### DOMINION OF CANADA

# TREATY SERIES, 1931 No. 7

# BRITISH COMMONWEALTH MERCHANT SHIPPING AGREEMENT

Signed at London December 10, 1931



OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1932

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# BRITISH COMMONWEALTH MERCHANT SHIPPING AGREEMENT

His Majesty's Governments in the United Kingdom of Great Britain and Northern Ireland, Canada, the Commonwealth of Australia, New Zealand, the Union of C. Union of South Africa, the Irish Free State and Newfoundland, having considered the report the report of the Conference on the Operation of Dominion Legislation and Merchant Cu. the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation, 1929, undertake to propose any necessary legislation and hipping legisl lation and take such other steps as may be required for the purpose of giving full effect. full effect to the provisions of the present Agreement with regard to Merchant

Part I.—Common Status.

Part II. Standards of Safety. Part III.—Extra-territorial Operation of Laws Part IV.—Equal Treatment.

Part V.—Equal Treatment.

Ships' Articles, Internal Discipline, and Engagement and Discharge Part VI.—Certificates of Officers.

Part VII.—Shipping Enquiries.

Part VIII.—Shipping Enquiries.

Relief and Repatriation of Seamen; Wages and Effects of Part IX.—Offences on Board Ship.

Part X.—General. Article 1.—In this agreement, unless the context otherwise requires, the following expression has the meaning hereby assigned to it, that is to say:—

"Part of the Commonwealth" means any Part of the British Common-Wealth of Nations the Government of which is a party to this Agreement.

### PART I

### Common Status

Commonwealth so as to acquire the status and recognition mentioned in parades. (2) of the so as to acquire the status and recognition mentioned in parades. Article 2.—(1) No ship shall be registered in any port within the British graph (2) of this Article unless it is owned wholly by persons of the following description, namely:

(a) Persons recognized by law throughout the British Commonwealth of Nations as having the status of natural born British subjects;

(b) Persons naturalized by or in pursuance of the law of some part of the British Commonwealth;

(c) Persons made denizens by letters of denization; and (d) Bodies corporate established under and subject to the law of some part of the British Commonwealth and having their principal place of business with British Commonwealth business Within the British Commonwealth.

(2) Every ship so owned and duly registered within the British Common wealth shall possess a common status for all purposes and shall be entitled to the recognition usually accorded to British ships.

## Registry

Article 3.—The laws, regulations, forms and procedure relating to the matters following, that is to say:—

Obligation to Register; bus Certificate of Registry; and besing odd at attenuatevol stylestel

and Transfer and Transmissions; Management of the Bank O. basisal

South Africa, the Irish Free State and Newfound Certificates of Mortgage and Sale; O of no sense 100 of 10

Name of Ship;

Legislation, 1929, undertake to Registry of Alterations, Registry Anew, and Transfer of Registry; Incapacitated Persons; mamoarn A transact and to anotalyour suff of

Trusts and Equitable Rights; Liability of Beneficial Owner;

Managing Owner;

Declarations, Inspection of Register and Fees; To abrebuse and

Returns, Evidence and Forms; Forgery and False Declarations;

takus and recognition mentioned in para-

shall be substantially the same throughout the British Commonwealth and so far as possible be based on Part I of the Ar far as possible be based on Part I of the Merchant Shipping Act, 1894.

Article 4.—In order that there may be a complete list of ships registered in contract of the British Commonwealth for a complete list of ships registered in the all parts of the British Commonwealth for statistical purposes, particulars (such as the name of the ship, the registered purposes, particulars) as the name of the ship, the registered number, the port to which she belongs the name of the registered owner, and the transfer of the port to which she belongs the name of the registered owner, and the transfer of the port to which she belongs the name of the registered owner. the name of the registered owner, and the tonnage) relating to all ships registered at their ports, will be forwarded by the Advisory relating to all ships registered at their ports, will be forwarded by the Administration of each Part of Commonwealth at convenient intervals to the Distriction of each Part of Chipping Commonwealth at convenient intervals to the Registrar General of Shipping and Seamen in London. Copies of the complete intervals to the Registrar General of spingly and Seamen in London. Copies of the complete list shall be forwarded annually to the Administration of each Part of the Complete list shall be forwarded.

# National Colours

Article 5.—It being recognized that the proper national colours for all ships stered in any Part of the Commonwealth of the colours for all ships are considered in the colours for all ships are considered i registered in any Part of the Commonwealth shall be such as may be determined by the Government of that Part, each Part of the Commonwealth shall be such as may be determined by the Government of that Part, each Part of the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as may be determined by the Commonwealth shall be such as many by the commonwealth shall be by the Government of that Part, each Part of the Commonwealth undertakes to prohibit under penalty (a) the use by shing restriction. prohibit under penalty (a) the use by ships registered in that Part of national colours other than those determined for those ships; (b) the hoisting on board any ship registered in that Part of colours. on board any ship registered in that Part of colours proper to a ship of war of resembling any of those colours, without proper

# e unless it is owned wholly by persons of the following

# Standards of Safety

Article 6.—While each Part of the Commonwealth will from time to time to mine the standards with which its shine about 1 determine the standards with which its ships shall be required to comply in and to maintain to safety, every endeavour will be matters relating to safety, every endeavour will be made to preserve uniformity and to maintain the standards at present in force

Article 7.—Each Government which proposes to make an alteration these standards will give as long notion substance in these standards will give as long notice as practicable to the of the office of the proposed alteration and the proposed alteratio

Article 8.—Subject to the provisions of Part IV, nothing in this Agreement affects the right of each Part to apply to any ship trading to its ports its regulations regarding the safety of ships, their crews and passengers, except in so far as the ship complies with regulations accepted by the Part as equivalent to its own regulations.

### PART III

# Extra-Territorial Operation of Laws

Article 9.—Save as otherwise specially provided in this Agreement, the laws relating to merchant shipping in force in one Part of the Commonwealth shall not be not be made to apply with extra-territorial effect to ships registered in another Part uplant to apply with extra-territorial effect to ships registered in another part uplant. Part unless the consent of that other Part of the Commonwealth has been previously obtained:

Provided that nothing contained in this Article shall be deemed to restrict the power of each Part of the Commonwealth to regulate the coasting trade, sea fisheries and fishing industry of that Part.

of such Court shall, on the application of the master of the ship, and bending the deserter, and, for that purpose may, on information given on the characters and the deserters and the characters are considered in the characters.

be conveyed on board his ship or deal the master or mate of his ship or deal the master or mate or his ship or deal the master or mate or his ship or deal the master or mate or his ship or deal the master or mate or his ship or deal the master or mater or ma Board Sharova Equal Treatment of to girl and to some sall of to its ports to all ships registered in the British Commonwealth on equal terms and unders to all ships registered in the British Commonwealth on equal terms Article 10.—Each Part of the British Commonwealth agrees to grant access and undertakes that no laws or regulations relating to seagoing ships at any time in force in that Part shall apply more favourably to ships registered in that Part, or t Part, or to the ships of any foreign country, than they apply to any ship registered in any other Part of the Commonwealth.

Article 11.—While each Part of the British Commonwealth may regulate its own coasting trade, it is agreed that any laws or regulations from time to time in force of the British Company and the British Company in force of the British Company in the Britis time in force for that purpose shall treat all ships registered in the British Commonwealth in exactly the same manner as ships registered in that Part, and not less favoured exactly the same manner as ships registered in that Part, and not less favourably in any respect than ships of any foreign country.

Article 12.—Nothing in the present Agreement shall be deemed—

(i) to derogate from the right of every Part of the Commonwealth to impose customs tariff duties on ships built outside that Part; or

(ii) to restrict the right of the Government of each Part of the Commonwealth to give financial assistance to ships registered in that Part or its right to give financial assistance to say its right to regulate the sea fisheries of that Part.

Article 18.—The Government of TRAP It of the Commonwealth of the Resist the Commonwealth of the Commonwealth of the policy of the other preliminary enquiries (including solving to the commonwealth of the other preliminary enquiries (including solving to the commonwealth of the other preliminary enquiries (including solving to the commonwealth of the commonwealth o PART V
Ships' Articles

Discharge of Seamen. Internal Discipline and Engagement and Discharge of Seamen. Article 13.—The form and contents of ships' articles if first opened in a of the Co.—The form and contents of ships' articles if first opened in a Part of the Commonwealth, shall be those prescribed by the law of that Part, if first Commonwealth, shall be mithing the British Commonwealth, shall be and of the Commonwealth, shall be those prescribed by the law of the law of the those prescribed by the law of those prescribed by the law of the Part in which the ship is registered.

Article 14.—The powers and duties with respect to discipline on board a registered.—The powers and duties with respect to discipline on board a ship registered within the British Commonwealth shall, in so far as they are not derived from the ship's articles, be those made and provided by the laws and regulations in force in the Part of the Commonwealth in which the ship is registered.

Provided that if and so long as a ship, registered in one Part of the Commonwealth, is engaged wholly or mainly in the coasting trade of aproper than Part the other Part, the powers and duties with respect to such discipline may the those made and provided by the laws and regulations in force in that other Part.

Provided also that in the case of a ship which is trading from a Part of the Commonwealth in which the principal place of business of her owners is situated, and not trading to the Part of the Commonwealth in which she is registered, the powers and duties with respect to such discipline may be those made and provided by the laws and regulations in force in the former Part.

Article 15.—Provision shall be made by law in each Part of the Commonship wealth that whenever a seaman or apprentice deserts in that Part from a ship registered in another Part, any Court exercising summary jurisdiction in the Part in which the seaman or apprentice has deserted, and any Justice or Officer of such Court shall another apprentice has deserted, and any Justice or Officer of such Court shall, on the application of the master of the ship, aid in apprehending the deserter, and, for that purpose may, on information given on oath issue a warrant for his apprehension, and on proof of the desertion, order him to be conveyed on board his ship of be conveyed on board his ship or delivered to the master or mate of his ship, or to the owner of the ship or his to the owner of the ship or his agent, to be so conveyed.

## and very the series arrives of our PART VI

### Certificates of Officers

Article 16.—The standards of qualification to be required of applicants for ficates of competency and of certificates of competency and of service shall so far as possible be equal and alike throughout the British Competency and of service shall so far as possible be equal those alike throughout the British Commonwealth, and shall not be lower than those at present established at present established.

Article 17.—Subject to any special provisions that may be made by any of the Commonwealth and the provisions that may be made by any Part of the Commonwealth as to the qualifications to be required of officers on ships engaged in its coasting to a ships engaged in its coasting trade, a valid certificate of competency or service granted by one Part of the Competency granted by one Part of the Commonwealth will be recognised throughout the British Commonwealth as indicating the state of the Commonwealth will be recognised throughout the British Commonwealth as indicating the state of the competency or service of the commonwealth as indicating the state of the commonwealth as indicating t British Commonwealth as indicating that the holder is duly qualified accordingly when serving on heard any chin when serving on board any ship registered in that Part.

# PART VII

Article 18.—The Government of each Part of the Commonwealth agrees to the Governments of the other Part of the Commonwealth agrees to hold assist the Governments of the other Parts by providing for officers to ships preliminary enquiries (including the taking of depositions) into casualties to ships registered in such other Parts

Article 19.—No Government of any Part of the Commonwealth will caused rmal investigation to be held in a formal investigation to be held into a casualty occurring to a ship registered in another Part save at the request in another Part save at the request or with the consent of the Government of that Part in which the ship is registered.

Provided that this restriction shall not apply when a casualty occurs of ear the coasts of a Part of the Coasts. or near the coasts of a Part of the Commonwealth or whilst the ship wholly engaged in the coasting to the commonwealth or whilst the ship wholly engaged in the coasting trade of a Part of the Commonwealth.

Article 20.—In all Parts of the Commonwealth the laws and regulations relating to the matters following, namely:—

Constitution of Courts having jurisdiction to hold formal investigations;

Holding of such Courts with the assistance of Assessors;

Classification of Assessors according to their qualifications;

Selection of Assessors according to the nature of the questions to be raised;

Notice of investigation and the service thereof;

Opportunity to be given to any person whose conduct may be impugned of making a defence;

Procedure on the hearing;

Rehearings and Appeals;

shall be, so far as possible, alike, and shall be based upon the provisions relating to formal of the Merchant Shipping Act, to formal investigations contained in Part VI of the Merchant Shipping Act, and the specific and Rehearings Rules, 1923, made 1894, and the Shipping Casualties and Appeals and Rehearings Rules, 1923, made

Provided that

(1) the Administration of that Part of the Commonwealth in which a formal investigation is held shall alone be competent to order a rehearing

(2) an appeal from a decision of a Court of formal investigation shall lie to a Court in the Part of the Commonwealth in which the formal investigation was held and that Court shall be similar in its constitution and jurisdiction to a Divisional Court of Admiralty in England;

(3) a Court of formal investigation shall be empowered to cancel or suspend a certificate of competency or service granted by the Administration of and a certificate of competency or service granted by the Administration of another Part of the Commonwealth so only as to effect its validity within the the jurisdiction of the Part in which the investigation is held, but the Administration by which the certificate was granted may adopt such cancellation or suspension.

Article 21.—Provisions shall be in force in each Part of the Commonwealth similar, so far as possible, to those contained in Part VI of the Merchant Shipping Act, 1894, relating to the special enquiry that may be held when there is reason to be a relating to the special enquiry that may be held when there is reason to believe that any master, mate, or certificated engineer is from incompetency or misconduct unfit to discharge his duties.

Provided that the power of a Court holding such enquiry to cancel or suspend a certificate of competency or service granted by a Part of the Composite the competency of service granted by a Part of the composite the conquiry is held shall be similar Commonwealth other than that in which the enquiry is held shall be similar to the to the power of a Court of formal investigation under the last preceding Agreement or any other matter relating to Merchant Shipping which the interment of any Part of the Commonwealth considers to be of common that he considers to be of common that he considers to be of common that he was the considers to be of common that he was the considers to be of common that the considers to be of control of the con

# of the Governments of asy PART VIII

# Relief and Repatriation of Seamen

Wages and Effects of Deceased Seamen

Article 22.—A scheme shall be drawn up to which each Part of the Common-\*\*Realth shall give legislative effect, under which provision shall be made:-

(a) for the relief and repatriation of seamen belonging to any Part of the Commonwealth who may be found in distress or left behind in any other Part on income and the expenses: Part or in places abroad, and for defraying the expenses;

(b) for payment of the expenses of medical attendance, maintenance, burish and report interesting the second secon burial and repatriation in case of injury or illness of seamen:

(c) for dealing with the effects and wages of seamen who are left behind the in a part outside the D or die in a port outside the Part of the Commonwealth to which they belong

(d) for the recovery from the owner of the ship in proper cases of all nees incurred by the Administration of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of all needs to be a superior of the ship in proper cases of a superior of the ship in proper cases of a superior of the ship in proper cases of a superior of the ship in proper cases of a superior of the ship in proper cases of a superior of the ship in proper cases of a superior of the ship in the superior of the expenses incurred by the Administration of any Part of the Commonwealth in the matters referred to in paragraphs (a) and (b).

# PART IX Defined on the powers and PART IX

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us a discoveration of the Part of the Common tendence.

Offences on Board Ship Article 23.—Reciprocal arrangements shall be made for conferring jurisdition the lines of Section 680 of the lines tion on the lines of Section 686 of the Merchant Shipping Act, 1894, with respect to offences committed on board ship to offences committed on board ships registered in any Part of the Common wealth.

# PART X

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Article 24.—The present Agreement shall come into operation on the tent day of December, 1931, and shall continue in full force for a period of five years and thereafter until the Government of and thereafter until the Government of any Part of the Commonwealth give notice of intention to withdraw therefore notice of intention to withdraw therefrom or from any Article thereof. A notice of withdrawal, if sent to the Covernment of withdrawal, if sent to the Governments of every other Part of the Common wealth, shall take effect as regards the D wealth, shall take effect as regards the Part giving the notice to the extention of two trees to the extention of the extention of two trees to the extention of two trees to the extention of two trees to the extention of therein specified at the expiration of twelve months from the date of its despatch but shall not otherwise affect the continuous from the date of its despatch. but shall not otherwise affect the continuance in full force of the present

Article 25.—The present Agreement may be varied at any time during the invance thereof by common accord. During the sent invariant time during time dur continuance thereof by common accord. Proposals for variation shall be sent by the Government of the Part proposing the by the Government of the Part proposing the variation, to the Government of the United Kingdom, to be circulated to the Government of the United Kingdom, to be circulated to the Governments of the other Parts of the Commonwealth, who will consider the the Commonwealth, who will consider the proposals and endeavour to agree upon the acceptance of the variation with upon the acceptance of the variation with or without amendment. If a composition of the variation with or without amendment. accord is reached with respect to any proposed variation the present Agreement shall be varied accordingly

Article 26.—A conference to consider any matter the subject of the present or any other matter relating to M. Agreement or any other matter relating to Merchant Shipping which the Government of any Part of the Commonwealth ment of any Part of the Commonwealth considers to be of common interest may be called at any time at the instance. may be called at any time at the instance of the Governments of any three Parts of the Commonwealth

Article 27.—This Agreement shall apply to all territories administered and the shall apply to all the shall apply t under the authority of the Government of any Part of the Commonwealth the to ships registered there, or in any foreign port of registry, and fulfilling requirements as to ownership set out in Article 2 (1) Signed at London this tenth day of December,

On behalf of

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His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland—

His Majesty's Government in Canada—

His Majesty's Government in the Commonwealth of Australia—

His Majesty's Government in New Zealand—

His Majesty's Government in the Union of South Africa—

His Majesty's Government in the Irish Free State—

His Majesty's Government in Newfound-

J. H. THOMAS.

G. H. FERGUSON.

GRANVILLE RYRIE.

T. M. WILFORD.

C. T. TE WATER.

JOHN W. DULANTY.

MORRIS.

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Expenses anisation by the Administration of any Part of the Commission in this matters referred to in paragraphs (a) and (b).

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Majesty's Government in the United Lingdom of Great Britain and Northern Ireland—

J. H. THOMAS

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Majesty's Government in Canada—and H. FERGUSON.

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GRANVILLE RYRIE

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Article 25.— The present Agreement may be varied at any first continuance thereof by common accord. Proposals for variation by the Covernment of the Part proposing the variation, to the United Eingelon, to be circulated to the Covernments of the the Commonwealth, who must consider the proposals and union upon the accordance of the variation with or without amendment accord is reached with respect to any proposal variation the proposal teached accordance.

Article 28.—A conference to consider any matter the subject of agreement or any other station relating to Merchant Shipping which must be any Part of the Commonwealth considers to be of our tany be called at any time at the instance of the Commonwealth

Article 27.—This Agreement shall apply to all territories under the sutherity of the Government of any Part of the County to ships registered there, or in any foreign port of registry, and noningerments as to ownership art on in Article 2 (1).