

No. 212

**CHINA
and
UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND**

**Exchange of Notes giving effect to the Customs Agreement
between China and Hong Kong. Nanking, 12 January
1948**

*Chinese and English official texts communicated by the Director of the Office
of the Permanent Chinese Delegation to the United Nations. The registra-
tion took place on 18 March 1948.*

**CHINE
et
ROYAUME-UNI DE GRANDE-BRETAGNE ET
D'IRLANDE DU NORD**

**Echange de notes donnant effet à l'accord douanier conclu
entre la Chine et Hong-Kong. Nankin, 12 janvier 1948**

*Textes officiels chinois et anglais communiqués par le Directeur du Bureau
permanent de la délégation chinoise auprès de l'Organisation des Nations
Unies. L'enregistrement a eu lieu le 18 mars 1948.*

No. 212. EXCHANGE OF NOTES¹ BETWEEN H.E. DR. WANG SHIH-CHIEH, MINISTER FOR FOREIGN AFFAIRS OF THE REPUBLIC OF CHINA, AND H.E. SIR RALPH SKRINE STEVENSON, HIS BRITANNIC MAJESTY'S AMBASSADOR TO THE REPUBLIC OF CHINA, GIVING EFFECT TO THE CUSTOMS AGREEMENT BETWEEN CHINA AND HONG KONG. NANKING, 12 JANUARY 1948

I

Note from Dr. Wang Shih-chieh, Minister for Foreign Affairs of the Republic of China, to Sir R. S. Stevenson, His Britannic Majesty's Ambassador to China

THE MINISTRY OF FOREIGN AFFAIRS
REPUBLIC OF CHINA

Nanking, 12th January, 1948

Your Excellency,

I have the honour to inform you that the discussions between the Chinese Maritime Customs and the Government of Hong Kong concerning the prevention of smuggling between Hong Kong and Chinese ports have resulted in an agreement, the provisions of which are annexed hereto.

I have the honour to state that the Chinese Government approve of the arrangements set forth in the Annex and if His Majesty's Government in the United Kingdom likewise concur in these provisions, the present note together with Your Excellency's reply be regarded as constituting an agreement between the two Governments.

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

(Initialed) WANG SHIH-CHIEH

His Excellency Sir Ralph Skrine Stevenson, K.C.M.G.
His Majesty's Ambassador
Nanking

¹ Came into force on 12 January 1948, by the exchange of the said notes.

II

Note from Sir R. S. Stevenson, His Britannic Majesty's Ambassador to China, to Dr. Wang Shih-chieh, Minister for Foreign Affairs of the Republic of China

BRITISH EMBASSY

NANKING

12th January, 1948

Your Excellency,

I have the honour to acknowledge the receipt of your note of today's date, in which you informed me that the Chinese Government approve of the provisions annexed thereto with regard to the arrangements for the prevention of smuggling between Hong Kong and Chinese ports, and I have the honour to inform Your Excellency that His Majesty's Government in the United Kingdom likewise approve of the said provisions the text of which is annexed hereto.

With regard to the proposal contained in the second paragraph of Your Excellency's note, I have the honour to add that His Majesty's Government in the United Kingdom consider that note together with the present reply as constituting an agreement between the two Governments.

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

(Signed) Ralph Skrine STEVENSON

His Excellency Dr. Wang Shih-chieh
Minister for Foreign Affairs
Nanking

A N N E X

1. The Government of Hong Kong (hereinafter called "the Government") will submit to the Legislative Council of Hong Kong legislation the objects of which shall be to restrict the loading of goods intended to be exported to China as follows:—

- (a) Loading of vessels of two hundred net registered tons and upwards shall be restricted to any point within the Port of Victoria;

- (b) Loading of vessels of less than two hundred net registered tons shall be restricted to either the Junk Anchorage at West Point (being the Anchorage defined in Part I of Table S of the Regulations made under the Merchant Shipping Ordinance, 1899), such portion of the Yaumati Typhoon Shelter as the Harbour Master of Hong Kong may direct, or the Port of Taipo;
- (c) Anything hereinbefore contained in this paragraph notwithstanding the Harbour Master in his discretion shall have the right to permit any vessel to load elsewhere in Hong Kong waters and in any case in which such permission is given by him he shall as soon as may be so inform the Chinese Maritime Customs (hereinafter called "the Customs") and the Customs shall have the liberty in any such case by tally to check the loading of any goods in respect of which the exporter proposes to pay or has requested the assessment in Hong Kong of customs duty which would, upon importation into China of any commodity, become payable to the Customs (hereinafter called "Chinese duty").

2. The Customs shall be at liberty to establish within Hong Kong centres at which Chinese duty may be paid or assessed in advance in respect of commodities about to be exported to China. Payment or assessment of Chinese duty at any centre so established shall be entirely at the option of the intended exporter of the goods concerned and the Customs will take every care to ensure that this fact is known to any such intended exporter. The Customs will supply any person so paying Chinese duty in Hong Kong with such documents and will take such action within its own organisation as will ensure that the goods concerned are released with a minimum of delay upon arrival at their port of destination in China. The Customs will be at liberty to establish inspection centres as provided in this paragraph in such premises as it may be able to arrange adjacent to the Shelter and Anchorage mentioned in sub-paragraph (b) of paragraph 1, and at such centres and at such other centres as may be agreed to inspect goods in respect of which the exporter proposes to pay or has requested the assessment of Chinese duty in Hong Kong. The Customs shall be at liberty to maintain, for the purpose only of checking the loading of goods in respect of which Chinese duty has been paid or assessed in Hong Kong, a staff of checkers at the Shelter and Anchorage aforesaid, which shall not, without the prior permission in writing of His Excellency the Governor of Hong Kong, exceed a total of forty persons together with a reasonable number of foremen, as may be approved by His Excellency the Governor of Hong Kong. In addition the Customs may maintain for the purpose of checking loads into vessels of two hundred net registered tons and upwards of goods in respect of which Chinese duty has been paid or assessed in Hong Kong such reasonable number of checkers and foremen as may be approved by His Excellency the Governor of Hong Kong. Checkers and foremen will be at liberty to go on board any vessel where necessary for the purpose aforesaid but their duties shall be in the nature of tallying only and shall be carried

out in such manner as not to interfere with or hinder the loading of cargo; and more detailed examination must be made in the Customs' centres when duty is being assessed. Every person engaged in checking cargo on behalf of the Customs shall be provided with an identification card to which shall be annexed his photograph, such card to be authenticated by the signature of the local Commissioner of Customs or his Deputy. Nothing in this agreement shall be construed as authorizing any officer or other employee of the Customs to enter upon any private premises without the consent of the owner thereof.

3. The Government will instruct the Harbour Master to assist the Customs as far as possible by refusing clearance of vessels from Hong Kong for any port in China save those ports on a list to be agreed to between the Customs and the Harbour Master, but such instructions shall be discretionary only and may be varied or revoked at any time either generally or in specific instances. Where sufficient evidence is forthcoming that vessels which were cleared from Hong Kong for a port in China failed without sufficient justification to proceed to such port, proceedings for penalty will be normally instituted when such vessel returns to Hong Kong. Vessels of less than two hundred net registered tons clearing from Hong Kong for a port in China will be advised, unless the Customs otherwise requests, to call at one of the Chinese Customs' inland stations in the vicinity of Hong Kong. Such legislation as may be necessary for the carrying into effect of this paragraph will be submitted by the Government to the Legislative Council of Hong Kong in due course.

4. The Government hereby grants to the Customs liberty to enter upon and patrol those areas in Hong Kong waters described in the Schedule appended hereto (hereinafter called "prohibitive areas") and therein to stop any vessel for the purpose of examining her papers; if it is found that any such vessel which is carrying cargo has not been duly cleared from a port in Hong Kong the Customs shall, unless such vessel is allowed to proceed on her voyage, place such vessel in the custody of the nearest or most convenient Hong Kong authority. The Government will submit to the Legislative Council of Hong Kong legislation necessary for the purpose of giving effect to this paragraph including the prohibition of the entry into a prohibitive area of any cargo-carrying vessel which has not been duly cleared from a port in Hong Kong. Nothing in this paragraph shall be deemed to impose upon the Government any liability to concede to the Customs any right of search, confiscation, deten-

tion or fine or any right which it would be a breach of international law for the Government to concede or the Customs to exercise.

5. The Government will from time to time consider the question of prohibiting the use for the purpose of carrying cargo of vessels licensed as Class IV under Table T of the Regulations under the Merchant Shipping Ordinance, 1899, having regard to the needs of Hong Kong and the services rendered to Hong Kong by such vessels as cargo-carriers.

6. The Government will consider what measures may be practicable for directing that export of goods from Hong Kong to China across the northern land frontier shall take place only at Sha Tau Kok, at a point opposite Ling Tong, at the point where the Kowloon-Canton road crosses the frontier and at Lowu railway bridge and at any other points which may be agreed upon and towards the hindrance or prevention of exports at other points on such frontier.

7. Nothing in these provisions shall apply to goods which are intended to be exported to China by air; no officer shall be stationed by the Customs at Kai Tak Aerodrome and the officer at present stationed there shall be withdrawn.

8. The Customs and the Superintendent of Imports & Exports of Hong Kong will each of them supply to the other any information which they may respectively acquire which, in their respective opinions, might be of assistance to the other in the prevention and detection of the smuggling of narcotics and dutiable commodities, or of the exportation or importation, as the case may be, of prohibited exports or imports.

9. Customs arrangements in respect of goods being transported on the Kowloon-Canton railway shall as heretofore be the subject of agreement between the Government and the Ministry of Communications of the Republic of China but payment in Hong Kong of duty due to the Customs shall by the terms of any such agreement remain optional except insofar as assistance may lawfully be given to the Customs by virtue of any Ordinance, rules or other laws relating to the said Railway for the time being in force in Hong Kong, or by contractual stipulation.

10. During the continuance of this agreement the person from time to time appointed to the office of Commissioner of the Chinese Maritime Customs in Hong Kong (and also all Departmental Commissioners in Hong Kong) shall be of British nationality and shall be persons acceptable to the Government.

11. In this agreement the word "vessel" shall include junks, lighters, boats and craft of any kind which are capable of being used for the purpose of carrying cargo.

12. This agreement shall come into force at a date, not later than 20th January, 1948, to be determined and notified by His Excellency the Governor of Hong Kong and shall remain in force for the space of one year from the commencement thereof. Thereafter it shall continue in force until three calendar months after written notice of termination shall have been given by one contracting Government to the other.

THE SCHEDULE

1. Deep Bay Area: That part of the waters of Deep Bay bounded on the North by the shores of that bay and on the South by a line drawn from a point 225° distant 1.5 miles from South West Point to a point where the frontier line meets the shore of Deep Bay as the same is delineated on the plan annexed hereto.¹

2. Mirs Bay Area: The waters of Starling Inlet and that part of the waters of Mirs Bay lying between the shores of Mirs Bay on the North and East and a line commencing at the northernmost point of Robinson Island, and thence to a point 000° distant 0.5 miles from the commencing point, thence 086° to a point 270° distant 1.0 miles from Albion Point, thence 126° to a point 063° 0.8 miles from the easternmost point of Ping Chau Island, thence 180° to a point 270° distant 2.7 miles from Mirs Point, thence 135° to a point where this line meets the eastern limits of Hong Kong waters as the same is delineated on the plan annexed hereto.¹

¹ See insert following this page.