject to ratification by the Territorial Assembly. If the latter is in session, it must be seized of the matter immediately. If the Territorial Assembly is not in session, the matter shall be laid before the Standing Committee at its earliest meeting and the latter shall report thereon to the Territorial Assembly at its next session. When the decision of the Territorial Assembly becomes definitive, it shall take effect as from the date on which it was adopted.

Article 25. If the Chief Administrator of the Territory considers that the Governing Council has exceeded its powers when making a decision or that the decision is such as to prejudice national defence, public policy or the maintenance of security or civil liberties, he shall refer the matter to the Minister for Overseas France. The latter may have the decision annulled by decree issued upon receipt of the opinion of the Conseil d'Etat. The decree shall be issued within three months of the date of the decision. During this period the decision shall be suspended.

Article 26. Subject to the powers of the Administrative Disputes Council, an appeal against the decisions of the Government Council may lie with the Conseil d'Etat which shall rule in its capacity as an administrative disputes court.

Article 27. Any decision made by the Government Council in the absence of the Chief Administrator of the Territory, his lawful alternate or the Vice-President, or made in violation of the provisions of article 16, shall be null and void.

In the event of such a decision, the Chief Administrator of the Territory shall by an order stating the reasons declare the meeting illegal, pronounce null and void any decisions taken and take all necessary measures to ensure the immediate adjournment of the Council.

He shall report on the matter to the Minister for Overseas France.

Article 28. The Vice-President of the Government Council shall lay annually before the Government Council for approval his report to the Territorial Assembly on the general activities of the Government Council and the work of the Territorial public services.

Section II. Individual functions

Article 29. Each Minister shall be responsible, under power of delegation issued by the Chief Administrator of the Territory after consultation with the Vice-President of the Government Council, for the administration of one or more territorial public services.

Article 30. The functions of the Ministers shall be defined by an order made by the Chief Administrator of the Territory, countersigned by the Vice-President of the Government Council and published in the Journal Officiel.

Article 31. Each Minister shall be responsible to the Council for the work of the public services and the conduct of the affairs of the administrative branch for which he is responsible and shall report regularly to the Government Council thereon.

Article 32. A Minister may be made responsible for an administrative branch having one or more divisions the management of which is entrusted to other Ministers but whose activities he co-ordinates.

Article 33. The Minister responsible for the conduct of a branch or division of the territorial administration shall take all necessary decisions concerning the management of affairs within the competence of the territorial public services with which his branch or division is concerned, with the exception of those for which the Government Council or the Territorial Assembly is responsible.

He may set up a secretarial service within the limits of the budgetary appropriations voted by the Assembly.

He shall direct the services of his branch or division with the assistance of the heads of services (chefs de service) to whom he shall delegate all necessary powers.

He shall be responsible for ensuring that his services carry out the decisions of the Government Council and of the Territorial Assembly.

Article 34. Each Minister shall submit to the Council such matters as have been duly prepared by his services and require an order or decision of the Government Council.

He shall also submit to the Government Council all proposals and all reports of enquiries within the competence of his branch or division that must be laid before the Territorial Assembly. He shall be responsible for following the discussion of such matters and speaking in support of them in the Territorial Assembly, in accordance with the instructions of the Government Council. He may be assisted on such occasions by officers of his department.

Article 35. Subject to the conditions laid down in their respective staff regulations and on the recommendation of the Minister to whom they are responsible, the Chief Administrator of the Territory shall:

appoint and promote members of the personnel of the territorial establishments;
assign officials and employees to posts in the territorial public service and impose or recommend, as appropriate, any necessary disciplinary measures against such officials or employees.

Reports on employees of the territorial public services shall be made successively by the officials responsible for making reports under the general and special regulations applicable to the civil service establishments, and by the Minister responsible for the service to which they are assigned.

The Chief Administrator of the Territory shall on the recommendation of the Minister concerned recruit temporary employees to be paid out of the territorial budget, subject to approval of the standard contracts by the Territorial Assembly.

Article 36. In addition to the general obligation imposed by article 10, each Minister shall be bound, in respect of his individual actions on behalf of the branch or division for which he is responsible, by the same rules of professional secrecy as apply to public service officials.

Article 37. When necessary, detailed regulations for the application of this chapter shall be issued in the form of orders made by the Chief Administrator of the Territory and countersigned by the Vice-President of the Government Council.

Part II

Powers of the Territorial Assembly

Article 38. Articles 17, 23 and 33 to 37 of the above-mentioned Decree of 25 October 1946 are replaced by the following provisions.

Article 39. The Territorial Assembly shall decide the opening date and duration of its regular sessions.

The following rules shall, however, apply:

The territorial Assembly shall hold two regular sessions each year, which shall be convened by the Chief Administrator of the Territory. The first session shall open during the second quarter; the second, or budgetary session during which the budget shall be examined, shall open between 1 August and 30 September.

If the Assembly adjourns without having fixed the opening date for its next regular session, that date shall be fixed, sufficiently in advance, by the Standing Committee. If, notwithstanding the foregoing, the Assembly has not met in regular session during one of the above-mentioned periods, the Chief Administrator of the Territory may by order made in Government Council, change the session period and convene the Assembly in regular session. The duration of each regular session may not exceed two months.

The Territorial Assembly shall also meet in special session when convened by the Chief Administrator of the Territory:

(a) if not less than two-thirds of its members address a written request for such a session to the President, or

(b) by order made by the Chief Administrator of the Territory in Government Council.

The duration of special sessions may not exceed one month.

The session shall be opened and closed by order of the Chief Administrator of the Territory in Government Council.

Article 40. The Assembly shall adopt resolutions to issue territorial regulations on the following matters:

(1) general regulations applicable to employees of the territorial establishments, in application of the decrees concerning the civil service which were issued under article 3 of the Act of 23 June 1956.

(2) civil procedure, excluding the organization of the courts;

(3) the liberal professions; ministerial and public offices;

(4) customary law relating to civil status and regulations respecting civil registry under the relevant laws;

(5) verification, compilation and codification of traditional customs; adaptation of customs to the social evolution; immovable property and immovable property rights which are governed by custom, in particular, definition of the customary rights which are to be treated as real rights capable of being used as a basis for credit; in general, all matters coming under local laws.

(6) the public lands of the territory including vacant and ownerless land forming part of the private domain of the Territory.

Nevertheless, it shall not be lawful to impair in any way the immovable property rights and easements from which the State benefits on the date of this Decree.

If the State subsequently assigns certain immovable property for the work of a public service, such property shall benefit by the public utility easements inherent in the operation of the said service;

(7) domestic trade, handicrafts and all occupations connected with such activities: commercial travellers, pedlars, etc.;

(8) mutual societies, subject to the provisions of Decree No. 56-1155 of 14 November 1956 relating to rural development mutual societies in the Overseas Territories;

(9) producers or consumers associations, co-operatives;

(10) agriculture, forests, regulation of inland waterways, soil conservation, protection of nature and plants, plant health control;

(11) raising, movement, sale and slaughter of cattle, campaign against epizootic diseases;

(12) coastal fisheries, excluding any measure contravening the provisions of the Act of 1 March 1888; river fisheries;

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- (13) processing for export, excluding the establishment of standards, which shall continue to be governed by decree;
- (14) inter-island transport;
- (15) internal transport, passenger traffic, road haulage;
- (16) navigation on canals and lagoons;
- (17) policing of communications, excluding airways and waterways;
- (18) the issue, after consultation with the National Insurance Council through the Minister for Overseas France, of regulations for the purpose of instituting compulsory insurance with respect to individuals and corporate bodies whose civil liability may be involved under the provisions of articles 1382 to 1386 of the Civil Code; provided that such regulations shall not affect the substance of any laws or regulations on insurance nor apply to coverage of risks connected with industrial accidents or occupational diseases;
- (19) conditions for application of legislation concerning minerals;
- (20) organization of savings banks in the Territory;
- (21) public health, control of major endemic diseases; protection of public health and of the insane; thermal springs;
- (22) manufacture and sale of all beverages, conditions of hygiene and safety in retail liquor establishments;
- (23) philanthropic societies engaged in public health, education or training; juvenile delinquency and vagrancy;
- (24) touring and hunting;
- (25) town-planning, housing; regulation of dangerous, inadequate and insanitary premises; low-income housing, rentals;
- (26) primary and secondary education, vocational and technical training, excluding courses of study, examination programmes and procedures, certificates and diplomas and teaching qualifications;
- (27) regulations respecting educational scholarships payable out of the territorial budget;
- (28) public libraries, cultural centres;
- (29) sports and physical education;
- (30) welfare, aid, assistance and grants; lotteries;
- (31) protection of monuments and sites;

(32) penitentiary system;

(33) fixing of costs included under the heading "criminal justice costs", establishment of the scale of such costs, method of payment and collection, fixing of conditions to be fulfilled by the payees and, in general, regulation of all matters connected with costs in criminal cases; charges for the issue of copies of or extracts from public documents;

(34) conditions under which aliens are required to obtain administrative authorization before engaging in certain occupations;

(35) terms and conditions for acceptance of tenders and award of contracts in the Territory for work and supplies connected with the Territory, subject to observance of the general rules applicable in such matters. These rules shall be established by a decree issued in accordance with article 1 of the Act of 23 June 1956.

Article 41. Decisions may be taken in the matters referred to in article 40 notwithstanding any laws or regulations to the contrary enacted before the date of entry into force of this Decree, subject, however, to international conventions, laws and regulations relating to matters dealt with in the Commercial Code and the Maritime Code, the provisions of the Act of 15 December 1952, the Act of 30 April 1946 and the Decrees issued for the application thereof, Decrees Nos. 55-625 and 55-634 of 20 May 1955, laws and regulations for the prevention of fraudulent practices and the inspection of weights and measures, and the ethical codes.

Article 42. The laws and decrees relating to the matters listed in article 40 of this Decree shall nevertheless remain in force and shall have the effect of territorial regulations. These regulations may be abrogated or amended by decision of the Territorial Assembly.

Article 43. The Territorial Assembly may make provision in the regulations arising from its decisions for penalties under the conditions laid down in article 2 of the Act of 23 June 1956.

Article 44. In local affairs, the Territorial Assembly shall decide on programmes to give practical effect to and carry out the equipment and development plan provided for by the Act of 30 April 1946, in accordance with the terms of the decrees issued for the application of the said Act.

Article 45. As regards domanial interests, the Territorial Assembly shall decide on all proposals made by the Chief Administrator of the Territory in Government Council respecting the following matters:

(a) proceedings to be instituted or supported on behalf of the Territory, except in cases of emergency when the decision shall be taken by the Government Council;

In cases of dispute between the State and the Territory, the latter shall be represented by a Minister empowered to that effect by the Government Council;

(b) settlements relating to the rights of the Territory in suits involving sums exceeding 10 million francs C.F.A.;

(c) acceptance or refusal of gifts or bequests to the Territory of encumbered immovable property.

The Chief Administrator of the Territory may by a decision taken in Government Council always accept such gifts as a measure of conservation. Any subsequent decision of the Territorial Assembly shall have effect as from the time of such provisional acceptance. In urgent cases, the Chief Administrator of the Territory acting alone may proceed to take all necessary measures of conservation and accept gifts and bequests;

(d) transfer of immovable property of the Territory;

(e) choice of the method of executing public works projects in the Territory;

(f) granting of licences to carry out work on behalf of the Territory.

A licence to carry out public works in the Territory however may not be granted to or on behalf of any alien unless there is agreement between the Assembly and the Chief Administrator of the Territory; in the event of disagreement, a decision shall be made by decree.

(g) granting of agricultural and forestry concessions; granting of temporary forestry permits for periods exceeding five years;

(h) classification and de-classification of the public lands of the Territory and, in particular, of territorial main roads, aerodromes operated under the territorial budget, harbours, waterways, canals, lakes, lagoons and ponds.

Article 46. Subject to compliance with international conventions and the provisions of article 32 of Act No. 52-1336 of 31 December 1953 and subject to previous consultation with the assemblées consulaires (commercial arbitral

assemblies) on matters within their competence, the Assembly shall take decisions in financial matters in respect of any bills prepared by the Government Council and any member's bills on the following subjects:

(a) determination of taxes, charges, apportioned charges, duties and rates of all kinds which may be levied in aid of the territorial budget, method of assessment, rules for collection and tariffs;

(b) agreements to be concluded with concessionaires, licencees and other managing agents in the Territory and the relevant specifications: schedules of fees payable by concessionaires, licencees and managing agents;

(c) maximum rates of duties and taxes of all kinds and maximum rates of additional taxes (centimes additionnels) which may be collected in aid of communities, organizations and public institutions functioning in the Territory, with the exception of communes de plein exercice;

(d) territorial land rents and other land duties;

(e) regulations governing charges for services provided by territorial public departments and for the provision of goods, equipment and supplies;

(f) fiscal tariff agreements relating to taxes levied in aid of the territorial budget, where provided by legislation;

(g) establishment and elimination of territorial public services and institutions;

(h) determination of the number of scholarships and other school grants to be paid for out of territorial funds, in accordance with the regulations in force; conditions for payment of settlers' loans out of territorial funds;

(i) grants and loans by the Territory to communes, public communities and public institutions in the Territory; acceptance or refusal of offers of aid or assistance made by the State, the communes, the public communities and public institutions of the Territory and of the State for carrying out work financed out of territorial funds; offers of territorial aid and assistance in carrying out public works financed out of the funds of the communes, public communities and public institutions of the Territory and the State; contribution of the Territory towards the cost of works of interest to the Territory which are to be carried out by the State;

(j) contributions, refunds and fees payable by the Territory to territorial public institutions or to the State;

(k) shares held by the Territory in public or semi-public corporations and, exceptionally, in private corporations whose activities tend to promote the economic development of the Territory;

(l) borrowings or requests by the Territory for loans or advances from the State, the Caisse centrale de la France d'outre-mer or other public credit institutions and use of the resources of the Territory as security therefor;

(m) securities and guarantees granted by the Territory to the undertakings of communes, public communities and public institutions;

(n) fixing conditions in which territorial budgetary funds may be allocated for measures to increase production.

The Assembly may fix a time-limit by which the assemblées consulaires (commercial arbitral assemblies) must express an opinion and in default thereof it shall proceed to act. The time-limit may not be less than fifteen days from the date on which the request for an opinion was made.

Article 47. The Assembly shall decide on the granting of type B mining exploration permits.

Article 48. The Territorial Assembly may take a decision fixing the amount and conditions of payment of the remuneration allotted and paid monthly to its members and also the rules which shall apply to a refund of their travelling expenses.

This remuneration, whatever its form, shall be fixed with reference to the salary of a category of officials serving in the Territory.

It may not be cumulated with the remuneration allotted to members of the Government Council nor with that allotted to members of the constitutional assemblies.

Officials, whether performing the duties of their service or seconded who are members of the Territorial Assembly shall receive the difference between their salary, plus any travelling expenses and the remuneration payable to a member of the Territorial Assembly, or only their salary, plus any travelling expenses, if the total thereof is greater than the said remuneration.

The Territorial Assembly may also vote its President an annual lump-sum payment as a representation allowance.

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Article 49. The Territorial Assembly shall be consulted on all matters for which such consultation is provided by the laws and regulations and, in particular, on draft orders for the issue of regulations to be made by the Government Council, relating to:

- (a) the organization of the territorial public services as a whole;
- (b) special regulations for employees of the territorial public service establishments, form and scales of remuneration, leave provisions, social benefits and pension schemes applicable to such employees;
- (c) working conditions and the social security system and, in particular, application within the Territory of the provisions of Act No. 52-1322 of 15 December 1952 establishing a Labour Code in the territories and associated territories for which the Minister for Overseas France is responsible;
- (d) the complement of State officials placed at the disposal of the Territorial public services;
- (e) the establishment, elimination and modification of administrative circonscriptions in the Territory and revision of their boundaries;
- (f) the establishment, constitution, organization and operation of rural communities and conseils de circonscription, if any;
- (g) the establishment of institutions representing economic interests in the Territory;
- (h) measures to encourage production;
- (i) immigration regulations;
- (j) the fixing of the scale of penalties applicable in respect of each category of violations of the regulations issued as a result of the decisions of the Territorial Assembly, under the conditions laid down in article 2 of Act No. 56-619 of 23 June 1956.

The Assembly shall be consulted on the following matters:

- (1) the rules governing representation of the economic interests of the Territory;
- (2) the delivery of type A mining exploration permits which shall be granted by the Chief Administrator of the Territory in his capacity as representative of the State, notwithstanding article 9 of Decree No. 54-1110 of 13 November 1954. If the Territorial Assembly and the Chief Administrator of the Territory disagree,

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the matter shall be decided by decree adopted in Council of Ministers, after consultation with the Assembly of the French Union;

(3) missions, the cost of which is charged to the Territorial budget;

(4) the appointment, as necessary, of territorial representatives to the board of the bank of issue for the Territory;

(5) the conformation of domestic postal, telephone and telegraph rates, and all plans for the installation, adjustment, equipment and maintenance of the domestic telephone and telegraph network and radio service, subject to the application of Decree No. 56-1229 of 3 December 1956, as amended, to reorganize and decentralize the overseas postal and telecommunication services.

Article 50. The Government Council shall refer the following matters to the Assembly:

(a) the administrative accounts connected with the execution of the budget of the Territory and the associated budgets, régies (monopolies) and public institutions of the Territory;

(b) the annual financial position of the Territory;

(c) the income received by the accounting officer of the central administrative office for overseas posts and telecommunications from the sale of stamps issued for the account of the Territory, except in so far as the provisions relating to local offices of the Decree of 3 December 1956, as amended, to reorganize and decentralize overseas postal and telecommunication services, shall be made applicable to the Territory by decree.

Any comments which the Assembly may decide to make with regard to the accounts of the Territory shall be submitted by the President of the Assembly, within the time specified in article 52, to the Chief Administrator of the Territory who shall forward a copy of such comments to the Audit Office (Cour des Comptes) through the Ministry for Overseas France.

Article 51. All matters, except those which may be submitted only by the Chief Administrator of the Territory, shall be referred to the Territorial Assembly by the President of the Government Council or by a member of that body.

In the period between sessions, bills submitted by the Government Council to the Assembly for approval and members' bills shall be placed before the Standing Committee.

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Members' bills shall be forwarded within ten days to the Government Council which may give its opinion thereon. The Assembly shall not refuse a request by the Government Council to postpone the examination of any bill until the next session of the Assembly, at the latest.

The Government Council must be kept informed of the matters on the agendas of the Assembly and its Committees. It may designate one of its members to attend the meetings of the Committees of the Assembly, address the meetings or cause himself to be represented thereat.

Bills and proposals submitted to the Assembly for approval shall be considered by the latter at the session during which they were submitted, or at the next session at the latest, unless authority is delegated to the Standing Committee to act on them between sessions.

In matters which must be submitted to the Assembly for its opinion, the Chief Administrator of the Territory acting in Government Council, may, after notifying the President of the Assembly, proceed to take action in the absence of an opinion of the Assembly, if the latter has failed to express its views within the periods specified above.

Article 52. Decisions of the Territorial Assembly and its Standing Committee shall be communicated to the Chief Administrator of the Territory, in duplicate, together with an extract of the record of the meeting at which they were discussed and voted upon, within thirty clear days reckoned from the closing of the session. Upon receipt of the documents, the Chief Administrator of the Territory shall ensure that one set thereof is communicated to the Minister for Overseas France.

The Chief Administrator of the Territory shall give effect to the decisions of the Territorial Assembly or its Standing Committee or shall refer them to the Territorial Assembly for second reading or to the Minister for Overseas France for annulment, as provided in articles 53 and 54 hereunder. If the Chief Administrator of the Territory should request the Minister for Overseas France to annul a decision, he shall advise the President of the Territorial Assembly thereof, or, if that body is not in session, the Chairman of the Standing Committee.

Article 53. With regard to any matter enumerated in articles 39, 40 and 43 to 48, upon which the Territorial Assembly is competent to act, the Chief Administrator of the Territory may within a period of thirty clear days from the date on which it was submitted to him, request the Territorial Assembly to reconsider in second reading any decision taken by the Assembly or by its Standing Committee which he considers not to be in the public interest or conducive to the sound administration of the Territory.

The period specified in article 54 hereunder shall then run from the date of receipt by the Chief Administrator of the Territory of the new decision adopted by the Territorial Assembly.

Article 54. The Minister for Overseas France may annul any decision of the Territorial Assembly or its Standing Committee on the ground that it is an act in excess of power or a violation of the law, by decree issued in the form of public administrative regulations.

If a decision of the Assembly or its Standing Committee, which has been submitted to the Minister for annulment, is not annulled within a period of ninety clear days from the date on which it was communicated to the Chief Administrator of the Territory, the latter shall make it effective not later than eight clear days after the expiry of the above-mentioned period.

In matters relating to customs, decisions of the Territorial Assembly and of the Standing Committee shall be subject to the provisions of article 3 of Decree No. 54-1020 of 14 October 1954.

Article 55. The levying of taxes, duties, rates and charges of all kinds shall be effected on the former basis and in accordance with the earlier schedule, pending the publication of the orders of the Chief Administrator of the Territory in Council giving effect to the decisions of the Territorial Assembly or its Standing Committee.

Decisions concerning direct taxes or duties or rates assimilated thereto, taken by the Territorial Assembly or its Standing Committee at a session which opened before 1 January shall have effect as from that date even if they could not be put into effect earlier.

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Similarly, if it has not been possible to put the budget into effect before 1 January, the Chief Administrator of the Territory shall be authorized to make provisional monthly appropriations on the basis of the appropriations in the previous budget. Further appropriations may be made each month until the budget has been put into effect.

Article 56. A code of regulations based on the decisions of the Territorial Assembly and on the regulations issued by the Chief Administrator of the Territory shall be established in accordance with Orders made by the Chief Administrator of the Territory in Council and published in the Journal officiel of the Territory. These codes shall be brought up to date annually.

Part III

Rural communities

Article 57. The Chief Administrator of the Territory of the Comoros may by orders made in Government Council after consultation with the Territorial Assembly, establish in that Territory rural communities which shall be bodies corporate, provided that such communities have the necessary resources to balance a budget.

Such rural communities may be constituted by districts, portions of districts or groups of districts.

Each rural community shall be administered by an elected rural community council.

The provisions of articles 3 to 9 of the Decree of 4 April 1957 laying down the conditions for the establishment and operation of rural communities in French West Africa and French Equatorial Africa shall apply to the rural communities in the Territory of the Comoros.

Part IV

Miscellaneous provisions

Article 58. Communes de plein exercice may be established in the Comoros by order of the Chief Administrator of the Territory made upon receipt of an advisory opinion of the Territorial Assembly adopted by an absolute majority of its members.

Pending the enactment of legislation to govern communes de plein exercice in the Territory, such communes shall provisionally be governed by:

The Decree of 8 March 1879, as amended, relating to the municipal organization of communes de plain exercice in certain overseas Territories;

Articles 169 to 179 of the Act of 5 April 1884 on municipal organization;

Articles 2, 31 to 33, 56 and 58 of Act No. 55-1489 of 18 November 1955 relating to municipal reorganization in French West Africa, French Equatorial Africa, Togoland, the Cameroons and Madagascar.

Article 59. All legislative provisions and regulations contrary to this Decree and, in particular, articles 6 and 7 of the above-mentioned Decree of 24 September 1946, are hereby repealed.

Article 60. The Chief Administrator of the Territory shall issue orders, where necessary, to prescribe the measures for the application of this Decree.

Article 61. The Minister for Overseas France and the Minister of Finance, Economic Affairs and Planning shall be responsible, each in so far as he is concerned, for the execution of this Decree, which shall be published in the Journal officiel of the French Republic.

DECREE NO. 57-817 OF 22 JULY 1957

providing for administrative decentralization, through transfer of powers,
of the central departments of the Ministry for Overseas France

The President of the Council of Ministers,

Acting on the report of the Minister for Overseas France, the Minister of State and the Minister of Finance, Economic Affairs and Planning,

Having regard to Act No. 56-619 of 23 June 1956, as amended by Act No. 57-702 of 19 June 1957 authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, particularly article 1 thereof;

Having regard to Decree No. 57-458 of 4 April 1957 providing for the reorganization of French West Africa and French Equatorial Africa;

Having regard to Decree No. 57-460 of 4 April 1957 defining the powers of the Chief Administrators, Government Councils and Territorial Assemblies of the Territories of French West Africa and French Equatorial Africa;

Having regard to Decree No. 57-461 of 4 April 1957 laying down the conditions for the establishment and operation of rural communities in French West Africa and in French Equatorial Africa;

Having regard to Decree No. 57-462 of 4 April 1957 providing for the reorganization of Madagascar;

Having regard to Decree No. 57-463 of 4 April 1957 laying down the conditions for the establishment and operation of the Madagascar Government Council, defining its powers, and broadening the powers of the Madagascar Representative Assembly;

Having regard to Decree No. 57-464 of 4 April 1957 laying down the conditions for the establishment and operation of the Madagascar provincial councils, defining their powers, and broadening the powers of the Madagascar provincial assemblies;

Having regard to Decree No. 57-465 of 4 April 1957 laying down the conditions for the establishment and operation of rural communities in Madagascar;

Having regard to Decree No. 57-811 of 22 July 1957 establishing a Government Council and broadening the powers of the Territorial Assembly in New Caledonia;

Having regard to Decree No. 57-813 of 22 July 1957 establishing a Government Council and broadening the powers of the Territorial Assembly in French Somaliland;

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Having regard to Decree No. 57-812 of 22 July 1957 establishing a Government Council and broadening the powers of the Territorial Assembly in the French Settlements in Oceania;

Having regard to Decree No. 57-814 of 22 July establishing a Government Council and broadening the powers of the Territorial Assembly in the Comoro Archipelago;

Having regard to Decree No. 56-1227 of 3 December 1956 defining the State services in the Overseas Territories and enumerating State personnel, as amended;

Having regard to Decree No. 56-1228 of 3 December 1956 relating to the organization of civil public services in the Overseas Territories, as amended;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

After consultation with the Assembly of the French Union;

Having regard to the decision by Parliament approving, subject to amendment, the Decree providing for administrative decentralization, through transfer of powers, of the central departments of the Ministry for Overseas France, submitted to the Secretariat of the National Assembly on 28 February 1957,

Decrees as follows:

Article 1. In addition to the matters transferred to the jurisdiction of the High Commissioners or Chief Administrators of Territories under the afore-said Decrees, for the purpose of effecting administrative decentralization, through transfer of powers, of the central departments of the Ministry for Overseas France, the matters listed in the annexed schedules shall be transferred in the Overseas Territories to the respective jurisdiction of the High Commissioners or Chief Administrators of Territories which are not members of a Group, in their capacity as depositories of the powers of the Republic (Schedule A) or to the Chief Administrators of Territories which are members of a Group, in their capacity as permanent representatives of the High Commissioners (Schedule B).

The matters transferred to the jurisdiction of the Chief Administrators of the Territories which are members of a Group shall also be transferred to the jurisdiction of the Chief Administrators of Territories which are not members of a Group.

Notwithstanding any laws or regulations to the contrary, the High Commission Commissioner and Chief Administrators of Territories may make orders, as necessary, amending or repealing any previous regulations in respect of such matters.

Article 2. The Minister for Overseas France may also make orders transferring to the depositories of the powers of the Republic in the Overseas Territories functions which he exercises not by virtue of provisions of law or regulations but by virtue of his general powers with respect to matters concerning the Territories within the jurisdiction of his ministerial department and which have not been expressly transferred to the jurisdiction of the local authorities.

Subject to the approval of the Minister for Overseas France, the other Ministers may make orders transferring to the repositories of the powers of the Republic in the Overseas Territories functions which they exercise not by virtue of provisions of laws or regulations but by virtue of their general powers as heads of a ministerial department.

Article 3. The Minister for Overseas France and the Minister of Finance, Economic Affairs and Planning shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal officiel of the French Republic.

SCHEDULE A

Matters transferred from the jurisdiction of the Government to the jurisdiction of the High Commissioners and the Chief Administrators of Territories which are not members of a Group

MATTERS

RELEVANT LEGISLATIVE PROVISIONS

1. Matters of general administration

Missions charged to the budgets of Groups of Territories or of Territories which are not members of a Group.

Article 61 of the Act of 28 February 1934, as amended by article 29 of the Act of 31 December 1948

Determination of the rates of travel allowances paid to the staff of establishments regulated by decrees in the overseas Territories, subject to the maximum rates laid down by decree

Article 10 of the Decree of 13 June 1912, as amended by Decree No. 55-1627 of 7 December 1955.

MATTERS

RELEVANT LEGISLATIVE PROVISIONS

2. Financial matters.

Total or partial remission of debts of officials or of debtors other than officials to the local service (budget of the Group of Territories or of Territories which are not members of a Group).

Articles 194 and 199 of the Decree of 30 December 1912.

Total or partial remission of deficits of employees of the local service (budget of the Group of Territories or of Territories which are not members of a Group).

Article 420 of the Decree of 30 December 1912.

Exoneration of employees of the local service in cases of theft or loss of funds caused by force majeure (budget of the Group of Territories or of Territories which are not members of a Group).

Article 419 of the Decree of 30 December 1912.

3. Economic matters.

Authorization to establish local public air transport services.

Legislative Decree of 16 July 1935.

Establishment, organization, equipment and maintenance of local air networks.

Ordinance of 18 October 1945 (article 3).

Organization and supervision of the following air lines:

Decree of 1 November 1936

- (a) Lines connecting the Territories of one and the same Group;
- (b) Lines connecting the Territories of French West Africa with those of French Equatorial Africa;
- (c) Temporary French transport services from one Territory or Group of Territories to an adjacent foreign country, provided that this does not involve the reciprocal grant of traffic rights to the foreign country concerned.

MATTERS

3. Economic matters (continued).

Determination of the conditions for the application of French laws introducing changes in old age pensions.

Appointment of representatives of the Territories to the boards of directors of banks and issuing institutions.

Determination of the method of calculating the share accruing to each Territory of the statutory payments by currency-issuing institutions.

The issue of regulations for the distribution and transmission of electric power, after consultation with the Grand Council or the Assembly of a Territory which is not a member of a Group.

The issue of regulations concerning water power, after consultation with the Grand Council or the Assembly of a Territory which is not a member of a Group.

RELEVANT LEGISLATIVE PROVISIONS

French West Africa: Decree No. 55-103 of 20 January 1955 (article 7).
French Equatorial Africa: Decree No. 55-104 of 20 January 1955 (article 7).
Madagascar and the Comoro Archipelago: Act No. 50-375 of 29 March 1950 (article 5).

French West Africa: Decree No. 55-103 of 20 January 1955 (article 4).
French Equatorial Africa: Decree No. 55-104 of 20 January 1955 (article 4).
Madagascar and the Comoro Archipelago: article 3 of the Agreement of 31 August 1950 with the Bank of Madagascar, approved by Decree No. 50-1425 of 16 November 1950.
New Caledonia and the French Settlements in Oceania: article 8 of the Act of 31 March 1931 and article 4 of the Agreement of 16 November 1929 with the Bank of Indochina, approved by the above-mentioned Act of 31 March 1931.

Decrees in force in individual Groups and Territories, and the Act of 29 December 1940 (article 1).

Decrees in force in individual Groups and Territories.

MATTERS

RELEVANT LEGISLATIVE PROVISIONS

4. Social matters.

Adaptation of the curricula and teaching methods of secondary schools and teacher-training establishments.

Conditions and syllabuses of local examinations with a different title from those of metropolitan France

Co-ordination of the work of mutual aid and social assistance agencies of Groups of Territories and of Territories which are not members of a Group.

Act No. 655 of 19 November 1943 (article 5).

SCHEDULE B

Matters transferred from the jurisdiction of the Government to the jurisdiction of the Chief Administrators of Territories which are members of a Group and to the jurisdiction of the Chief Administrators of Territories which are not members of a Group

1. Matters of general administration

The fixing of the date of partial elections to the Territorial Assemblies, General Councils and Provincial Assemblies of Madagascar.

Act No. 52-130 of 6 February 1952 (article 15). Act No. 52-1175 of 21 October 1952 (article 9).

The issue of orders for the transfer to France of funds derived from the liquidation of unclaimed estates.

Article 33 (paragraph 2) of the Decree of 27 January 1855, which was extended to all Territories by the Decree of 14 March 1890.

Missions charged to Territorial budgets.

Article 61 of the Act of 28 February 1934, as amended by article 29 of the Act of 31 December 1948.

Authorization of the transfer of corpses.

Decree No. 52-1232 of 12 December 1952.

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MATTERS

RELEVANT LEGISLATIVE PROVISIONS

2. Financial matters.

Total or partial remission of debts of officials or of debtors other than officials to the local service (Territorial budget)

Articles 194 and 199 of the Decree of 30 December 1912.

Exoneration of employees of the local service in cases of theft or loss of funds caused by force majeure (Territorial budget)

Article 419 of the Decree of 30 December 1912.

Total or partial remission of deficits of employees of the local service (Territorial budget).

Article 420 of the Decree of 30 December 1912.

3. Economic matters.

Establishment of price stabilization funds for overseas products, subject to the powers of the Territorial Assemblies.

Decree No. 54-1021 of 14 October 1954 as amended by Decree No. 56-1138 of 13 November 1956 (articles 1 and 7).

Organization, functioning, powers, resources and nature of the operations of local and regional agricultural credit banks, with the exception of branches of the central agricultural credit banks, and after consultation with the Territorial Assemblies.

Decree No. 56-1137 of 13 November 1956 (articles 2 and 3).

Approval of private airfields ...

Decree of 9 April 1936.

The establishment of easements and obligations in respect of wireless transmission and reception.

Act No. 758 of 9 June 1949 (article 4)
Act No. 759 of 9 June 1949 (article 4)

Conditions governing the distribution among recipient organizations of the share accruing to the Territory of the statutory payments by currency issuing institutions.

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MATTERS

RELATIVE LEGISLATIVE PROVISION

4. Social matters

Adaptation of the curricula and teaching methods of primary and technical schools and apprenticeship centres.

Co-ordination of the work of the mutual aid and social assistance agencies of the Territory.

Act No. 655 of 19 November 1943
(article 5).

The grant of licences to engage in private practice to physicians, dental surgeons, and midwives holding diplomas from the Schools of Medicine and Pharmacy at Dakar, Tananarive and Pondichéry.

Decree No. 52-935 of 28 July 1952
(article 3).

The grant of licences to engage in private practice to senior pharmacists holding diplomas from the Dakar School of Medicine and Pharmacy.

Decree No. 56-357 of 27 March 1956.

III. FINANCIAL, ECONOMIC, SOCIAL AND CULTURAL DECREES:

DECREE NO. 57-466 OF 4 APRIL 1957

terminating the obligatory character of certain items of expenditure financed from the budgets of the Groups of Territories, the Overseas Territories and the provinces of Madagascar

The President of the Council of Ministers,

Acting on the report of the Minister for Overseas France and the Minister of Economic and Financial Affairs,

Having regard to Act No. 56-619 of 23 June 1956 authorizing the Government to institute reforms and take measures to ensure the development of the Territories for which the Ministry for Overseas France is responsible, particularly article 1 thereof;

Having regard to Decree No. 57-458 of 4 April 1957 providing for the reorganization of French West Africa and French Equatorial Africa;

Having regard to Decree No. 57-460 of 4 April 1957 defining the powers of the Chief Administrators, Government Councils and Territorial Assemblies of the Territories of French West Africa and French Equatorial Africa;

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Having regard to Decree No. 57-463 of 4 April 1957 laying down the conditions for the establishment and operation of the Madagascar Government Council, defining its powers, and broadening the powers of the Madagascar Representative Assembly;

Having regard to Decree No. 57-464 of 4 April 1957 laying down the conditions for the establishment and operation of the Madagascar provincial councils, defining their powers, and broadening the powers of the Madagascar provincial assemblies;

Having regard to Decree No. 56-1227 of 3 December 1956 defining the State Services in the Overseas Territories and enumerating State personnel;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers;

After consultation with the Assembly of the French Union;

Having regard to the decision by Parliament approving, subject to amendment, the Decree terminating the obligatory character of certain items of expenditure financed from the budgets of the Groups of Territories, the Overseas Territories and the provinces of Madagascar, submitted to the Secretariat of the National Assembly on 4 December 1956,

Decrees as follows:

Article 1. The items of expenditure listed in the annexed schedule A shall cease to be obligatory for the Groups of Territories, Territories and provinces.

Article 2. Notwithstanding any provisions to the contrary enacted prior to this Decree, the following items of expenditure shall continue to be obligatory: the contributions, participation and expenditure chargeable to the budgets of the Groups of Territories, Territories and provinces, which are listed in the annexed Schedule B, as well as expenditure for the purpose of discharging financial liabilities and covering previous budgetary deficits or deficits resulting from the application of the provisions of article 6 of Decree No. 56-1227 of 3 December 1956.

Article 3. The Minister for Overseas France and the Minister of Economic and Financial Affairs shall be responsible, each within the limits of his competence, for giving effect to this Decree, which shall be published in the Journal officiel of the French Republic.

ANNEX

Schedule A. Items of expenditure which are no longer obligatory

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|-----|--|--|
| 1. | Contribution to the military expenditure of metropolitan France. | Article 33, paragraph 1, of the Finance Act of 13 April 1900. |
| 2. | The costs of transportation to and maintenance in New Caledonia and Guiana of persons from the colonies sentenced to transportation or forced residence. | Article 61 of the Finance Act of 26 December 1908. |
| 3. | The costs of the naval conscription service. | Article 1 of the Act of 23 February 1912. |
| 4. | The cost of repatriating the bodies of servicemen deceased overseas. | Article 52 of the Finance Act of 30 July 1913 and article 68 of the Finance Act of 15 July 1914. |
| 5. | Contribution to the expenditures of the overseas air force. | Article 2 of the Act of 22 October 1919. |
| 6. | Non-recurring contribution to defray the cost of training geodetic officers placed on secondment at the disposal of the colonies. | Article 71 of the Act of 31 March 1929. |
| 7. | Supplementary costs, other than pay items, incurred by mobile inspection missions of Overseas France. | Article 36 of the Finance Act of 31 March 1931. |
| 8. | Costs of the service supervising the preparation of products. | Article 2 of the Legislative Decree of 27 August 1937.
Article 10 of Decree No. 45-2433 of 17 October 1945. |
| 9. | Supplementary expenditures arising out of the use, for purposes of maintaining order, of servicemen away from their garrisons. | Article 3 of the Decree of 13 October 1934. |
| 10. | Cost of civil defence measures. | Article 7 of the Decree of 2 May 1939. |
| 11. | Contribution to the operating expenses of the overseas social affairs service. | Article 6 of the Act of 19 November 1943. |

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| 12. Contribution to the operating expenses of the overseas geographical services supported by the National Geographical Institute. | Article 3 of the Act of 31 December 1943. Article 6 of Decree No. 1402 of 7 June 1944. |
| 13. Operating costs of the meteorological services. | Article 8 of Ordinance No. 45-2665 of 2 November 1945. |
| 14. Solidarity contribution towards compensation for war damage suffered by the French Union as a whole. | Article 51 of Act No. 47-580 of 30 March 1947. |
| 15. Travel allowance and benefits in kind payable in respect of visits of inspection to the interior of Territories by High Commissioners and Commissioners of the Republic, Governors-General and Governors, General Secretaries, Inspectors-General and Administrative Inspectors, administrative officers, French criminal and civil law officers, directors, assistant directors and representatives of the Comptroller's Office in the overseas territories. | Article 1 of Act No. 48-488 of 21 March 1948. Article 28 of the Finance Act of 24 May 1951. |
| 16. Emoluments and miscellaneous benefits of the above-mentioned personnel (except personnel of the Comptroller's Office) when on secondment. | Article 2 of Act No. 48-488 of 21 March 1948. Article 21 of the Finance Act of 24 May 1951. |
| 17. Travel and transportation expenses of <u>gendarmerie</u> personnel, animals and equipment. | Article 5 of Act No. 48-488 of 21 March 1948. |
| 18. Cost of purchasing or renting, furnishing and maintaining official premises (hotels and residences of High Commissioners and Commissioners of the Republic, Governors-General and Governors, General Secretaries and chief administrators of various territorial <u>circonscriptions</u> or subdivisions, including appurtenances of such buildings). | Article 7 of Act No. 48-488 of 21 March 1948. |

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| 19. Contribution to the costs of the information and documentation services for which the Ministry for Overseas France is responsible. | Article 39 of Act No. 48-1516 of 28 September 1948, as amended by article 5 of Act No. 53-1318 of 31 December 1953. |
| 20. Efficiency bonuses to staff of the general public works establishment. | Article 1 of Decree No. 50-280 of 1 March 1950. |
| 21. Share in the operating costs of the support fund for hydrocarbons and related products. | Article 18, paragraph 3, of Act No. 50-586 of 27 May 1950, as amended by article 19 of Act No. 51-592 of 24 May 1951 |
| 22. Annual contribution to the operating costs of the central administrative service for Overseas France. | Article 7 of Act No. 51-588 of 23 May 1951. |

Schedule B. Items of expenditures which remain obligatory

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| 1. Reimbursement of travel and correspondence costs of representatives of the territories in Parliament | Article 106 of the Finance Act of 27 December 1927. |
| 2. <u>Expenditures which concern the communes:</u> | |
| Cost of preparing and printing ballot papers for municipal elections (<u>communes de plein exercice</u> and <u>communes de moyen exercice</u>) | Article 20 of Act No. 55-1489 of 18 November 1955. |
| Repayment to <u>communes de plein exercice</u> and to <u>communes de moyen exercice</u> of a proportionate share of the amount collected under local budgets in the territory of such <u>communes</u> . | Article 27, paragraph 1, of Act No. 55-1489 of 18 November 1955. |
| 3. Expenditures of economic benefit: | |
| Contribution to the "Joint Overseas Scientific and Technical Research Fund". | Article 4 of Act No. 550 of 11 October 1943, article 42 of Act No. 47-520 of 21 March 1947, article 12 of Act No. 53-1336 of 31 December 1953, articles 2, 10, 11 and 12 of Decree No. 55-892 of 30 June 1955. |

3. Expenditures of economic benefit (continued)

Payment to the central railways office for non-approval of rates.

Article 13 of Act No. 70 of 28 February 1944.

Contribution of the territories to their own equipment through transfer to FIDES of the proceeds of taxes and import duties imposed by the territories on matériel and products for use in equipment projects financed out of FIDES funds.

Article 16 of Act No. 52-1 of 3 January 1952.

Contribution to the costs of the National Locust Control Office.

Article 4 of the Ordinance of 7 December 1943.

4. Expenditures of social benefit:

Organization and equipment of port prophylactic facilities.

Articles 82, 83, 103 and 104 of the Decree of 27 December 1928.

Maintenance costs and travelling expenses of public health staff seconded to local services and maintenance costs of the staff replacing them.

Article 37 of Act No. 48-1347 of 27 August 1948, as amended by article 4 of Act No. 52-6 of 3 January 1952.

Operating costs of the labour and social legislation inspection services and costs arising from special missions and the benefits provided by the Decree of 17 August 1944.

Article 148 of Act No. 52-1322 of 15 December 1952.

Expenditures connected with vocational guidance and training.

Article 236 of Act No. 52-1322 of 15 December 1952.

5. Personnel costs:

Contribution to the costs of the Overseas France retirement fund.

Article 71 of the Act of 14 April 1924, articles 83 and 84 of the Decree of 1 November 1928.

Contribution to the costs of local retirement funds, including those of local policemen (gardes).

Articles 57 of Decrees No. 51-1368 of 22 November 1951 (French Equatorial Africa) and No. 52-557 of 16 May 1952 (French West Africa), and No. 51-965 of 21 July 1951 (Madagascar),

5. Personnel costs: (continued)

article 50 of Decree No. 54-48
of 4 January 1954
(New Caledonia), article 54
of Decree No. 53-385 of
26 April 1953 (French
Somaliland).

Contribution towards the cost to
the State arising from the
establishment of a pension for
State personnel on secondment.

Decree of 30 June 1934,
article 109 of the Act of
19 October 1946.

6. Expenditures relating to the payment of
due debts.
7. Cost of covering earlier budget deficits.
8. Expenditures arising out of international
conventions.

B. Constitution and Ordinances Enacting Organic Laws
Relating to the Community

Constitution*

The Government of the Republic, in accordance with the Constitutional Act of 3 June 1958, has proposed,

The French People has adopted,

The President of the Republic promulgates the following Constitutional Act:

Preamble

The French people hereby solemnly proclaims its attachment to the Rights of Man and the principles of national sovereignty as defined by the Declaration of 1789, reaffirmed and complemented by the Preamble of the Constitution of 1946.

By virtue of these principles and that of the free determination of peoples, the Republic hereby offers to the Overseas Territories that express the desire to adhere to them, new institutions based on the common ideal of liberty, equality and fraternity and conceived with a view to their democratic evolution.

Article 1

The Republic and the peoples of the Overseas Territories who, by an act of free determination, adopt the present Constitution thereby institute a Community.

The Community shall be based on the equality and the solidarity of the peoples composing it.

* English translation received through the courtesy of the Press and Information Division of the French Embassy, New York.

Title I

On Sovereignty

Article 2

France is a Republic, indivisible, secular, democratic and social. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs.

The national emblem is the tricolour flag, blue, white and red.

The national anthem is the "Marseillaise".

The motto of the Republic is "Liberty, Equality, Fraternity".

Its principle is government of the people, by the people and for the people.

Article 3

National sovereignty belongs to the people, which shall exercise this sovereignty through its representatives and by means of referendums.

No section of the people, nor any individual, may attribute to themselves or himself the exercise thereof.

Suffrage may be direct or indirect under the conditions stipulated by the Constitution. It shall always be universal, equal and secret.

All French citizens of both sexes who have reached their majority and who enjoy civil and political rights may vote under the conditions to be determined by law.

Article 4

Political parties and groups shall be instrumental in the expression of the suffrage. They shall be formed freely and shall carry on their activities freely.

They must respect the principles of national sovereignty and democracy.

Title II

The President of the Republic

Article 5

The President of the Republic shall see that the Constitution is respected. He shall ensure, by his arbitration, the regular functioning of the governmental authorities, as well as the continuance of the State.

He shall be the guarantor of national independence, of the integrity of the Territory, and of respect for Community agreements and treaties.

Article 6

The President of the Republic shall be elected for seven years by an electoral college comprising the members of Parliament, of the General Councils and of the Assemblies of the Overseas Territories, as well as the elected representatives of the municipal councils.

These representatives shall be:

- the mayor for communes of fewer than 1,000 inhabitants;
- the mayor and the first deputy mayor for communes of from 1,000 to 2,000 inhabitants;
- the mayor, first deputy mayor and a municipal councillor chosen according to the order in which he appears on the council list for communes of from 2,001 to 2,500 inhabitants;
- the mayor and the first two deputy mayors for communes of from 2,501 to 3,000 inhabitants;
- the mayor, the first two deputy mayors and three municipal councillors chosen according to the order in which they appear on the council list for communes of from 3,001 to 6,000 inhabitants;
- the mayor, the first two deputy mayors and six municipal councillors chosen according to the order in which they appear on the council list for communes of from 6,001 to 9,000 inhabitants;
- all the municipal councillors for communes of more than 9,000 inhabitants;

- in addition, for communes of more than 30,000 inhabitants, delegates appointed by the municipal council in the ratio of one delegate for every 1,000 inhabitants above 30,000.

In the Overseas Territories of the Republic, the elected representatives of the councils of the administrative units shall also form part of the electoral college under the conditions to be determined by an organic law.

The participation of member States of the Community in the electoral college for the President of the Republic shall be determined by agreement between the Republic and the member States of the Community.

The procedures implementing the present article shall be determined by an organic law.

Article 7

The President of the Republic shall be elected by an absolute majority on the first ballot. If this is not obtained, the President of the Republic shall be elected on a second ballot by a relative majority.

The voting shall begin at the summons of the Government.

The election of the new President shall take place twenty days at the least and fifty days at the most before the expiration of the powers of the President in office.

In the event that the Presidency of the Republic has been vacated, for any cause whatsoever, or impeded in its functioning as officially noted by the Constitutional Council, to which the matter has been referred by the Government, and which shall rule by an absolute majority of its members, the functions of the President of the Republic, with the exception of those provided for by Articles 11 and 12 below, shall be temporarily exercised by the President of the Senate. In the case of a vacancy, or when the impediment is declared definitive by the Constitutional Council, the voting for the election of a new President shall take place, except in case of force majeure officially noted by the Constitutional Council, twenty days at the least and fifty days at the most after the beginning of the vacancy or the declaration of the definitive character of the impediment.

Article 8

The President of the Republic shall appoint the Premier. He shall terminate the functions of the Premier when the latter presents the resignation of the Government.

On the proposal of the Premier, he shall appoint the other members of the Government and shall terminate their functions.

Article 9

The President of the Republic shall preside over the Council of Ministers.

Article 10

The President of the Republic shall promulgate the laws within fifteen days following the transmission to the Government of the finally adopted law.

He may, before the expiration of this time-limit, ask Parliament for a reconsideration of the law or of certain of its articles. This reconsideration may not be refused.

Article 11

The President of the Republic, on the proposal of the Government during [Parliamentary] sessions, or on joint motion of the two assemblies, published in the Journal Officiel, may submit to a referendum any bill dealing with the organization of the governmental authorities, entailing approval of a Community agreement, or providing for authorization to ratify a treaty that, without being contrary to the Constitution, might affect the functioning of [existing] institutions.

When the referendum decides in favour of the bill, the President of the Republic shall promulgate it within the time limit stipulated in the preceding article.

Article 12

The President of the Republic may, after consultation with the Premier and the Presidents of the assemblies, declare the dissolution of the National Assembly.

General elections shall take place twenty days at the least and forty days at the most after the dissolution.

The National Assembly shall convene by right on the second Thursday following its election. If this meeting takes place between the periods provided for ordinary sessions, a session shall, by right, be held for a fifteen-day period.

There may be no further dissolution within a year following these elections.

Article 13

The President of the Republic shall sign the ordinances and decrees decided upon in the Council of Ministers.

He shall make appointments to the civil and military posts of the State.

Councillors of State, the Grand Chancellor of the Legion of Honor, Ambassadors and envoys extraordinary, Master Councillors of the Audit Office, prefects, representatives of the Government in the Overseas Territories, general officers, rectors of academies [regional divisions of the public educational system] and directors of central administrations shall be appointed in meetings of the Council of Ministers.

An organic law shall determine the other posts to be filled in meetings of the Council of Ministers, as well as the conditions under which the power of the President of the Republic to make appointments to office may be delegated by him and exercised in his name.

Article 14

The President of the Republic shall accredit Ambassadors and envoys extraordinary to foreign powers; foreign Ambassadors and envoys extraordinary shall be accredited to him.

Article 15

The President of the Republic shall be commander of the armed forces. He shall preside over the higher councils and committees of national defence.

Article 16

When the institutions of the Republic, the independence of the nation, the integrity of its territory or the fulfilment of its international commitments are threatened in a grave and immediate manner and when the regular functioning of the constitutional governmental authorities is interrupted, the President of the Republic shall take the measures commanded by these circumstances, after official consultation with the Premier, the Presidents of the assemblies and the Constitutional Council.

He shall inform the nation of these measures in a message.

These measures must be prompted by the desire to ensure to the constitutional governmental authorities, in the shortest possible time, the means of fulfilling their assigned functions. The Constitutional Council shall be consulted with regard to such measures.

Parliament shall meet by right.

The National Assembly may not be dissolved during the exercise of emergency powers [by the President].

Article 17

The President of the Republic shall have the right of pardon.

Article 18

The President of the Republic shall communicate with the two assemblies of Parliament by means of messages, which he shall cause to be read, and which shall not be followed by any debate.

Between sessions, Parliament shall be convened especially for this purpose.

Article 19

The acts of the President of the Republic, other than those provided for under Articles 8 (first paragraph), 11, 12, 16, 18, 54, 56 and 61, shall be countersigned by the Premier and, should circumstances so require, by the appropriate ministers.

Title IIIThe GovernmentArticle 20

The Government shall determine and direct the policy of the nation.

It shall have at its disposal the administration and the armed forces.

It shall be responsible to Parliament under the conditions and according to the procedures stipulated in Articles 49 and 50.

Article 21

The Premier shall direct the operation of the Government. He shall be responsible for national defence. He shall ensure the execution of the laws. Subject to the provisions of Article 13, he shall have regulatory powers and shall make appointments to civil and military posts.

He may delegate certain of his powers to the ministers.

He shall replace, should the occasion arise, the President of the Republic as chairman of the councils and committees provided for under Article 15.

He may, in exceptional instances, replace him as chairman of a meeting of the Council of Ministers by virtue of an explicit delegation and for a specific agenda.

Article 22

The acts of the Premier shall be countersigned, when circumstances so require, by the ministers responsible for their execution.

Article 23

The office of member of the Government shall be incompatible with the exercise of any Parliamentary mandate, with the holding of any office at the national level in business, professional or labour organizations, and with any public employment or professional activity.

An organic law shall determine the conditions under which the holders of such mandates, functions or employments shall be replaced.

The replacement of members of Parliament shall take place in accordance with the provisions of Article 25.

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Title IV

The Parliament

Article 24

The Parliament shall comprise the National Assembly and the Senate.

The deputies to the National Assembly shall be elected by direct suffrage.

The Senate shall be elected by indirect suffrage. It shall ensure the representation of the territorial units of the Republic. Frenchmen living outside France shall be represented in the Senate.

Article 25

An organic law shall determine the term for which each assembly is elected, the number of its members, their emoluments, the conditions of eligibility and ineligibility and the offices incompatible with membership in the assemblies.

It shall likewise determine the conditions under which, in the case of a vacancy in either assembly, persons shall be elected to replace the deputy or senator whose seat has been vacated until the holding of new complete or partial elections to the assembly concerned.

Article 26

No member of Parliament may be prosecuted, sought, arrested, detained or tried as a result of the opinions or votes expressed by him in the exercise of his functions.

No member of Parliament may, during Parliamentary sessions, be prosecuted or arrested for criminal or minor offenses without the authorization of the Assembly of which he is a member except in the case of flagrante delicto.

When Parliament is not in session, no member of Parliament may be arrested without the authorization of the Secretariat of the assembly of which he is a member, except in the case of flagrante delicto, of authorized prosecution or of final conviction.

The detention or prosecution of a member of Parliament shall be suspended if the assembly of which he is a member so demands.

Article 27

All binding instructions [upon members of Parliament] shall be null and void. The right to vote of the members of Parliament shall be personal.

An organic law may, under exceptional circumstances, authorize the delegation of a vote. In this case, no member may be delegated more than one vote.

Article 28

Parliament shall convene, by right, in two ordinary sessions a year.

The first session shall begin on the first Tuesday of October and shall end on the third Friday of December.

The second session shall open on the last Tuesday of April; it may not last longer than three months.

Article 29

Parliament shall convene in extraordinary session at the request of the Premier, or of the majority of the members comprising the National Assembly, to consider a specific agenda.

When an extraordinary session is held at the request of the members of the National Assembly, the closure decree shall take effect as soon as the Parliament has exhausted the agenda for which it was called, and at the latest twelve days from the date of its meeting.

Only the Premier may ask for a new session before the end of the month following the closure decree.

Article 30

Apart from cases in which Parliament meets by right, extraordinary sessions shall be opened and closed by decree of the President of the Republic.

Article 31

The members of the Government shall have access to the two assemblies. They shall be heard when they so request.

They may call for the assistance of commissioners of the government.

Article 32

The President of the National Assembly shall be elected for the duration of the legislature. The President of the Senate shall be elected after each partial re-election [of the Senate].

Article 33

The meetings of the two assemblies shall be public. An in extenso report of the debates shall be published in the Journal Officiel.

Each assembly may sit in secret committee at the request of the Premier or of one tenth of its members.

Title V

On Relations between Parliament and the Government

Article 34

All laws shall be passed by Parliament.

Laws shall establish the regulations concerning:

- civil rights and the fundamental guarantees granted to the citizens for the exercise of their public liberties; the obligations imposed by the national defence upon the persons and property of citizens;
- nationality, status and legal capacity of persons, marriage contracts, inheritance and gifts;
- determination of crimes and misdemeanors as well as the penalties imposed therefor; criminal procedure; amnesty; the creation of new juridical systems and the status of magistrates;
- the basis, the rate and the methods of collecting taxes of all types; the issuance of currency.

Laws shall likewise determine the regulations concerning:

- the electoral system of the Parliamentary assemblies and the local assemblies;
- the establishment of categories of public institutions;
- the fundamental guarantees granted to civil and military personnel employed by the State;

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- the nationalization of enterprises and the transfer of the property of enterprises from the public to the private sector.

Laws shall determine the fundamental principles of:

- the general organization of national defence;
- the free administration of local communities, the extent of their jurisdiction and their resources;
- education;
- property rights, civil and commercial obligations;
- legislation pertaining to employment, unions and social security.

The financial laws shall determine the financial resources and obligations of the State under the conditions and with the reservations to be provided for by an organic law.

Laws pertaining to national planning shall determine the objectives of the economic and social action of the State.

The provisions of the present article may be developed in detail and amplified by an organic law.

Article 35

Parliament shall authorize the declaration of war.

Article 36

Martial law shall be decreed in a meeting of the Council of Ministers.

Its prorogation beyond twelve days may be authorized only by Parliament.

Article 37

Matters other than those that fall within the domain of law shall be of a regulatory character.

Legislative texts concerning these matters may be modified by decrees issued after consultation with the Council of State. Those legislative texts which may be passed after the present Constitution has become operative shall be modified by decree, only if the Constitutional Council has stated that they have a regulatory character as defined in the preceding paragraph.

Article 38

The Government may, in order to carry out its programme, ask Parliament to authorize it, for a limited period, to take through ordinances measures that are normally within the domain of law.

The ordinances shall be enacted in meetings of the Council of Ministers after consultation with the Council of State. They shall come into force upon their publication, but shall become null and void if the bill for their ratification is not submitted to Parliament before the date set by the enabling act.

At the expiration of the time-limit referred to in the first paragraph of the present article, the ordinances may be modified only by law in those matters which are within the legislative domain.

Article 39

The Premier and the members of Parliament alike shall have the right to initiate legislation.

Government bills shall be discussed in the Council of Ministers after consultation with the Council of State and shall be filed with the Secretariat of one of the two assemblies. Finance bills shall be submitted first to the National Assembly.

Article 40

Bills and amendments introduced by members of Parliament shall not be considered when their adoption would have as a consequence either a diminution of public financial resources, or the creation or increase of public expenditures.

Article 41

If it appears in the course of the legislative procedure that a Parliamentary bill or an amendment is not within the domain of law or is contrary to a delegation [of authority] granted by virtue of Article 38, the Government may declare its inadmissibility.

In case of disagreement between the Government and the President of the assembly concerned, the Constitutional Council, upon the request of either party, shall rule within a time-limit of eight days.

Article 42

The discussion of Government bills shall pertain, in the first assembly to which they have been referred, to the text presented by the Government.

An assembly, given a text passed by the other assembly, shall deliberate on the text that is transmitted to it.

Article 43

Government and Parliamentary bills shall, at the request of the Government or of the assembly concerned, be sent for study to committees especially designated for this purpose.

Government and Parliamentary bills for which such a request has not been made shall be sent to one of the permanent committees, the number of which shall be limited to six in each assembly.

Article 44

Members of Parliament and of the Government shall have the right of amendment.

After the opening of the debate, the Government may oppose the examination of any amendment which has not previously been submitted to committee.

If the Government so requests, the assembly concerned shall decide, by a single vote, on all or part of the text under discussion, retaining only the amendments proposed or accepted by the Government.

Article 45

Every Government or Parliamentary bill shall be examined successively in the two assemblies of Parliament with a view to the adoption of an identical text.

When, as a result of disagreement between the two assemblies, it has become impossible to adopt a Government or Parliamentary bill after two readings by each assembly, or, if the Government has declared the matter urgent, after a single reading by each of them, the Premier shall have the right to have a joint committee meet, composed of an equal number from both assemblies and instructed to offer for consideration a text on the matters still under discussion.

The text prepared by the joint committee may be submitted by the Government for approval of the two assemblies. No amendment shall be admissible except by agreement with the Government.

If the joint committee fails to approve a common text, or if this text is not adopted under the conditions set forth in the preceding paragraph, the Government may, after a new reading by the National Assembly and by the Senate, ask the National Assembly to rule definitively. In this case, the National Assembly may reconsider either the text prepared by the joint committee or the last text adopted by the National Assembly, modified, when circumstances so require, by one or several of the amendments adopted by the Senate.

Article 46

The laws that the Constitution characterizes as organic shall be passed and amended under the following conditions:

A Government or Parliamentary bill shall be submitted to the deliberation and to the vote of the first assembly to which it is submitted only at the expiration of a period of fifteen days following its introduction.

The procedure of Article 45 shall be applicable. Nevertheless, lacking an agreement between the two assemblies, the text may be adopted by the National Assembly on final reading only by an absolute majority of its members.

The organic laws relative to the Senate must be passed in the same manner by the two assemblies.

Organic laws may be promulgated only after a declaration by the Constitutional Council on their constitutionality.

Article 47

Parliament shall pass finance bills under the conditions to be stipulated by an organic law.

Should the National Assembly fail to reach a decision on first reading within a time-limit of forty days after a bill has been filed, the Government shall refer it to the Senate, which must rule within a time-limit of fifteen days. The procedure set forth in Article 45 shall then be followed.

Should Parliament fail to reach a decision within a time-limit of seventy days, the provisions of the bill may be enforced by ordinance.

Should the finance bill establishing the resources and expenditures of a fiscal year not be filed in time for it to be promulgated before the beginning of that fiscal year, the Government shall immediately request Parliament for the authorization to collect the taxes and shall make available by decree the funds needed to meet the Government commitments already voted.

The time-limits stipulated in the present article shall be suspended when Parliament is not in session.

The Audit Office shall assist Parliament and the Government in supervising the implementation of the finance laws.

Article 48

The discussion of the bills filed or agreed upon by the Government shall have priority on the agenda of the assemblies in the order set by the Government.

One meeting a week shall be reserved, by priority, for questions asked by members of Parliament and for answers by the Government.

Article 49

The Premier, after deliberation by the Council of Ministers, may pledge the responsibility of the Government to the National Assembly with regard to the programme of the Government, or with regard to a declaration of general policy, as the case may be.

The National Assembly may question the responsibility of the Government by the vote of a motion of censure. Such a motion shall be admissible only if it is signed by at least one tenth of the members of the National Assembly. The vote may only take place forty-eight hours after the motion has been filed; the only votes counted shall be those favourable to the motion of censure, which may be adopted only by a majority of the members comprising the Assembly. Should the motion of censure be rejected, its signatories may not introduce another motion in the course of the same session, except in the case provided for in the paragraph below.

The Premier may, after deliberation by the Council of Ministers, pledge the Government's responsibility to the National Assembly on the vote of a text. In this case, the text shall be considered as adopted, unless a motion of censure, filed in the succeeding twenty-four hours, is voted under the conditions laid down in the previous paragraph.

The Premier shall be entitled to ask the Senate for approval of a general policy declaration.

Article 50

When the National Assembly adopts a motion of censure, or when it disapproves the programme or a declaration of general policy of the Government, the Premier must submit the resignation of the Government to the President of the Republic.

Article 51

The closure of ordinary or extraordinary sessions shall by right be delayed, should the occasion arise, in order to permit the application of the provisions of Article 49.

Title VI

On Treaties and International Agreements

Article 52

The President of the Republic shall negotiate and ratify treaties.

He shall be informed of all negotiations leading to the conclusion of an international agreement not subject to ratification.

Article 53

Peace treaties, commercial treaties, treaties or agreements relative to international organization, those that imply a commitment for the finances of the State, those that modify provisions of a legislative nature, those relative to the status of persons, those that call for the cession, exchange or addition of territory may be ratified or approved only by a law.

They shall go into effect only after having been ratified or approved.

No cession, no exchange, no addition of territory shall be valid without the consent of the populations concerned.

Article 54

If the Constitutional Council, the matter having been referred to it by the President of the Republic, by the Premier, or by the President of one or the other assembly, shall declare that an international commitment contains a clause contrary to the Constitution, the authorization to ratify or approve this commitment may be given only after amendment of the Constitution.

Article 55

Treaties or agreements duly ratified or approved shall, upon their publication, have an authority superior to that of laws, subject, for each agreement or treaty, to its application by the other party.

Title VII

The Constitutional Council

Article 56

The Constitutional Council shall consist of nine members, whose term of office shall last nine years and shall not be renewable. One third of the membership of the Constitutional Council shall be renewed every three years. Three of its members shall be appointed by the President of the Republic, three by the President of the National Assembly, three by the President of the Senate.

In addition to the nine members provided for above, former Presidents of the Republic shall be members ex officio for life of the Constitutional Council.

The President shall be appointed by the President of the Republic. He shall have the deciding vote in case of a tie.

Article 57

The office of member of the Constitutional Council shall be incompatible with that of minister or member of Parliament. Other incompatibilities shall be determined by an organic law.

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Article 58

The Constitutional Council shall ensure the regularity of the election of the President of the Republic.

It shall examine complaints and shall announce the results of the vote.

Article 59

The Constitutional Council shall rule, in the case of disagreement, on the regularity of the election of deputies and senators.

Article 60

The Constitutional Council shall ensure the regularity of referendum procedures and shall announce the results thereof.

Article 61

Organic laws, before their promulgation, and regulations of the Parliamentary assemblies, before they come into application, must be submitted to the Constitutional Council, which shall rule on their constitutionality.

To the same end, laws may be submitted to the Constitutional Council, before their promulgation, by the President of the Republic, the Premier or the President of one or the other assembly.

In the cases provided for by the two preceding paragraphs, the Constitutional Council must make its ruling within a time-limit of one month. Nevertheless, at the request of the Government, in case of emergency, this period shall be reduced to eight days.

In these same cases, referral to the Constitutional Council shall suspend the time-limit for promulgation.

Article 62

A provision declared unconstitutional may not be promulgated or implemented.

The decisions of the Constitutional Council may not be appealed to any jurisdiction whatsoever. They must be recognized by the governmental authorities and by all administrative and juridical authorities.

Article 63

An organic law shall determine the rules of organization and functioning of the Constitutional Council, the procedure to be followed before it, and in particular the periods of time allowed for laying disputes before it.

Title VIII

On Judicial Authority

Article 64

The President of the Republic shall be the guarantor of the independence of the judicial authority.

He shall be assisted by the High Council of the Judiciary.

An organic law shall determine the status of magistrates.

Magistrates may not be removed from office.

Article 65

The High Council of the Judiciary shall be presided over by the President of the Republic. The Minister of Justice shall be its Vice President ex officio. He may preside in place of the President of the Republic.

The High Council shall, in addition, include nine members appointed by the President of the Republic in conformity with the conditions to be determined by an organic law.

The High Council of the Judiciary shall present nominations for judges of the Court of Cassation [Supreme Court of Appeal] and for First Presidents of Courts of Appeal. It shall give its opinion, under the conditions to be determined by an organic law, on proposals of the Minister of Justice relative to the nomination of the other judges. It shall be consulted on questions of pardon under conditions to be determined by an organic law.

The High Council of the Judiciary shall act as a disciplinary council for judges. In such cases, it shall be presided over by the First President of the Court of Cassation.

Article 66

No one may be arbitrarily detained.

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The judicial authority, guardian of individual liberty, shall ensure respect for this principle under the conditions stipulated by law.

Title IX

The High Court of Justice

Article 67

A High Court of Justice shall be instituted.

It shall be composed of members [of Parliament] elected, in equal number, by the National Assembly and the Senate after each general or partial election to these assemblies. It shall elect its President from among its members.

An organic law shall determine the composition of the High Court, its rules, and also the procedure to be followed before it.

Article 68

The President of the Republic shall not be held accountable for actions performed in the exercise of his office except in the case of high treason. He may be indicted only by the two assemblies ruling by identical vote in open balloting and by an absolute majority of the members of said assemblies. He shall be tried by the High Court of Justice.

The members of the Government shall be criminally liable for actions performed in the exercise of their office and deemed to be crimes or misdemeanors at the time they were committed. The procedure defined above shall be applied to them, as well as to their accomplices, in case of a conspiracy against the security of the State. In the cases provided for by the present paragraph, the High Court shall be bound by the definition of crimes and misdemeanors, as well as by the determination of penalties, as they are established by the criminal laws in force when the acts are committed.

Title X

The Economic and Social Council

Article 69

The Economic and Social Council, whenever the Government calls upon it, shall give its opinion on the Government bills, ordinances and decrees, as well as on the Parliamentary bills submitted to it.

A member of the Economic and Social Council may be designated by the latter to present, before the Parliamentary assemblies, the opinion of the Council on the Government or Parliamentary bills that have been submitted to it.

Article 70

The Economic and Social Council may likewise be consulted by the Government on any problem of an economic or social character of interest to the Republic or to the Community. Any plan, or any bill dealing with a plan, of an economic or social character shall be submitted to it for its advice.

Article 71

The composition of the Economic and Social Council and its rules of procedure shall be determined by an organic law.

Title XI

On Territorial Units

Article 72

The territorial units of the Republic are the communes, the Departments, the Overseas Territories. Other territorial units may be created by law.

These units shall be free to govern themselves through elected councils and under the conditions stipulated by law.

In the departments and the territories, the Delegate of the Government shall be responsible for the national interests, for administrative supervision, and for seeing that the laws are respected.

Article 73

Measures of adjustment required by the particular situation of the Overseas Departments may be taken with regard to their legislative system and administrative organization.

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Article 74

The Overseas Territories of the Republic shall have a special organization, which takes into account their own interests within the general interests of the Republic. This organization shall be defined and modified by law after consultation with the Territorial Assembly concerned.

Article 75

Citizens of the Republic who do not have ordinary civil status, the only status referred to in Article 34, may keep their personal status as long as they have not renounced it.

Article 76

The Overseas Territories may retain their status within the Republic.

If they express the desire to do so by a decision of their Territorial Assemblies taken within the time-limit set in the first paragraph of Article 91, they shall become Overseas Departments of the Republic or member States of the Community, either in groups or as single units.

Title XII

On the Community

Article 77

In the Community instituted by the present Constitution, the States shall enjoy autonomy; they shall administer themselves and manage their own affairs democratically and freely.

There shall be only one citizenship in the Community.

All citizens shall be equal before the law, whatever their origin, their race and their religion. They shall have the same duties.

Article 78

The Community's jurisdiction shall extend over foreign policy, defence, currency, common economic and financial policy, as well as over policy on strategic raw materials.

It shall include, in addition, except in the case of specific agreements, the supervision of the tribunals, higher education, the general organization of external transportation and transportation within the Community, as well as of telecommunications.

Special agreements may create other common jurisdictions or regulate any transfer of jurisdiction from the Community to one of its members.

Article 79

The member States shall benefit from the provisions of Article 77 as soon as they have exercised the choice provided for in Article 76.

Until the measures required for implementation of the present title go into force, matters within the common jurisdiction shall be regulated by the Republic.

Article 80

The President of the Republic shall preside over and represent the Community.

The institutional organs of the Community shall be an Executive Council, a Senate and a Court of Arbitration.

Article 81

The member States of the Community shall participate in the election of the President according to the conditions stipulated in Article 6.

The President of the Republic, in his capacity as President of the Community, shall be represented in each State of the Community.

Article 82

The Executive Council of the Community shall be presided over by the President of the Community. It shall consist of the Premier of the Republic, the heads of Government of each of the member States of the Community, and the ministers responsible for the common affairs of the Community.

The Executive Council shall organize the co-operation of members of the Community at Government and administrative levels.

The organization and procedure of the Executive Council shall be determined by an organic law.

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Article 83

The Senate of the Community shall be composed of delegates whom the Parliament of the Republic and the legislative assemblies of the other members of the Community shall choose from among their own membership. The number of delegates of each State shall be determined according to its population and the responsibilities it assumes in the Community.

The Senate of the Community shall hold two sessions a year, which shall be opened and closed by the President of the Community and may not last longer than one month each.

The Senate of the Community, when called upon by the President of the Community, shall deliberate on the common economic and financial policy before laws on these matters are voted upon by the Parliament of the Republic and, should circumstances so require, by the legislative assemblies of the other members of the Community.

The Senate of the Community shall examine the acts and treaties or international agreements, which are specified in Articles 35 and 53, and which commit the Community.

The Senate of the Community shall make executory decisions in the domains in which it has received delegation of power from the legislative assemblies of the members of the Community. These decisions shall be promulgated in the same form as the law in the territory of each of the States concerned.

An organic law shall determine the composition of the Senate and its rules of procedure.

Article 84

A Court of Arbitration of the Community shall rule on litigations occurring among members of the Community.

Its composition and its jurisdiction shall be determined by an organic law.

Article 85

By derogation from the procedure provided for in Article 89, the provisions of the present title that concern the functioning of the common institutions shall be amendable by identical laws passed by the Parliament of the Republic and by the Senate of the Community.

Article 86

A change of status of a member State of the Community may be requested, either by the Republic, or by a resolution of the legislative assembly of the State

concerned confirmed by a local referendum, the organization and supervision of which shall be ensured by the institutions of the Community. The procedures governing this change shall be determined by an agreement approved by the Parliament of the Republic and the legislative assembly concerned.

Under the same conditions, a member State of the Community may become independent. It shall thereby cease to belong to the Community.

Article 87

The special agreements made for the implementation of the present title shall be approved by the Parliament of the Republic and the legislative assembly concerned.

Title XIII

On Agreements of Association

Article 88

The Republic or the Community may make agreements with States that wish to associate themselves with the Community in order to develop their own civilizations.

Title XIV

On Amendment

Article 89

The initiative for amending the Constitution shall belong both to the President of the Republic on the proposal of the Premier and to the members of Parliament.

The Governor or Parliamentary bill for amendment must be passed by the two assemblies in identical terms. The amendment shall become definitive after approval by a referendum.

Nevertheless, the proposed amendment shall not be submitted to a referendum when the President of the Republic decides to submit it to Parliament convened

in Congress; in this case, the proposed amendment shall be approved only if it is accepted by a three-fifths majority of the votes cast. The Secretariat of the Congress shall be that of the National Assembly.

No amendment procedure may be undertaken or followed when the integrity of the territory is in jeopardy.

The republican form of government shall not be subject to amendment.

Title XV

Temporary Provisions

Article 90

The ordinary session of Parliament is suspended. The mandate of the members of the present National Assembly shall expire on the day that the Assembly elected under the present Constitution convenes.

Until this meeting, the Government alone shall have the authority to convene Parliament.

The mandate of the members of the Assembly of the French Union shall expire at the same time as the mandate of the members of the present National Assembly.

Article 91

The institutions of the Republic, provided for by the present Constitution, shall be established within four months after its promulgation.

This time-limit shall be extended to six months for the institutions of the Community.

The powers of the President of the Republic now in office shall expire only when the results of the election provided for in Articles 6 and 7 of the present Constitution are proclaimed.

The member States of the Community shall participate in this first election under the conditions derived from their status at the date of the promulgation of the Constitution.

The established authorities shall continue to exercise their functions in these States according to the laws and regulations applicable when the Constitution becomes operative, until the authorities provided for by their new regimes are set up.

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Until it is definitively constituted, the Senate shall consist of the present members of the Council of the Republic. The organic laws that determine the definitive composition of the Senate must be passed before 31 July 1959.

The powers conferred on the Constitutional Council by Articles 58 and 59 of the Constitution shall be exercised, until this Council is set up, by a committee composed of the Vice President of the Council of State, as chairman, the First President of the Court of Cassation, and the First President of the Audit Office.

The peoples of the member States of the Community shall continue to be represented in Parliament until the measures necessary to the implementation of Title XII have been put into effect.

Article 92

The legislative measures necessary for the setting up of the institutions and, until they are set up, for the functioning of the governmental authorities, shall be taken in meetings of the Council of Ministers, after consultation with the Council of State, in the form of ordinances having the force of law.

During the time-limit set in the first paragraph of Article 91, the Government shall be authorized to determine, by ordinances having the force of law and passed in the same way, the system of elections to the assemblies provided for by the Constitution.

During the same period and under the same conditions, the Government may also adopt measures, in all matters, which it may deem necessary to the life of the nation, the protection of citizens or the safeguarding of liberties.

This Act shall be applied as the Constitution of the Republic and of the Community.

Done at Paris, on 4 October 1958.

ORDINANCE NO. 58-1254 OF 19 DECEMBER 1958

enacting the organic law on the Executive Council of the Community

The President of the Council of Ministers

Considering the Constitution and, in particular, articles 82, 85 and 92 thereof;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers,

Orders as follows:

Article 1. The Executive Council of the Community shall have its seat in Paris. The President of the Community may decide to convene the Council at another city and, in particular, at the capital of another member State of the Community.

Article 2. The President of the Community shall preside over the Executive Council. He shall call it together when the Senate of the Community is in session and every time that the requirements of common policy make it necessary. The President shall establish the agenda of the meetings of the Executive Council.

Article 3. The Prime Minister of the French Republic, the heads of Government of the other member States of the Community and the Ministers made responsible by the President of the Community for common affairs, shall be ex officio members of the Executive Council.

The members of the Executive Council shall attend the meetings in their personal capacity. In exception cases, however, they may be replaced for a specified meeting, with the consent of the President of the Community, by a member of the Government to which they belong.

The President of the Community may summon ministers belonging to the Governments of member States of the Community to the Executive Council for the consideration of specified matters.

Article 4. The Executive Council shall be the supreme body for the co-operation of member States of the Community in matters of government and administration. It shall take cognizance of the general policy of the Community within the scope of its competence as laid down in article 78 of the Constitution.

It shall decide on the expenditures required for the establishment and operation of the institutions and services of the Community and on the allocation among the member States of these expenditures and of expenditures for common policies.

Article 5. The President of the Community shall ensure respect for the Constitution, the organic laws of the Community, the Community agreements provided for in articles 78 and 87 of the Constitution, the decisions of the Court of Arbitration of the Community and the treaties and international agreements binding on the Community.

He shall prepare and announce the measures needed for the administration of common affairs; he shall see to their enforcement.

Article 6. The President of the Community may delegate a part of his powers, except his duties as chairman of the Executive Council, to one or more members of the Executive Council.

Article 7. The Ministers responsible for common affairs and the competent Ministers of the member States of the Community may meet under the authority of the Executive Council and, if the occasion should arise, under the chairmanship of one of its members appointed for that purpose by the President of the Community, to prepare the work of the Executive Council and to consider matters submitted to them.

Article 8. The agenda and the proceedings of the meetings of the Executive Council and of the meetings as provided in article 7 above shall be secret.

Article 9. The President of the Community in Executive Council shall appoint a Secretary General. The Secretary General shall attend the meetings of the Executive Council and prepare a report of its discussions. He shall direct the services of the Community and co-ordinate the work of the meetings as provided in article 7 above.

The institutions and services of the Community shall be established and organized by the President of the Community in Executive Council. The President of the Community shall appoint the personnel of these institutions and services.

Article 10. For this purpose, the institutions and services necessary to common policy shall be under the high authority of the President of the Community.

Article 11. This Ordinance shall be published in the Journal Officiel of the French Republic and of each of the other member States of the Community and shall be enforced as an organic law of the Community.

Done in Paris, 19 December 1958.

ORDINANCE NO. 58-1255 OF 19 DECEMBER 1958

enacting the organic law on the Senate of the Community

The President of the Council,

Considering the Constitution and, in particular, articles 83, 85 and 92 thereof;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers,

Orders as follows:

Title I

Article 1. The Senate of the Community shall not exceed three hundred members.

Each of the States of the Community shall be represented in the Senate in accordance with the provisions of article 83, first paragraph, of the Constitution.

Article 2. Any disputes concerning the appointment of a delegate which may be submitted to the President of the Community shall be decided by the Court of Arbitration of the Community.

Article 3. Except in the event of registration, the term of office of each member of the Senate of the Community shall terminate at the same time as his term of office in the assembly which appointed him.

His term of office shall not exceed five years. He may be re-appointed.

Article 4. Each assembly shall if the case should arise complete its membership before the opening date of each of its sessions.

Article 5. All binding instructions upon members of the Senate shall be null and void. The members of the Senate of the Community shall not delegate their right to vote.

Article 6. Throughout the territory of the States of the Community, no member of the Senate of the Community shall be prosecuted, sought, arrested, detained or tried as a result of the opinions expressed or votes cast by him in the exercise of his functions, nor shall he be prosecuted or arrested, during sessions, for a crime or correctional offence without the authorization of the Senate of the Community except in the case of flagrante delicto.

When the Senate is not in session, no member of the Senate of the Community shall be arrested without the authorization of the Officers of the Senate, except in the case of flagrante delicto, of authorized prosecution or of final conviction.

The detention or prosecution of a member of the Senate of the Community shall be suspended during the sessions and for their entire duration, if the Assembly so demands.

In the States themselves, statements made in the Senate of the Community and reports and other articles printed by order of the Assembly shall not give rise to any action; a report of the public meetings made in good faith in the newspapers shall not give rise to any action.

Article 7. It shall not be lawful for any member of the Senate of the Community on pain of automatic resignation, to place his name followed by an indication of his position or allow it so to be placed in any advertising matter relating to a financial, industrial or commercial undertaking.

Title II

Article 8. The Senate of the Community shall hold two regular sessions a year, each lasting no more than one month. The President of the Community shall convene the Senate. He shall open each session and declare its closure.

Article 9. The President of the Community may call the Senate together in special session. A special session shall not exceed ten days in length.

Except as provided in article 19 below, a special session shall be called after consultation with the Executive Council.

Article 10. The meetings of the Senate of the Community shall be public. Nevertheless, at the request of the President of the Community or of one-tenth of the members of the Senate, the Senate may meet in secret committee.

The report of the proceedings except those of the secret committees, shall be published officially.

Article 11. The first meeting of each regular session shall be presided over by the oldest of the members present, assisted by the six youngest members present who shall act as secretaries. These officers, appointed in virtue of their age shall continue to act until the definitive election of the officers.

The election of the President and of the officers shall then be held by secret ballot. The President shall be eligible for re-election on the conclusion of his term of office.

In the event of a special session, and in the case as provided in article 6, second paragraph, the President and officers of the preceding session shall act.

Article 12. The Senate of the Community shall establish its rules of procedure.

Priority listing on the agenda and debates on urgent matters shall be obligatory when they are requested by the President of the Community.

Article 13. The members of the Executive Council of the Community shall have access to the Senate of the Community; if they have been appointed by the Executive Council to speak during a debate, they shall be heard by the Senate of the Community when they so request. The Ministers responsible for the common affairs of the Community may call for the assistance of commissioners appointed on their recommendation by the President of the Community.

Article 14. The members of the Senate of the Community may ask questions, within the limits of the competence of the Senate, of the Ministers responsible for the common affairs of the Community. The questions and the answers shall be in writing.

Title III

Article 15. The Senate of the Community shall meet in Paris at the Palais du Luxembourg. If the need should arise, other meeting places may be put at its disposal subsequently by the Government of the Republic.

The Senate of the Republic shall provide it with the staff necessary for its work; the other legislative assemblies of the member States of the Community shall provide such supplementary staff as it may request.

Article 16. Each year the Senate of the Community shall propose its working budget to the Executive Council, and the Executive Council shall decide thereon.

The remuneration of its members during sessions shall be determined by the Executive Council.

The Officers of the Senate of the Community shall decide on the use of the appropriations entered in the budget and designate the official responsible for ensuring the certification of expenditures.

Title IV

Article 17. The Senate of the Community shall examine bills concerning common economic and financial policy during the session in which they were submitted to it by the President of the Community.

Article 18. The Senate of the Community shall examine the treaties and international agreements referred to it by the President of the Community, which are specified in article 53 of the Constitution and are binding upon the Community.

Article 19. The Senate of the Community, on being convened in case of need in special session, shall be duly notified by the President of the Community and state its opinion with respect to an authorization of a declaration of war.

Article 20. The Senate of the Community shall make enforceable decisions in matters in which it has received a delegation of power from the legislative assemblies of the member States of the Community.

Article 21. The President of the Community, after consultation with the Executive Council, shall submit bills to the Senate of the Community for the revision of constitutional provisions that concern the functioning of the common institutions.

The organic laws of the Community shall be adapted, supplemented or revised in accordance with the same procedure as the constitutional provisions.

Article 22. The Senate of the Community may also be consulted by the President of the Community on all common affairs and, in particular, on the general objectives of the economic, social and cultural development policy of the Community.

Article 23. The Senate of the Community shall have the right to initiate recommendations serving to establish agreement among the legislations of member States.

Article 24. The opinions and recommendations of the Senate of the Community shall be communicated promptly by its President to the President of the Community who shall transmit them to the authorities concerned.

Article 25. The laws providing for the revision of the constitutional or organic provisions relating to the Community, referred to in article 21, and the enforceable decisions provided for by article 20, shall be promulgated, within the time limit of one month and in the same form as the Act respecting in the territory of each of the member States concerned. In matters declared urgent by the President of the Community, the time limit for promulgation shall be reduced to eight days.

Article 26. This Ordinance shall be published in the Journal officiel of the French Republic and of each of the other member States of the Community and shall be enforced as an organic law of the Community.

Done in Paris, 19 December 1958.

ORDINANCE NO. 58-1256 OF 19 DECEMBER 1958

enacting the organic law on the Court of Arbitration of the Community

The President of the Council of Ministers

Considering the Constitution and, in particular, articles 80, 84 and 92 thereof;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers,

Orders as follows:

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Title I

Jurisdiction of the Court

Article 1. The jurisdiction of the Court of Arbitration shall extend to disputes between members of the Community when these disputes refer to the interpretation or application of rules of law binding member States of the Community and based upon the following:

Constitutional provisions that concern the Community;

Organic laws applying these provisions;

Community agreements and other agreements between member States.

Article 2. The jurisdiction of the Court shall also extend to all other categories of disputes placed within its jurisdiction by agreement between the member States of the Community.

Article 3. The Court shall have full jurisdiction within the limits of its competence. It shall decide finally upon every question and every procedural objection raised during the decision of a dispute before it.

It shall have the power to correct situations resulting from court decisions in which it has found errors of law; it may grant damages.

Article 4. The court shall decide disputes concerning the validity of the appointment of delegates of the legislative assemblies of member States of the Community to the Senate of the Community.

These disputes shall be submitted to it by the President of the Community.

Article 5. The President of the Community may submit to the Court for its opinion any question of interpretation of the constitutional provisions that concern the Community, the organic laws applying these provisions and Community agreements.

Title II

Membership and organization of the Court

Article 6. The Court of Arbitration shall consist of seven judges appointed for six years by the President of the Community.

The judges shall be eligible for re-appointment.

The judges shall be independent and may not be dismissed during their term of office.

Article 7. The following may be appointed judges:

1. Members of the courts or administrative tribunals with not less than ten years seniority in their posts;
2. Professors of law faculties who have held their professorships for not less than ten years;
3. Persons possessing high judicial qualifications by virtue of the positions they have occupied for at least twenty years.

Article 8. The President of the Community shall chose the President of the Court from among the judges.

Article 9. Before taking office, the judges shall take the oath at a public meeting.

They shall swear to perform their duties well and faithfully and to maintain secrecy concerning their deliberations and decisions.

Article 10. Judges should not perform any political or administrative functions nor engaged in any professional occupation.

Membership of a court and teaching are the only positions compatible with the position of judge.

Article 11. During their term of office, judges shall not take a position publicly on questions relating to the competence of the court.

They may not give any advice.

Article 12. The Court itself shall provide for its own discipline.

A judge shall not be prosecuted, sought, arrested, detained or tried for a criminal matter without the authorization of the Court. The Court may, in addition, assign jurisdiction in the matter to a particular court.

Article 13. During their term of office, judges shall not be appointed to a public post nor receive any honours.

A judge who is a public official at the time of his appointment shall not take advantage of any discretionary promotion.

Article 14. A judge may resign by letter addressed to the President of the Community. The appointment of his successor, which shall be for a term of six years, shall be made at the latest within a month from the date of resignation. The resignation shall take effect upon the appointment of the successor.

Article 15. The Court shall record if, the occasion should arise the automatic resignation of any one of its members who has accepted any function or elected office incompatible with his position as a member of the Court, or has suffered a conviction which has become res judicata entailing the deprivation of civil and political rights, or has systematically failed to perform his duties without valid excuse.

He shall be replaced within a week.

Article 16. The rules laid down in article 15 above shall apply to judges who incur a permanent physical incapacity and are definitively prevented from performing their duties.

Article 17. The President of the Community shall establish the meeting place of the Court.

Article 18. The President of the Community in Executive Council shall establish the honours, privileges and salaries of members of the Court.

Article 19. The Court shall have the assistance of a clerk appointed by the President of the Community. The President of the Community shall determine the organization of the clerk's office.

Title III

Procedure before the Court

Article 20. Disputes shall be brought before the Court of Arbitration by a request submitted either by a State of the Community or in the name of the Community.

An application for a stay of execution may be made to the Court.

Article 21. Proceedings before the Court of Arbitration shall be in writing and both sides in the case shall be heard.

If a party who has been formally notified fails to reply to a writ in the proceedings within the time limit laid down, the Court may proceed and decide the case.

Article 22. The Court shall not validly take cognizance of any arguments and conclusions except those set forth in the documents of the written proceedings.

These arguments and conclusions may be developed orally before the Court by the representatives of the States concerned.

Article 23. The investigation shall be directed by the Court.

The hearings shall be public.

The deliberations shall be secret.

Article 24. The decisions of the Court shall be delivered at a public sitting by not less than five judges.

In the event of a parity of opinion, the President shall have the casting vote.

Article 25. The decisions of the Court shall have the effect of res judicata.

They shall be enforceable throughout the territory of the Community.

They shall not be subject to any appeal, except appeals for correction of a material error and third-party appeals.

Article 26. A request by which a State applies to the Court for redress for loss or damage suffered by one of its nationals and imputed to another State of the Community, shall not be admissible until all the recourse available under the internal law of the latter State has been exhausted, unless the Court specially and by way of exception decides otherwise.

It shall be for the Court to decide, if the case should arise, whether the injury done to a body corporate is to be deemed an injury to a national of the claimant State.

Article 27. The opinions delivered by the Court in application of article 5 of this Ordinance shall not be published and shall be directed solely to the President of the Community.

Article 28. Rules of procedure established by the Court and approved by the President of the Community shall supplement the provisions of this Title, particularly with regard to forms and time limits.

The rules of procedure shall also establish the accelerated procedure applicable to the disputes referred to in article 4 above.

Article 29. This Ordinance shall be published in the Journal officiel of the French Republic and of each of the other member States of the Community and shall be enforced as an organic law of the Community.

Done in Paris, 19 December 1958.

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ORDINANCE NO. 58-1257 OF 19 DECEMBER 1958

enacting the organic law relating to representation of the Parliament
of the Republic in the Senate of the Community

The President of the Council of Ministers,

Considering the Constitution and, in particular, articles 76, 85 and
92 thereof;

Having heard the Conseil d'Etat;

Having heard the Council of Ministers,

Orders as follows:

Article 1. The representatives of the Parliament of the Republic in the
Senate of the Community shall be chosen as to one half from each of the two
Assemblies.

Article 2. The Assemblies shall elect their delegates in the manner provided
for this particular purpose by their regulations, without prejudice to the
provisions of article 3 below.

Article 3. The elections made in accordance with the preceding article must
ensure, for the Parliament as a whole, the representation in an equitable manner
of the departments of Algeria, Oasis, Saoura, Guadeloupe, French Guiana,
Martinique and Reunion, and of the overseas territories whether they have kept
their status within the Republic or have expressed their desire to become overseas
departments in accordance with article 76 of the Constitution.

Article 4. This Ordinance shall be published in the Journal officiel of the
French Republic and shall be enforced as an organic law.

Done in Paris, 19 December 1958.
