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TREATY

BETWEEN

HIS BRITANNIC MAJESTY

AND

HIS CATHOLIC MAJESTY.

Signed at Madrid, the 23d of September 1817.

*Presented to both Houses of Parliament, by Command of His Royal
Highness The Prince Regent, 1818.*

LONDON :

PRINTED BY R. G. CLARKE,

AT THE LONDON GAZETTE OFFICE, CANNON-ROW, WESTMINSTER.

Treaty between His Britannic Majesty and His Catholic Majesty, for preventing Their Subjects from engaging in any illicit Traffic in Slaves. Signed at Madrid the 23d of September 1817.

In the Name of the Most Holy Trinity.

IT having been stated, in the second Additional Article of the Treaty signed at Madrid on the 5th day of July of the year 1814, between His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Spain and the Indies, that “ His Catholic Majesty concurs, in the fullest manner, in the sentiments of His Britannic Majesty, with respect to the injustice and inhumanity of the Traffic in Slaves, and promises to take into consideration, with the deliberation which the state of His possessions in America demands, the means of acting in conformity with those sentiments: and engages, moreover, to prohibit His subjects from carrying on the Slave Trade, for the purpose of supplying any islands or possessions, excepting those appertaining to Spain; and to prevent, by effectual measures and regulations, the protection of the Spanish flag being given to foreigners who may engage in this Traffic, whether subjects of His Britannic Majesty, or of any other State or Power.”

And His Catholic Majesty, conformably to the spirit of this Article, and to the principles of humanity with which He is animated, having never lost sight of an object so interesting to Him, and being desirous of hastening the moment of its attainment, has resolved to co-operate with His Britannic Majesty in the cause of humanity, by adopting, in concert with His said Majesty, efficacious means for bringing about the abolition of the Slave Trade, for effectually suppressing illicit Traffic in Slaves, on the part of Their respective subjects, and for preventing Spanish ships trading in Slaves, conformably to Law and to Treaty, from being molested or subjected to losses from British cruisers: the Two High Contracting Parties have accordingly named as their Plenipotentiaries, viz:

His Majesty The King of the United Kingdom of Great Britain and Ireland, the Right Honourable Sir Henry Wellesley, a Member of His Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath, and His Majesty's Ambassador Extraordinary and Plenipotentiary to His Catholic Majesty; and His Majesty the King of Spain and the Indies, Don Josef Garcia de Leon y Pizarro, Knight Grand Cross of the Royal and distinguished Spanish Order of Charles III., of

that of Saint Ferdinand and of Merit, of Naples, of those of Saint Alexander Newsky and of Saint Anne of Russia, and of that of the Red Eagle of Prussia, Counsellor of State, and First Secretary of State and of the General Dispatch ; who, having exchanged their respective full powers, found to be in good and due form, have agreed upon the following Articles :

ARTICLE THE FIRST.

His Catholic Majesty engages, that the Slave Trade shall be abolished throughout the entire dominions of Spain, on the 30th day of May 1820, and that, from and after that period, it shall not be lawful for any of the subjects of the Crown of Spain to purchase Slaves, or to carry on the Slave Trade, on any part of the coast of Africa, upon any pretext or in any manner whatever ; provided, however, that a term of five months, from the said date of the 30th of May 1820, shall be allowed for completing the voyages of vessels, which shall have cleared out lawfully previously to the said 30th of May.

ARTICLE THE SECOND.

It is hereby agreed, that from and after the exchange of the ratifications of the present Treaty, it shall not be lawful for any of the subjects of the Crown of Spain to purchase Slaves, or to carry on the Slave Trade on any part of the coast of Africa to the north of the Equator, upon any pretext or in any manner whatever ; provided, however, that a term of six months, from the date of the exchange of the ratifications of this Treaty, shall be allowed for completing the voyages of vessels which shall have cleared out from Spanish ports for the said coast, previously to the exchange of the said Ratifications.

ARTICLE THE THIRD.

His Britannic Majesty engages to pay, in London, on the 20th of February 1818, the sum of four hundred thousand pounds sterling, to such person as His Catholic Majesty shall appoint to receive the same.

ARTICLE THE FOURTH.

The said sum of four hundred thousand pounds sterling is to be considered as a full compensation for all losses sustained by the subjects of His Catholic Majesty engaged in this Traffic, on account of vessels captured previously to the exchange of the Ratifications of the present Treaty, as also for the losses, which are a necessary consequence of the abolition of the said Traffic.

ARTICLE THE FIFTH.

One of the objects of this Treaty, on the part of the two Governments, being mutually to prevent their respective subjects from carrying on an illicit Slave Trade ;

The two High Contracting Parties declare, that they consider as illicit, any Traffic in Slaves carried on under the following circumstances :

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1st. Either by British ships, and under the British flag, or for the account of British subjects, by any vessel or under any flag whatsoever.

2d. By Spanish ships, upon any part of the coast of Africa north of the Equator, after the exchange of the Ratifications of the present Treaty; provided, however, that six months shall be allowed for completing the voyages of vessels, conformably to the tenor of the second Article of this Treaty.

3d. Either by Spanish ships, and under the Spanish flag, or for the account of Spanish subjects, by any vessel or under any flag whatsoever, after the 30th of May 1820, when the Traffic in Slaves, on the part of Spain, is to cease entirely; provided always, that five months shall be allowed for the completion of voyages commenced in due time, conformably to the first Article of this Treaty.

4th. Under the British or Spanish flag, for the account of the subjects of any other Government.

5th. By Spanish vessels bound for any port not in the dominions of His Catholic Majesty.

ARTICLE THE SIXTH.

His Catholic Majesty will adopt, in conformity to the spirit of this Treaty, the measures which are best calculated to give full and complete effect to the laudable objects which the High Contracting Parties have in view.

ARTICLE THE SEVENTH.

Every Spanish vessel which shall be destined for the Slave Trade, on any part of the coast of Africa where this Traffic still continues to be lawful, must be provided with a Royal passport, conformable to the model annexed to the present Treaty, and which model forms an integral part of the same. This passport must be written in the Spanish language, with an authentic translation in English annexed thereto; and it must be signed by His Catholic Majesty, and countersigned by the Minister of Marine, and also by the Principal Naval Authority of the district, station, or port from whence the vessel clears out, whether in Spain, or in the Colonial Possessions of His Catholic Majesty.

ARTICLE THE EIGHTH.

It is to be understood that this passport, for rendering lawful the voyages of Slave ships, is required only for the continuation of the Traffic to the south of the Line; those passports which are now issued, signed by the First Secretary of State of His Catholic Majesty, and in the form prescribed by the Order of the 16th of December 1816, remaining in full force for all vessels which may have cleared out for the coast of Africa, as well to the north as to the south of the Line, previously to the exchange of the Ratifications of the present Treaty.

ARTICLE THE NINTH.

The two High Contracting Parties, for the more complete attainment of the object of preventing all illicit Traffic in Slaves, on the part of their respective subjects, mutually consent, that the ships of war of Their Royal Navies, which shall be provided with special instructions for this purpose, as

hereinafter mentioned, may visit such merchant vessels of the two nations as may be suspected, upon reasonable grounds, of having Slaves on board, acquired by an illicit Traffic, and, in the event only of their finding Slaves on board, may detain and bring away such vessels, in order that they may be brought to trial before the tribunals established for this purpose, as shall hereinafter be specified.

Provided always, that the Commanders of the ships of war of the two Royal Navies, who shall be employed on this service, shall adhere strictly to the exact tenor of the instructions which they shall receive for this purpose.

As this Article is entirely reciprocal, the two High Contracting Parties engage mutually, to make good any losses which their respective subjects may incur unjustly, by the arbitrary and illegal detention of their vessels.

It being understood that this indemnity shall invariably be borne by the Government whose cruizer shall have been guilty of the arbitrary detention; provided always, that the visit and detention of Slave ships, specified in this Article, shall only be effected by those British or Spanish vessels, which may form part of the two Royal Navies, and by those only of such vessels which are provided with the special instructions annexed to the present Treaty.

ARTICLE THE TENTH.

No British or Spanish cruizer shall detain any Slave ship, not having Slaves actually on board; and in order to render lawful the detention of any ship, whether British or Spanish, the Slaves found on board such vessel must have been brought there for the express purpose of the Traffic; and those on board of Spanish ships must have been taken from that part of the coast of Africa where the Slave Trade is prohibited, conformably to the tenor of the present Treaty.

ARTICLE THE ELEVENTH.

All ships of war of the two nations, which shall hereafter be destined to prevent the illicit Traffic in Slaves, shall be furnished by their own Government with a copy of the instructions annexed to the present Treaty, and which shall be considered as an integral part thereof.

These instructions shall be written in Spanish and English, and signed for the vessels of each of the two Powers, by the Minister of their respective Marine.

The two High Contracting Parties reserve the faculty of altering the said instructions, in whole or in part, according to circumstances; it being, however, well understood, that the said alterations cannot take place but by the common agreement, and by the consent of the two High Contracting Parties.

ARTICLE THE TWELFTH.

In order to bring to adjudication, with the least delay and inconvenience, the vessels which may be detained for having been engaged in an illicit Traffic of Slaves, there shall be established, within the space of a year at furthest, from the exchange of the Ratifications of the present Treaty, two mixed Commissions, formed of an equal number of individuals of the two nations, named for this purpose by their respective Sovereigns.

These Commissions shall reside—one in a possession belonging to His

Britannic Majesty—the other within the Territories of His Catholic Majesty; and the two Governments, at the period of the exchange of the Ratifications of the present Treaty, shall declare, each for its own dominions, in what places the Commissions shall respectively reside. Each of the two High Contracting Parties reserving to itself the right of changing, at its pleasure, the place of residence of the Commission held within its own dominions; provided, however, that one of the two Commissions shall always be held upon the coast of Africa, and the other in one of the Colonial Possessions of His Catholic Majesty.

These Commissions shall judge the causes submitted to them without appeal, and according to the regulation and instructions annexed to the present Treaty, of which they shall be considered as an integral part.

ARTICLE THE THIRTEENTH.

The acts or instruments annexed to this Treaty, and which form an integral part thereof, are as follows:

No. 1. Form of passport for the Spanish merchant ships, destined for the lawful Traffic in Slaves.

No. 2. Instructions for the ships of war of both nations, destined to prevent the illicit Traffic in Slaves.

No. 3. Regulation for the mixed Commissions, which are to hold their sittings on the coast of Africa, and in one of the Colonial Possessions of His Catholic Majesty.

ARTICLE THE FOURTEENTH.

The present Treaty, consisting of fourteen Articles, shall be ratified, and the Ratifications exchanged at Madrid, within the space of two months from this date, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have thereunto affixed the Seal of their Arms.

Done at Madrid, this twenty-third day of September, in the year of our Lord one thousand eight hundred and seventeen.

(Signed)

HENRY WELLESLEY. (L. S.)

(Signed)

JOSE PIZARRO. (L. S.)

Form of Passport for Spanish Vessels destined for the lawful Traffic in Slaves.

FERDINAND, by the Grace of God, King of Castille, of Leon, of Aragon, of the two Sicilies, of Jerusalem, of Navarre, of Granada, of Toledo, of Valencia, of Galicia, of Majorca, of Minorca, of Seville, of Sardinia, of Cordova, of Corsica, of Murcia, of Jaen, of the Algarves, of Algeciras, of Gibraltar, of the Canary Islands, of the East and West Indies, Isles, and

Terra Firma of the Ocean ; Arch Duke of Austria ; Duke of Burgundy, of Brabant, and of Milan ; Count of Apsburgh, Flanders, Tirol, and Barcelona ; Lord of Biscay and of Molina, &c.

Whereas I have granted permission for the vessel called _____ of _____ tons, and carrying _____ Men and _____ Passengers ; _____ Master and _____ Owner, both Spaniards and Subjects of My Crown, to proceed bound to the Ports of _____ and _____ Coast of Africa, from whence she is to return to _____, the said Master and Owner having previously taken the required oath before the Tribunal of Marine of the proper Naval Division from whence the said vessel sails, and legally proved that no Foreigner has any share in the above vessel and cargo, as appears by the certificate annexed to this passport ; which certificate is given by the same Tribunal, in consequence of the steps taken in pursuance of the directions contained in the Ordinance of Matriculation of 1802.

The said _____ Captain, and _____ Owner of the said vessel being under an obligation to enter solely such ports on the Coast of Africa as are to the south of the Line ; and to return from thence to any of the ports of My dominions, where alone they shall be permitted to land the Slaves whom they carry, after going through the proper forms, to shew that they have, in every respect, complied with the provisions of My Royal Decree of _____ 1817, by which the mode of conveying Slaves from the Coast of Africa to My Colonial Dominions is regulated ; and should they fail in any of these conditions, they shall be liable to the penalties denounced by the said Decree against those who shall carry on the Slave Trade in an illicit manner.

I therefore command all General and other Officers commanding My squadrons and ships ; the Captain Generals of the departments of Marine, the Military Commandants of the Provinces of the same, their Subalterns, Captains of the Ports, and all other Officers and persons belonging to the Navy ; the Viceroys, Captain Generals or Commandants of Kingdoms and Provinces ; the Governors, Mayors, and Justices of the Towns upon the sea coast of My Dominions of Indies ; the Royal Officers or Judges of Entries therein established ; and all others of My subjects to whom it belongs, or may belong, not to give her any obstruction, nor to occasion her any inconvenience or detention, but rather to aid her and to furnish her with whatever she may want for her regular navigation ; and of the vassals and subjects of Kings, Princes, and Republics in friendship and alliance with Me ; of the Commanders, Governors, or Chiefs of their Provinces, Fortresses, Squadrons, and Vessels, I require that they likewise shall not impede her in her free navigation, entry, departure, or detention in the ports to which, by any accident, she may be carried ; but permit her to provide and supply herself therein with whatever she may be in need of, for which purpose I have commanded this passport to be made out, which, being signed for its validity by my Secretary of State for the Dispatch of Marine, shall serve for the time that a voyage, going and returning, may last ; after the conclusion of which, it shall be returned to the Commandant of Marine, Governor or other person by whom it may have been issued ; adding, for its proper use, the corresponding note.

Given at Madrid, on

I, THE KING.

(Here the Signature of the Secretary of State and of the Dispatch of Marine.)

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Note. This passport, No. _____ authorizes any number of Slaves, not exceeding _____ being in the proportion of five Slaves for every two tons (as permitted by the Royal Decree of _____ 1817) excepting always such Slaves employed as sailors or domestics, and children born on board during the voyage; and the same is issued by me the undersigned _____ on the day of this date, made out in favour of _____ who has previously conformed with all the formalities required by the Royal Decree of _____ 1817, and is bound to return it immediately upon his return from the voyage.

Given at _____ on the _____ of _____ of the year _____

(Here the Signature of the Principal Marine Authority of the Naval Division, Station, Province, or Port from whence the vessel clears out.)

(Signed)

HENRY WELLESLEY. (L. S.)

(Signed)

JOSE PIZARRO. (L. S.)

Instructions for the British and Spanish Ships of War employed to prevent the illicit Traffic in Slaves.

ARTICLE I.

EVERY British or Spanish ship of war shall, in conformity with Article IX. of the Treaty of this date, have a right to visit the merchant ships of either of the two Powers actually engaged, or suspected to be engaged in the Slave Trade; and should any Slaves be found on board, according to the tenor of the Xth Article of the aforesaid Treaty;—and as to what regards the Spanish vessels, should there be ground to suspect that the said Slaves have been embarked on a part of the coast of Africa where the Traffic is no longer permitted, conformably to the Articles I. and II. of the Treaty of this date; in these cases alone, the Commander of the said ship of war may detain them; and having detained them, he is to bring them, as soon as possible, for judgment, before that of the two mixed Commissions appointed by the XIIth Article of the Treaty of this date, which shall be the nearest, or which the Commander of the capturing ship shall, upon his own responsibility, think he can soonest reach from the spot where the Slave ship shall have been detained.

Ships, on board of which no Slaves shall be found, intended for purposes of Traffic, shall not be detained on any account or pretence whatever.

Negro servants or sailors that may be found on board the said vessels, cannot, in any case, be deemed a sufficient cause for detention.

ARTICLE II.

No Spanish merchantman or Slave ship shall, on any pretence whatever, be detained, which shall be found any where near the land or on the high seas, south of the Equator, during the period for which the Traffic is to remain lawful, according to the stipulations subsisting between the High Contracting Parties, unless after a chase that shall have commenced north of the Equator.

ARTICLE III.

Spanish vessels, furnished with a regular passport, having Slaves on board, shipped at those parts of the coast of Africa where the Trade is permitted to Spanish subjects, and which shall afterwards be found north of the Equator, shall not be detained by the ships of war of the two nations, though furnished with the present instructions, provided the same can account for their course, either in conformity with the practice of the Spanish navigation, by steering some degrees to the northward in search of fair winds, or for other legitimate causes, such as the dangers of the sea, duly proved; provided always, that, with regard to all Slave ships detained to the north of the Equator, after the expiration of the term allowed, the proof of the legality of the voyage is to be furnished by the vessel so detained. On the other hand, with respect to Slave ships detained to the south of the Equator, in conformity with the Stipulations of the preceding Article, the proof of the illegality of the voyage is to be exhibited by the captor.

It is in like manner stipulated, that the number of Slaves found on board a Slave ship by the cruizers, even should the number not agree with that contained in their passport, shall not be sufficient reason to justify the detention of the ship; but the Captain and the Proprietor shall be denounced in the Spanish Tribunals, in order to their being punished according to the laws of the country.

ARTICLE IV.

Every Spanish vessel intended to be employed in the legal Traffic in Slaves, in conformity with the principles laid down in the Treaty of this date, shall be commanded by a native Spaniard, and two-thirds, at least, of the crew shall likewise be Spaniards; provided always, that its Spanish or Foreign construction shall, in no wise, affect its nationality, and that the Negro sailors shall always be reckoned as Spaniards, provided they belong, as Slaves, to subjects of the Crown of Spain, or that they have been enfranchised in the dominions of His Catholic Majesty.

ARTICLE V.

Whenever a ship of war shall meet a merchantman liable to be searched, it shall be done in the most mild manner, and with every attention which is due between allied and friendly nations; and in no case shall the search be made by an officer holding a rank inferior to that of Lieutenant in the Navy of Great Britain, or of Ensign of a ship of the line in the Spanish Navy.

ARTICLE VI.

The ships of war which may detain any Slave ship, in pursuance of the principles laid down in the present instructions, shall leave on board all the cargo of Negroes untouched, as well as the Captain and a part, at least, of the crew of the above-mentioned Slave ship; the Captain shall draw up in writing, an authentic declaration, which shall exhibit the state in which he found the detained ship, and the changes which may have taken place in it; he shall deliver to the Captain of the Slave ship a signed certificate of the papers seized on board the said vessel, as well as of the number of Slaves found on board at the moment of detention.

The Negroes shall not be disembarked till after the vessels which contain them shall be arrived at the place where the legality of the capture is to be tried by one of the two Mixed Commissions, in order that, in the event of their not being adjudged legal prize, the loss of the proprietors may be more easily repaired. If, however, urgent motives, deduced from the length of the voyage, the state of health of the Negroes, or other causes, required that they should be disembarked entirely, or in part, before the vessel could arrive at the place of residence of one of the said Commissions, the Commander of the capturing ship may take on himself the responsibility of such disembarkation, provided that the necessity be stated in a certificate in proper form.

ARTICLE VII.

No conveyance of Slaves from one port in the Spanish possessions to another shall take place, except in ships provided with passports from the Government on the spot, *ad hoc*.

Done at Madrid the twenty-third day of September, in the year of our Lord one thousand eight hundred and seventeen.

(L. S.) HENRY WELLESLEY.

(L. S.) JOSE PIZARRO.

Regulations for the Mixed Commissions, which are to reside on the Coast of Africa, and in a Colonial Possession of His Catholic Majesty.

ARTICLE I.

The Mixed Commissions to be established by the Treaty of this date, upon the Coast of Africa and in a Colonial Possession of His Catholic Majesty, are appointed to decide upon the legality of the detention of such Slave vessels as the cruisers of both nations shall detain, in pursuance of this same Treaty, for carrying on an illicit commerce in Slaves.

The above-mentioned Commissions shall judge, without appeal, according to the letter and spirit of the Treaty of this date.

The Commissions shall give sentence as summarily as possible, and they are required to decide, (as far as they shall find it practicable,) within the space of twenty days, to be dated from that on which every detained vessel shall have been brought into the port where they shall reside; first, upon the legality of the capture; second, in the case in which the captured vessel shall have been liberated, as to the indemnification which she is to receive.

And it is hereby provided, that, in all cases, the final sentence shall not be delayed, on account of the absence of witnesses, or for want of other proofs, beyond the period of two months; except upon the application of any of the parties interested, when, upon their giving satisfactory security to charge themselves with the expense and risks of the delay, the Commissioners may, at their discretion, grant an additional delay, not exceeding four months.

ARTICLE II.

Each of the above-mentioned Mixed Commissions which are to reside on the coast of Africa, and in a Colonial Possession of His Catholic Majesty, shall be composed in the following manner:

The two High Contracting Parties shall each of them name a Commissary Judge, and a Commissioner of Arbitration, who shall be authorized to hear and to decide, without appeal, all cases of capture of Slave vessels which, in pursuance of the stipulations of the Treaty of this date, may be laid before them. All the essential parts of the proceedings carried on before these Mixed Commissions, shall be written down in the legal language of the country in which the Commission may reside.

The Commissary Judges and the Commissioners of Arbitration, shall make oath, in presence of the principal Magistrate of the place in which the Commission may reside, to judge fairly and faithfully, to have no preference either for the claimants or the captors, and to act, in all their decisions, in pursuance of the stipulations of the Treaty of this date.

There shall be attached to each Commission a Secretary or Registrar, appointed by the Sovereign of the country in which the Commission may reside, who shall register all its acts, and who, previous to his taking charge of his post, shall make oath, in presence of at least one of the Commissary Judges, to conduct himself with respect for their authority, and to act with fidelity in all the affairs which may belong to his charge.

ARTICLE III.

The form of the process shall be as follows:

The Commissary Judges of the two nations shall, in the first place, proceed to the examination of the papers of the vessel, and to receive the depositions on oath of the Captain and of two or three, at least, of the principal individuals on board of the detained vessel, as well as the declaration on oath of the captor, should it appear necessary, in order to be able to judge and to pronounce if the said vessel has been justly detained or not, according to the stipulations of the Treaty of this date, and in order that, according to this judgment, it may be condemned or liberated. And in the event of the two Commissary Judges not agreeing on the sentence they ought to pronounce, whether as to the legality of the detention, or the indemnification to be allowed, or on any other question which might result from the stipulations of the Treaty of this date,—they shall draw by lot the name of one of the two Commissioners of Arbitration, who, after having

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considered the documents of the process, shall consult with the above-mentioned Commissary Judges on the case in question, and the final sentence shall be pronounced conformably to the opinion of the majority of the above-mentioned Commissary Judges, and of the above-mentioned Commissioner of Arbitration.

ARTICLE IV.

As often as the cargo of Slaves found on board of a Spanish Slave ship, shall have been embarked on any point whatever of the coast of Africa where the Slave trade continues to be lawful, such Slave ship shall not be detained on pretext that the above-mentioned Slaves have been brought originally by land from any other part whatever of the Continent.

ARTICLE V.

In the authenticated declaration which the captor shall make before the Commission, as well as in the certificate of the papers seized, which shall be delivered to the Captain of the captured vessel at the time of the detention, the above-mentioned captor shall be bound to declare his name, the name of his vessel, as well as the latitude and longitude of the place where the detention shall have taken place, and the number of Slaves found living on board of the Slave ship at the time of the detention.

ARTICLE VI.

As soon as sentence shall have been passed, the detained vessel, if liberated, and what remains of the cargo shall be restored to the proprietors, who may, before the same Commission, claim a valuation of the damages, which they may have a right to demand; the captor himself, and in his default, his Government, shall remain responsible for the above-mentioned damages.

The two High Contracting Parties bind themselves to defray, within the term of a year from the date of the sentence, the indemnifications which may be granted by the above-named Commission, it being understood that these indemnifications shall be at the expense of the Power of which the captor shall be a subject.

ARTICLE VII.

In case of the condemnation of a vessel for an unlawful voyage, she shall be declared lawful prize, as well as her cargo, of whatever description it may be, with the exception of the Slaves who may be on board as objects of commerce: and the said vessel, as well as her cargo, shall be sold by public sale for the profit of the two Governments: and as to the Slaves, they shall receive from the Mixed Commission a certificate of emancipation, and shall be delivered over to the Government on whose territory the Commission, which shall have so judged them, shall be established, to be employed as servants or free labourers. Each of the two Governments binds itself to guarantee the liberty of such portion of these individuals as shall be respectively consigned to it.

ARTICLE VIII.

Every claim for compensation of losses occasioned to ships suspected of carrying on an illicit trade in Slaves, not condemned as lawful prize by the Mixed Commissions, shall be also heard and judged by the above-named Commissions, in the form provided by the Third Article of the present Regulation. And in all cases wherein restitution shall be so decreed, the Commission shall award to the claimant or claimants, or his or their lawful attorney or attorneys, for his or their use, a just and complete indemnification, for all costs of suit, and for all losses and damages which the claimant or claimants may have actually sustained by such capture and detention; that is to say, in case of total loss, the claimant or claimants shall be indemnified, first for the ship, her tackle, apparel, and stores; secondly, for all freight due and payable; thirdly, for the value of the cargo of merchandize, if any; fourthly, for the Slaves on board at the time of detention, according to the computed value of such Slaves at the place of destination, deducting therefrom the usual fair average mortality for the unexpired period of the regular voyage; deducting also for all charges and expences payable upon the sale of such cargoes, including commission of sale; and fifthly, for all other regular charges in such cases of total loss: and in all other cases not of total loss, the claimant or claimants shall be indemnified; first, for all special damages and expenses occasioned to the ship by the detention, and for loss of freight when due or payable; secondly, a demurrage, when due, according to the schedule annexed to the present Article; thirdly, a daily allowance for the subsistence of Slaves, of one shilling or four reals and half de Vn. for each person, without distinction of sex or age, for so many days as it shall appear to the Commission that the voyage has been, or may be delayed by reason of such detention; as likewise; fourthly, for any deterioration of cargo or Slaves; fifthly, for any diminution in the value of the cargo of Slaves, proceeding from an increased mortality beyond the average amount of the voyage, or from sickness occasioned by detention; this value to be ascertained by their computed price at the place of destination, as in the above case of total loss; sixthly, an allowance of five per cent. on the amount of the capital employed in the purchase and maintenance of cargo, for the period of delay occasioned by the detention; and seventhly, for all premium of insurance on additional risks.

The claimant or claimants shall likewise be entitled to interest, at the rate of five per cent. per annum on the sum awarded, until paid by the Government to which the capturing ship belongs: the whole amount of such indemnifications being calculated in the money of the country to which the captured ship belongs, and to be liquidated at the exchange current at the time of award, excepting the sum for the subsistence of Slaves, which shall be paid at par, as above stipulated.

The two High Contracting Parties wishing to avoid, as much as possible, every species of fraud in the execution of the Treaty of this date, have agreed, that if it should be proved, in a manner evident to the conviction of the Commissary Judges of the two nations, and without having recourse to the decision of a Commissioner of Arbitration, that the captor has been led into error by a voluntary and reprehensible fault on the part of the Captain of the detained ship; in that case only, the detained ship shall not have the right of receiving, during the days of her detention, the demurrage stipulated by the present Article.

Schedule of demurrage or daily allowance for a vessel of

100 tons to 120 inclusive,	£ 5	} per diem.
121 ditto— 150 ditto,	6	
151 ditto— 170 ditto,	8	
171 ditto— 200 ditto,	10	
201 ditto— 220 ditto,	11	
221 ditto— 250 ditto,	12	
251 ditto— 270 ditto,	14	
271 ditto— 300 ditto,	15	

and so on in proportion.

ARTICLE IX.

When the Proprietor of a ship, suspected of carrying on an illicit trade in Slaves, released in consequence of a sentence of one of the Mixed Commissions (or in the case, as above-mentioned, of total loss), shall claim indemnification for the loss of Slaves which he may have suffered, he shall in no case be entitled to claim for more than the number of Slaves which his vessel, by the Spanish laws, was authorised to carry, which number shall always be stated in his Passport.

ARTICLE X.

Neither the Judges, nor the Arbitrators, nor the Secretary of the Mixed Commissions shall be permitted to demand or receive, from any of the parties concerned in the sentences which they shall pronounce, any emolument, under any pretext whatsoever, for the performance of the duties which are imposed upon them by the present Regulation.

ARTICLE XI.

When the parties interested, shall imagine they have cause to complain of any evident injustice on the part of the Mixed Commissions, they may represent it to their respective Governments, who reserve to themselves the right of mutual correspondence for the purpose of removing, when they think fit, the individuals who may compose these Commissions.

ARTICLE XII.

In case of a vessel being improperly detained, under pretence of the stipulations of the Treaty of this date, and the captor not being enabled to justify himself, either by the tenour of the said Treaty, or of the Instructions annexed to it, the Government to which the detained vessel may belong, shall be entitled to demand reparation; and, in such case, the Government to which the captor may belong, binds itself to cause enquiry to be made into the subject of the complaint, and to inflict upon the captor, if he be found to have deserved it, a punishment proportioned to the transgression which may have been committed.

ARTICLE XIII.

The two High Contracting Parties have agreed, that, in the event of the death of one or more of the Commissary Judges, or the Commissioners of Arbitration, composing the above-mentioned Mixed Commissions, their posts shall be supplied, *ad interim*, in the following manner :

On the part of the British Government, the vacancies shall be filled successively, in the Commission which shall sit within the possessions of His Britannic Majesty, by the Governor or Lieutenant Governor resident in that colony, by the Principal Magistrate of the same, and by the Secretary; and in that which shall sit within the possessions of His Catholic Majesty, it is agreed, that, in case of the death of the British Judge or Arbitrator there, the remaining individuals of the said Commission shall proceed equally to the judgment of such Slave ships as may be brought before them, and to the execution of their sentence. In this case alone, however, the parties interested shall have the right of appealing from the sentence, if they think fit, to the Commission resident upon the Coast of Africa; and the Government to which the captor shall belong, shall be bound fully to make good the compensation which shall be due to them, in case the appeal be decided in favour of the claimants; but the vessel and cargo shall remain, during such appeal, in the place of residence of the first Commission before which they shall have been carried.

On the part of Spain, the vacancies shall be supplied, in the possession of His Catholic Majesty, by such persons of trust as the principal authority of the country shall appoint; and upon the coast of Africa, in case of the death of any Spanish Judge or Arbitrator, the Commission shall proceed to judgment in the same manner as above specified for the Commission resident in the possession of His Catholic Majesty, in the event of the death of the British Judge or Arbitrator; an appeal being, in this case likewise, allowed, to the Commission resident in the possession of His Catholic Majesty; and, in general, all the provisions of the former case being to be applied to the present.

The High Contracting Parties have agreed to supply, as soon as possible, the vacancies that may arise in the above-mentioned Commissions, from death or any other cause; and in case that the vacancy of any of the Spanish Commissioners in the British possessions, or of the British Commissioners in the Spanish possession, be not supplied at the end of the term of seven months for America, and of twelve for Africa, the vessels, which shall be brought to the said possessions respectively, shall cease to have the right of appeal above stipulated.

Done at Madrid, the twenty-third day of September, in the year of our Lord one thousand eight hundred and seventeen.

(L. S.) HENRY WELLESLEY.

(L. S.) JOSE PIZARRO.

Tratado entre Su Magestad Britanica y Su Magestad Catolica
 con el fin de impedir que Sus Subditos se empléen illicitamente
 en el Trafico de Negros Firmada en Madrid, á 23 de
 Setiembre de 1817.

En el Nombre de la Santisima Trinidad.

HABIENDOSE manifestado en el segundo Articulo Adicional del Tratado, firmado en Madrid, el dia cinco de Julio del año de 1814, entre Su Magestad el Rey de España y de las Indias, y Su Magestad el Rey del Reyno Unido de la Gran Bretaña é Irlanda, que, “siendo conformes enteramente los sentimientos de Su Magestad Catolica con los de Su Magestad Britanica, respecto á la injusticia, é inhumanidad del Trafico de Esclavos, Su Magestad Catolica tomará en consideracion, con la madurez que se requiere, los medios de combinar estos sentimientos con las necesidades de Sus posesiones en America; Su Magestad Catolica promete además, prohibir á Sus subditos que se ocupen en el comercio de los Esclavos quando sea con el objeto de proveer de ellos á las Islas y posesiones que no sean pertenecientes á España; y tambien el impedir por medio de reglamentos y medidas eficaces, que se conceda la proteccion de la bandera Española á los extrangeros que se empleen en este Trafico, bien sean subditos de Su Magestad Britanica, o de otros Estados y Potencias”

Y consiguiente Su Magestad Catolica al espiritu de este Articulo y á los principios de humanidad que le animan, no habiendo perdido nunca de vista un asunto que tanto le interesa, y deseoso de adelantar el momento de su logro, se ha determinado á cooperar con Su Magestad Britanica á la causa de la humanidad, adoptando, de acuerdo con Su dicha Magestad, medios eficaces para llevar á efecto la abolicion del trafico de Esclavos; suprimir el illicito comercio de Esclavos por parte de sus respectivos subditos: y precaver que sean molestados ó perjudicados, por los cruceros Britanicos, los Buques Españoles que trafiquen en Negros conforme á la Ley y á los Tratados: las dos Altas Partes Contratantes han nombrado en consecuencia por sus Plenipotenciarios, á saber:

Su Magestad el Rey de España y de las Indias, á Don Josef Garcia de Leon y Pizarro, Caballero Gran Cruz de la Real y distinguida Orden Española de Carlos III., de la de San Fernando, y del Merito de Napoles, de las de San Alexandro Newsky y de Santa Ana de Rusia, y de la del Aguila Roxa de Prusia, Consejero de Estado, y Primer Secretario de Estado y del Despacho Universal; y Su Magestad el Rey del Reyno Unido de la Gran Bretaña é Irlanda, al muy Honorable Don Henrique Welleslèy, Caballero

Gran Cruz de la muy Honorable Orden del Bano, Miembro del muy Honorable Consejo Privado de Su Magestad, y Su Embaxador Extraordinario y Plenipotenciario cerca de Su Magestad Catolica, los quales, habiendo cangeado sus respectivos plenos Poderes, hallados en buena y debida forma, se han convenido en los Articulos siguientes :

ARTICULO I.

Su Magestad Catolica se obliga á que el trafico de Esclavos quede abolido en todos los dominios de España, el dia treinta, de Mayo de 1820, y que desde esta epoca en adelante no será licito á ningun vasallo de la Corona de España, el comprar Esclavos, ó continuar el trafico de Esclavos, en parte alguna de la costa de Africa, baxo ningun pretexto ni de ninguna manera que sea ; bien entendido, sin embargo, que se concederá un termino de cinco meses desde dicha fecha de 30 de Mayo de 1820, para que completen sus viages, los buques que hubiesen sido legitimamente habilitados antes del citado dia 30 de Mayo.

ARTICULO II.

Queda estipulado por el presente Articulo que desde el dia del cange de las ratificaciones del presente Tratado en adelante, no será licito á ningun subdito de la Corona de España, el comprar Esclavos, ó continuar el trafico de Esclavos en parte alguna de la costa de Africa al norte del Equador, bajo ningun pretexto, ó de qualquiera manera que fuere, entendiendose, sin embargo, que se concederá un termino de seis meses desde la fecha del cange de las ratificaciones de este Tratado, paraque puedan completar sus viages, los buques que hubiesen sido despachados de puertos Españoles para la referida costa antes del cange de las dichas ratificaciones.

ARTICULO III.

Su Magestad Britanica se obliga á pagar en Londres el 20 de Febrero de 1818, la suma de quatrocientas mil libras esterlinas, a la persona que Su Magestad Catolica designe para recibirlas.

ARTICULO IV.

La expresada suma de quatrocientas mil libras esterlinas, se ha de considerar como una compensacion completa de todas las perdidas que hubiesen sufrido los subditos de Su Magestad Catolica, ocupados en este Trafico, con motivo de las expediciones interceptadas antes del cange de las ratificaciones del presente Tratado ; como tambien de las que son una consecuencia necesaria de la abolicion de este comercio.

ARTICULO V.

Siendo uno de los objetos de este Tratado, por parte de los dos Gobiernos, el de impedir que sus respectivos subditos comercien ilegitimamente en Esclavos, las dos Altas Partes Contratantes declaran, que considerarán

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como comercio ilícito de Esclavos el que se haga en adelante del modo siguiente, á saber :

1º En buques Ingleses ó que lleven pabellon Ingles, ó en qualquier otro buque y baxo qualquier pabellon, siempre que sea por cuenta de subditos Ingleses.

2º En buques Españoles que hagan el Trafico en qualquiera parte de la cost^a de Africa al norte del Equador, despues del cange de las ratificaciones del presente Tratado ; entendiendose, sin embargo, que se concederán seis meses para completar el viage de los buques, segun et tenor del Artículo II. del presente Tratado.

3º En buques Españoles ó con pabellon Español, ó en qualquier otro buque y bajo qualquier pabellon que sea, por cuenta de subditos Españoles, despues del 30 de Mayo de 1820, en que ha de cesar el Trafico de Negros por parte de la España, y despues de los cinco meses concedidos para el retorno de los viages empezados en tiempo habil, con arreglo al Artículo I. de este Tratado.

4º En buques bajo pabellon Ingles ó Español, de cuenta de los subditos de qualquier otra Potencia.

5º En buques Españoles cuyo destino sea qualquier puerto fuera de los dominios de Su Magestad Catolica.

ARTICULO VI.

Su Magestad Catolica consiguiente al espiritu de este Tratado, tornará todas las providencias mas oportunas paraque tengan un cumplido efecto los fines saludables que en el se proponen las Altas Partes Contratantes.

ARTICULO VII.

Todo buque Español que se emplee en el Trafico de Esclavos, y cuyo destino sea á qualquier parte de la costa de Africa en donde se pueda hacer legitimamente dicho comercio, llevará un pasaporte Real, escrito en Español, con una traduccion autentica en Ingles anexa a el (conforme al modelo anexo, el cual constituye una parte integrante de este Tratado) firmado por Su Magestad Catolica, refrendado por el Secretario de Marina, y contrafirmado por el Gefe Marino superior del distrito, apostadero ó puerto, donde se habilite el buque, sea en España, sea en las Posesiones Coloniales de Su Magestad Catolica.

ARTICULO VIII.

La necesidad de este pasaporte para legitimar la navegacion de los buques Negreros, no debe entenderse sino para la continuacion del Trafico al Sur de la Linea, quedando en su fuerza los que se despachan ahora firmados por el Primer Secretario de Estado de Su Magestad Catolica, y en la forma que se previno en orden de 16 de Diciembre de 1816, para todos los buques que salgan para la costa de Africa, al Norte como tambien al Sur de la Linea, antes del cange de las Ratificaciones del presente Tratado.

ARTICULO IX.

Afin de que se realice mejor el objeto de impedir el comercio ilegítimo de Esclavos, por parte de sus respectivos subditos, las dos Altas Partes Contratantes se convienen mutuamente en que los buques de guerra de sus Reales Marinas, á quienes se darán al intento especiales instrucciones, de las que se hará luego mencion, sean autorizados para registrar los buques mercantes de ambas naciones, de los quales se sospeche con fundamentos razonables que llevan á su bordo Esclavos de ilícito comercio, y tengan asimismo facultad (aunque solo en el caso de hallarse abordo los Negros) para detener y llevarse los referidos buques, afin de que sean juzgados por los tribunales establecidos con este objeto, segun se indicará despues.

Bien entendido que se haya de encargar á los Comandantes de los buques de guerra que exerzan esta comision, se atengan con el mayor rigor á las instrucciones que se les han de dar para dicho objeto.

Siendo este Artículo reciproco en todos respectos, las Altas Partes Contratantes se obligan á resarcir las perdidas que puedan sufrir injustamente sus respectivos subditos por la detencion de qualquiera de sus buques sin suficiente causa legal.

Debiendose entender, que esta indemnizacion será siempre á expensas del gobierno á que pertenezca el crucero que haya cometido el acto arbitrario; entendiendose tambien, que la facultad de visitar y detener los buques Negreros, segun se expresa en este Artículo, solo podrá exercerse por los buques Españoles ó Ingleses que pertenezcan á una ú otra Real Marina, y estén provistos de las instrucciones especiales anexas á este Tratado.

ARTICULO X.

Ningun crucero, sea Español ó Ingles, podrá detener á ningun buque Negrero que no tenga, á la sazón, Esclavos abordo; y á fin de legalizar la detencion de qualquier buque Español ó Ingles, será necesario probar que los Esclavos hallados a bordo, han sido conducidos con el objeto expreso del Trafico; y que los hallados abordo de los buques Españoles han sido tomados en la parte de la costa de Africa, donde esté ya prohibido el Trafico, segun el tenor del presente Tratado

ARTICULO XI.

Los buques de guerra pertenecientes á las dos naciones, que, en lo sucesivo, se destinen á impedir el Trafico ilegítimo de Negros, recibirán de su Gobierno una Copia de las instrucciones anexas al presente Tratado, las quales serán consideradas como una parte integral del mismo.

Estas instrucciones se extenderan en Español y en Ingles, y serán firmados para todos los buques de cada nacion, por sus respectivos Ministros de Marina.

Las dos Altas Partes Contratantes se reservan la facultad de alterar, en todo ó en parte, las susodichas instrucciones, segun requieran las circunstancias; entendiendose, sin embargo, que dichas alteraciones han de hacerse unicamente de comun consentimiento y con la concurrencia de las dos Altas Partes Contratantes.

ARTICULO XII.

Afin de obviar el inconveniente que pudiera originarse de la dilacion en la adjudicacion de los buques detenidos, por estar empleados en un comercio ilegal, se establecerán en el espacio de un año, a mas tardar, despues del cange de las Ratificaciones del presente Tratado, dos Comisiones mixtas, compuestas de un numero igual de individuos de ambas naciones, nombrados al intento por sus respectivos Soberanos.

Una de estas Comisiones residirá en territorio de Su Magestad Catolica, y la otra en una de las posesiones de Su Magestad Britanica; y los dos Gobiernos se convendrán en quanto a los parages de la residencia de dichas Comisiones, al tiempo de cangearse las Ratificaciones del presente Tratado, cada uno por lo respectivo á sus propios dominios. Cada una de las dos Altas Partes Contratantes se reserva el derecho de mudar, á su voluntad el lugar de residencia de la Comision que ha de estar en sus propios dominios; entendiendose, sin embargo, que una de las dos Comisiones habrá de residir siempre en la costa de Africa, y la otra, en una de las Posesiones Coloniales de Su Magestad Catolica.

Estas Comisiones decidirán las causas que se les presenten sin apelacion, y conforme al reglamento é instrucciones anexas al presente Tratado, del qual han de considerarse como parte integrante.

ARTICULO XIII.

Los actos ò instrumentos anexas á este Tratado, y del qual constituyen una parte integrante, son los siguientes:

No. 1. Modelo de pasaporte para los buques mercantes Españoles destinados al Trafico legitimo de Esclavos.

No. 2. Instrucciones para los buques de guerra de las dos naciones, destinados á impedir el ilicito comercio de Esclavos.

No. 3. Reglamento para las Comisiones mixtas que han de establecerse en la costa de Africa, y en alguna de las Posesiones Coloniales de Su Magestad Catolica.

ARTICULO XIV.

El presente Tratado, compuesto de catorce Articulos, será ratificado, y cangeadas las Ratificaciones en Madrid, en el termino de dos meses desde esta fecha, ó antes, si fuere posible.

En fé de lo qual Nos, los infrascritos Plenipotenciarios, en virtud de nuestros respectivos plenos Poderes, hemos firmado el presente Tratado, y hecho poner en el los Sellos de nuestras Armas.

Hecho en Madrid, el veinte y tres de Setiembre, del año de nuestro Señor mil ochocientos diez y siete.

HENRY WELLESLEY. (L. S.)

JOSÉ PIZARRO. (L. S.)

Modelo de Pasaporte para los Buques Españoles que se destinaren al Trafico legitimo de Esclavos.

DON Fernando por la Gracia de Dios, Rey de Castilla, de Leon, de Aragon, de las dos Sicilias, de Jerusalem, de Navarra, de Granada, de Toledo, de Valencia, de Galicia, de Mallorca, de Menorca, de Sevilla, de Cerdeña, de Cordoba, de Corcega, de Murcia, de Jaen, de los Algarbes, de Algeciras, de Gibraltar, de las Islas de Canaria, de las Indias Orientales y Occidentales, Islas, y Tierra Firme del mar Oceano; Archiduque de Austria; Duque de Borgoña, de Brabante, y de Milan; Conde de Abspurg, Flander, Tirol, y Barcelona; Señor de Viscaya y de Molina, &c.

Por quanto he concedido permiso para que el buque titulado de porte de _____ toneladas, que lleva _____ hombres de Tripulacion, y _____ Pasajeros; su Capitan _____ y su Propietario _____ ambos Españoles y subditos de mi Corona, pueda salir con destino á los Puertos de _____ y _____ y Costa de Africa; de donde ha de volver á _____ habiendo prestado antes los expresados Capitan y Propietario, el debido juramento y fianza ante el Juzgado de Marina del correspondiente Tercio Naval, de donde salga dicho buque, y probado legalmente que ningun extrangero tiene parte alguna en el arriba mencionado buque y cargamento, como resulta de la certificacion anexa á este Pasaporte, dada por el mismo Tribunal, en consecuencia de las diligencias practicadas en virtud de lo que prescribe la Ordenanza de Matriculas de 1802.

Los referidos Capitan _____ y _____ Propietario de dicho buque quedan obligados á entrar solamente en los puertos de la Costa de Africa situados al Sur de la Linea, y volver á qualquiera de los puertos de Mis dominios, donde solo se les permitirá desembarcar los Esclavos que conduzcan, despues de haber manifestado en debida forma, que han cumplido, en todo, con las disposiciones de Mi Real Decreto de 1817, por el qual se ha arreglado el modo de conducir los Esclavos desde la Costa de Africa a Mis Dominios de Ultramar, y si faltasen á alguna de estas condiciones, estarán sugetos á las penas establecidas por dicho Decreto contra aquellos que hiciéren el Trafico de Esclavos de un modo ilícito.

Por tanto mando á los Oficiales Generales ó particulares, Comandantes de Mis escuadras y baxeles; á los Capitanes Generales de los departamentos de Marina, Comandantes Militares de sus Provincias, sus Subalternos, Capitanes de Puerto, y otros qualesquiera Oficiales y dependientes de la Armada; á los Vireyes, Capitanes ó Comandantes Generales de Reynos y Provincias; á los Gobernadores, Corregidores, y Justicias de los Pueblos de la costa de mar de Mis Dominios de Indias; á los Oficiales Reales ó Jueces de Arribadas en ellos establecidos; y á todos los demás vasallos míos á quienes pertenece ó pertenecer pudiere, no le pongan embarazo, causen molestia ó detencion, antes le auxilién y faciliten lo que hubiere menester para su regular navegacion; y á los vasallos y subditos de Reyes, Principes, y Republicas, amigas y aliadas mias: á los Comandantes, Gobernadores, ó Cabos de sus Provincias, Plagas, Escuadras y Baxeles, requiero que asimismo no le impidan en su libre navegacion, entrada, salida ó detencion en los Puertos, á los quales por algun accidente se conduxere, permitiéndole que en ellos se bastimente y provea de todo lo que necesitare; a cuyo fin he mandado despachar este pasaporte; el qual, firmado para su validacion de Mi Secretario de Estado y del Despacho

de Marina, servirá por el tiempo que durare el viage de ida y vuelta ; y concluido que sea, lo devolverá al Comandante de Marina,, Gobernador ú otra persona por quien se hubiese expedido, poniendo para su uso la nota que corresponde.

Dado en Madrid, á

YO EL REY.

(Aqui la firma del Secretario de Estado y del Despacho de Marina.)

Nota. Este pasaporte, No. _____ autoriza qualquier numero de Esclavos que no exceda siendo á proporcion de cinco por cada dos toneladas (segun está permitido por el Real Decreto de _____ de 1817,) exceptuandose siempre los Esclavos empleados como Marineros ó Criados, e hijos nacidos a bordo durante el viage; y el mismo se expide por mi el infrascrito _____ en el dia de la fecha, extendido á favor de _____ habiendo precedido todos los requisitos prevenidos por el Real Decreto de _____ de 1817, y con la obligacion de devolverlo puntualmente al regreso del viage.

Dado en

á de

del año de

(Aqui la firma del Gefe de Marina del Tercio Naval, del apostadero, de la Provincia, ó del Puerto donde se habilite el buque.

HENRY WELLESLEY. (L. S.)

JOSÉ PIZARRO. (L. S.)

Instrucciones para los Buques de Guerra Españoles é Ingleses empleados en impedir el ilícito Comercio de Esclavos.

ARTICULO I^o.

TODO buque de guerra Español ó Ingles tendrá derecho, con arreglo al Artículo IX. del Tratado de esta fecha, de visitar los buques mercantes de qualquiera de las dos Potencias, efectivamente empleados, ó que se sospeche emplearse en el Trafico de Negros; y si se hallaren Esclavos á su bordo, con arreglo al tenor del Artículo X. del susodicho Tratado, y en quanto respecta a los buques Españoles, si hay motivos para sospechar que dichos Esclavos hayan sido embarcados en qualquier punto de la costa de Africa donde no sea ya permitido el Trafico, con arreglo á los Articulos I. y II. del Tratado de esta fecha; en tales casos unicamente, el Comandante de dicho buque de guerra podrá detenerlos, y ya detenidos, los llevará con la brevedad posible, para que sean juzgados por una de las dos Comisiones mixtas establecidas por el Artículo XII. del Tratado de esta fecha, á la qual se hallen mas cercanos, ó á la que el Comandante del buque apresador, baxo su propia responsabilidad, crea poder llegar mas pronto desde el parage en que haya sido detenido el buque Negrero.

Los buques, á cuyo bordo no se hallaren Esclavos destinados para el trafico, no serán detenidos bajo ningun pretexto ó motivo.

Los criados ó marineros Negros que se hallaren abordo, no podrán, en niugun caso, considerarse causa suficiente para su detencion.

ARTICULO IIº.

No podrá ser detenido, con pretexto alguno, ningun buque Español, mercante ó Negrero, que se hallare en qualquier parte ya sea cerca de tierra ó bien en alta mar, al Sur del Equador, durante el tiempo en que el Trafico ha de quedar licito, segun las estipulaciones subsistentes entre las Altas Partes Contratantes, á menos que se le hubiese empezado á perseguir al Norte del Equador.

ARTICULO IIIº.

Los buques Españoles, provistos de pasaportes en regla, que tubieren Esclavos á su bordo, embarcados en aquellas partes de la costa de Africa donde es permitido el Trafico á los subditos Españoles, y que despues fueren hallados al norte del Equador, no serán detenidos por los buques de guerra de las dos naciones, aunque lleven las instrucciones presentes, con tal que aquellos puedan justificar su derrotero, bien por ser en conformidad con el uso de la navegacion Española, dirigir su rumbo algunos grados acia al norte en busca de vientos favorables, ó bien por otras causas legitimas como los riesgos del mar debidamente probados: entendiendose siempre que, en quanto á los buques Negreros que fueren detenidos al norte del Equador despues de fenecido el tiempo habil, la prueba de la legalidad del viage se ha de hacer por el buque detenido. Por lo contrario, con respecto á los buques Negreros detenidos al sur del Equador, segun las estipulaciones del articulo precedente, la prueba de la ilegalidad del viage deberá hacerse por el apresador.

Se estipula igualmente que el numero de Esclavos, que los cruceros hallären abordo de un buque Negrero, aun quando no correspondiese con el del pasaporte, no será motivo suficiente para justificar la detencion del buque; pero el Capitan y el Propietario serán denunciados en los Tribunales Españoles á fin de que sean castigados con arreglo á las leyes del Pais.

ARTICULO IVº.

Todo buque Español destinado á emplearse en el licito trafico de Esclavos, segun los principios enunciados en el Tratado de esta fecha, será mandado por un Español de nacimiento, y las dos terceras partes de su tripulacion por lo menos, serán Españoles. Entendiendose siempre, que la construccion del buque, sea Española ó extranjera, no influirá de ninguna manera sobre su nacionalidad; y que los marineros negros serán siempre considerados como Españoles, con tal que pertenezcan, como Esclavos, a subditos de la Corona de España ó que hayan sido puestos en libertad en los dominios de Su Magestad Católica.

ARTICULO Vº.

Siempre que un buque de guerra encuentre uno mercante que se halle en el caso de ser visitado, se hará el examen del modo mas moderado, y con toda la consideracion que es debida entre naciones amigas y aliadas; y en ningun caso se hará la visita por un oficial de grado inferior al de Teniente de la Marina de la Gran Bretaña, ó al de Alferes de Navio en la Española.

ARTICULO VI.

Los buques de guerra que detengan barcos Negreros, con arreglo á los principios establecidos en estas instrucciones, dexarán abordo todo el cargamento de Negros intacto, como tambien al capitan y una parte, por lo menos, de la tripulacion de dicho buque Negrero; el capitan hará una declaracion autentica por escrito, en la qual expresará el estado en que halló el buque detenido, y las mudanzas que se hubieren hecho en el. Dará al capitan del buque Negrero una certificacion firmada, de los papeles cogidos en dicho buque, como tambien del numero de Esclavos que se hubiesen encontrado abordo al tiempo de su detencion.

No se desembarcarán los Negros hasta que los buques donde se hallen hayan llegado al parage donde se ha de decidir sobre la validez de la presa, por una de las dos Comisiones Mixtas, á fin de que, en el caso de no ser adjudicados de buena presa, pueda repararse mas facilmente la perdida de los propietarios. Si no obstante hubiere algun motivo urgente, dimanado de la extension del viage, del estado de salud de los Negros, ó de otras causas, que exigiese el desembarque de todos ó parte de estos, antes que el buque pudiese llegar al parage de la residencia de una de las dichas Comisiones, el Comandante del buque apresador podrá tomar sobre si, la responsabilidad de tal desembarque, siempre que acredite la necesidad con una certificacion en debida forma.

ARTICULO VII.

No se trasladarán Esclavos de un puerto de las posesiones Españolas á otro, excepto en buques provistos de pasaportes del Gobierno de aquel territorio, expedidas *ad hoc*.

Fecho en Madrid á veinte y tres de Setiembre del año de nuestro Señor Mil Ocho cientos diez y siete.

(L.S.) HENRY WELLESLEY.

(L.S.) JOSÉ PIZARRO.

Reglamento para las Comisiones Mixtas que han de residir en alguna de las Posesiones Coloniales de Su Magestad Catolica, y en la Costa de Africa.

ARTICULO I^o.

Las Comisiones Mixtas, que se han de establecer por el tratado de esta fecha, en una de las Posesiones Coloniales de Su Magestad Catolica, y en la Costa de Africa, decidirán sobre la legalidad de la detencion de los buques Negreros, que detengan los cruceros de las dos naciones, en virtud del mismo tratado, por hacer el comercio ilicito de Esclavos.

Las referidas Comisiones sentenciarán, sin apelacion, con arreglo al tenor y espíritu del tratado de esta fecha.

Las Comisiones sentenciarán con la brevedad posible, y se les encarga (en quanto hallen practicable) que decidan dentro del termino de veinte dias,

a contar desde el en que cada buque detenido fuere conducido al puerto de su residencia; primero sobre la legalidad del apresamiento; segundo en el caso de que el buque apresado sea puesto en libertad, sobre la indemnizacion que haya de recibir.

Y se estipula, por el presente, que, en todos los casos, la sentencia final no se dilatará mas del termino de dos meses, por motivo de la ausencia de testigos, ó por falta de otras pruebas, excepto quando alguna de las partes interesadas lo pida, dando fianza suficiente de encargarse de los gastos y riesgos de la dilacion, en cuyo caso los Comisionados podrán conceder, á su discrecion, una proroga de termino que no pase de quatro meses.

ARTICULO IIº

Cada una de las susodichas Comisiones mixtas, que han de residir, la una en alguna de las posesiones de Ultramar de Su Magestad Catolica, y la otra, en la costa de Africa, se compondrá del modo siguiente :

Las dos Altas Partes Contratantes nombrarán cada una, un Juez Comisionado y un Comisionado de Arbitracion, los cuales serán autorizados para oír y determinar, sin apelacion, todos los casos de apresamiento de buques Negreros que se presenten ante ellos, conforme á las estipulaciones del Tratado de esta fecha. Todas las partes esenciales del proceso que se siga ante estas Comisiones mixtas, se pondrán por escrito en el idioma legal del Pais donde resida la Comision.

Los Jueces Comisionados y los Comisionados de Arbitracion prestarán juramento, en manos del principal Magistrado del parage donde resida la Comision, de juzgar bien y fielmente en su oficio, de no mostrar preferencia alguna á los apresadores ó apresados, y de proceder, en todas sus decisiones, conforme á las estipulaciones del Tratado de esta fecha.

Se agregará á cada Comision un Secretario ó Registrador, nombrado por el Soberano del pais donde resida la Comision, el qual registrará todos los actos de esta; y antes de tomar posesion de su empleo, prestará juramento en manos de uno de los jueces Comisionados, por lo menos, de que se conducirá con el debido respeto á la autoridad de estos, y que procederá con fidelidad en todos los asuntos relativos á su encargo.

ARTICULO IIIº

La forma del proceso será del modo siguiente :

Los Jueces Comisionados de las dos naciones procederán, en primer lugar, á examinar los papeles del buque y recibir declaraciones juradas al Capitan y á dos ó tres, por lo menos, de los principales individuos que se hallaren abordo del buque detenido, y asimismo tomarán declaracion jurada al apresador, en caso que parezca necesario, á fin de ponerse en estado de poder juzgar y sentenciar, si el buque ha sido legalmente detenido ó no, con arreglo á las Estipulaciones del Tratado de esta fecha, y paraque, en consecuencia del juicio, sea condenado el buque ó puesto en libertad. Y en el caso de que los dos Jueces Comisionados no estuviesen de acuerdo en la sentencia que deban pronunciar, ya sobre la legalidad de la detencion, ya sobre la indemnizacion que ha de concederse, ó sobre alguna otra question que resultase de las estipulaciones del Tratado de esta fecha, sacarán por suerte el nombre de uno de los dos Comisionados de Arbitracion, quien, despues de enterarse de los documentos relativos al proceso, conferenciará con dichos jueces sobre el caso de que se tratare, y se pronunciará la

sentencia final conforme al dictamen de la pluralidad de votos de los expresados Jueces Comisionados y del Comisionado de Arbitracion.

ARTICULO IV.

Siempre que el cargamento de Esclavos hallados abordo de un buque Negrero Español, haya sido embarcado en qualquier punto de la costa de Africa donde continúe, siendo licito el Trafico de Negros, no será detenido tal buque bajo el pretexto de que los mencionados Esclavos hayan sido conducidos originalmente por tierra de qualquier otra parte de aquel Continente.

ARTICULO V.

En la declaracion autentica que ha de hacer el apresador ante la Comision, como tambien en la certificacion de los papeles cogidos, que se ha de entregar al Capitan del buque apresado, al tiempo de su detencion, el expresado apresador estará obligado á declarar su nombre, el de su buque, igualmente que la latitud y la longitud del parage en donde se hubiese efectuado la detencion, y el numero de Esclavos que se hubiesen hallado vivos abordo del buque, al tiempo de su detencion.

ARTICULO VI.

Luego que se haya pronunciado la sentencia, el buque detenido, si fuere absuelto, y lo que existiere del cargamento, se restituirán á los propietarios quienes podrán reclamar, de la misma Comision, una valuacion de los daños que tengan derecho de pedir; el mismo apresador, y en su defecto, su Gobierno quedará responsable de los expresados daños.

Las dos Altas Partes Contratantes se obligan mutuamente á abonar, en el termino de un año desde la fecha de la sentencia, las indemnizaciones que fueren concedidas por la referida Comision; entendiéndose que estas indemnizaciones han de ser á cargo de aquella potencia de que fuere subdito el apresador.

ARTICULO VII.

En caso de condena de algun buque por un viage ilicito, dicho buque será declarado de buena presa, igualmente que su cargamento, de qualquiera clase que fuere, á excepcion de los Esclavos que se hallaren á bordo como objetos de comercio: y el referido buque, asi como su cargamento, serán vendidos en publica subasta, á beneficio de los dos Gobiernos; y en quanto a los Esclavos, recibirán estos de la Comision mixta, un certificado de emancipacion, y serán entregados al Gobierno en cuyo territorio se hallare establecida la Comision que hubiese pronunciado la sentencia, para ser empleados en calidad de criados ó de labradores libres. Cada uno de los Gobiernos se obliga á garantir la libertad de aquel numero de estos individuos que respectivamente le fuere consignado.

ARTICULO VIII.

Toda reclamacion de compensacion de perdidas ocasionadas á buques

sospechados de hacer el trafico ilicito de Esclavos, y que no fueren sentenciados, como legitimas presas, por las Comisiones mixtas, será tambien recibida y decidida por las mencionadas Comisiones, en la forma prescrita en el Artículo tercero del presente Reglamento. Y en todos los casos en que recaiga sentencia de restitucion, la Comision adjudicará al reclamante ó reclamantes, ó á sus legitimos apoderados, una justa y completa indemnizacion, en beneficio de aquellos, por todas las costas de proceso, y por todas las perdidas y daños que efectivamente hubiere sufrido el reclamante ó reclamantes, por tal apresamiento y detencion, es decir, que en el caso de perdida total, el reclamante ó reclamantes serán indemnizados, primero por el buque, su aparejo, cordage y provisiones; segundo, por todo flete debido ó pagadero; tercero, por el valor del cargamento de mercaderias, si las hubiere; cuarto, por los Esclavos que hubiere a bordo al tiempo de la detencion, con arreglo al valor de tales Esclavos calculado segun el que tendrian en el parage de su destino, rebajando las averias que suele haber por mortandad á proporcion del tiempo no fenecido, de un viage regular; haciendo tambien una rebaja por todos los gastos y expensas dimanadas de la venta de tales cargamentos, inclusa la comision de venta, y quinto por todos los demas gastos regulares en tales casos de perdida total: y en qualquier otro caso que no sea de perdida total, el reclamante ó reclamantes serán indemnizados; Primero, por todos los daños y gastos particulares, ocasionados al buque por su detencion, y por la perdida del flete, tanto debido como pagadero; Segundo, por los gastos de demora, la cantidad diaria estipulada en la nota anexa al presente Artículo; Tercero, una racion diaria para la manutencion de los esclavos, á razon de un shilling, ó quatro Reales y medio de Vn. por cabeza, sin distincion de sexo ni de edad, por tantos dias quantos estimare la Comision que se hubiese retardado el viage, a causa de tal detencion; y Quarto, por qualquiera deterioracion del cargamento ó de los Esclavos; Quinto, por qualquiera disminucion en el valor del cargamento de Esclavos, dimanada de una mortandad mas considerable que la que regularmente se computa segun el viage, ó en razon de enfermedades causadas por la detencion; este valor se arreglará por un calculo de su precio en el parage de su destino como en el caso anterior de perdida total; Sexto, una concesion de cinco por ciento sobre el valor del capital empleado en la compra y manutencion del cargamento, por el tiempo de la demora causada por la detencion; y septimo, por todo premio de seguros sobre el aumento de riesgos.

El reclamante ó reclamantes tambien tendrán derecho á un interes, calculado en cinco por ciento al año, sobre la cantidad adjudicada, hasta que sea pagada por el Gobierno á que perteneciere el buque apresador: todo el importe de tales indemnizaciones se calculará en moneda del pais á que perteneciere el buque detenido, y se liquidará al cambio que corra al tiempo de la adjudicacion, a excepcion de la cantidad destinada para la manutencion de los Esclavos, la qual se pagará al *par*, como arriba se estipula.

Las dos Altas Partes Contratantes, deseosas de evitar quanto sea posible, toda especie de fraude en la execucion del tratado de esta fecha, se han convenido en que, si se probase de un modo evidente, y con pleno convencimiento de los jueces Comisionados de las dos naciones, y sin necesidad de recurrir á la decision de un Comisionado de Arbitracion, que el apresador ha sido inducido en error por culpa voluntaria y reprehensible del Capitan del buque detenido, solo en tal caso, no tendrá derecho este ultimo de recibir, durante los dias de su detencion, los gastos de demora estipulados por el presente Artículo.

Nota del estipendio diario para gastos de demora por un buque de

100 toneladas á 120 inclusive,	£5	} est por dia.
121 id. 150 id.	6	
151 id. 170 id.	8	
171 id. 200 id.	10	
201 id. 220 id.	11	
221 id. 250 id.	12	
251 id. 270 id.	14	
271 id. 300 id.	15	

y así en proporcion.

ARTICULO IXº

Quando el Propietario de un buque que se hiciere sospechoso de traficar ilícitamente en Esclavos, y fuere puesto en libertad en consecuencia de una sentencia de una de las dos Comisiones mixtas (ó en el caso ya referido de perdida total,) reclamase indemnizacion por la perdida de Esclavos que hubiese sufrido, en ningun caso tendrá derecho de pedir mayor numero de Esclavos que el que su buque era autorizado para llevar, segun las leyes Españolas, el qual numero debe siempre expresarse en su pasaporte.

ARTICULO Xº

No será permitido á los Jueces, ni á los Arbitros, ni al Secretario de las Comisiones mixtas, pedir ó recibir emolumentos de ninguna de las partes interesadas en las sentencias que pronuncien bajo ningun pretexto, por el desempeño de las obligaciones que se les imponen por el presente Reglamento.

ARTICULO XIº

Quando las partes interesadas juzguen que tienen razon para quejarse de alguna injusticia manifiesta de parte de las Comisiones mixtas, lo representarán así á sus respectivos Gobiernos, quienes se reservan el derecho de comunicarse mutuamente con el objeto de mudar los individuos que componen estas Comisiones, quando lo estimen conveniente.

ARTICULO XIIº

En caso de ser detenido impropriadamente un buque, bajo el pretexto de las estipulaciones del Tratado de esta fecha, y no pudiendose justificar el apresador, ó con el tenor de dicho Tratado, ó el de las instrucciones anexas a el, el Gobierno á que pertenezca el buque detenido, tendrá derecho para pedir reparacion, y en tal caso, el Gobierno á que pertenezca el apresador, se obliga á que se haya averiguacion sobre el motivo de la guexa, y á que se imponga al apresador, en el caso de que se pruebe haberlo merecido, un castigo proporcionado a la infraccion cometida.

ARTICULO XIII

Las dos Altas Partes Contratantes estipulan que, en el caso de morir uno ó mas de los Jueces Comisionados, ó los Comisionados de Arbitracion, que componen las susodichas Comisiones mixtas, serán suplidas sus plazas interinamente del siguiente modo:

Por parte del Gobierno Britanico se llenarán sucesivamente las vacantes de la Comision que se establezca en las posesiones de Su Magestad Britanica, por el Gobernador ó Teniente Gobernador residente, de aquella colonia, por el principal Magistrado de la misma, y por el Secretario: y en la que se establezca en las posesiones de Su Magestad Catolica, se estipula, que si muere alli el Juez ó Arbitro Britanico, los restantes individuos de dicha Comision procederán igualmente á sentenciar los barcos Negreros, cuyas causas se presenten ante ellos, y á executar la sentencia: sin embargo, solo en este caso tendrán las partes interesadas derecho para apelar de la sentencia, si lo tubieren por conveniente, á la Comision residente en la costa de Africa; y el Gobierno á que pretenezca el apresador, estará obligado á abonar, del modo mas completo, la compensacion que les fuere debida, en caso de que se decida la apelacion en favor de los reclamantes; pero el barco y el cargamento permanecerán durante la apelacion en el lugar de la residencia de la primera Comision ante la qual hayan sido llevados.

Por parte de la España, las vacantes que hubiere en la posesion de Su Magestad Catolica, se llenarán por las personas de confianza que eligiere la autoridad superior del pais; y en la costa de Africa, ocurriendo la muerte de algun Juez ó Arbitro Español, la Comision procederá á sentenciar del mismo modo que se especifica arriba, en quanto á la Comision residente en la posesion de Su Magestad Catolica en el caso de muerte del Juez ó Arbitro Britanico; concediendose igualmente en este caso apelacion á la Comision residente en la posesion de Su Magestad Catolica, y en general todas las disposiciones del primer caso, son aplicables al presente.

Las Altas Partes Contratantes se convienen en llenar quanto antes sea posible, las vacantes que ocurran en dichas Comisiones, por muerte ó por otra causa: y en el caso de que la vacante de qualquiera de los Comisionados Españoles en las posesiones Britanicas, ó de los Comisionados Britanicos, en la posesion Española, no estén llenas despues del termino de siete meses para America, y doce para Africa, los buques que sean llevados á dichas posesiones respectivamente, dexarán de tener el derecho susodicho de apelacion.

Hecho en Madrid, á veinte y tres de Setiembre, del año de nuestro Señor mil ocho cientos diez y siete.

HENRY WELLESLEY. (L. S.)

(L. S.) JOSÉ PIZARRO.