

No. 97

**CHINA
and
CANADA**

**Treaty for the relinquishment of extra-territorial rights in
China and the regulation of related matters (with Ex-
change of Notes). Signed at Ottawa, on 14 April 1944**

*Chinese and English 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
CANADA**

**Traité concernant la renonciation aux droits d'extraterritorialité
en Chine et le règlement de questions connexes (accom-
pagné d'un échange de notes). Signé à Ottawa, le 14 avril
1944**

*Textes officiels chinois et anglais 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.*

No. 97. SINO-CANADIAN TREATY¹ FOR THE RELINQUISHMENT OF EXTRA-TERRITORIAL RIGHTS IN CHINA AND THE REGULATION OF RELATED MATTERS. SIGNED AT OTTAWA ON 14 APRIL, 1944

His Excellency the President of the National Government of the Republic of China and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, in respect of Canada;

Desiring to promote a spirit of friendship in the general relations between China and Canada, and for this purpose to adjust certain matters in the relations of the two countries;

Have decided to conclude a Treaty for this purpose, 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. Liu Shih Shun, Ambassador Extraordinary and Plenipotentiary of the Republic of China to Canada; and

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, for Canada:

The Right Honourable W. L. Mackenzie King, Prime Minister, President of the Privy Council and Secretary of State for External Affairs of Canada;

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

Article I

In the present Treaty the expression "companies" shall be interpreted as meaning limited liability and other companies, partnerships and associations constituted under the laws of the Republic of China or of Canada as the case may be.

¹ Came into force on 3 April 1945, upon the exchange of the instruments of ratification at Chungking, in accordance with article IX.

Article II

All provisions of treaties or agreements in force between China and Canada, which authorize any Canadian or British authority to exercise jurisdiction in China over Canadian nationals or companies are hereby abrogated. Canadian nationals and companies shall be subject in China to the jurisdiction of the Government of the Republic of China, in accordance with the principles of international law and practice.

Article III

The Government of Canada will cooperate, to the extent that any Canadian interest may be involved, with the Government of the Republic of China in negotiations and arrangements for the abandonment by foreign Governments of special privileges held by them in Peiping, Shanghai, Amoy, Tientsin and Canton, and will raise no objection to any measures which may be directed to the abolition of such special privileges.

Article IV

(1) Article II of the present Treaty shall not affect existing rights in respect of, or existing titles to, real property in China held by Canadian nationals or companies. Such existing rights and titles shall be indefeasible except upon proof, established through due process of law, that such rights or titles have been acquired by fraud or by fraudulent or dishonest practices, 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 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 (including companies) of any third country without the express consent of the Government of the Republic of China. And it is further agreed that the restriction on the right of alienation of existing rights and titles to real property referred to in this Article will be applied by the Chinese authorities in an equitable manner and that if, and when, the Government of the Republic of China declines to give assent to a proposed transfer, the Government of the Republic of China will, in a spirit of justice and with a view to precluding loss on the part of the nationals or companies whose interests are affected, undertake, if so requested by the nationals or companies to whom permission to alienate has been refused, to take over the rights and titles in question and to pay adequate compensation therefor.

(2) Should the Government of the Republic of China desire to replace by new and appropriate deeds existing documentary evidence relating to real property held by Canadian nationals or companies, the new deeds shall fully protect the prior rights and interests of the Canadian nationals or companies, and their legal heirs, successors or assigns.

(3) Canadian nationals or companies shall not be required 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 day of coming into force of the present Treaty.

Article V

The Government of Canada having long accorded rights to nationals of the Republic of China within the territory of Canada to travel, reside and carry on trade throughout the whole extent of that territory, the Government of the Republic of China agrees to accord similar rights to Canadian nationals within the territory of the Republic of China. Each of the two Governments will endeavour to accord in territory under its jurisdiction to nationals and companies of the other country in regard to all legal proceedings and in matters relating to the administration of justice, and to the levying of taxes or requirements in connection therewith, treatment not less favourable than that accorded to its own nationals and companies.

Article VI

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

It is likewise agreed that the nationals or companies 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 country. Communications to their consular officers from nationals of each of the High Contracting Parties 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 such consular officers by the local authorities.

Article VII

(1) The High Contracting Parties agree that they 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 will 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 Governments has 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 territory of the Republic of China of the Canadian Government or of Canadian nationals or companies should arise in future and if these questions are not covered by the present Treaty and annexed exchange of notes or by the provisions of the existing treaties, conventions and agreements between the Governments of the Republic of China and Canada which are not abrogated by or inconsistent with the present Treaty and annexed exchange of notes, such questions shall be discussed by 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 VIII

The High Contracting Parties agree that questions which may affect the sovereignty of the Republic of China and which are not covered by the present Treaty and annexed exchange of notes shall be discussed by representatives of the High Contracting Parties and decided in accordance with generally accepted principles of international law and 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 present Treaty shall come into force and be effective on the day of the exchange of ratifications.

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

DONE at Ottawa this fourteenth day of the fourth month of the thirty-third year of the Republic of China, corresponding to the fourteenth day of April, 1944, in duplicate in Chinese and English, both texts being equally authentic.

(Signed) LIU SHIH SHUN

(Signed) W. L. MACKENZIE KING

EXCHANGE OF NOTES

I

EMBASSY OF THE REPUBLIC OF CHINA

Ottawa, April 14, 1944

Sir:

In connection with the Treaty signed today between His Excellency the President of the National Government of the Republic of China and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, for Canada, I have the honour to state that it is the understanding of the National Government of the Republic of China that all rights and privileges relinquished by His Majesty the King, for the United Kingdom of Great Britain and Northern Ireland and India, as provided in the Treaty and exchange of notes of January 11, 1943,¹ between the Republic of China on the one hand and the United Kingdom of Great Britain and Northern Ireland and India on the other, have been similarly relinquished by His Majesty the King for Canada. This understanding, if confirmed by your Government, shall be considered as forming an integral part of the Treaty signed today and shall be considered to be effective upon the date of the entry into force of that Treaty. I should be glad if you would confirm the above understanding on behalf of the Government of Canada.

I avail myself of this opportunity to renew to you, Sir, the assurances of my highest consideration.

(Signed) LIU SHIH SHUN

The Secretary of State for External Affairs
Ottawa

¹ League of Nations, *Treaty Series*, Volume CCV, page 69.

II

Ottawa, April 14, 1944

Excellency:

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

[*See note I*]

I have the honour on behalf of the Government of Canada to confirm the understanding of the National Government of the Republic of China that all rights and privileges relinquished by His Majesty the King, for the United Kingdom of Great Britain and Northern Ireland and India, as provided in the Treaty and exchange of notes of January 11th, 1943, between the Republic of China on the one hand and the United Kingdom of Great Britain and Northern Ireland and India on the other, have been similarly relinquished by His Majesty the King for Canada.

This understanding shall be considered as forming an integral part of the Treaty signed today and shall be considered to be effective upon the date of the entry into force of that Treaty.

Accept, Excellency, the renewed assurances of my highest consideration.

(*Signed*) W. L. MACKENZIE KING
Secretary of State for External Affairs

His Excellency Dr. Liu Shih Shun
Ambassador of the Republic of China
Chinese Embassy
Ottawa