SOLD FOR THE PUBLIC SERVICE

CHAPTER 1.

An Act to make such provisions as are necessary to enable the Anglo-Portuguese Commercial Treaty to come into force. [27th November 1914.]

A.D. 1914.

WHEREAS His Majesty the King and the President of the Portuguese Republic have concluded the treaty of commerce and navigation set out in the Schedule to this Act, and by the final protocol appended thereto, it is provided that the treaty shall not come into force until the sanction of Parliament to article six thereof has been obtained:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Meaning of "port" and "madeira" as applied to wine.

1. The description "port" or "madeira" applied to any wine or other liquor, other than wine the produce of Portugal and the island of Madeira respectively, shall be deemed to be a false trade description within the meaning of the Merchandise Marks Act, 1887, and that Act shall have effect accordingly:

50 & 51 Vict. c. 28.

Provided that it shall be a good defence to any proceedings under that Act in respect of such a description as aforesaid if it is proved—

(*a*) that the wine or other liquor to which the description is applied is intended solely for exportation from the United Kingdom; or

(*b*) in the case of any wine or other liquor sold or exposed for or kept in possession for sale within twelve months after the passing of this Act, that the description applied thereto was lawfully so applied before the passing of this Act.

Short title.

2. This Act may be cited as the Anglo-Portuguese Commercial Treaty Act, 1914.

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SCHEDULE.

TEXT OF TREATY OF COMMERCE AND NAVIGATION BETWEEN GREAT BRITAIN AND PORTUGAL.

ARTICLE 1.

There shall be between the territories of the two contracting Parties full and complete freedom of commerce and navigation.

The subjects or citizens of each of the two contracting Parties shall have liberty freely to come with their ships and cargoes to all places, ports, and rivers in the territories of the other to which native subjects or citizens are or may be permitted to come. They shall not be subject in respect of their commerce or industry in the territories of the other, whether their residence there is of a permanent or temporary character, to any duties, taxes, imposts, or licences of any kind whatever other or higher than those which are or may be imposed upon native subjects or citizens, and they shall enjoy the same rights, privileges, liberties, immunities, and other favours in matters of commerce and industry as are or may be enjoyed by native subjects or citizens.

ARTICLE 2.

The subjects or citizens of each of the contracting Parties shall be exempted, in the territory of the other Party, from all personal service in the army, navy, and national militia; from all war charges, forced loans, military requisitions and contributions of whatever nature. Their properties shall not be seized, sequestrated, nor their ships, cargoes, goods, or effects retained for any public use, unless they have been previously allowed compensation, to be agreed upon between the interested parties on just and equitable basis. The charges connected with the possession by any title of landed property are excepted, as well as the obligation of military billeting and other special requisitions or exactions for the military forces to which all nationals or subjects or citizens of the most favoured nation may be liable as owners, tenants, or occupiers of real property.

ARTICLE 3.

The contracting Parties agree that in all matters relating to commerce, navigation, and industry any privilege, favour, or immunity which either contracting Party has actually granted or may hereafter grant to the subjects or citizens or ships of any other foreign State shall be extended immediately and unconditionally to the subjects or citizens or ships of the other, it being their intention that the commerce, navigation, and industry of each country shall be placed in all respects on the footing of the most favoured nation.

ARTICLE 4.

The subjects or citizens of each of the contracting Parties in the territories of the other shall be at full liberty to acquire and possess every description of property, movable and immovable, which the laws of the country permit, or shall permit, the subjects or citizens of the State to acquire and possess. They may dispose of the same by sale, exchange, gift, marriage, testament, or in any other manner, or acquire the same by inheritance under the same conditions which are or shall be established with regard to subjects or citizens of the State. They shall not be

subjected in any of the cases mentioned to any taxes, imposts, or charges of whatever denomination other or higher than those which are or shall be applicable to subjects or citizens of the State.

The subjects or citizens of each of the contracting Parties shall also be permitted, on compliance with the laws of the country, freely to export the proceeds of the sale of their property and their goods in general without being subjected as foreigners to other or higher duties than those to which subjects or citizens of the country would be liable under similar circumstances.

ARTICLE 5.

Articles the produce and manufacture of one of the contracting Parties imported into the territories of the other, from whatever place arriving, shall not be subject to other or higher duties or charges than those which are or may be levied on the like articles the produce or manufacture of any other foreign country. In like manner, articles the produce or manufacture of one of the contracting Parties exported to the territories of the other shall not be subjected to other or higher duties or charges than those which are or may be levied on the like articles exported to any other foreign country. The contracting Parties also reciprocally undertake that no more favourable treatment shall be extended to the goods of any other foreign country in respect of importation, import duties, exportation, export duties, re-exportation, re-export duties, customs facilities, warehousing, transhipment, drawbacks, and commerce and navigation in general.

ARTICLE 6.

His Britannic Majesty's Government engage to recommend to Parliament to prohibit the importation into and sale for consumption in the United Kingdom of any wine or other liquor to which the description "Port" or "Madeira" is applied, other than wine the produce of Portugal and of the island of Madeira respectively.

ARTICLE 7.

No prohibition or restriction shall be maintained or imposed on the importation of any article the produce or manufacture of either of the contracting Parties into the territories of the other, from whatever place arriving, which shall not equally extend to the importation of the like articles being the produce or manufacture of any other foreign country. The only exceptions to this general rule shall be in the case of the sanitary or other prohibitions occasioned by the necessity of securing the safety of persons or of cattle or of plants useful for agriculture, and of the measures applicable in either of the two countries to articles enjoying a direct or indirect bounty in the other.

Nor shall any prohibition or restriction be maintained or imposed on the exportation of any article from the territories of either of the two contracting Parties to the territories of the other which shall not equally extend to the exportation of the like articles to any other foreign country.

ARTICLE 8.

Merchandise of all kinds the produce or manufacture of one of the contracting Parties passing in transit through the territories of the other shall be reciprocally free from all transit duties, whether they pass direct

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ARTICLE 9.

Goods of all kinds, the produce or manufacture of one of the contracting Parties, imported into the territories of the other, shall not be subject to excise, octroi, or consumption dues, levied on account of the State or of the municipalities, higher than those payable on similar articles of native origin.

ARTICLE 10.

The stipulations of the present treaty with regard to the mutual accord of the treatment of the most favoured nation apply unconditionally to the treatment of commercial travellers and their samples. The Chambers of Commerce, as well as other trade associations and other recognised commercial associations in the contracting States as may be authorised in this behalf shall be mutually accepted as competent authorities for issuing any certificates that may be required for commercial travellers.

Articles imported by commercial travellers as samples shall, in each country, be temporarily admitted free of duty on compliance with the customs regulations and formalities established to assure their re-exportation or the payment of the prescribed customs duties if not re-exported within the period allowed by law. But the foregoing privilege shall not extend to articles which, owing to their quantity or value, cannot be considered as samples, or which, owing to their nature, could not be identified upon re-exportation.

In order to facilitate the clearance of samples of goods brought by commercial travellers of one of the two States into the territories of the other to be used as samples or patterns for the purpose of obtaining orders and not for sale, the marks, stamps, or seals affixed by the Customs authorities of one country to commercial samples at the time of exportation, and the list of such samples drawn up in proper form and certified by the competent authority, such list containing an exact description of the samples, shall form sufficient evidence, so far as the respective customs authorities are concerned, of their nature, and shall entitle them to exemption from all customs examination except in so far as may be necessary to establish that the samples produced are identical with those enumerated in the list. The customs authorities of either country are, however, at liberty to affix a supplementary mark to such samples, should this precaution in particular cases be considered necessary.

ARTICLE 11.

Each of the contracting Parties shall permit the importation or exportation on the vessels of the other of all merchandise which may be legally imported or exported, and also the carriage of passengers from or to their respective territories on the vessels of the other ; and such vessels and their cargoes and passengers shall enjoy the same privileges, and shall not be subjected to any other or higher duties or charges than the vessels, cargoes, and passengers of the most favoured nation.

ARTICLE 12.

Notwithstanding anything in this treaty either of the contracting Parties reserves the right to confine to national vessels the trade between any ports within its territories. In the event of this right being exercised by either country, nothing in this treaty shall be construed as entitling the vessels of that country to participate in the corresponding trade between ports of the other country.

British and Portuguese vessels may nevertheless proceed from one port to another, either for the purpose of landing the whole or part of their passengers or cargoes brought from abroad, or of taking on board the whole or part of their passengers or cargoes for a foreign destination.

It is also understood that no vessel shall be considered as engaging in trade between two ports of one of the contracting States merely because it carries between those ports passengers holding through tickets or merchandise consigned on through bill of lading to or from some place outside the territories of that State.

ARTICLE 13.

No duties of tonnage, harbour, pilotage, lighthouse, quarantine, or other analogous duties of whatever nature, or under whatever denomination, levied in the name or for the profit of the Government, private individuals, corporations, or establishments of any kind, shall be imposed in the ports of the territories of either of the contracting Parties upon the vessels of the other or on their cargoes in lieu of on the vessels which shall not equally and under the same conditions be imposed in the like cases on vessels of the most favoured nation in general. Such equality of treatment shall apply to the respective vessels, from whatever port or place they may arrive, and whatever may be their destination.

ARTICLE 14.

In all that regards the stationing, loading, and unloading of vessels in ports, docks, roadsteads, and harbours every privilege granted by either of the contracting Parties to the vessels of any third country shall be extended immediately and unconditionally to the vessels of the other contracting Party.

ARTICLE 15.

Any vessel of either of the contracting Parties which may be compelled by stress of weather or by accident, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary stores, and to put to sea again, without paying any dues other than such as would be payable in a similar case by a national vessel. In case, however, the master of a merchant vessel should be under the necessity of disposing of a part of his merchandise in order to defray his expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any vessel of one of the contracting Parties should run aground or be wrecked upon the coasts of the other, such vessel, and all parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandise saved therefrom, including any which may have been cast into the sea, or the proceeds thereof if sold, as well as all papers found on board such stranded or wrecked vessel shall be given up to the owners or their agents when claimed by them. If there are no such

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owners or agents on the spot, then the same shall be delivered to the British or Portuguese consular officer in whose district the wreck or stranding may have taken place, upon being claimed by him within the period fixed by the laws of the country, and such consular officers, owners, or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the like case of a wreck of a national vessel.

The contracting Parties agree, moreover, that merchandise saved shall not be subjected to the payment of any Customs duty unless cleared for internal consumption.

In the case either of a vessel being driven in by stress of weather, run aground, or wrecked, the respective consular officers shall, if the owner or master or other agent of the owner is not present, or is present and requires it, be authorised to interpose in order to afford the necessary assistance to their fellow-countrymen.

ARTICLE 16.

All vessels which, according to British law, are to be deemed British vessels, and all vessels which, according to Portuguese law, are to be deemed Portuguese vessels, shall, for the purposes of this treaty, be deemed British or Portuguese vessels respectively.

ARTICLE 17.

Limited liability and other companies and associations, commercial, industrial, and financial, already or hereafter to be organised in accordance with the laws of either contracting Party and registered in the territories of such Party, are authorised in the territories of the other to exercise their rights and appear in the Courts either as plaintiffs or defendants, subject to the laws of such other Party.

ARTICLE 18.

It shall be free to each of the high contracting Parties to appoint consuls-general, consuls, vice-consuls, and consular agents to reside in the towns and ports of the territories of the other. Such consuls-general, consuls, vice-consuls, and consular agents, however, shall not enter upon their functions until after they shall have been approved and admitted in the usual form by the Government to which they are sent.

ARTICLE 19.

The consuls and consular agents of each of the contracting Parties, residing in the territories of the other, shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective countries.

Provided that this stipulation shall not apply to subjects or citizens of the State in whose territory the desertion takes place.

ARTICLE 20.

The subjects or citizens of each of the high contracting Parties shall have, in the territories of the other, the same rights as subjects or citizens of that State in regard to patents for inventions, trade-marks, and designs, upon fulfilment of the formalities prescribed by law.

ARTICLE 21.

The present treaty shall extend, as regards Portugal, to the mother country and adjacent islands (Madeira, Porto Santo, and Azores), but shall not extend to any of the dominions, colonies, possessions, or protectorates of either contracting Party unless notice of the desire of such contracting Party that the treaty shall apply to any such dominion, colony, possession, or protectorate shall have been given to the other contracting Party before the expiration of one year from the date of the exchange of the ratifications of the present treaty.

Nevertheless, the goods produced or manufactured in any of His Britannic Majesty's dominions, colonies, possessions, and protectorates shall enjoy in Portugal complete and unconditional most-favoured-nation treatment so long as such dominion, colony, possession, or protectorate shall accord to goods the produce or manufacture of Portugal treatment as favourable as it gives to the produce or manufacture of any other foreign country; and reciprocally the goods produced or manufactured in any Portuguese colony or possession shall enjoy like most-favoured-nation treatment in the United Kingdom of Great Britain and Ireland so long as such colony or possession shall accord to goods the produce or manufacture of the United Kingdom treatment as favourable as it gives to the produce or manufacture of any other foreign country.

Colonial goods re-exported from the mother country of one of the contracting Parties shall be treated in the territory of the other as proceeding from that mother country, and shall therefore be exempt from supertaxes on indirect trade which may eventually be established.

ARTICLE 22.

Any controversy which may arise between the contracting Parties regarding the interpretation or application of the present treaty, as well as the rates of the conventional tariffs agreed upon between the contracting Parties and third States, shall, on the demand of one or other of the contracting Parties, be adjusted by means of arbitration.

A court of arbitration shall in each case be constituted in the following manner:—

1. Each of the contracting Parties shall name an arbitrator from among the competent subjects or citizens of the country.
2. The two contracting Parties shall then choose a subject of a third country to act as umpire.
3. In the event of no agreement being reached as to the umpire, each of the contracting Parties shall name a candidate of different nationality from those of the persons proposed under the preceding paragraph. The selection of one of the two candidates so nominated for the office of umpire shall be decided by lot, unless the two contracting Parties shall come to an agreement on the subject. The umpire shall preside at the Court of Arbitration, which shall decide by a majority of votes. On the first occasion of arbitration the Court shall sit in the territory of the country decided by lot; in the second case it shall sit in the territory of the other country; and subsequently alternately in the territory of the two contracting Parties in a place selected by the Government of the country where the Court is to meet. The necessary officers and staff shall be provided for the Court by the Government of the country in which

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it meets. Each of the contracting Parties shall be represented before the Court by one or more agents, who may be assisted by lawyers.

The proceedings shall be solely in writing, but nevertheless the Court shall be entitled to require verbal explanations from the agents of the two parties and to hear experts and witnesses if they shall deem such a course advisable. The costs of the arbitration shall be divided equally between the two contracting Parties.

ARTICLE 23.

The present treaty shall be ratified and the ratifications shall be exchanged at Lisbon as soon as possible. It shall come into force fifteen days after the exchange of ratifications, and shall remain binding for a period of ten years. In case neither of the contracting Parties shall have given notice to the other twelve months before the date of expiration of this period of their intention to terminate it, it shall remain in force until the expiration of one year from the day on which either of the contracting Parties shall have denounced it.

As regards, however, the dominions, colonies, possessions, and protectorates which may have adhered to the present treaty in virtue of Article 21, either of the contracting Parties shall have the right to terminate it separately at any time on giving twelve months' notice to that effect.

It is understood that the stipulations of the present and of the preceding article referring to British dominions, colonies, possessions, or protectorates apply also to the island of Cyprus.

Final Protocol.

On proceeding to sign the Treaty of Commerce and Navigation concluded this day between the United Kingdom and Portugal, the undersigned plenipotentiaries have made the following reservations and declarations which shall form an integral part of the treaty :—

Ad ARTICLE 17.

It is understood that the provisions of Article 17 do not affect the right of either contracting Party to require, by their internal legislation, the prior consent of the competent local authorities before foreign companies or associations can institute local branches or agencies for the carrying out of banking or assurance operations.

It is understood that the provisions of this treaty, which secure in Portugal most-favoured-nation treatment to British goods and vessels shall not apply to the special favours which Portugal accords, or may hereafter accord, to the goods or vessels of Spain or Brazil.

It is understood that this treaty shall not come into force until the sanction of the British Parliament for Article 6 has been obtained.

The present protocol, which shall be considered as approved and sanctioned by the contracting Parties, without any other special ratification, by the sole fact of the exchange of the ratifications of the Treaty to which it appertains, has been drawn up in duplicate at Lisbon, the 12th August, 1914.

Declaration.

The plenipotentiary of His Britannic Majesty on signing the treaty declares that the concession by His Majesty's Government in Article 6 is made only in return for improvement in the Customs treatment of British goods by the Portuguese Government, and without prejudice to the views of the two contracting Parties as to the proper interpretation to be placed on Article 4 of the Madrid Convention of the 14th April, 1891.

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FOR
FREDERICK ATTERBURY, Esq., C.B., the King's Printer of Acts of Parliament.