

No. 95

CHINA
and
BELGO-LUXEMBOURG ECONOMIC UNION

Treaty concerning the abolition of the extra-territoriality rights in China and the settlement of questions relating thereto. Signed at Chungking, on 20 October 1943

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

CHINE
et
UNION ECONOMIQUE BELGO-LUXEMBOURGEOISE

Traité relatif à l'abolition des droits d'extraterritorialité en Chine et au règlement des questions s'y rapportant. Signé à Tchoungking, le 20 octobre 1943

Textes officiels chinois et français communiqués par le Directeur du bureau de la délégation permanente chinoise auprès de l'Organisation des Nations Unies. Le classement et l'inscription au répertoire ont eu lieu le 5 avril 1948.

TRANSLATION — TRADUCTION

No. 95. TREATY¹ BETWEEN THE REPUBLIC OF CHINA AND THE BELGO-LUXEMBOURG ECONOMIC UNION CONCERNING THE ABOLITION OF EXTRA-TERRITORIAL RIGHTS IN CHINA AND THE SETTLEMENT OF QUESTIONS RELATING THERETO. SIGNED AT CHUNGKING, ON 20 OCTOBER 1943

The National Government of the Republic of China and the Government of His Majesty the King of the Belgians, acting on its own behalf and on behalf of the Government of Her Royal Highness and Grand Duchess of Luxembourg, in virtue of existing agreements, being desirous of completing the treaty of 22 November 1928² and strengthening the ties of friendship which already so happily exist between them and their respective peoples, have resolved to conclude a treaty based on the principles of equality and reciprocity and to that end, have appointed as their plenipotentiaries:

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

His Excellency Dr. Tse-Vung Soong, Minister for Foreign Affairs of the Republic of China;

The Council of Ministers of Belgium:

His Excellency Baron Jules Guillaume, Ambassador of His Majesty the King of the Belgians:

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

Article I

All the provisions of the treaties, agreements or exchanges of notes in force between the two High Contracting Parties which authorize the Belgian Government and the Luxembourg Government or their representatives to exercise jurisdiction over Belgian and Luxembourg nationals or companies in the territory of the Republic of China are hereby abrogated. Belgian and Luxembourg nationals and companies shall be subject, in the territory of the Republic of China, to the jurisdiction of the National Government of the Republic of China in accordance with the principles of international law and practice.

¹ Came into force on 1 June 1945, by the exchange of the instruments of ratification at Chungking, in accordance with article XIV.

² De Martens, *Nouveau Recueil général de Traités, troisième série*, tome XXIII, page 360.

Article II

The Belgian Government considers that the final protocol concluded at Peking on 7 September 1901¹ between the Chinese Government and other Governments, including the Belgian Government, should be terminated and agrees that the rights accorded to the Belgian Government under that protocol and under the agreements supplementary thereto shall cease.

The Belgian Government will co-operate with the National Government of the Republic of China for the conclusion 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 the official obligations of the diplomatic quarter, it being agreed that the National Government of the Republic of China, in taking over administration and control of the diplomatic quarter, shall assume and discharge the official obligations of the diplomatic quarter and recognize and protect all existing legitimate rights therein.

The National Government of the Republic of China shall accord to the Belgian Government a continued right to use for official purposes the land which has been allocated to the Belgian Government in the diplomatic quarter in Peiping, on a part of which are located buildings belonging to the Belgian Government.

Article III

The Belgian Government, on its own behalf and on behalf of the Luxembourg Government, considers that the International Settlements at Shanghai and Amoy should revert to the administration and control of the National Government of the Republic of China and agrees that the rights accorded to the Belgian and Luxembourg Governments in relation to those Settlements shall cease.

The Belgian Government, on its own behalf and on behalf of the Luxembourg Government, will co-operate, if necessary, in any legally required agreements for the transfer to the National Government of the Republic of China of the administration and control of the Settlements, including the official assets and official obligations of the Settlements, it being agreed that the National Government of the Republic of China, in taking over administration and control shall assume and discharge the official obligations of the Settlements and recognize and protect all the legitimate rights therein of Belgian and Luxembourg nationals or companies.

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

Article IV

In order to obviate any questions as to existing rights or titles possessed by Belgian and Luxembourg nationals, companies and institutions or by the Belgian and Luxembourg Governments in respect of real property in the territory of the Republic of China and, in particular, questions which might arise from the abrogation of provisions of treaties, agreements and exchanges of notes provided for in article I 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 a right or title shall not 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 no such rights or titles may be alienated to the Government or nationals, companies or institutions of any third country without the express consent of the National Government of the Republic of China.

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 at present in existence relating to real property held by Belgian and Luxembourg nationals, companies or institutions, 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.

The High Contracting Parties agree further that neither Belgian and Luxembourg nationals, companies or institutions nor the Belgian and Luxembourg Governments shall be required by the Chinese authorities to make any payments of fees in connexion with land transfers for or with relation to any period prior to the effective date of this treaty.

The National Government of the Republic of China declares that the restrictions on the right of alienation of existing rights and titles, possessed by Belgian and Luxembourg nationals, companies and institutions, to real property in the territory of the Republic of China will be applied by the Chinese authorities equitably and in a spirit of justice and that, if the Chinese Government declines to assent to a proposed transfer, that Government will, in a spirit of justice and

with a view to precluding loss on the part of the nationals, companies or institutions concerned, undertake, if so requested by the Belgian and Luxembourg nationals, companies or institutions whose interests are affected, to take over the rights and titles in question and pay adequate compensation therefor.

Article V

Nationals of each of the High Contracting Parties are free to enter and leave the territory of the other High Contracting Party under the same conditions as the nationals of any third country.

Each of the High Contracting Parties shall accord to the nationals of the other the right to travel, reside and carry on commerce within the extent of its territory.

The Belgian and Luxembourg Governments having long accorded to Chinese nationals and companies within their territories treatment not less favourable than that accorded to their own nationals and companies in regard to all legal proceedings and in matters relating to the administration of justice and the levying of taxes and requirements in connexion therewith, the Chinese Government agrees likewise to accord in these matters, on a basis of reciprocity, to Belgian and Luxembourg nationals and companies within its territory treatment not less favourable than that accorded to its own nationals and companies.

Article VI

The High Contracting Parties mutually agree that 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 territory of the other as may be jointly agreed upon. The consular officers of each High Contracting Party shall have the right within the respective limits of their districts to interview, question, communicate with and advise their nationals. They shall be immediately informed when any of their nationals in their consular districts are detained, arrested, in prison or awaiting trial, and, upon notifying the appropriate authorities, they shall be permitted to visit them; and, in general, the consular officers of each of the High Contracting Parties shall have the rights, privileges and immunities enjoyed by consular officers under modern international usage.

It is likewise agreed that the nationals of each of the High Contracting Parties, in the territory of the other, shall have the right at all times to communicate with the consular officers of their own country. Communications

addressed to consular officers by nationals of one of the High Contracting Parties who are detained, arrested, in prison, or awaiting trial within the territory of the other shall be forwarded to the consular officers of the former High Contracting Party by the local authorities.

Article VII

The High Contracting Parties will enter into negotiations for the conclusion of a comprehensive modern treaty of friendship, commerce, navigation and consular rights within six months after the cessation of hostilities in the war against the common enemies in which they are now engaged. Any treaty to be thus negotiated will be based upon the principles of international law as incorporated in the modern treaties concluded by each of the High Contracting Parties with other Powers.

Article VIII

As a corollary to the abolition of the system of Treaty Ports it is agreed that all coastal ports in the territory of the Republic of China which are normally open to Belgian overseas merchant shipping shall remain open to such shipping after the entry into force of the present treaty.

It is agreed that the merchant vessels of each High Contracting Party shall be permitted freely to enter into ports, roadsteads and waters within the territories of the other Contracting Party which are or may be opened to overseas merchant shipping and that the treatment accorded to such vessels in such ports, roadsteads 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 that Party.

Article IX

It is agreed that the two High Contracting Parties reserve the right to close any port to shipping for reasons of national security.

Article X

It is agreed that the Belgian Government relinquishes the special rights which Belgian vessels have enjoyed with regard to coasting trade and inland navigation in the territorial waters of the Republic of China and that the National Government of the Republic of China is prepared to take over any

Belgian properties which have been used for the purpose of those trades and to pay adequate compensation therefor. Should one High Contracting Party accord the right of coasting trade or inland navigation to the vessels of a third country such right would similarly be accorded to the vessels of the other High Contracting Party. Coasting trade and inland navigation are excepted from the requirement of national treatment and are to be subject to the laws and regulations of the High Contracting Party in whose territorial waters they take place. It is agreed, however, that the vessels of each Contracting Party shall enjoy within the territory of the other with regard to coasting trade and inland navigation treatment as favourable as that accorded to the vessels of any third country.

Article XI

It is agreed that the abolition of the system of the Treaty Ports shall not affect existing property rights and that the nationals of each High Contracting Party shall enjoy the right to acquire and hold real property throughout the territory of the other High Contracting Party in accordance with the conditions and requirements prescribed in the laws and regulations of the latter Party.

Article XII

The High Contracting Parties agree that the orders, judgments, decisions and other acts of the Belgian Consular Courts in the Republic of China shall be considered as *res judicata*, and shall, if necessary, be enforced by the Chinese authorities. The High Contracting Parties agree likewise that cases pending before the Belgian Consular Courts in the Republic of China at the time of the coming into force of the present treaty shall, if the plaintiff or the petitioner so desires, be referred to the appropriate court of the Republic of China which shall proceed to dispose of them as expeditiously as possible, and in so doing shall so far as practicable apply Belgian law.

Article XIII

The High Contracting Parties agree that all questions which may affect the sovereignty of the Republic of China and which are not covered by the present treaty shall be discussed and decided by the representatives of the High Contracting Parties in accordance with the generally accepted principles of international law and modern international practice.

Article XIV

The present treaty shall be ratified and the ratifications exchanged at Chungking as soon as possible. It shall enter into force on the date of the exchange of ratifications.

IN WITNESS WHEREOF the above-mentioned plenipotentiaries have signed the present treaty and have affixed thereto their seals.

DONE at Chungking this twentieth day of the tenth month of the thirty-second year of the Republic of China, corresponding to the twentieth day of October 1943, in duplicate in Chinese and French, the two texts being equally authentic.

(Signed) TSE-VUNG SOONG (Signed) Baron Jules GUILLAUME
