

No. 215

**CHINA
and
FRANCE**

**Treaty for the relinquishment by France of extra-territorial
and related rights in China. Signed at Chungking, on
28 February 1946**

*Chinese and French official texts communicated by the Director of the Office
of the Permanent Chinese Delegation to the United Nations. The registra-
tion took place on 5 April 1948.*

**CHINE
et
FRANCE**

**Traité de renonciation à l'exterritorialité en Chine et aux
droits y relatifs. Signé à Tchoungking, le 28 février 1946**

*Textes officiels chinois et français communiqués par le Directeur du bureau de
la délégation permanente chinoise auprès de l'Organisation des Nations
Unies. L'enregistrement a eu lieu le 5 avril 1948.*

TRANSLATION — TRADUCTION

No. 215. TREATY¹ BETWEEN CHINA AND FRANCE FOR THE RELINQUISHMENT BY FRANCE OF EXTRA-TERRITORIAL AND RELATED RIGHTS IN CHINA. SIGNED AT CHUNGKING, ON 28 FEBRUARY 1946

The National Government of the Republic of China
and

The Provisional Government of the French Republic,

equally desirous of strengthening the ties of friendship which have long prevailed between the two countries and recognizing the need, as equal and sovereign States, for the adjustment of certain matters relating to jurisdiction in China, have resolved to conclude a treaty for this purpose and have appointed as their Plenipotentiaries:

The National Government of the Republic of China

His Excellency Dr. WANG SHIH-CHIEH, Minister for Foreign Affairs of the Republic of China,

and

The Government of the French Republic

His Excellency Mr. Jacques MEYRIER, Ambassador Extraordinary and Plenipotentiary of the French Republic to China,

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

Article 1

1. The territories of the High Contracting Parties to which the present Treaty applies are, on the part of the National Government of the Republic of China, all the territories of the Republic of China; and, on the part of the Government of the French Republic, metropolitan France, Algeria, all French colonies and protectorates overseas, and all territories placed under the mandate of France. 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 all the territories of that High Contracting Party to which the present Treaty applies.

¹ Came into force on 8 June 1946, upon the exchange of the instruments of ratification at Nanking, in accordance with article 13.

2. 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 nationals of the Republic of China; and, in relation to the Government of the French Republic, all French citizens and subjects and all French administered and protected persons belonging to the territories to which the present Treaty applies.

3. The expression “companies of the one or of the other High Contracting Party” shall in the application of the present Treaty be interpreted as meaning companies or associations constituted under the laws of the territories of the High Contracting Party to which the present Treaty applies.

Article 2

All those provisions of treaties or agreements in force between China and France which authorize the French Government or its representatives to exercise jurisdiction over French companies or French nationals in the territories of the Republic of China are hereby abrogated. French companies and nationals shall be subject in China to the jurisdiction of the National Government of the Republic of China in accordance with the principles of international law.

Article 3

1. The Government of the French Republic considers that the Final Protocol concluded at Peking on 7 September 1901¹ between the Chinese Government and other Governments, including the Government of the French Republic, has lapsed in so far as it concerns the French Government.

The Government of the French Republic relinquishes all the rights accorded to it under that Protocol and the agreements supplementary thereto.

2. The Government of the French Republic 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 National Government of the Republic of China of the administration and control of the diplomatic quarter at Peiping, including the official assets and obligations of the diplomatic quarter, it being mutually agreed that the National Government of the Republic of China, in taking over administration and control of the diplomatic quarter, will assume the official obligations and liabilities of the diplomatic quarter and will protect all legitimate rights therein.

¹ De Martens, *Nouveau Recueil général de Traités*, deuxième série, tome XXXII, page 94.

3. The National Government of the Republic of China shall accord to the Government of the French Republic a continued right to use for official purposes the plots of land which have been allocated to the Government of the French Republic in the diplomatic quarter in Peiping.

Article 4

1. The Government of the French Republic considers that the International Settlements at Shanghai and Amoy should, in so far as they concern the French Government, revert to the administration and control of the Government of the Republic of China, and hereby relinquishes the rights accorded to it in relation to those International Settlements.

2. The Government of the French Republic shall 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 National Government of the Republic of China, in taking over administration and control of those Settlements, will assume the official obligations and liabilities of those Settlements and will protect all legitimate rights therein.

3. The Government of the French Republic relinquishes the rights over the French Concessions at Shanghai (including the two extensions), at Tientsin (including the district of Laosikai), at Hankow and at Canton, and agrees that those Concessions shall be placed under the exclusive authority of the National Government of the Republic of China, it being agreed that the National Government of the Republic of China will assume the official obligations and liabilities of those Concessions and will protect all legitimate rights therein.

Article 5

1. To obviate any questions as to the existing rights and titles to real property in the territories of the Republic of China possessed by French companies or nationals or by the Government of the French Republic, 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 agreed 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 such rights or titles shall not be alienated to the Government or nationals or companies of any third country without the express consent of the National Government of the Republic of China.

2. The High Contracting Parties also agree that, if it should be the desire of the National 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 French companies or nationals or by the Government of the French Republic, 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 documentary evidence, and their legal heirs and assigns without diminution of their prior rights and interests, including the right of alienation.

3. The High Contracting Parties agree further that French companies or nationals or the Government of the French Republic shall not be required or asked by the Chinese authorities to make any payments of fees in connexion with land transfers for or in relation to any period prior to the effective date of this Treaty.

Article 6

1. The Government of the French Republic, having long accorded rights to nationals of the Republic of China to travel, reside and carry on commerce within all the territories of the French Republic, the National Government of the Republic of China agrees to accord similar rights to French nationals within all the territories of the Republic of China.

2. Each High Contracting Party will endeavor 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 dues 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 either High Contracting Party shall have the right within their consular districts to communicate with, interview and to advise their nationals, and the nationals of the two countries shall have the right at all times to communicate with their consular officers. The consular offices of one and the other High Contracting Parties 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, in prison or awaiting trial. Communications from the nationals of one High Contracting Party in prison in the territories of the other High Contracting Party addressed to their consular officers shall be forwarded to such officers by the local authorities. Consular officers of one High Contracting Party shall be accorded in the territories of the other High Contracting Party all the privileges and immunities enjoyed by consular officers under modern international usage.

Article 8

1. The High Contracting Parties shall enter into negotiations for the conclusion of a comprehensive modern treaty or treaties of friendship, commerce and navigation and a consular convention and convention of establishment upon the request of either of the High Contracting Parties. The treaty or treaties to be thus negotiated will be based upon the principles of modern international law, international usages and the modern treaties which each of the High Contracting Parties has respectively concluded with other Powers in recent years.

2. Pending the conclusion of the comprehensive treaty or treaties referred to in the preceding paragraph, if any questions affecting the rights in the territories of the Republic of China of French companies or nationals, or of the Government of the French Republic, should arise in the future and if these questions are not covered by the present Treaty 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, such questions shall be discussed by the representative of the High Contracting Parties and shall be decided upon in accordance with generally accepted principles of international law and with modern international practice.

Article 9

With respect to article 2 and article 8, paragraph 2, of the present Treaty, it is agreed that:

1. The Government of the French Republic relinquishes all the rights held under former treaties relating to the system of Treaty Ports in China. The National Government of the Republic of China and the Government of the French Republic agree that merchant vessels of the one High Contracting Party shall be permitted freely to come to ports, roadsteads and waters in 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 present Treaty applies.

2. The Government of the French Republic relinquishes all the rights held under former treaties relating to the special courts in the International Settlements at Shanghai and Amoy and in the French Concession at Shanghai.

3. The Government of the French Republic relinquishes all rights held under former treaties with regard to the employment of foreign pilots in the ports of the territories of the Republic of China.

4. The Government of the French Republic relinquishes all rights held under former treaties relating to the entry of its naval vessels into the territorial waters of the Republic of China; and the National Government of the Republic of China and the Government of the French Republic 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.

5. The Government of the French Republic relinquishes the right to claim the appointment of French citizens in the Chinese Postal Service.

6. All the courts of the Government of the French Republic which have hitherto been sitting in the territories of the Republic of China shall be closed in accordance with article 2 of the present Treaty, and the orders, writs, judgments and other acts of all the French 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 the courts of the Government of the French Republic at the time of the coming into effect of the present Treaty shall, if the plaintiff or petitioner so desires, be transferred to the appropriate Chinese courts which shall proceed to dispose of them as expeditiously as possible and in so doing shall apply the law which the French courts would have applied.

7. The Government of the French Republic relinquishes the special rights which its vessels have been accorded with regard to coasting trade and inland navigation in the waters of the Republic of China, and the National Government of the Republic of China is prepared to take over any properties of French companies or nationals which have been used for the purposes of those trades and which the owners may wish to dispose of and to pay adequate compensation therefor. Should one High Contracting Party accord in any of its 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 its 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.

Article 10

With regard to the last sentence of article 5, paragraph 1, of the present Treaty, the National Government of the Republic of China declares that the restriction of 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 an equitable manner and that, if the Chinese Government declines 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 French nationals or French companies whose interests are affected, undertake, if so requested by such nationals or companies, to take over the rights and titles in question and pay adequate compensation therefor.

Article 11

It is agreed that the abolition of the system of 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 the High Contracting Party.

Article 12

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

Article 13

The present Treaty, of which the Chinese and French texts are equally authentic, shall be ratified and the instruments of ratification shall be exchanged at Chungking or at Nanking as soon as possible. The Treaty shall come into force on the date of the exchange of ratifications.

IN FAITH WHEREOF, the above-mentioned Plenipotentiaries have signed the present Treaty and affixed thereto their seals.

DONE at Chungking in duplicate this twenty-eighth day of the second month of the thirty-fifth year of the Republic of China, corresponding to 28 February 1946.

(Signed) WANG SHIH-CHIEH

(Signed) J. MEYRIER