

No. 218

**CHINA
and
SWITZERLAND**

Exchange of Notes on the renunciation by Switzerland of her rights to exercise consular jurisdiction in China and the special rights appertaining thereto. Berne, 13 March 1946

French official text communicated by the Director of the Office of the Permanent Chinese Delegation to the United Nations. The registration took place on 5 April 1948.

**CHINE
et
SUISSE**

Echange de notes relatif à la renonciation par la Suisse à ses droits d'exercer la juridiction consulaire en Chine et aux droits spéciaux y afférents. Berne, 13 mars 1946

Texte officiel français communiqué 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. 218. EXCHANGE OF NOTES¹ BETWEEN CHINA AND SWITZERLAND ON THE RENUNCIATION BY SWITZERLAND OF HER RIGHTS TO EXERCISE CONSULAR JURISDICTION IN CHINA AND THE SPECIAL RIGHTS APPERTAINING THERETO. BERNE, 13 MARCH 1946

I

Mr. Max Petitpierre, Head of the Federal Political Department, to Mr. Lone Liang, Chinese Minister in Switzerland

Berne, 13 March 1946

Sir,

I have the honour to inform Your Excellency that the Swiss Federal Council, desirous of strengthening the traditional bonds of friendship which so happily exist between the Swiss Confederation and the Republic of China, has decided to renounce its rights of exercising consular jurisdiction in China and the special rights appertaining thereto, and proposes to conclude for that purpose an agreement in the following terms:

I. The Declaration annexed to the Treaty of Friendship, concluded between the Swiss Confederation and the Republic of China on 13 June 1918,² is abrogated from this day and all rights granted to the Swiss Confederation and its nationals by virtue of that Declaration shall be terminated.

Swiss nationals (including companies and associations) in Chinese territory shall be subject to the jurisdiction of the Courts of the Republic of China in accordance with the principles of international law and the following conditions:

- (1) The orders, writs, decisions and judgments and other acts issued by Swiss consular representatives in China by virtue of consular jurisdiction are and shall be considered *res judicata* and shall if necessary be enforced by the Chinese authorities. Any cases at present pending before the Swiss Consular Court in China shall, if the plaintiff or petitioner so desires, be remitted

¹ Came into force on 13 March 1946 by the exchange of the said notes.

² De Martens, *Nouveau Recueil général de Traités*, tome XIV, page 643.

to the Chinese judiciary authorities, who shall proceed as expeditiously as possible with their disposition, and in so doing shall, in so far as practicable, apply the provisions of Swiss law.

- (2) With regard to existing rights in respect of real property in Chinese territory acquired by Swiss nationals (including companies and associations) and the Swiss Government, it is agreed that the holders of those rights and the titles thereto appertaining shall enjoy (in China) the same treatment and be subject to the same provisions as those provided for the nationals, companies and associations of other countries which have at any time after 11 January 1943 concluded a treaty for the abolition of extra-territorial rights with the Government of the Republic of China.

II. Pending the conclusion of a treaty of establishment and commerce between the two countries, the nationals (including companies and associations) of each of the contracting parties shall enjoy, throughout the territory of the other, the same rights and privileges which are or may be granted to the nationals of the most-favoured nation, in particular with regard to the right to travel, reside and carry on trade, to sue and be sued before a court of law, and in fiscal matters. This treatment shall be enjoyed subject to the reciprocal granting of the same rights and privileges by each of the two contracting countries; with regard to China, the said treatment is that which results from the treaties concluded by the Government of the Republic of China with other Governments at any time after 11 January 1943.

As soon as you have been kind enough to confirm that your Government accepts the above proposals, the Federal Council will consider this agreement as complete and effective from the date of the exchange of the present notes.

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

(Signed) Max PETITPIERRE

His Excellency Mr. Lone Liang
Chinese Minister in Switzerland
Berne

II

Mr. Lone Liang, Chinese Minister in Switzerland, to Mr. Max Petitpierre, Head of the Federal Political Department

Berne, 13 March 1946

Sir,

I have the honour to acknowledge receipt of Your Excellency's note of today's date, reading as follows:

[*See note I*]

On instructions from my Government and on its behalf, I have the honour to inform you that it accepts the proposals contained in Your Excellency's note, which with the present note shall be considered as forming an agreement between the Government of the Republic of China and the Government of the Swiss Confederation on this subject.

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

(*Signed*) LONE LIANG

His Excellency Mr. Max Petitpierre
Federal Counsellor
Head of the Federal Political Department
Berne

AIDE-MEMOIRE

In connexion with the notes exchanged this day, which form the renunciation by Switzerland of her extraterritorial rights in China, the Federal Council hopes that the Chinese Government will examine by common assent in a friendly spirit and in conformity with the principles of international law, such questions peculiar to the position of Swiss nationals, companies and associations in China as the Political Department may be led to raise pending the conclusion of a treaty of establishment and commerce between the two countries.

Berne, 13 March 1946