

N° 3766.

**GRANDE-BRETAGNE
ET IRLANDE DU NORD
ET INDE ET CHINE**

Echange de notes relatif à l'établissement d'une commission chargée de délimiter le secteur sud de la frontière entre la Birmanie et le Yunnan. Nankin, le 9 avril 1935.

**GREAT BRITAIN
AND NORTHERN IRELAND
AND INDIA AND CHINA**

Exchange of Notes regarding the Establishment of a Commission to determine the Southern Section of the Boundary between Burma and Yunnan. Nanking, April 9th, 1935.

No. 3766. — EXCHANGE OF NOTES BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF INDIA AND THE CHINESE GOVERNMENT REGARDING THE ESTABLISHMENT OF A COMMISSION TO DETERMINE THE SOUTHERN SECTION OF THE BOUNDARY BETWEEN BURMA AND YUNNAN. NANKING, APRIL 9TH, 1935.

English official text communicated by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration of this Exchange of Notes took place November 20th, 1935.

I.

SIR A. CADOGAN TO MR. WANG CHING-WEI.

NANKING, *April 9th*, 1935.

SIR,

With reference to our recent discussions concerning the proposed method of settling the question of the undemarcated southern section of the Burma-Yunnan frontier referred to in paragraphs 3 and 4 of Article 3 of the Agreement¹ between Great Britain and China, signed at Peking on the 4th February, 1897, I have the honour to inform your Excellency that His Majesty's Government in the United Kingdom and the Government of India accept the following terms of reference concerning the establishment and functions of a Boundary Commission to be charged with the investigation of the undemarcated portion of the frontier in question :

(1) The National Government of the Republic of China on the one side, and His Majesty's Government in the United Kingdom and the Government of India on the other, being desirous of settling long-outstanding questions relative to the southern section of the Yunnan-Burma frontier and actuated by a genuine spirit of mutual conciliation and compromise, have agreed to establish a joint Boundary Commission to be composed of five Commissioners, two to be appointed by each side, and a neutral Commissioner appointed by the President of the Council of the League of Nations, the neutral Commissioner acting as Chairman of the Commission and having a deciding vote in cases where the opinions of the other Commissioners are evenly divided.

(2) The first duty of the Commission shall be to ascertain and determine on the ground and fix on the map the line prescribed in paragraphs 3 and 4 of Article 3 of the Agreement of 1897 so far as they relate to the undemarcated portion of the frontier. In thus interpreting the Treaty provisions on which the Governments concerned have

¹ *British and Foreign State Papers*, Vol. 89, page 25.

¹ TRADUCTION. — TRANSLATION.

N^o 3766. — ÉCHANGE DE NOTES ENTRE LE GOUVERNEMENT DE SA MAJESTÉ DANS LE ROYAUME-UNI ET LE GOUVERNEMENT DE L'INDE, D'UNE PART, ET LE GOUVERNEMENT CHINOIS, D'AUTRE PART, RELATIF A L'ÉTABLISSEMENT D'UNE COMMISSION CHARGÉE DE DÉLIMITER LE SECTEUR SUD DE LA FRONTIÈRE ENTRE LA BIRMANIE ET LE YUNNAN. NANKIN, LE 9 AVRIL 1935.

Texte officiel anglais communiqué par le secrétaire d'Etat aux Affaires étrangères de Sa Majesté en Grande-Bretagne. L'enregistrement de cet échange de notes a eu lieu le 20 novembre 1935.

I.

SIR A. CADOGAN A M. WANG CHING-WEI.

NANKIN, le 9 avril 1935.

MONSIEUR LE MINISTRE,

Me référant à notre récente conversation concernant la méthode proposée pour le règlement de la question du secteur sud non aborné de la frontière entre la Birmanie et le Yunnan, visé aux paragraphes 3 et 4 de l'article 3 de l'Accord² entre la Grande-Bretagne et la Chine signé à Pékin le 4 février 1897, j'ai l'honneur de porter à la connaissance de Votre Excellence que le Gouvernement de Sa Majesté dans le Royaume-Uni et le Gouvernement de l'Inde acceptent les dispositions suivantes concernant la création et les attributions d'une commission de frontière qui sera chargée d'étudier la partie non abornée de la frontière en question :

1^o Le Gouvernement national de la République de Chine, d'une part, et le Gouvernement de Sa Majesté dans le Royaume-Uni et le Gouvernement de l'Inde, d'autre part, désireux de régler les questions depuis longtemps en suspens relativement au secteur sud de la frontière entre le Yunnan et la Birmanie, et animés d'un esprit sincère de conciliation, sont convenus d'instituer une commission mixte de frontière composée de cinq membres, chacune des deux Parties devant désigner deux membres, et un membre neutre devant être nommé par le Président du Conseil de la Société des Nations; ledit membre neutre exercera les fonctions de président de la Commission, et son vote sera décisif en cas de partage égal des avis des autres membres.

2^o La première tâche de la Commission sera de reconnaître et de déterminer sur le terrain et de fixer sur la carte la ligne définie aux paragraphes 3 et 4 de l'article 3 de l'Accord de 1897, pour autant que lesdits paragraphes concernent la partie non abornée de la frontière. En interprétant ainsi les dispositions du traité sur l'interprétation desquelles

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

¹ Translated by the Secretariat of the League of Nations, for information.

² DE MARTENS, *Nouveau Recueil général de Traités*, deuxième série, tome XXV, page 288.

hitherto failed to arrive at an agreed interpretation, the Commission shall give due consideration to all the provisions and indications in the paragraphs of the Agreement of 1897 referred to above, namely, the co-ordinated points and the watershed and the geographical names mentioned.

(3) It shall be the second duty of the Commission to report *ad referendum* to the Governments concerned in the light of their local examination of the ground on cases, as indicated in Article 6 of the Agreement, in which the question appears to them to arise of local modifications of the general Treaty line on the basis of mutual concessions.

(4) The Chinese and British Commissioners may submit, if they deem it necessary, their personal viewpoints to the Governments concerned for their consideration.

I have the honour to request that your Excellency will confirm that the National Government of the Republic of China accept the above terms of reference.

I avail, etc.

Alexander CADOGAN.

II.

MR. WANG CHING-WEI TO SIR A. CADOGAN.

NANKING, *April 9th*, 1935.

SIR,

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

(*As in No. I.*)

In reply I have the honour to confirm that the National Government of the Republic of China also accepts the terms of reference, as quoted above, concerning the establishment and functions of a Boundary Commission to be charged with the investigation of the undemarcated portion of the southern section of the Yunnan-Burma frontier.

I avail, etc.

WANG CHING-WEI.

III.

SIR A. CADOGAN TO MR. WANG CHING-WEI.

NANKING, *April 9th*, 1935.

SIR,

With reference to the Notes exchanged between us to-day concerning the establishment and functions of a Boundary Commission for the investigation of the undemarcated portion of the southern section of the Burma-Yunnan frontier, I have the honour to confirm on behalf of His Majesty's Government in the United Kingdom and the Government of India that the following additional understanding has been reached between our respective Governments regarding the proposed negotiations for a settlement of the undemarcated section of the frontier :

The question of any modifications in the light of the report of the Commission, or in the light of such topographical, historical or political factors as may appear relevant, will be subsequently negotiated in a spirit of mutual conciliation and compromise. For the purpose of such future negotiations a Conference will, if necessary, be convened at

Nanking between representatives of the Governments concerned — including representatives of Yunnan and Burma. The results of the Report of the Commission and of any such subsequent negotiations will be embodied in a new Agreement. Pending the conclusion of such an Agreement, the Governments concerned will reserve the position which they have heretofore respectively maintained regarding the frontier in question.

I have the honour to request your Excellency's confirmation on behalf of the National Government of the Republic of China of the above additional understanding concerning the proposed negotiations.

I avail, etc.

Alexander CADOGAN.

IV.

MR. WANG CHING-WEI TO SIR A. CADOGAN.

NANKING, *April 9th*, 1935.

SIR,

I have the honour to acknowledge your Excellency's Note of to-day's date, which reads as follows :

(As in No. III.)

On behalf of the National Government of the Republic of China, I have the honour to confirm the above understanding.

I avail, etc.

WANG CHING-WEI.