

No. 23

NETHERLANDS AND CHINA

Treaty on the relinquishment of extra-territorial rights in China and the regulation of related matters, with Exchange of Notes and Agreed Minute. Signed at London, on 29 May, 1945. Came into force on 5 December 1945, by ratification.

English official text communicated by the Minister for Foreign Affairs of the Netherlands. The filing and recording took place on 25 April 1947.

PAYS-BAS ET CHINE

Traité concernant la renonciation aux droits d'extraterritorialité en Chine et le règlement de questions connexes, avec échange de notes et procès-verbal d'accord. Signé à Londres, le 29 mai 1945. Entré en vigueur le 5 décembre 1945, par ratification.

Texte officiel anglais communiqué par le ministre des Affaires étrangères des Pays-Bas. Le classement et l'inscription au répertoire ont eu lieu le 25 avril 1947.

No. 23. TREATY BETWEEN THE NETHERLANDS AND CHINA ON THE RELINQUISHMENT OF EXTRA-TERRITORIAL RIGHTS IN CHINA AND THE REGULATION OF RELATED MATTERS WITH EXCHANGE OF NOTES AND AGREED MINUTE. SIGNED AT LONDON, ON 29 MAY, 1945.

Her Majesty the Queen of the Netherlands
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;

Her Majesty the Queen of the Netherlands:

His Excellency Jonkheer E. F. M. J. Michiels van Verduynen, Her Acting Minister for Foreign Affairs;

His Excellency the President of the National Government of the Republic of China;

His Excellency Monsieur Wunsz King, Ambassador Extraordinary and Plenipotentiary of the Republic of China to Her Majesty the Queen of the Netherlands;

Who, having communicated to each other their full powers, found to be in good and due form, have agreed upon the following Articles:

Article I

The territories of the High Contracting Parties to which the present Treaty applies are, on the part of the Republic of China, all the territories of the Republic of China; and on the part of the Kingdom of the Netherlands, all the territories of the Kingdom of the Netherlands.

In the present Treaty, the term "nationals of the one (or of the other) High Contracting Party" shall, in relation to the Republic of China, mean all persons who are Chinese citizens by virtue of the Chinese nationality laws; and in

relation to the Kingdom of the Netherlands, mean all persons being Netherlands subjects by virtue of the Netherlands nationality laws.

Article II

All these provisions of treaties or agreements in force between the Kingdom of the Netherlands and the Republic of China which authorise the Netherlands Government or its representatives to exercise jurisdiction over Netherlands nationals or companies in the territory of the Republic of China are hereby abrogated. Netherlands nationals and companies in the territory of the Republic of China shall be subject to the jurisdiction of the Government of the Republic of China in accordance with the principles of international law and practice.

Article III

The Netherlands Government considers that the Final Protocol concluded at Peking on September 7, 1901, between the Chinese Government and other Governments, including the Netherlands Government, should be terminated and agrees that the rights accorded to the Netherlands Government under that Protocol and under the agreements supplementary thereto shall cease.

The Netherlands Government will co-operate with the Government of the Republic of China for the reaching of any necessary agreements with 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.

The Government of the Republic of China hereby accords to the Netherlands Government a continued right to use for official purposes the land which has been allocated to the Netherlands Government in the Diplomatic Quarter in Peiping, on parts of which are located buildings belonging to the Kingdom of the Netherlands.

Article IV

The Netherlands Government 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 the Netherlands Government in relation to those Settlements shall cease.

The Netherlands Government will co-operate with the Government of the Republic of China for the reaching of any necessary agreements with 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.

Article V

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 Netherlands nationals or companies or by the Kingdom of the Netherlands, particularly questions which might arise from the abrogation of the provisions of treaties or agreements as stipulated in Article II, it is agreed 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 other 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 official procedure through which it was acquired.

It is also agreed that 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 or companies of any third country without the express consent of the Government of the Republic of China.

It is also agreed 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 Netherlands nationals or companies or by the Kingdom of the Netherlands, the replacement 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.

It is further agreed that Netherlands nationals or companies shall not be required or asked by the Chinese authorities to make any payments of fees in connection with land transfers for or with relation to any period prior to the effective date of this Treaty.

Article VI

Each of the High Contracting Parties shall accord to the nationals of the other the right to enter or to leave its territory and the right to travel, reside and carry on commerce throughout the whole extent of that territory. .

With regard to all legal proceedings and all matters relating to the administration of justice and the levying of taxes of whatever description, each of the two Governments will endeavour to accord to nationals and companies of the other treatment not less favourable than that enjoyed by its own nationals and companies in its own territory.

Article VII

The High Contracting Parties mutually agree that the consular officers of one of the High Contracting Parties, duly provided with exequaturs, shall be permitted to reside in such ports, places and cities of the other High Contracting Party as may be agreed upon.

The consular officers of one High Contracting Party shall have the right to interview, to communicate with and to advise the nationals of their country within their consular districts; they shall be informed immediately whenever the nationals of their country are under detention or arrest or in prison or are awaiting trial in their consular districts and shall, upon notification to the appropriate authorities, be permitted to visit any such nationals; and in general, the consular officers of one High Contracting Party shall be accorded in the territory of the other High Contracting Party the rights, privileges and immunities enjoyed by consular officers under modern international usage.

It is likewise agreed that the nationals of one High Contracting Party in the territory of the other High Contracting Party shall have the right at all times to communicate with the consular officers of their country. Communications to their consular officers from the nationals of one High Contracting Party who are under detention or arrest or in prison or are awaiting trial in the territory of the other High Contracting Party shall be forwarded to their consular officers by the local authorities.

Article VIII

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 should 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 has respectively concluded with other Powers in recent years.

Pending the conclusion of the treaty or treaties referred to in the preceding paragraph, each of the High Contracting Parties agrees that the consular officers of the other will be permitted to exercise their functions as such in accordance with general principles of international law in all ports, cities and places of the former which are or may be open to consular officers of any foreign country.

Pending the conclusion of the treaty or treaties referred to in the first paragraph, if any questions affecting the rights in the territory of the Republic of China of Netherlands nationals or companies or of the Kingdom of the Netherlands, should arise in future and if these questions are not covered by the present Treaty and the Exchange of Notes or by the provisions of existing treaties, conventions or agreements between the High Contracting Parties, not abrogated by or inconsistent with this Treaty and the Exchange of Notes, such questions shall be discussed by the representatives of the two Governments and shall be decided in accordance with the generally accepted principles of international law and with modern international practice.

Article IX

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 their seals thereto.

DONE at London this twenty-ninth day of May 1945, corresponding to the twenty-ninth day of the fifth month of the thirty-fourth year of the Republic of China, in duplicate in English.

E. F. M. J. MICHIELS VAN VERDUYNEN

WUNSZ KING

EXCHANGE OF NOTES

I

London, 29th May 1945

Your Excellency,

In connection with the Treaty concluded to-day between His Excellency the President of the National Government of the Republic of China and Her Majesty the Queen of the Netherlands, I have the honour to state that it is understood that:

1. a) The Netherlands Government
relinquishes all existing rights in connection with the system of treaty ports in China;
- b) The Netherlands Government
relinquishes all existing rights relating to the special courts in the International Settlements at Shanghai and Amoy;
- c) The Netherlands Government
relinquishes all existing rights with regard to the employment of foreign pilots in the ports of the territories of the Republic of China;
- d) The Netherlands Government
relinquishes all existing rights in relation to coasting trade and inland navigation in the waters of the Republic of China;
- e) The Netherlands Government
relinquishes all existing rights relating to the entry of its naval vessels into the waters of the Republic of China without previous consent of the National Government of the Republic of China.

2. It is mutually agreed that the merchant vessels of the one High Contracting Party shall be permitted freely to come to the 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 not less favourable than that accorded to national vessels and shall be as favourable as that accorded to vessels of any third country.

3. It is mutually understood that the orders, decrees, judgments, decisions and other acts of the Netherlands consular tribunals in the Republic of China

shall be considered as *res judicata*, and shall, when necessary for reaching the purposes of such orders, decrees, judgments, decisions and other acts, be given effect by the Chinese authorities.

4. It is also understood 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.

5. It is further agreed that questions which may effect the sovereignty of the Republic of China and which are not covered by the present Treaty or Note shall be discussed by the representatives of the National Government of the Republic of China and the Netherlands Government and decided in accordance with the generally accepted principles of international law and modern international practice.

6. It is understood that these agreements and understandings, if confirmed by Your Excellency's Government, shall be considered as forming 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 shall be much obliged if Your Excellency will confirm the foregoing.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

WUNEEZ KING

II

London, 29th May 1945

Your Excellency,

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

(See Note No. I)

I have the honour to confirm the agreements and understandings as recorded in Your Excellency's Note, which 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 myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

E. F. M. J. MICHIELS VAN VERDUYNEN

AGREED MINUTE

With reference to Paragraph 2 of the Exchange of Notes which form an integral part of 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.

E. F. M. J. MICHIELS VAN VERDUYNEN

WUNSZ KING

London, 29th May 1945
