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A POLICY OF INTEGRATION

ADDRESS GIVEN BY THE MINISTER FOR OVERSEAS, PROF. DR. ADRIANO MOREIRA ON 28th AUGUST 1961 IN THE OPORTO COMMERCIAL ASSOCIATION

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1. Only a few days ago, as we learned of the most spectacular results so far achieved by man in his growing mastery over nature, Pope John XXIII felt the need to proclaim: «After so much scientific progress, and even because of it, the problem of reconstructing social relations in a more human equilibrium continues unsolved, both within each political community and between the nations of the world».

We ourselves are in a position to bear witness to this regrettable state of affairs; we see too that even all those who recognize the urgency of remedying such an intolerable situation do not always find it easy to be aware of the marshes which swallow up the good intentions they proclaim. We have seen authorized champions of the liberty of nations not realize the large number of nationalities that have been swept from the face of the earth

while crying in vain for help that never arrived; we have seen the most responsible defenders and upholders, of the rights of man not notice the progressive disappearance of liberty of decision for millions of men whom they forgot and who will not be at their side when they need their fraternal help; in the midst of the countless ruins which mark the retreat of the frontier of what was our world we have heard people give the name of prudence to what the victims of so much misery call abandonment. Because of all this we know that the many trials through we are passing are an unjust and heavy price that we pay for mistakes which were not ours and a senseless tribute imposed by the historical fatality of belonging to a world uncertain of its way. We are victims of an aggression against an historic and moral heritage which also belongs to many who lend their collaboration or give their consent to the assault; we are obliged to maintain constant watch on frontiers where it is not we alone who are threatened. We sacrifice lives and property to raise a barrier against the vandalism which made its first victims in Europe and hopes to make its last in a continent of which we are, by geography and history, the first line of defense. And yet we have decided on a conduct, so simple

as to make our case unique in the world of today and so clear-cut that it seems to astonish, to a degree that goes beyond our understanding, many who consider themselves the torchbearers of western civilization. However it is very easy to state the rule which guides our conduct as a country, although experience shows that even in the West the majority finds it most difficult to follow. The rule is simply to do our duty. That is why we fulfill the international obligations we have freely assumed and we do not renounce fulfilling any of our internal duties, especially those that flow from our missionary responsibility. I shall deal today with a number of measures of overseas policy, already put into practice or in process of execution, which seem to me to prove sufficiently the certainty with which we contemplate the future, the serenity with which we face the difficulties of the present and our faithfulness to the course of our history.

2. In the first place, as we recall with bitterness the anarchy which in Africa is replacing the orderly political process on which depends the progress of African people, we feel we have been right in our view of the problem of these territories, which depend in everything technique, education and capi-

tal on the help which they can obtain from abroad. We believe therefore that Africa gained when we implanted there the ideas of State and of Nation which were alien to its peoples. We think it was of incalculable benefit to it that some of its territories were integrated within one political unit together with European peoples who could supply it with what they lacked and could not have obtained by themselves for a long time. It is our opinion in short that the Portuguese formula is the most beneficial for Africa south of the Sahara.

Indeed, in societies in process of evolution such as those of black Africa, that process cannot do without a permanent flow of specialized workers at every level and in all sectors, as irreplaceable instruments of economic development, or to carry out all the different tasks of civilized life, or to lead and to train professionally ever wider sections of the aboriginal populations, and so forth. This has been equally recognized by those who take the line, for well-known economic reasons, that independent countries must be created and the colonizer expelled; but all — white and black — had to fall back on the only solution left to them, that of obtaining technicians on a mercenary basis either through international organizations or under bilateral agreements.

We however, continue to believe that a man serves best when he serves his country, and for that reason we have no doubt as to the advantage of our manner of looking at the needs of African territories. In these needs we saw a sound reason for promoting the permanent settlement of European Portuguese in lands overseas, where he does not go to sell his services but on the contrary to lead a normal life, serving together with the aborigines one and the same country and, therefore, common interests. Anyone who wishes to be fair and impartial cannot have any doubt as to which of the two processes serves the interests of mankind better, just as we have no doubts that we have chosen and continue to follow the path that shows less profit and involves more sacrifices and obligations. The african peoples who took other path are now learning, by painful experience of which they are unfortunately not the only victims, that they are heading towards a servitude imposed either by neo-colonialism or by a return to primitive conditions.

Accordingly, we believe it necessary to increase the settlement of our Africa by European Portuguese who will make their home there and encounter in Africa a true continuation of their country. As a matter of fact this is not a new policy in our prov-

inces; it is only a recognition that there is ever greater reason for pursuing the policy which has always been ours. Because the task is enormous and urgent, however; and cannot be left to individual initiative the need was felt to coordinate the efforts of all provincial bodies to enable them, with the help of the emigration services in continental Portugal, to tackle realistically and formly this problem to which we attach a high priority. To this effect Provincial Settlement Agencies will be created and immediately set up in Angola and Mozambique. They will depend from one of the Provincial Secretaries, so as to remove from their path many of the difficulties inherent to coordination. In this way we hope to see defined and fulfilled in time the conditions necessary to settle, among others, the young men who are now doing their military service there, and who have defended Portugal's sovereignty with a courage that is only found in men who are defending their homeland. On the other hand, as we clearly proclaim the high priority of the problem of settlement by people from continental Portugal, we wish to underline before the community of nations Portugal's decision to continue its policy of multiracial integration, without which there will be neither peace nor civilization in black Africa: a

multi-racial integration rejecting any idea of mercenary motives, but on the contrary inspired as always in the past by the belief in the equal dignity of all men, regardless of their color; a policy whose benefits are patent in Brazil, the greatest land of the future, and of which our provinces in the Atlantic and the East are already an unparalleled example. The important modifications in our legal system, which I shall now deal with, cannot be properly understood if one does not bear in mind this constant goal of Portuguese overseas policy.

3. The ideal of multi-racial societies, with equality for every race, always implied, in the best Portuguese tradition, respect for the ways of life of the racial groups integrated in the Portuguese people. From the charter of Afonso Mexia, in 1526, to the Political Constitution now in force, legal sanction has always been given to this rule which derives logically from a respect for the dignity of all men and preceded by centuries the principles of the Universal Declaration of the Rights of Man of which the international organizations of our time are so proud. The legal provisions intended to insure this respect for the forms of family relationships, property and inheritance peculiar to the various peoples to

whom we extended our sovereignty, came to constitute a harmonious whole which received formal expression in the *Estatuto dos Indígenas*. This, however, had nothing to do with the Portuguese citizenship which all acquired according to the same rules and which was always one of the reasons for their peaceful integration in a single nation and state.

The rationalist character of public law in the 19th Century, however, which everywhere set up similar formulae of political organization, made current a purely technical concept of citizenship which was not synonimous with nationality because it designate merely the capacity to exercise the political rights connected with the choice of the members of the organs of sovereignty. As on grounds of authenticity our successive Native Statutes denied the individuals covered by them such political rights, accusations were not lacking that we refused them nationality itself and there frequent affirmations to the effect that the Portuguese people were subject to two political laws and thereby divided into two classes with practically no possibility of intercommunication. In support of this last accusation our own statistics were repeatedly invoked, according

to which the assimilados are numbered only in tens of thousands.

All this amounted to doing a grave injustice to Portugal's action in the world, and we cannot appreciate to what point this was successfully exploited in detriment of our interests, from a domestic or from an international point of view. It proved to be of little use in explaining the situation to a misinformed public opinion to say, as was true, that the numbers of assimilados figuring in the statistics refer only to first-generation assimilados. It was of no use whatsoever to show, as was again true, that it was precisely the advantages of the statute which explained the lack of interest among a great mass of natives in choosing assimilation. On the other hand, it has been intentionally ignored abroad that out of eight provinces only those on the African continent are still subject to the regime of the «indigenato» and that even in respect to these the research centers and the Honorable Overseas Council had long been studying its replacement.

Notwithstanding the circumstances of the moment, we believe there is no valid reason to interrupt the orderly fulfillment of our programs of internal affairs and, therefore, wa have decided to provide a definite solution to the problem of the Native Statute and

to draw the conclusions from the studies to which I have referred.

Inasmuch as the main reason for the Statute is to be found in the respect for the way of life of the various races, we concluded that it was now timely to repeal it, so as to be clearly understood that the Portuguese people are subject to a political law which is the same for everyone, without distinction of race, religion or culture. We shall enforce in every part of the national territory the rule which has prevailed for so many centuries in the Portuguese State of India: there is no connection whatever between status in private law and political status. The former may differ, in keeping with the centuries-old tradition of our policy, as is the case with the private-law systems of many of the European peoples themselves; the political status, on the other hand, recognizes no differences between Portuguese. Going even further, it becomes possible for all Portuguese freely and irrevocably to choose written private law, thus upholding once again the principle of free choice. In keeping with the rule that power must always be exercised by those who are most fit to do so, the law will define, for all, the conditions in which they may intervene actively in political life. The Overseas Council voted unanimously for this orientation.

4. It was not a mere coincidence that led to the reestablishment, before the measures now to be enacted, of the normal functioning of municipal institutions, by the decree No. 43.730, of June 12 1961, putting into effect the principle of elections for the constitution of administrative bodies. Convinced institutionalists that we are seeking in a history rich in experience the most tested solutions, we are sure that it is in the administration of the interests of the small local community — a small-scale nation for its inhabitants — that is to be found the first school of devotion to the common interest and the training-ground of those who will later rise to greater responsibilities. Vigorous and age-old institutions like Macao's Local Senate and the Municipality of Goa, as well as the achievements of the municipalities of our more prosperous African cities, demonstrate the social importance of the municipal principle and the value of the inhabitants' intervention in running community affairs. The sense of civic responsability, without wich no institution can function, is a virtue deeply rooted in Portuguese overseas territories. We had a striking example of it in the decision and courage with the inhabitants of Zaire and Uige held out in defense of their towns and villages, in an action only paralleled, as far as communal spirit is

concerned, by the attitude of the «collective lordships» that our municipalities were at the time of the «reconquista» of the homeland from the Moors.

But just as in the sphere of private law our respect for traditional ways of life implies preserving the validity of usages and customs, so in the sphere of local administration we find it neither just nor timely to impose the municipal formula in all circumstances. Those at least who recently discovered the importance of community development and made it the programme par excellence of subordinate agencies of the United Nations will be able to understand, perhaps with some disappointment, that once more they have come up with Portuguese solutions, and will be forced to praise the realism which made us accept those regional institutions which, although not conforming to the municipal type, nonetheless likewise ensure the intervention of the inhabitants in administering local affairs. It is in that spirit that the rural *Regedorias* are now re-organized, whose administrators will be elected in the traditional manner by the inhabitants. The Governors will invest these authorities, which have their place in the general administrative framework of the province. On the other hand, in the many trials through which we have passed from Timor during the war to the

events in Nortern Angola and to the violations of the frontier of Guinea, we have always encountered in the traditional militias of inhabitant neigbours a support of law and order and of our sovereignty. Therefore we are now giving these units a disciplinary framework in co-ordination with the civilian administration, including the *Regedores*.

What happened with Dom Aleixo and at Mucaba, 31 de Janeiro and São Domingos is sufficient to give these militias a tradition of their own.

5. Calling on in the inhabitants to participate in running local affairs is consistent with the administrative decentralization and deconcentration on which we have prudently embarked, always taking account of the limitations imposed by the shortage of personnel throughout the tropics. We are constantly being urged by local bodies to channel our doctors, engineers, architects, agronomists, economists and jurists to Africa, where a great and wonderful task awaits them. That is why we have sought to install in each province the organisms dealing with regional interests, offering the staff an attractive status, thereby increasing the resources of each territory in qualified personnel. As part of that policy we transferred the headquarters of the Maize Growers

Association of Angola and we recently decreed the extinction of the agencies for cereals, for coffee and for cotton, which operated from Lisbon, replacing them by Institutes in each of the provinces concerned. Thereby, on the one hand we seek to strengthen the administrative machinery responsible for initiating and directing regional development plans, including the increased settlement which must accompany the growing importance of these products in the economy, and on the other we prepare ourselves for the changes in our economic structure intended to bring about the creation of a genuine common market for all Portugal.

Our only source of surprise is that this should seem a novelity to so many of our critics, who ignore the principle of provincial autonomy so solemnly recognized by the Political Constitution of the Republic. Each one of the provinces is a person of public law, with the administrative and financial autonomy prescribed by its respective Statute. It has legislative organs of its own, whose competence extends to all matters of exclusively provincial interest. That is why, in the provinces which have a Governor-General, there is a Legislative Council in Angola, the province on which international attention is now more particularly focused, this

Council has twenty-nine members, of whom twenty-one are elected. This compositon does no more than apply a provision of the Organic Law for the Overseas Provinces, whose Section XXV specifies that the Legislative Council shall always «be composed of a majority of elected members». On the other hand, according to section LII of the Organic Law, «each overseas province has its own assets and liabilities; it may dispose of the former, and is responsible for its expenditures and debts as well as for its acts and contracts, as provided for by law». For this reason, always according to the Organic Law, Section LVIII, «the budget of each overseas province shall each year be prepared, voted for, and put into execution by the provincial organs». And finally, not only are the organs of each province responsible for administering provincial interests, under the supervision of the Governor, but also the Political Constitution of the Republic itself lays down, in Article 148, the rule of administrative decentralization, a course which the measures I have mentioned are intended to follow.

6. This policy has led many people abroad, as a rule poorly informed and inclined to facilitate their work by the adoption of the simplest possible ideas, to ask how we propose to solve the land problem,

having in mind the numerous disputes provoked in various parts of the world by the permanent settlement of individuals of different racial stock. Some of those thus concerned doubtless have in mind the experience of their own countries, where the problem was solved by the expeditious process of liquidating the aboriginal population. Influenced by their concern, such people sometimes wonder that we have not included in our program a spectacular land reform.

The truth is that we have no need whatsoever of a land reform. Due to the foresight of our administration, which did not allow appropriation of land for speculative purposes, there is a surplus of land and our main problem is rather to utilize it according to rational planning. Such plans, intended on the one hand to stabilize nomadic agriculture and on the other to organize crops in function of productivity, were in addition always inspired by a constant concern not to displace populations from their traditional region and to guarantee to each nucleus a zone of expansion sufficiently large to avoid the risk of any land disputes. Thus, in keeping with our legal tradition, provision will once more be made for this now classic rule: «The use and fruition, in customary form, of the land necessary for the establishment of

their villages, for crops and for pasture for their cattle, shall be guaranteed to the neighbours of a *regedoria* collectively. Occupation of land under the terms of this article shall not confer the right of individual ownership and shall be regulated between neighbours in accordance with the respective usages and customs. In cases not provided for, the provisions of written private law for common possessions shall be applicable».

Our strong communal tradition in continental Portugal, and the tradition of common possessions referred to in the said rule, have always enabled us to understand the importance of common utilization of land by the neighbours of a *regedoria,* and it made us give legal expression to the traditional respect to which I have referred. Not being in need, therefore, of any land reform, we felt we should review and extend the legal provisions guaranteeing real rights. Accordingly, we are about to enact the Regulations governing the Occupation and Concession of Land in the Overseas Provinces, on which the Central Services have been working since 1955, assisted in a decisive way by the Provincial Services. This law goes even further than we have ever done before to defend and guarantee the interests and rights of the populations to land which they occupy or farm:

concessions may not be given to individuals who are not neighbours of a given *Regedoria* in an adjoining area five times the size of the said *Regedoria;* furthermore, any practice which may cause the displacement of populations will be severely punished; on the other hand, the common lands of a *Regedoria* may only be converted into individual property of the neighbours of that *Regedoria* when there has been a request to this effect from the *Regedor* concerned with the supporting vote of his councillors.

This does not mean that the neighbours of a *Regedoria* are forbidden to acquire real estate on an individual basis. On the contrary, and like every other Portuguese, they may acquire individual concessions in vacant lands under any title, even that of mere occupation. This particular title of acquisiton, it may be noted, is not open to individuals who are not aboriginal. Present legislation already stipulates that where lands are individually occupied by someone who is a neighbour, he shall receive a title guaranteeing his possession and enjoyment of the land. Another step will now be taken in response to the concern of providing an effective guarantee for these rights. The latter will henceforth be registered in the appropriate registries, something which was not done heretofore.

No one can refuse to recognize that we continue to be guided by a lofty and responsible sense of mission in setting up so many protective regulations for the rights of the *Regedorias* and their neighbours, in a system stressing the rule of free option for written private law. It would be easier, and certainly more to the taste of those who think in oversimplified, geometrical terms and who are tireless defenders of general ideas, to submit everyone who wanted to benefit from legal protection for his real estate, to the necessity of making a formal choice for written private law. Our aim and our duty, however, are to see to it that social justice prevails in all layers of the population, and we think we must always take into account the real circumstances of each individual and each group that make up the Portuguese people. It would be contrary to our traditions and our principles to adopt any regime wich directly or indirectly did violence to the populations in this sphere of their private way of life.

7. This concern for social justice, so extensively proved by our actions, was recently responsible for a series of measures which should be seen in the light of some of the laws about to be published. Some of the measures have to do with the problem I have

already mentioned of the rational occupation of land and its utilization in function of productivity. In connection with these aims there arose everywhere a practice which later subsequently came to be known as the question of compulsory crops and which involves in particular cotton and rice. For centuries we have been sufficiently more just and disinterested than the majority of peoples who had overseas responsibilities, to be able to afford to recognize our mistakes, certainly far less serious than the crimes which have been, and are still being, committed against millions of men in the world and yet leave international bodies completely indifferent. But we can also be credited with the merit of actively and spontaneously seeking to remedy what we think is wrong, an attitude we would like to see in other peoples. Accordingly, by Decree No. 43.637, of May 2, 1961, we abolished the compulsory growing of cotton, and we can announce that the Legislative Council of the province of Mozambique is now engaged in revising the regime of the rice growing areas, with a view to bringing them under the general law.

As regards the labor regime, we know that our Code, enacted many years ago, embodies a doctrine which has not been surpassed by the most modern

international conventions, drawn up under the authority of the International Labor Office. The experts, despite their praiseworthy efforts and achievements, have not succeeded in formulating general rules or technical principles which were not already to be found in the Portugues legal texts, for the simple reason that the latter always took their inspiration from a respect for the dignity of the human personality. That is why we have not had any difficulty in ratifying international conventions and are often ahead of all our accusers. Thus, in June, 1955, the International Labor Conference approved the convention for the abolition of penal sanctions for breach of work contracts, which we ratified in December, 1959. By Decree No. 43.039 of June 30, 1960, it was easy for us to amend our own legislation so as to revoke all penal sanctions for breach of work-contracts, and all Portuguese workers, without any distinction whatever, became subject exclusively to the sanctions of civil law.

By Ordinance No. 17.771, of June 17, 1960, we set uniform standards for the establishment of minimum wages throughout Portuguese territory and we made it a rule that there was to be absolute contractual freedom to set wages above the legally guaranteed minimum.

By Ordinance No. 17.782, of June 28, 1960 we made applicable to all overseas provinces the regulations for safety and health in industry approved by the International Labor Office.

We ratified the international conventions concerning weekly days of rest, minimum age at which minors are allowed to work in certain activities, discrimination in employment or professions, and abolition of forced labor.

By Decree No. 43.637, of May 2, 1960, we set up labor inspections in all Portuguese provinces.

I do not know how anyone can in good faith accuse us of standing still in Africa, nor do I think that any responsible government, responsible in the sense of not being demagogic, could give proof of greater attention and persistence in searching for ways progressively to put into practice social justice. Accordingly, we were quite happy to submit to the jurisdiction of the International Labor Office when Ghana accused us of practices with which it is itself extremely familiar.

8. The measures I have announced, as I have tried to show, fall naturally into the legislative process we initiated some time ago, and they will have an immediate consequence of the greatest

importance. The extension, to a degree that we cannot even foresee, of the field of application of written private law and the submission of very important sectors of daily life to a uniform legal regime. The outstanding and the most important of these sectors is that of labor. Here we are rapidly heading towards completely uniform regulations, since the standards for wage-setting and the regime of penalties have already been uniformity. The competent bodies are studying the amendements which it may be necessary to introduce in the iegislation involved.

On the other hand, a decree will provide for unification of penal law. No differences will any longer subsist as regards the definition of crimes or of sanctions.

This extension of the field of application of written private law, the unification of the regime governing the relations in which contact between the various races is most frequent, and the unification of the regime governing the relations in which contact between the various races is most frequent, and the unification of the penal regime, made it necessary to review the structure of the courts, a review whose scope could not go beyond the municipal courts. This is a point which also deserves to be clarified, since

the administration of justice is one of the most important functions of the state.

It should at the outset be emphasized that the constant trend of our law has been to make all citizens subject to the authority of the same courts, without distinction of persons. In the overseas provinces, however, both the diversity of the private juridical regimes of the different races and the difficulties arising from the shortage of technically qualified personnel, implied the existence, at a given stage, of a number of courts of the first instance which in time evolved so as to be only formally distinguishable. Accordingly, it was recognized, when the municipal courts were reorganized in 1954, that these courts could perfectly well take over the preliminary investigation of cases and the functions of the special native courts, seeing that the above responsibilities, attributed by the law to separate courts, came in fact to be vested in one and the same person, the administrator. For this reason, with the Decree No. 39.817, of September 15, 1954, there came to exist only one municipal tribunal, competent to judge all individuals.

The problem we now face, as we reorganize the courts of first instance, is that of entrusting, whenever possible, the functions of judge to a legal specialist;

of securing the intervention of a representative of the public prosecutor; and of admitting in every case the presence of a judicial mandatory, as an essencial element in the right of defense.

The law required to give effect to this is about to be published and steps are also being taken to meet the first of the three requirements indicated by enabling notaries and registrars to discharge the function of municipal judge. In this way resort will only be had to the administrator for the discharge of judicial functions when there no other official is available, and the administrator will be released for the role properly belonging to his office, as is urgently needed. Finally, and without prejudice to the composition of the court I have mentioned, there will continue to be permitted a form of procedure which experience has shown to be the most appropriate to judge cases requiring to be solved by application of non-codified usages and customs. But these, as I have already stressed, can be reely renounced by all by a mere declaration before the civil register and identification services.

Given the frequent relations between citizens subject to written private law and citizens subject to codified and non-codified usages and customs, it is necessary to provide for a legal way of resolving the

conflicts of laws occasioned by these relations. This is not a new problem; it has always existed. When the decree of November 18, 1869, put the Civil Code into effect in the overseas provinces, at a time when there was not yet known as «*Estatuto dos Indígenas*» it made express provision for safeguarding the usages and customs of the *regedorias*, as well as those of the oriental immigrants, such as the Baneans, Batias, Parsees annd Moors, thus confirming a centuries-old practice. The conflicts of internal laws have therefore always been inevitable, and a sure way must be found of resolving them. For this reason a law is about to be published which recognizes the codified or non-codified usages and customs, limited by the moral principles that among us limit the power of the State itself, and which defines the standards for resolving conflicts of laws by adopting this fundamental principle: at a rule, that law is applied which, by express declaration or by virtue of the circumstances of the act, the parties shall have chosen.

9. Within a few days we shall therefore be publishing a series of measures which, crowing long studies and falling within the natural development of our traditional policy, introduce a number of changes in the legal system in effect.

The most important of these measures is the repeal of the Native Statute, a law which was of considerable usefulness and was the instrument of a policy inspired by the highest sense of missionary responsability. Not only the studies which have been published on the regime of the «indigenato» now about to be abolished, but also and above all the thousands of reports and memoranda which have accumulated in the files over the years, will remain to bear witness to the spirit of devotion and love for one's neighbour in which it was interpreted by officials in the execution of the endless task of struggling to leave men a little less unhappy than one finds them. Above all, the civilizing effort unparalleled elsewhere, and of which it may be said that in Africa it was carried out practically in the present century, bears witness, better than words can do, to the right intention of the system and the genuineness of its execution. All of this was only possible because the Portuguese overseas, in the exercise of public or private activities, always had a clear notion tha they were the instruments of a great national and civilizing mission. Without it, the vast territories and the millions of individuals to whom we gave the benefits of our nationality might not have been brought into contact with the main current

of history, and we know that if this action did not continue they would again be lost to it. Therefore, as we decree the uniformity of political status for all Portuguese, we do not think that our responsibilities have diminished. On the contrary, we do so on the understanding that we have reached a stage in the evolution of our country in which the historical task assigned to us can be facilitated by this unification. We must however match the process of evolution of the overseas territories, accelerated in large measure by the quantitatively and qualitatively improved resources we have been able to bring to bear in the last decades, by the intensive settlement of people from continental Portugal. For on this settlement depends the formation of the integrated multi-racial communities without which Africa will have neither progress nor order nor civilization nor rights of man.

Bertrand (Irmãos), Lda. — Lisboa