

N° 3015.

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**GRANDE-BRETAGNE  
ET IRLANDE DU NORD  
ET SUISSE**

Convention en vue d'éviter certains cas de double imposition, avec annexe, signée à Berne, le 17 octobre 1931, et échange de notes y relatif, de la même date.

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**GREAT BRITAIN  
AND NORTHERN IRELAND  
AND SWITZERLAND**

Agreement for the Avoidance of Double Taxation in certain Cases, with Annex, signed at Berne, October 17, 1931, and Exchange of Notes relating thereto of the same date.

No. 3015. — AGREEMENT<sup>1</sup> BETWEEN HIS MAJESTY'S GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE SWISS FEDERAL COUNCIL FOR THE AVOIDANCE OF DOUBLE TAXATION IN CERTAIN CASES. SIGNED AT BERNE, OCTOBER 17, 1931.

*French and English official texts communicated by the Swiss Federal Council and by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration of this Agreement took place August 11, 1932.*

THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and THE SWISS FEDERAL COUNCIL, being desirous of concluding an Agreement for reciprocal exemption from taxation in certain cases of profits or gains arising through an agency and by this means of facilitating the conclusion of a general Agreement for the avoidance of double taxation, have appointed to that end as their Plenipotentiaries :

THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND :  
His Excellency Sir Howard William KENNARD, His Britannic Majesty's Minister ;

THE SWISS FEDERAL COUNCIL :

M. Giuseppe MOTTA, Federal Councillor, Chief of the Federal Political Department ;

Who, having communicated to each other their full powers, found to be in due form, have agreed as follows :

*Article 1.*

The Government of the United Kingdom of Great Britain and Northern Ireland undertake that the profits or gains to which this Article relates shall, so long as the exemptions specified in Article 2 hereof remain effective, be exempted from Income-Tax (including sur-tax) chargeable in the United Kingdom for the year of assessment commencing on the sixth day of April, nineteen hundred and thirty, and for every subsequent year of assessment, and will take the necessary action under section seventeen of the Act of Parliament of the United Kingdom known as the Finance Act, 1930, with a view to giving the force of law to the exemption aforesaid.

The profits or gains to which this Article relates are any profits or gains arising, whether directly or indirectly, through an agency in the United Kingdom to a person who is resident in Switzerland and is not resident in the United Kingdom, unless the profits or gains either :

- (i) Arise from the sale of goods from a stock in the United Kingdom ; or
- (ii) Accrue directly or indirectly through any branch or management on the United Kingdom or through an agency in the United Kingdom where the agent has and habitually exercises a general authority to negotiate and conclude contracts.

<sup>1</sup> The exchange of ratifications took place at London, June 28, 1932.

*Article 2.*

In Switzerland from the sixth day of April, nineteen hundred and thirty, and thereafter so long as the exemption specified in Article 1 hereof remains effective, the profits or gains to which this Article relates shall be exempted from all direct taxes on income, whether imposed by the Confederation, the Cantons or the Communes.

Further, from the sixth day of April, nineteen hundred and thirty, and thereafter so long as the exemption specified in Article 1 hereof remains effective, any property which is owned or possessed and employed in Switzerland by a person resident in the United Kingdom and not resident in Switzerland for the purpose of making profits or gains to which this Article relates shall be exempted from all direct taxes on property or capital, whether imposed by the Confederation, the Cantons or the Communes.

The profits or gains to which this Article relates are any profits or gains arising, whether directly or indirectly, through an agency in Switzerland to a person who is resident in the United Kingdom and is not resident in Switzerland, unless the profits or gains either :

(i) Arise from the sale of goods from a stock in Switzerland ; or

(ii) Accrue directly or indirectly through any branch or management in Switzerland or through an agency in Switzerland where the agent has and habitually exercises a general authority to negotiate and conclude contracts.

The existing taxes in Switzerland to which this Article applies are those indicated in the Annex to this Agreement.

*Article 3.*

For the purposes of this Agreement the word " person " includes any body of persons, corporate or not corporate, and a body corporate shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and shall be regarded as resident in Switzerland if its business is managed and controlled in Switzerland.

*Article 4.*

This Agreement may be denounced at any time upon six months' notice being given by one Contracting Party to the other.

*Article 5.*

This Agreement shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible. This Agreement shall take effect on the exchange of the instruments of ratification.

In witness whereof the above-named Plenipotentiaries have signed the present Agreement and have affixed thereto their seals.

Done at Berne in duplicate in the English and French languages, the seventeenth day of October, one thousand nine hundred and thirty-one (17 October 1931).

(L. S.) (Signed) H. W. KENNARD.

(L. S.) (Signed) MOTTA.

<sup>1</sup> TRADUCTION. — TRANSLATION.

ANNEX TO THE CONVENTION.

I. DIRECT TAXES IMPOSED BY THE FEDERATION.

Nature of Tax.		Legal Authority.
Tax on property	} Individuals	} Federal decree of 28th September, 1920, regarding the new federal war tax extraordinary.
Earned income Tax		
Tax on capital (Corporate bodies)		

II. DIRECT TAXES IMPOSED BY CANTONS.

*Canton of Zurich.*

Income tax	} Laws on direct taxation of 25th November, 1917, 19th February, 1922, 2nd December, 1928.
Complementary tax on property	
Tax on profits and capital	
(for joint stock companies)	

*Canton of Berne.*

Tax on property	} Cantonal and Communal laws on direct taxation of 7th July, 1918, 21st March, 1920, and 31st January, 1926.
Income tax	
Additional tax	

*Canton of Lucerne.*

Income tax	} Laws on taxation of 22nd September, 1922, and 30th November, 1927.	
Tax on property		
Tax on capital		
Tax on profits		
	} Corporate bodies	} Poor law of 29th December, 1922.

*Canton of Uri.*

Tax on property	} Law on taxation of the Canton of Uri of 31st October, 1915, and 7th May, 1923.
Income tax	
Capitation tax	

*Canton of Schwyz.*

Tax on property	} Law on taxation of the Canton of Schwyz of 10th September, 1854. Law on taxation of transport firms and warehouses, etc., of 9th July, 1890.
Tax on life annuities and pensions	
Capitation tax	

*Canton of Upper Unterwald.*

Tax on property	} Taxation laws of 26th April, 1908, and 25th April, 1920.
Income tax	
Capitation tax	

<sup>1</sup> Traduction du Foreign Office de Sa Majesté britannique.

<sup>1</sup> Translation of His Britannic Majesty's Foreign Office.

Nature of Tax.	Legal Authority.
<i>Canton of Lower Unterwald.</i>	
Tax on property Earned income tax Capitation tax	} Law of 24th April, 1921.
<i>Canton of Glaris.</i>	
Tax on property Personal tax (fixed)	} Laws of Cantonal taxation of the Canton of Glaris of 1st May, 1904, 5th May, 1918, 11th May, 1919, 2nd May, 1920, 1st May, 1927, 4th May, 1930.
Earned income tax	} Law regarding earned income tax of Canton of Glaris of 2nd May, 1920.
Tax on property Capitation tax	} Law regarding the imposition of a Cantonal tax for education purposes of 11th May, 1919.
Tax on capital (Alternatively Real Property tax)	} Law on the taxation of companies trading for profit of 6th May, 1917.
<i>Canton of Zug.</i>	
Tax on property Income tax and earned income tax Capitation tax Civic capitation tax Patent tax	} Cantonal budgetary laws of 28th December, 1896, 17th November, 1921, and 15th May, 1930.
<i>Canton of Fribourg.</i>	
Tax on property Earned income tax Tax on capital and profits of corporate bodies	} Taxation laws of 24th November, 1914, 7th May, 1926, 16th May, 1929.
<i>Canton of Solothurn.</i>	
Income tax Tax on property	} Laws on direct taxation of 17th March, 1895, 21st January, 1917, 4th May, 1919, 29th March, 1925, 23rd February, 1930.
<i>Canton of Basle (Urban).</i>	
Income tax Tax on property Tax on capital Tax on profits	} Law on direct taxation of 6th April, 1922. } Law on the taxation of public companies trading for profit of 23rd June, 1921.
<i>Canton of Basle (Rural).</i>	
Tax on property Income tax	} Law of 20th July, 1928.
<i>Canton of Schaffhausen.</i>	
Tax on property Income tax Tax on capital Tax on profits Personal tax	} Laws on direct taxation of 26th July, 1919, and 25th May, 1927.

Nature of Tax.	Legal Authority.
<i>Canton of Appenzell (Outer Rhoden).</i>	
Tax on property Income tax Personal tax (fixed)	} Law on taxation of 25th April, 1897.
<i>Canton of Appenzell (Inner Rhoden)</i>	
Tax on property Earned income tax Poor tax (on property, earned income and individuals)	} Taxation laws of 12th October, 1919, and 27th April, 1924.
<i>Canton of St. Gall.</i>	
Tax on property Income tax Personal tax (fixed)	} Laws on cantonal direct taxation of 24th November, 1903, 30th November, 1916, 24th May, 1918, 15th November 1918.
<i>Canton of the Grisons.</i>	
Tax on property Earned income tax Capitation tax (fixed)	} Taxation law of the Canton of the Grisons of 23rd June, 1918.
<i>Canton of Aargau.</i>	
Tax on property Earned income tax Special tax on joint stock companies and limited companies and co-operative societies trading for profit	} Laws on the taxation of capital and income for Cantonal purposes, 11th March, 1865, and 18th February, 1925. } Law on the taxation of joint stock companies and of co-operative societies trading for profit of 15th September, 1910.
<i>Canton of Thurgau</i>	
Tax on property Income tax Personal tax	} Law on taxation of 15th February, 1898.
<i>Canton of Ticino.</i>	
Tax on property Income tax Education tax	} Taxation law of the Canton of Ticino of 11th December, 1907, as subsequently amended } Legislative decree on the salaries of the teaching staff of communal and cantonal schools of 24th July, 1915.
<i>Canton of Vaud.</i>	
Tax on property Earned income tax Tax on foreigners not born in the Canton of Vaud who do not and have never carried on any occupation for profit Licence fees Personal tax	} Taxation laws on capital and earned income of 24th January, 1923, 24th November, 1926, 14th February, 1928, and 27th November, 1928. } Law of 22nd January, 1919, rendering public companies situate in the Canton or trading therein liable to obtain licence. } Annual law on taxation.

## Nature of Tax.

## Legal Authority.

*Canton of the Valais.*

Tax on property	}	Finance law of 10th November, 1903.
Income tax		Law of 19th May, 1899, on the control of personal property.
Tax on industry		Decree of 15th January, 1921.

*Canton of Neuchâtel.*

Tax on property	}	Law on direct taxation of 30th April, 1903, with subsequent amendments.
Income tax		

*Canton of Geneva.*

Income tax	}	} individuals	}	Laws on public taxation of 24th March, 1923, 24th December, 1924, 9th March, 1927, 4th May, 1927, and 1st December, 1928.
Tax on property				
Tax on profits	}	} Corporate bodies		
Tax on capital				
Complementary tax on the value of real estate	}	}		
Tax on the capital appreciation of real estate				
Personal tax				

## III. DIRECT TAXES IMPOSED BY DISTRICTS AND COMMUNES.

*Canton of Zurich.*

Income tax	}	Laws on direct taxation of 25th November, 1917, 19th February, 1922, and 2nd December, 1928.
Complementary tax		
Tax on profits		
Tax on capital		
Personal tax		
Tax on real estate		
Tax on the capital appreciation of real estate (imposed on sale)		

*Canton of Berne.*

Tax on property	}	Law on direct taxation of Canton and of Communes of 7th July, 1918..
Income tax		
Additional tax		
Civic capitation tax (variable)		
Special income tax (imposed on seasonal workers)		
		Law on ecclesiastical organisation in the Canton of Berne of 18th January, 1874.
		Decree on taxation for the benefit of religious cults of 2nd December, 1876.

*Canton of Lucerne.*

Earned income tax	}	} Individual	}	Taxation law of 22nd September, 1922, and 30th November, 1927.
Tax on property				
Tax on capital	}	} Corporate bodies	}	Poor law of 29th December, 1922.
Tax on profit				
Tax on the capital appreciation of real property (imposed on sale)				Law of taxation of 28th July, 1919 (articles 20-38).

*Canton of Uri.*

Tax on property	}	}	}	Decrees on communal taxation of 24th November, 1892, and 10th March, 1903.
Income tax				
Capitation tax				
				Decree on taxation for the benefit of religious cult or parochial tax of 27th November, 1918.

Nature of Tax.	<i>Canton of Schwyz.</i>	Legal Authority.
Tax on property	}	Taxation laws of the Canton of Schwyz of 10th September, 1854, 17th July, 1884, and 19th October, 1890.
Tax on life annuities and pensions		
Capitation tax		
Tax on sales of property	}	Law on taxation of transport companies, warehousing companies, etc., of 9th August, 1890. Law regarding optional taxation on sale of property imposed by Communes of 4th December, 1920.
	<i>Canton of Upper Unterwald.</i>	
Tax on property	}	Taxation law of 26th April, 1908 and 25th April 1920.
Income tax		
Capitation tax		
	<i>Canton of Lower Unterwald.</i>	
Tax on property	}	Law of 24th April, 1921.
Earned income tax		
Capitation tax		
	<i>Canton of Glaris.</i>	
Household tax	}	Law on the collection of communal taxes of 27th May, 1877. Law regarding the taxation of capital, capitation taxes and household taxes for religious purposes of 27th May, 1877. Law regarding the taxation of capital and capitation taxes for educational purposes of 27th May, 1877.
Tax on property		
Capitation tax		
	<i>Canton of Zug.</i>	
Tax on property	}	Law regarding the communes of 20th December, 1876.  Law authorising parishes of the Canton of Zug to collect taxes of 12th November, 1908.
Earned income tax		
Patent tax		
Household tax		
Capitation tax		
Church tax		
	<i>Canton of Fribourg.</i>	
Tax on property	}	Law regarding communal and parochial taxation of 7th May, 1926.
Earned income tax		
Tax on capital and the profits of joint stock companies and co-operatives societies		
Tax on real estate		
Personal tax		
Tax on profits from real estate		
	<i>Canton of Solothurn.</i>	
Income tax	}	Law on the organisation of Communes of 28th October, 1871.
Tax on property		
Personal tax		
Household tax		



Nature of Tax.		Legal Authority.
	<i>Canton of Basle (Urban).</i>	
Income tax	}	Bye-law on taxation in the rural district of Riehen of 3rd June, 1923.
Tax on property		
Tax on the capital appreciation of real estate (levied as income tax)		
Personal tax		
Tax on real property		
Tax on buildings	}	Bye-law on taxation in the rural district of Bettingen of 2nd February, 1910.
Church tax		
	<i>Canton of Basle (Rural).</i>	
Tax on property	}	Law on communes of 14th March, 1881, paras. 137-153.
Income tax		
Household and personal tax ( <i>Vorausleistung</i> )		
	<i>Canton of Schaffhausen.</i>	
Tax on property	}	Laws on direct taxation of 26th August, 1919, and 25th May, 1927.
Income tax		
Tax on capital		
Tax on profits		
Personal tax		
	<i>Canton of Appenzell (Outer Rhoden).</i>	
Tax on property	}	Taxation law of 25th April, 1897.
Income tax		
	<i>Canton of Appenzell (Inner Rhoden).</i>	
Tax on property	}	Taxation laws of 12th October, 1919, and 27th April, 1924.
Earned income tax		
Tax on real estate		
Personal tax		
Household tax		
	<i>Canton of St. Gall.</i>	
Tax on property	}	Law on communal taxes of 17th November, 1858.
Income tax		
Household tax		
	<i>Canton of the Grisons.</i>	
Tax on property	}	(The communes of the Canton of the Grisons are independent in the matter of taxation.)
Earned income tax		
Fixed capitation tax		
Household tax		
Land tax		
Additional taxes on property and earned income will be leviable as required		
	<i>Canton of Aargau.</i>	
Tax on property	}	Law regarding the employment of communal property and communal taxes of 30th November, 1866.
Earned income tax		
		Law on reduction of fiscal taxes and supplementary taxation of 18th February, 1925.

Nature of Tax.	Canton of Thurgau.	Legal Authority.
Tax on property	}	Taxation law of 15th February, 1898.
Income tax		
Personal tax		
<i>Canton of Ticino.</i>		
Tax on property	}	Taxation law of Canton of Ticino of 11th December, 1907, as subsequently amended.
Income tax		
Hearth tax		
Capitation tax		
Special personal tax		
<i>Canton of Vaud.</i>		
Tax on property	}	Laws on communal taxation of 19th May, 1925, and 14th February, 1928.
Earned income tax		
Land tax		
Rent tax		
Personal tax		
Foreigners' tax		
<i>Canton of the Valais.</i>		
Tax on capital and income	}	Finance law of 10th November, 1930. Laws of 29th November, 1886, and 14th November, 1922, on the distribution of taxes for municipal purposes and for public works within the communes.
Tax on industry		
Household tax		
<i>Canton of Neuchâtel.</i>		
Tax on property	}	Law on municipal taxation of 29th October, 1885, as subsequently amended. Decree of 20th November, 1917, revising articles 1-4 of the law on municipal taxation of 29th October, 1885.
Income tax		
Tax on gross revenue or rental value of real estate		
Tax on rents (including farm rents)		
<i>Canton of Geneva.</i>		
Income tax	}	Laws on public taxation of 24th March, 1923, 24th December, 1924, 9th March, 1927, 4th May, 1927, and 1st December, 1928.
Tax on property		
Tax on profits		
Tax on capital		
Fixed professional tax on trade, industry and professions		

## EXCHANGE OF NOTES

RELATING TO THE APPLICATION OF THE ABOVE CONVENTION. BERNE, OCTOBER 17, 1931.

*Communiqué par le secrétaire d'Etat aux Affaires étrangères de Sa Majesté en Grande-Bretagne et le Conseil fédéral suisse, le 1<sup>er</sup> septembre 1932.*

## I.

SIR H. W. KENNARD TO M. MOTTA.

BRITISH LEGATION.

No. 171/5/31.

BERNE, October 17, 1931.

MONSIEUR LE CONSEILLER FÉDÉRAL,

With reference to the Agreement signed this day, for the reciprocal exemption from double taxation of certain profits arising from trade carried on through agents, I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to give your Excellency the two following assurances desired by the Swiss Federal Council in regard to the application of that Agreement in the United Kingdom :

(a) Under the law in force in the United Kingdom, profits or gains accruing to a person, resident in Switzerland and not resident in the United Kingdom, from sales under contracts, entered into in Switzerland from offers accepted in Switzerland, of goods stocked in the United Kingdom are not liable to United Kingdom Income Tax (including Surtax) even though the offers of purchase have been obtained by an agent of the Swiss principal in the United Kingdom and transmitted by him to such principal for acceptance.

(b) With reference to the meaning of the word " controlled " in connexion with bodies corporate in Article 3 of the Agreement, this word does not include the control exercised by the majority of shareholders ; the two words " managed and controlled " in the article are intended to be read as a whole and connote the effective management, or what is sometimes called the real centre of management, of the business. The expression " managed and controlled " in this connexion is one which is well understood in this sense in United Kingdom Income Tax law.

2. I have the honour to request your Excellency to inform me if the Swiss Federal Council are satisfied with these assurances.

3. I have the honour to add that His Majesty's Government have no objection to the publication of the contents of this Note if the Federal Council so desire.

I avail myself of this opportunity to renew to you, Monsieur le Conseiller fédéral, the assurance of my highest consideration.

(Signed) Howard KENNARD.

Son Excellence  
Monsieur Motta,  
etc., etc., etc.

Pour copie conforme :

Berne, le 16 septembre 1932.

Le Chancelier de la Confédération :

Kaeslin.

<sup>1</sup> TRADUCTION. — TRANSLATION.

## ÉCHANGE DE NOTES

RELATIF A L'APPLICATION DE LA CONVENTION CI-DESSUS. BERNE, LE 17 OCTOBRE 1931.

*Communicated by His Majesty's Secretary of State for Foreign Affairs in Great Britain and by the Swiss Federal Council, September 1st, 1932.*

I.

SIR H. W. KENNARD À MONSIEUR MOTTA.

LÉGATION BRITANNIQUE.

N° 171/5/31.

BERNE, le 17 octobre 1931.

MONSIEUR LE CONSEILLER FÉDÉRAL,

Me référant à la convention signée aujourd'hui, en vue d'exempter réciproquement de la double imposition, certains bénéfices résultant du commerce exercé par l'intermédiaire d'agents, j'ai l'honneur, d'ordre du principal Secrétaire d'Etat aux Affaires étrangères de Sa Majesté, de donner à Votre Excellence les assurances suivantes, que désire le Conseil fédéral suisse au sujet de l'application de cette Convention dans le Royaume-Uni :

*a)* Suivant les lois en vigueur dans le Royaume-Uni, ne sont pas soumis à l'*Income Tax* (y compris la *surtax*) les revenus ou bénéfices qu'une personne domiciliée en Suisse et sans domicile dans le Royaume-Uni retire de ventes résultant de contrats passés en Suisse à la suite d'offres acceptées en Suisse, de marchandises en dépôt dans le Royaume-Uni, même lorsque les offres d'achat ont été obtenues dans le Royaume-Uni par un agent du commerçant suisse et transmises par lui à ce dernier pour acceptation.

*b)* En ce qui concerne la signification du terme « contrôle » employé en relation avec les sociétés dont parle l'article 3 de la Convention, ce terme ne comprend pas le contrôle exercé par la majorité des actionnaires ; les deux termes « direction » et « contrôle » contenus dans cet article doivent être considérés comme un tout et visent la direction effective ou ce qu'on nomme quelquefois le centre réel de la direction de l'entreprise. L'expression *managed and controlled*, employée dans le cas dont il s'agit, est parfaitement comprise en ce sens dans la loi sur l'*Income Tax* du Royaume-Uni.

2. J'ai l'honneur de prier Votre Excellence de vouloir bien me faire connaître si le Conseil fédéral suisse est satisfait de ces assurances.

3. J'ai l'honneur de déclarer, en outre, que le Gouvernement de Sa Majesté ne voit pas d'objections à la publication de la teneur de la présente note, si tel est le désir du Conseil fédéral.

Veuillez agréer, etc.

(Signé) Howard KENNARD.

Son Excellence  
Monsieur Motta,  
etc., etc., etc.

<sup>1</sup> Traduit par le Secrétariat de la Société des Nations, à titre d'information.

<sup>1</sup> Translated by the Secretariat of the League of Nations, for information.

<sup>1</sup> TRADUCTION. — TRANSLATION.

## II.

M. MOTTA TO SIR H. W. KENNARD.

B 31/3 G. B. 3 — YI.

BERNE, *October 17, 1931.*

MONSIEUR LE MINISTRE,

With reference to the Agreement signed this day, for the reciprocal exemption from double taxation of certain profits arising from trade carried on through agents, I have the honour to acknowledge the receipt of your Excellency's note giving assurances to the Federal Council in regard to the application of that Agreement in the United Kingdom :

(a) Under the law in force in the United Kingdom, profits or gains accruing to a person, resident in Switzerland and not resident in the United Kingdom, from sales under contracts, entered into in Switzerland from offers accepted in Switzerland, of goods stocked in the United Kingdom are not liable to United Kingdom Income Tax (including Surtax) even though the offers of purchase have been obtained by an agent of the Swiss principal in the United Kingdom and transmitted by him to such principal for acceptance.

(b) With reference to the meaning of the word "contrôle" in connexion with bodies corporate in Article 3 of the Agreement, this word does not include the control exercised by the majority of shareholders ; the two words "direction" and "contrôle" ("managed and controlled") in the article are intended to be read as a whole and connote the effective management, or what is sometimes called the real centre of management, of the business. The expression "managed and controlled" in this connexion is one which is well understood in this sense in United Kingdom Income Tax law.

In thanking your Excellency for this communication, I have the honour to inform you that the Federal Council take act of this declaration.

Accept, etc.

*(Signed)* MOTTA.

His Excellency  
Sir Howard William Kennard,  
His Britannic Majesty's Minister,  
Berne.

<sup>1</sup> Traduction du Foreign Office de Sa Majesté britannique.<sup>1</sup> Translation of His Britannic Majesty's Foreign Office.