

GRANDE-BRETAGNE ET
IRLANDE DU NORD ET INDE
ET CHINE

Traité concernant la renonciation aux droits
d'exterritorialité en Chine et le règlement
de questions connexes (avec échange de
notes et procès-verbal d'accord). Chungking,
le 11 janvier 1943.

*Textes officiels anglais et chinois communiqués par le secrétaire d'Etat aux
Affaires étrangères de Sa Majesté en Grande-Bretagne. L'enregistrement
a eu lieu le 30 septembre 1944.*

GREAT BRITAIN AND
NORTHERN IRELAND AND INDIA
AND CHINA

Treaty for the Relinquishment of Extra-Territorial Rights in China and the Regulation of Related Matters (with Exchange of Notes and Agreed Minute). Chungking, January 11th, 1943.

English and Chinese official texts communicated by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration took place September 30th, 1944.

No. 4826. — TREATY¹ BETWEEN HIS MAJESTY IN RESPECT OF THE UNITED KINGDOM AND INDIA AND HIS EXCELLENCY THE PRESIDENT OF THE NATIONAL GOVERNMENT OF THE REPUBLIC OF CHINA FOR THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS IN CHINA AND THE REGULATION OF RELATED MATTERS (WITH EXCHANGE OF NOTES AND AGREED MINUTE). CHUNGKING, JANUARY 11TH, 1943.

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, and HIS EXCELLENCY THE PRESIDENT OF THE NATIONAL GOVERNMENT OF THE REPUBLIC OF CHINA :

Being desirous of defining more clearly in a spirit of friendship the general relations between them, and for this purpose to settle certain matters relating to jurisdiction in China ;

Have decided to conclude a Treaty for this purpose and to that end have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA (hereinafter referred to as His Majesty The King) :

FOR THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND :

His Excellency Sir Horace James SEYMOUR, K.C.M.G., C.V.O., His Majesty's Ambassador Extraordinary and Plenipotentiary to the Republic of China ;

FOR INDIA :

Hugh Edward RICHARDSON Esquire, an officer of the Indian Political Service ;

HIS EXCELLENCY THE PRESIDENT OF THE NATIONAL GOVERNMENT OF THE REPUBLIC OF CHINA :

His Excellency Dr. TSE VUNG SOONG, Minister for Foreign Affairs of the Republic of China ;

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

Article 1.

(i) The territories of the High Contracting Parties to which the present Treaty applies are, on the part of His Majesty The King, the United Kingdom of Great Britain and Northern Ireland, India, all colonies, overseas territories, protectorates of His Majesty, all territories under his protection or suzerainty and all mandated territories in respect of which the mandate is exercised by his Government in the United Kingdom ; and on the part of His Excellency the President of the National Government of the Republic of China, all the territories of the Republic of China. Any reference in subsequent Articles of the present Treaty to the territories of one or the other High Contracting Party shall be deemed to relate to those territories of that High Contracting Party to which the present Treaty applies.

(ii) In the present Treaty, the term " nationals of the one (or of the other) High Contracting Party " shall in relation to His Majesty The King mean all British subjects and all British-protected persons belonging to the territories to which the present Treaty applies ; and in relation to the Republic of China, all nationals of the Republic of China.

¹ The exchange of ratifications took place at Chungking, May 20th, 1943.

¹ L'échange des ratifications a eu lieu à Chungking, le 20 mai 1943.

(iii) The expression "companies of the one (or of the other) High Contracting Party" shall for the purpose of the present Treaty be interpreted as meaning limited liability and other companies, partnerships and associations constituted under the law of the territories of that High Contracting Party to which the present Treaty applies.

Article 2.

All those provisions of treaties or agreements in force between His Majesty The King and His Excellency the President of the National Government of the Republic of China which authorise His Majesty or his representatives to exercise jurisdiction over nationals or companies of His Majesty in the territory of the Republic of China are hereby abrogated. The nationals and companies of His Majesty The King shall be subject in the territory of the Republic of China to the jurisdiction of the Government of the Republic of China, in accordance with the principles of international law and practice.

Article 3.

(i) His Majesty The King considers that the Final Protocol concluded at Peking, on September 7th, 1901,¹ between the Chinese Government and other Governments, including His Majesty's Government in the United Kingdom, should be terminated, and agrees that the rights accorded to His Majesty's Government in the United Kingdom under that Protocol and under the agreements supplementary thereto shall cease.

(ii) His Majesty's Government in the United Kingdom will co-operate with the Government of the Republic of China for the reaching of any necessary agreements with the other Governments concerned for the transfer to the Government of the Republic of China of the administration and control of the diplomatic quarter at Peiping, including the official assets and the official obligations of the diplomatic quarter, it being mutually understood that the Government of the Republic of China, in taking over administration and control of the diplomatic quarter, will make provision for the assumption and discharge of the official obligations and liabilities of the diplomatic quarter and for the recognition and protection of all legitimate rights therein.

(iii) The Government of the Republic of China shall accord to His Majesty's Government in the United Kingdom a continued right to use for official purposes the land which has been allocated to His Majesty's Government in the United Kingdom in the diplomatic quarter in Peiping, on parts of which are located buildings belonging to His Majesty's Government in the United Kingdom.

Article 4.

(i) His Majesty The King considers that the International Settlements at Shanghai and Amoy should revert to the administration and control of the Government of the Republic of China and agrees that the rights accorded to His Majesty in relation to those Settlements shall cease.

(ii) His Majesty's Government in the United Kingdom will co-operate with the Government of the Republic of China for the reaching of any necessary agreements with the other Governments concerned for the transfer to the Government of the Republic of China of the administration and control of the International Settlements at Shanghai and Amoy, including the official assets and the official obligations of those Settlements, it being mutually understood that the Government of the Republic of China, in taking over administration and control of those Settlements, will make provision for the assumption and discharge of the official obligations and liabilities of those Settlements and for the recognition and protection of all legitimate rights therein.

(iii) His Majesty The King agrees that the British Concession (including the whole British municipal area) at Tientsin and the British Concession at Canton shall revert to the administration and control of the Government of the Republic of China and that the rights accorded to His Majesty in relation to those Concessions shall cease.

(iv) The administration and control of the British Concession (including the whole British municipal area) at Tientsin and the British Concession at Canton including their official assets

¹ *British and Foreign State Papers*, Vol. 94, page 686.

¹ DE MARTENS, *Nouveau Recueil général de Traités*, deuxième série, tome XXXII, page 94.

and official obligations shall be transferred to the Government of the Republic of China, it being mutually understood that the Government of the Republic of China in taking over administration and control of those Concessions will make provision for the assumption and discharge of the official obligations and liabilities of those Concessions and for the recognition and protection of all legitimate rights therein.

Article 5.

(i) In order to obviate any questions as to existing rights in respect of or as to existing titles to real property in the territory of the Republic of China possessed by nationals and companies of His Majesty The King, or by His Majesty's Government in the United Kingdom, and in particular questions which might arise from the abrogation of the provisions of treaties and agreements provided for in Article 2 of the present Treaty, the High Contracting Parties agree that such existing rights or titles shall be indefeasible and shall not be questioned upon any ground except upon proof, established through due process of law, of fraud or of fraudulent or dishonest practices in the acquisition of such rights or titles, it being understood that no right or title shall be rendered invalid by virtue of any subsequent change in the original procedure through which it was acquired. It is also agreed that the exercise of these rights or titles shall be subject to the laws and regulations of the Republic of China concerning taxation, national defence and the right of eminent domain ; and that no such rights or titles may be alienated to the Government or nationals (including companies) of any third country without the express consent of the Government of the Republic of China.

(ii) The High Contracting Parties also agree that if it should be the desire of the Government of the Republic of China to replace by new deeds of ownership existing leases in perpetuity or other documentary evidence relating to real property held by nationals or companies of His Majesty The King or by His Majesty's Government in the United Kingdom, the replacements shall be made by the Chinese authorities without charges of any sort and the new deeds of ownership shall fully protect the holders of such leases or other documentary evidence, and their legal heirs and assigns without diminution of their prior rights and interests, including the right of alienation.

(iii) The High Contracting Parties agree further that nationals or companies of His Majesty The King or His Majesty's Government in the United Kingdom shall not be required or asked by the Chinese authorities to make any payments of fees in connexion with land transfers for or with relation to any period prior to the effective date of this Treaty.

Article 6.

His Majesty The King having long accorded rights to nationals of the Republic of China within each of the territories of His Majesty to travel, reside and carry on commerce throughout the whole extent of that territory, the Government of the Republic of China agree to accord similar rights to nationals of His Majesty within the territory of the Republic of China. Each High Contracting Party will endeavour to accord in his territories to nationals and companies of the other High Contracting Party in regard to all legal proceedings and in matters relating to the administration of justice and the levying of taxes and requirements in connexion therewith treatment not less favourable than that accorded to his own nationals and companies.

Article 7.

The consular officers of one High Contracting Party, duly provided with exequaturs, shall be permitted to reside in such ports, places and cities of the territories of the other High Contracting Party as may be agreed upon. The consular officers of one High Contracting Party shall have the right within their districts in the territories of the other High Contracting Party to interview, communicate with and to advise the nationals and companies of the former High Contracting Party, and the nationals and companies of one High Contracting Party within the territories of the other High Contracting Party shall have the right at all times to communicate with the consular officers of the former High Contracting Party. The consular officers of one High Contracting Party in the territories of the other shall be informed immediately by the appropriate local authorities when any of their nationals are arrested or detained in their consular districts by

the local authorities. They shall have the right to visit within the limits of their districts any of their nationals who are under arrest or awaiting trial in prison. Communications from the nationals of one High Contracting Party in prison in the territories of the other High Contracting Party addressed to the consular officers of the former High Contracting Party will be forwarded to the appropriate consular officer by the local authorities. Consular officers of one High Contracting Party shall be accorded in the territories of the other High Contracting Party the rights, privileges and immunities enjoyed by consular officers under modern international usage.

Article 8.

(i) The High Contracting Parties will enter into negotiations for the conclusion of a comprehensive modern treaty or treaties of friendship, commerce, navigation and consular rights upon the request of either of them or in any case within six months after the cessation of the hostilities in the war against the common enemies in which they are both now engaged. The treaty or treaties to be thus negotiated will be based upon the principles of international law and practice as reflected in modern international procedure and in the modern treaties which each of the High Contracting Parties have respectively concluded with other Powers in recent years.

(ii) Pending the conclusion of the comprehensive treaty or treaties referred to in the preceding paragraph, if any questions affecting the rights in the territory of the Republic of China of the nationals or companies of His Majesty The King, or of His Majesty's Government in the United Kingdom or of the Government of India, should arise in future and if these questions are not covered by the present Treaty and Exchange of Notes or by the provisions of existing treaties, conventions and agreements between the High Contracting Parties which are not abrogated by or inconsistent with the present Treaty and Exchange of Notes, such questions shall be discussed by representatives of the High Contracting Parties and shall be decided in accordance with the generally accepted principles of international law and with modern international practice.

Article 9.

The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Chungking as soon as possible. The Treaty shall come into force on the day of the exchange of ratifications.

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

Done at Chungking this 11th day of January, 1943, corresponding to the 11th day of the first month of the thirty-second year of the Republic of China, in duplicate in English and Chinese, both texts being equally authentic.

(L. S.) H. J. SEYMOUR.

(L. S.) H. E. RICHARDSON.

(L. S.) TSE VUNG SOONG.

EXCHANGE OF NOTES¹.

A.

Note from Dr Tse Vung Soong, Chinese Minister for Foreign Affairs, to Sir Horace James Seymour.

SIR,

CHUNGKING, January 11th, 1943.

During the negotiations for the Treaty signed to-day between His Excellency the President of the National Government of the Republic of China and His Majesty The King of Great Britain,

¹ A similar exchange of notes took place between the Chinese Minister for Foreign Affairs and the Plenipotentiary for India.

¹ Un échange similaire de notes a eu lieu entre le Ministre des Affaires étrangères de Chine et le plénipotentiaire représentant l'Inde.

Ireland and the British Dominions beyond the Seas, Emperor of India, for the United Kingdom of Great Britain and Northern Ireland and India, a number of questions have been discussed upon which agreement has been reached. The understandings reached with regard to these points are recorded in the Annex to the present Note, which Annex shall be considered as an integral part of the Treaty signed to-day and shall be considered as effective upon the date of the entrance into force of that Treaty. I should be glad if Your Excellency would confirm these understandings on behalf of His Majesty's Government in the United Kingdom.

I avail, &c.

TSE VUNG SOONG.

His Excellency Sir Horace James Seymour, K.C.M.G., C.V.O.,
His Majesty's Ambassador, Chungking.

ANNEX.

i. With reference to Article 2 and Article 8 (ii) of the Treaty, it is understood that :

(a) His Majesty The King relinquishes all existing treaty rights relating to the system of Treaty Ports in China. His Excellency the President of the National Government of the Republic of China and His Majesty The King mutually agree that the merchant vessels of the one High Contracting Party shall be permitted freely to come to ports, places and waters in the territories of the other High Contracting Party which are or may be opened to overseas merchant shipping and that the treatment accorded to such vessels in such ports, places and waters shall be no less favourable than that accorded to national vessels and shall be as favourable as that accorded to vessels of any third country. The term "vessels" of a High Contracting Party means all vessels registered under the law of any of the territories of that High Contracting Party to which the Treaty signed this day applies.

(b) His Majesty The King relinquishes all existing treaty rights relating to the special courts in the International Settlements at Shanghai and Amoy.

(c) His Majesty The King relinquishes all existing rights with regard to the employment of foreign pilots in the ports of the territories of the Republic of China.

(d) His Majesty The King relinquishes all existing treaty rights relating to the entry of his naval vessels into the waters of the Republic of China ; and the Government of the Republic of China and His Majesty's Government in the United Kingdom shall extend to each other in connexion with the visits of the warships of the one High Contracting Party to the ports of the other High Contracting Party mutual courtesy in accordance with ordinary international usage.

(e) His Majesty The King relinquishes any right to claim the appointment of a British subject as Inspector-General of the Chinese Customs.

(f) All the courts of His Majesty The King which have hitherto been sitting in the territories of the Republic of China having been closed down in accordance with Article 2 of the Treaty signed this day, the orders, decrees, judgments and other acts of any of His Majesty's courts in China shall be considered as *res judicata* and shall when necessary be enforced by the Chinese authorities ; further, any cases pending before any of His Majesty's courts in China at the time of the coming into effect of the Treaty shall if the plaintiff or the petitioner so desires be remitted to the appropriate courts of the Government of the Republic of China, which shall proceed to dispose of them as expeditiously as possible and in so doing shall so far as practicable apply the law which the court of His Majesty would have applied.

(g) His Majesty The King relinquishes the special rights which his vessels have been accorded with regard to coasting trade and inland navigation in the waters of the Republic of China, and the Government of the Republic of China are prepared to take over any properties of His Majesty's nationals or companies which have been used for the purposes of these trades and which the owners may wish to dispose of, and to pay adequate compensation therefor. The Government of the Republic of China relinquish

the special rights which have been accorded to Chinese vessels in respect of navigation on the River Irrawaddy under Article 12 of the Convention signed at London on March 1st, 1894¹. Should one High Contracting Party accord in any of his territories the right of coasting trade or inland navigation to the vessels of any third country, such rights would similarly be accorded to the vessels of the other High Contracting Party provided that the latter High Contracting Party permits the vessels of the former High Contracting Party to engage in the coasting trade or inland navigation of his territories. Coasting trade and inland navigation are excepted from the requirement of national treatment and are to be regulated according to the laws of each High Contracting Party in relation thereto. It is agreed, however, that the vessels of either High Contracting Party shall enjoy within the territories of the other High Contracting Party with regard to coasting trade and inland navigation treatment as favourable as that accorded to the vessels of any third country subject to the above-mentioned proviso.

2. With reference to the last sentence of Article 5 (i) of the Treaty, the Government of the Republic of China declare that the restriction on the right of alienation of existing rights and titles to real property referred to in that Article will be applied by the Chinese authorities in equitable manner and that, if and when the Chinese Government decline to assent to a proposed transfer, the Chinese Government will, in a spirit of justice and with a view to precluding loss on the part of the nationals or companies of His Majesty The King whose interests are affected, undertake, if so requested by the national or company of His Majesty to whom permission to alienate has been refused, to take over the rights and titles in question and pay adequate compensation therefor.

3. It is understood that the abolition of the system of the Treaty Ports will not affect existing property rights, and that the nationals of each High Contracting Party will enjoy the right to acquire and hold real property throughout the territories of the other High Contracting Party in accordance with the conditions and requirements prescribed in the laws and regulations of that High Contracting Party.

4. It is further agreed that questions which may affect the sovereignty of the Republic of China and which are not covered by the present Treaty or by the preceding provisions of the present Note shall be discussed by the Representatives of the Government of the Republic of China and His Majesty's Government in the United Kingdom and decided in accordance with the generally accepted principles of international law and modern international practice.

B.

Note from Sir Horace James Seymour to Dr. Tse Vung Soong, Chinese Minister for Foreign Affairs.

SIR,

CHUNGKING, *January 11th, 1943.*

I have the honour to acknowledge the receipt of your Excellency's Note of to-day's date reading as follows :

[As in A.]

I have the honour on behalf of His Majesty's Government in the United Kingdom to confirm the understandings reached between us as recorded in the Annex to Your Excellency's Note, which Annex shall be considered as an integral part of the Treaty signed to-day and shall be considered as effective upon the date of the entrance into force of that Treaty.

I avail, &c.

H. J. SEYMOUR.

His Excellency Dr. Tse Vung Soong,
Minister for Foreign Affairs of the
Republic of China, Chungking.

¹ *British and Foreign State Papers*, Vol. 87, page 1311.

¹ DE MARTENS, *Nouveau Recueil général de Traités*, deuxième série, tome XX, page 794.

AGREED MINUTE.

1. With reference to paragraph 1 (*a*) of the Annex to the Note from the Chinese Minister for Foreign Affairs to His Majesty's Ambassador in connexion with the Treaty signed to-day, it is understood that both High Contracting Parties reserve the right to close any port to all overseas merchant shipping for reasons of national security.

2. With reference to paragraph 1 (*g*) of the Annex to the Note from the Chinese Minister for Foreign Affairs to His Majesty's Ambassador in connexion with the Treaty signed to-day, His Majesty's Ambassador informed the Chinese Government that trade between India on the one hand and Burma or Ceylon on the other has always been regarded as coasting trade.

Chungking, January 11th, 1943.

H. J. SEYMOUR.
TSE VUNG SOONG.