

BASUTOLAND, BECHUANALAND PROTECTORATE, SWAZILAND.

HIGH COMMISSIONER'S NOTICE
No. 129 OF 1938.

With reference to the High Commissioner's Notice No. 26 of 1930, the subjoined Agreement between His Majesty's Government in the United Kingdom and the Government of the Portuguese Republic regulating the Commercial Relations between Swaziland, Basutoland, and the Bechuanaland Protectorate and the Portuguese Colony of Mozambique, signed at Lisbon on the 11th May, 1938, is published for general information.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,

Administrative Secretary.

High Commissioner's Office,

Capetown, 20th August, 1938.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE PORTUGUESE REPUBLIC, REPLACING THE COMMERCIAL AGREEMENT BETWEEN MOZAMBIQUE AND THE SOUTH AFRICAN HIGH COMMISSION TERRITORIES OF THE 13TH/18TH FEBRUARY, 1930.

Lisbon, May 11, 1938.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Portuguese Republic desiring to revise the terms of the Agreement regulating the commercial relations between Swaziland, Basutoland and the Bechuanaland Protectorate (hereinafter referred to as "the Territories") on the one hand, and the Colony of Mozambique, on the other, signed at Capetown on the 13th February, 1930, and at Lourenço Marques on the 18th February, 1930, by the High Commissioner for South Africa and the Governor-General of Mozambique, respectively, have agreed as follows—

ARTICLE 1.

The Governments of the Territories and the Government of Mozambique shall grant to each other reciprocally the treatment of the most-favoured-nation, as hereinafter stated—

The products of the soil or of the industries of the Territories shall, on importation into Mozambique, and, *vice versa*, the products of the soil or of the industries of Mozambique shall, on importation into

the Territories, not be subject to other or higher duties or charges than those which are or may be levied on the like products of any other country; provided that—

- (a) products of the Territories, on importation into Mozambique, shall not be entitled to the customs privileges which are or may hereafter be accorded by Mozambique to the products of Portugal, Madeira, the Azores, and the Portuguese colonies;
- (b) products of Mozambique shall not be entitled to such minimum rates or rebates as, under the legislation of the Territories, are or may hereafter be granted in respect of products of Great Britain and Northern Ireland and the British Dominions, Colonies, or Possessions when imported therefrom for consumption within the Territories;
- (c) products of Mozambique shall not be entitled to the privileges accorded to the products of the Union of South Africa and of Southern and Northern Rhodesia, by virtue of the customs agreements now existing or agreements of a like nature hereafter concluded between the Governments of the Territories and of the said countries;
- (d) the levying of dumping duties by either the Governments of the Territories or the Government of Mozambique in the interest of an industry established within the Territories or the Union of South Africa or within Mozambique as the case may be, shall not be deemed to be incompatible with the provisions of this Agreement.

ARTICLE 2.

All products of the soil or of the industries of the Territories passing in transit through Mozambique, and all products of the soil or of the industries of Mozambique passing in transit through the Territories, shall be exempt from transit, export or re-export duties in Mozambique and the Territories respectively, but shall remain liable to port charges, and, in the case of Mozambique, to the tax known as the commercial contribution, to lighthouse dues and stamp duties to the following reservations—

- (a) The transit through or re-exportation from Mozambique of minerals of all kinds, including coal for bunkers, being the products of the Territories, shall be free of customs duties or any other taxes whatsoever in Mozambique;

- (b) the transit through or re-exportation from Mozambique of gold coin to or from the Territories shall be free of customs duties and any other taxes whatsoever in Mozambique.

ARTICLE 3.

(a) Goods of any origin, and whatever the nationality of the owner, passing in transit through or re-exported from the district of Lourenço Marques and destined for the Territories shall be free of all transit and re-export duties in Lourenço Marques, except the commercial contribution, lighthouse dues, and stamp duties;

(b) Goods of any origin, and whatever the nationality of the owner, passing in transit through or re-exported from the Territories and destined for Mozambique shall be free of all transit and re-export duties in the Territories.

ARTICLE 4.

Goods of any origin, and whatever the nationality of the owner, arriving in the district of Lourenço Marques from the Territories by land for shipment from Lourenço Marques, shall be free of all transit and re-export duties, except lighthouse dues and stamp duties.

ARTICLE 5.

(1) Goods coming out of customs warehouses and out of bonded warehouses within the district of Lourenço Marques shall be admitted into the Territories upon payment of the duties in force in the Territories at the time of entry thereto, *ad valorem* duties to be assessed on the value of the goods in the Country whence exported to Lourenço Marques at the time of exportation.

(2) Such goods shall be exempt in Lourenço Marques from the payment of any transit or re-export duties, except port charges, the commercial contribution and stamp duties.

(3) Importers of such goods into the Territories will be required to produce sufficient evidence to satisfy the customs authorities as to their value, and also to furnish any other information which may be required for the protection of the revenue of the Territories.

ARTICLE 6.

(1) The Governments of the Territories and the Government of Mozambique shall not impede the mutual trade between the Territories and Mozambique by the imposition of any prohibition or special restrictions upon imports into or exports from the respective countries but exceptions may be made—

- (a) in consideration of the public safety, or public health, and on moral or humanitarian grounds;

- (b) in consideration of the protection of animals and plants against disease, insects and harmful parasites, or for their preservation from degeneration or extinction;
- (c) in respect of arms, ammunition and implements of war, and, in exceptional circumstances, other military supplies;
- (d) in respect of the export of national treasures of artistic, historic or archaeological value;
- (e) in respect of goods which are or may be objects of a State monopoly;
- (f) in respect of prison—or penitentiary—made goods;
- (g) in extending to imported products the prohibitions or restrictions which are or may be imposed in respect of the production, sale, transport or consumption of similar local products;
- (h) in subjecting the exportation of their products to certain conditions with a view to ensuring the quality and preserving the reputation of those products, and, at the same time, offering a guarantee to the foreign purchaser;

provided that such prohibitions or restrictions are applied at the same time and in the same manner and to the same extent to other countries in regard to which like grounds for applying such measures exist, and provided further that they do not constitute a disguised restriction on the mutual trade.

(2) In the event of circumstances arising which may render it necessary to impose upon imports any prohibitions or restrictions not covered by Section (1) of this Article the Governments of the Territories and the Government of Mozambique shall not without prior notice impose any prohibitions or restrictions which will place the products of Mozambique or of the Territories in any less favourable position than the products of any other country excepting the countries specified in sub-sections (a), (b) and (c), respectively, of Article 1.

ARTICLE 7.

With respect to the provisions of this Agreement the Governments of the Territories and the Government of Mozambique shall—

- (a) adopt all measures and enact all laws that may be necessary for the exact fulfilment of the Articles herein contained;
- (b) not adopt measures and not enact laws annulling or diminishing its effects.

ARTICLE 8.

Any dispute that may arise relative to the interpretation or the carrying out of the Agreement, and that cannot be settled by direct negotiations between the Contracting Governments shall be submitted to arbitration and to this end the Government of the United Kingdom of Great Britain and Northern Ireland will appoint as Arbiter the Judicial Commissioner in Basutoland and President of the Special Courts of the Bechuanaland Protectorate and Swaziland, and the Portuguese Government the Judge President of the Court of Appeal of Mozambique. If the Judges aforesaid are unable to reach a joint decision they shall together elect an umpire. If no appointment can be mutually agreed upon by them, the President of the Permanent Court of International Justice at The Hague shall be requested to make the necessary appointment. The procedure shall be *ex æquo et bono*, and in accordance with the terms of submission to be agreed upon in respect of each particular case.

ARTICLE 9.

The present Agreement shall replace the agreement regulating commercial relations between Swaziland, Basutoland and the Bechuanaland Protectorate, on the one hand, and Mozambique, on the other hand, signed at Capetown on the 13th February, 1930, and at Lourenco Marques on the 18th February, 1930, respectively. It shall come into force on the date of signature and shall remain in force until the 10th September, 1938. If neither Contracting Government shall have given notice three months before the 10th September, 1938, of its intention to terminate the present Agreement on that date, it shall continue in force until twelve months from the date on which either Contracting Government shall have denounced it; provided that it shall be open to either Contracting Government to call for a revision of its terms, whereupon, in default of mutual agreement, the present Agreement shall lapse six months after the date of the receipt of notice of termination.

In witness whereof the undersigned being duly authorised have signed the present Agreement and have affixed thereto their seals.

Done in duplicate in the English and Portuguese languages both being equally authentic.

(L.S.) ANTONIO DE OLIVEIRA SALAZAR.

(L.S.) W. SELBY.

Lisbon, May 11, 1938.