



Treaty Series No. 37 (1933)

## Exchange of Notes

between His Majesty's Government in the United Kingdom  
and the Portuguese Government  
regarding

# FLAG DISCRIMINATION IN PORTUGUESE PORTS

Lisbon, October 14, 1933

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

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EXCHANGE OF NOTES BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE PORTUGUESE GOVERNMENT REGARDING FLAG DISCRIMINATION IN PORTUGUESE PORTS.

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*Lisbon, October 14, 1933.*

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No. 1.

*Sir C. Russell to Dr. J. Caeiro da Matta.*

M. le Ministre,

*Lisbon, October 14, 1933.*

I HAVE the honour to inform your Excellency that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland are prepared to conclude an agreement in the following terms:—

(i) The obligations contained in Article 6 of the Treaty of Commerce and Navigation signed at Lisbon on the 12th August, 1914,<sup>(1)</sup> and in the declaration signed at Lisbon on the 20th May, 1916,<sup>(1)</sup> on the exchange of ratifications of the said Treaty, shall remain binding on the Government of the United Kingdom of Great Britain and Northern Ireland, so long as the present agreement remains in force, even if the said Treaty shall have ceased to be operative under the provisions of Article 23 thereof.

(ii) Shipping companies incorporated in the United Kingdom, Newfoundland, any British colony or protectorate, or any mandated territory in respect of which the mandate is exercised by the Government of the United Kingdom, all British ships, including all ships registered in any of the territories aforesaid, and goods and passengers (including emigrants) carried, or to be carried, in any such ships shall not be subjected in Portugal, or the adjacent islands, after the 1st July, 1934, or in any Portuguese colony after the 1st July, 1936, to any conditions, restrictions, duties or charges other, or more onerous in law or in fact, than those applicable to shipping companies incorporated in Portuguese territory or in any other country, to ships registered in Portuguese territory or in any other country, or to goods or passengers (including emigrants) carried, or to be carried, in such ships.

(iii) The provisions of sub-paragraph (ii) shall be deemed to include conditions or charges demanded by consular officers abroad in respect of ships or passengers or goods carried, or to be carried, on ships, but do not apply to conditions, restrictions, duties or charges imposed in connexion with the trade which can,

<sup>(1)</sup> See Treaty Series No. 6 (1916). Cd. 8402.

under the provisions of Article 12 of the Treaty of the 12th August, 1914, be reserved to national vessels.

(iv) Except as provided in sub-paragraph (i) nothing in the present agreement shall be deemed to prejudice the rights and obligations arising out of the Treaty of Commerce and Navigation signed at Lisbon on the 12th August, 1914.

(v) The present agreement shall come into force on the date of the present note and shall remain in force until the 30th June, 1941. Thereafter it shall continue in force until the expiration of one year from the date on which either Government shall have given to the other Government notice of termination; provided that if at any time shipping companies incorporated in Portuguese territory, ships registered in Portuguese territory and goods and passengers carried, or to be carried, in such ships are subjected in the United Kingdom after the 1st July, 1934, or in Newfoundland or any British colony or protectorate, or any mandated territory in respect of which the mandate is exercised by the Government of the United Kingdom after the 1st July, 1936, to any conditions, restrictions, duties or charges other, or more onerous in law or in fact, than those applicable to shipping companies incorporated in these territories, ships registered therein or in any other country, or to goods or passengers (including emigrants) carried, or to be carried, in such ships, the Portuguese Government shall have the right to determine the agreement if, after notice of any such discrimination has been given, steps are not taken within six months to remedy the discrimination complained of.

2. If the Portuguese Government agree to the foregoing provisions I have the honour to propose that the present note and your Excellency's reply in similar terms shall be regarded as constituting a formal agreement between the two Governments in this matter.

I have, &c.

CLAUD RUSSELL.

No. 2.

*Dr. J. Caeiro da Matta to Sir C. Russell.*

*Ministério dos Negócios Estrangeiros,*

Senhor Embaixador,

*Lisboa, 14 de Outubro de 1933.*

Em resposta á nota que V. Ex<sup>a</sup> se serviu dirigir-me em data de hoje, tenho a honra de comunicar a V. Ex<sup>a</sup> que o Govêrno Português está igualmente disposto a celebrar com o Govêrno de Sua Majestade Britanica no Reino Unido da Grã Bretanha e Irlanda do Norte um acordo nos termos seguintes :

(i) As obrigações constantes do Artigo 6º do Tratado de Comercio e Navegação assinado em Lisboa em 12 de Agosto de

1914, e da declaração assinada em Lisboa em 20 de Maio de 1916, por ocasião da troca de ratificações do referido Tratado, subsistirão pelo que respeita ao Governo do Reino Unido da Grã Bretanha e Irlanda do Norte, enquanto vigorar o presente acordo, ainda que o tratado em questão venha a cessar nos termos do seu artigo 23°.

(ii) A partir de 1 de Julho de 1934 no que respeita a Portugal e Ilhas Adjacentes, e a partir de 1 de Julho de 1936 no que se refere às Colónias Portuguesas, as companhias de navegação constituídas no Reino Unido, -na Terra Nova, em qualquer colónia ou protectorado britânicos, ou em qualquer território sob mandato exercido pelo Governo do Reino Unido, todos os navios britânicos incluindo quaisquer navios matriculados nalgum dos territórios acima mencionados, e bem assim as mercadorias e passageiros (incluindo emigrantes) transportados ou a transportar nesses navios, não serão sujeitos a quaisquer condições, restrições, direitos ou encargos diferentes ou mais onerosos, legalmente ou de facto, do que aqueles que se apliquem ás companhias de navegação constituídas em qualquer território português ou estrangeiro, aos navios matriculados em território português ou estrangeiro, ou ainda ás mercadorias e passageiros (incluindo emigrantes) transportados ou a transportar nesses navios.

(iii) Considerar-se-hão abrangidos nas estipulações do sub-paragrafo (ii), as condições e pagamentos exigidos pelos funcionários consulares portugueses em relação aos navios, e em relação aos passageiros e mercadorias nêles transportados ou a transportar, mas as referidas estipulações não se aplicarão ás condições, restrições, direitos ou encargos estabelecidos para o tráfico que pode ser, nos termos das disposições do artigo 12 do Tratado de 12 de Agosto de 1914, reservado para os navios nacionais.

(iv) Salvo o disposto no sub-paragrafo (i), nenhuma disposição do presente Acordo será considerada como prejudicando quaisquer direitos e obrigações resultantes do Tratado de Comercio e Navegação assinado em Lisboa em 12 de Agosto de 1914.

(v) O presente Acordo vigorará desde a data da presente Nota até 30 de Junho de 1941. Posteriormente a esta data o Acordo continuará em vigor até um ano depois da sua denuncia por algum dos dois Governos; se porem, depois de 1 de Julho de 1934 no que respeita ao Reino Unido ou depois de 1 de Julho de 1936 no que se refere á Terra Nova, a qualquer Colónia ou Protectorado Britânicos, ou a qualquer território que se encontre sob mandato exercido pelo Governo do Reino Unido, as companhias de navegação constituídas em território português, os navios matriculados em território português, as mercadorias e passageiros transportados ou a transportar nesses navios forem sujeitos a quaisquer condições, restrições, direitos ou encargos diferentes ou mais onerosos, legalmente ou de facto, do que aqueles que se

apliquem ás companhias de navegação constituídas naqueles territórios, aos navios nêles matriculados ou no de outro qualquer país, ou ainda ás mercadorias ou passageiros (incluindo emigrantes) transportados ou a transportar em tais navios, o Governôo Português terá em tal caso o direito de dar por findo o presente Acordo se, depois da notificação de tal tratamento diferencial, não forem tomadas, no praso de seis mezes, providencias para obviar a alegada discriminação.

2. Em conformidade com a proposta de V. Ex<sup>a</sup>. que tenho a honra de aceitar, a nota V. Ex<sup>a</sup>. e esta resposta, redigida nos mesmos termos, constituirão o Acordo formal dos dois Governos sôbre a matéria.

Aproveito, &c.

JOSE CAEIRO DA MATTA.

(Translation.)

*Ministry for Foreign Affairs,*

*Lisbon, October 14, 1933.*

M. l'Ambassadeur,

IN reply to the note which your Excellency addressed to me, of to-day's date, I have the honour to inform your Excellency that the Portuguese Government are equally prepared to conclude an agreement with the Government of His Britannic Majesty in the United Kingdom and Northern Ireland in the following terms:—

(i) The obligations contained in Article 6 of the Treaty of Commerce and Navigation signed at Lisbon on the 12th August, 1914, and in the declaration signed at Lisbon on the 20th May, 1916, on the exchange of ratifications of the said Treaty, shall remain binding on the Government of the United Kingdom of Great Britain and Northern Ireland, so long as the present agreement remains in force, even if the said Treaty shall have ceased to be operative under the provisions of Article 23 thereof.

(ii) Shipping companies incorporated in the United Kingdom, Newfoundland, any British colony or protectorate, or any mandated territory in respect of which the mandate is exercised by the Government of the United Kingdom, all British ships, including all ships registered in any of the territories aforesaid, and goods and passengers (including emigrants) carried, or to be carried, in any such ships shall not be subjected in Portugal, or the adjacent islands, after the 1st July, 1934, or in any Portuguese colony after the 1st July, 1936, to any conditions, restrictions, duties or charges other, or more onerous in law or in fact, than those applicable to shipping companies incorporated in Portuguese territory or in any other country, to ships registered in Portuguese territory or in any other country, or to goods or passengers (including emigrants) carried, or to be carried, in such ships.

(iii) The provisions of sub-paragraph (ii) shall be deemed to include conditions or charges demanded by consular officers abroad in respect of ships or passengers or goods carried, or to be carried, on ships, but do not apply to conditions, restrictions, duties or charges imposed in connexion with the trade which can, under the provisions of Article 12 of the Treaty of the 12th August, 1914, be reserved to national vessels.

(iv) Except as provided in sub-paragraph (i) nothing in the present agreement shall be deemed to prejudice the rights and obligations arising out of the Treaty of Commerce and Navigation signed at Lisbon on the 12th August, 1914.

(v) The present agreement shall come into force on the date of the present note and shall remain in force until the 30th June, 1941. Thereafter it shall continue in force until the expiration of one year from the date on which either Government shall have given to the other Government notice of termination; provided that if at any time shipping companies incorporated in Portuguese territory, ships registered in Portuguese territory and goods and passengers carried, or to be carried, in such ships are subjected in the United Kingdom after the 1st July, 1934, or in Newfoundland or any British colony or protectorate, or any mandated territory in respect of which the mandate is exercised by the Government of the United Kingdom after the 1st July, 1936, to any conditions, restrictions, duties or charges other, or more onerous in law or in fact, than those applicable to shipping companies incorporated in these territories, ships registered therein or in any other country, or to goods or passengers (including emigrants) carried, or to be carried, in such ships, the Portuguese Government shall have the right to determine the agreement if, after notice of any such discrimination has been given, steps are not taken within six months to remedy the discrimination complained of.

2. In conformity with your Excellency's proposal, which I have the honour to accept, your Excellency's note and this reply, which has been drawn up in the same terms, shall constitute the formal agreement of the two Governments on the subject.

I avail, &c.

JOSE CAEIRO DA MATTA.