

UNITED STATES

TREATY BETWEEN THE UNITED STATES AND CHINA FOR THE EXTENSION
OF THE COMMERCIAL RELATIONS BETWEEN THEM

(Shanghai, October 8, 1903)

THE United States of America and His Majesty the Emperor of China, being animated by an earnest desire to extend further the commercial relations between them and otherwise to promote the interests of the peoples of the two countries, in view of the provisions of the first paragraph of Article XI of the final Protocol signed at Peking on the seventh day of September, A.D. 1901, whereby the Chinese Government agreed to negotiate the amendments deemed necessary by the foreign Governments to the treaties of commerce and navigation and other subjects concerning commercial relations, with the object of facilitating them, have for that purpose named as their Plenipotentiaries:—

The United States of America —

Edwin H. Conger, Envoy Extraordinary and Minister Plenipotentiary of the
United States of America —

John Goodnow, Consul-General of the United States of America at Shanghai —

John F. Seaman, a Citizen of the United States of America resident at Shanghai
—

And His Majesty the Emperor of China —

Lü Hai-huan, President of the Board of Public Works —

Sheng Hsüan-huai, Junior Guardian of the Heir Apparent. Formerly Senior
Vice-President of the Board of Public Works —

who, having met and duly exchanged their full powers which were found to be in proper form, have agreed upon the following amendments to existing treaties of commerce and navigation formerly concluded between the two countries, and upon the subjects hereinafter expressed connected with commercial relations, with the object of facilitating them.

ARTICLE I

In accordance with international usage, and as the diplomatic representative of China has the right to reside in the capital of the United States, and to enjoy there the same prerogatives, privileges and immunities as are enjoyed by the similar representative of the most favored nation, the diplomatic representative of the United States shall have the right to reside at the capital of His Majesty the Emperor of China. He shall be given audience of His Majesty the Emperor whenever necessary to present his letters of credence or any communication from the President of the United States. At all such times he shall be received in a place and in a manner befitting his high position, and on all such occasions the

ceremonial observed toward him shall be that observed toward the representatives of nations on a footing of equality, with no loss of prestige on the part of either.

The diplomatic representatives of the United States shall enjoy all the prerogatives, privileges and immunities accorded by international usage to such representatives, and shall in all respects be entitled to the treatment extended to similar representatives of the most favored nation.

The English text of all notes or dispatches from United States officials to Chinese officials, and the Chinese text of all from Chinese officials to United States officials shall be authoritative.

ARTICLE II

As China may appoint consular officers to reside in the United States and to enjoy there the same attributes, privileges and immunities as are enjoyed by consular officers of other nations, The United States may appoint, as its interests may require, consular officers to reside at the places in the Empire of China that are now or that may hereafter be opened to foreign residence and trade. They shall hold direct official intercourse and correspondence with the local officers of the Chinese Government within their consular districts, either personally or in writing as the case may require, on terms of equality and reciprocal respect. These officers shall be treated with due respect by all Chinese authorities, and they shall enjoy all the attributes, privileges and immunities, and exercise all the jurisdiction over their nationals which are or may hereafter be extended to similar officers of the nation the most favored in these respects. If the officers of either government are disrespectfully treated or aggrieved in any way by the authorities of the other, they shall have the right to make representation of the same to the superior officers of their own government who shall see that full inquiry and strict justice be had in the premises. And the said consular officers of either nation shall carefully avoid all acts of offense to the officers and people of the other nation.

On the arrival of a consul duly accredited at any place in China opened to foreign trade it shall be the duty of the Minister of the United States to inform the Board of Foreign Affairs, which shall, in accordance with international usage, forthwith cause the proper recognition of the said consul and grant him authority to act.

ARTICLE III

Citizens of the United States may frequent, reside and carry on trade, industries and manufactures, or pursue any lawful avocation, in all the ports or localities of China which are now open or may hereafter be opened to foreign residence and trade; and, within the suitable localities at those places which have been or may be set apart for the use and occupation of foreigners, they may rent or purchase houses, places of business and other buildings, and rent or lease in perpetuity land and build thereon. They shall generally enjoy as to their persons and property all such rights, privileges and immunities as are or may hereafter be granted to the subjects or citizens of the nation the most favored in these respects.

ARTICLE IV

The Chinese Government, recognizing that the existing system of levying dues on goods in transit, and especially the system of taxation known as *likin*, impedes the free circulation of commodities to the general injury of trade, hereby undertakes to abandon the levy of *likin* and all other transit dues throughout the Empire and to abolish the offices, stations and barriers maintained for their collection and not to establish other offices for levying dues on goods in transit. It is clearly understood that, after the offices, stations and barriers for taxing goods in transit have been abolished, no attempt shall be made to re-establish them in any form or any pretext whatsoever.

The Government of the United States, in return, consents to allow a surtax, in excess of the tariff rates for the time being in force, to be imposed on foreign goods imported by citizens of the United States and on Chinese produce destined for export abroad or coastwise. It is clearly understood that in no case shall the surtax on foreign imports exceed one and one-half times the import duty leviable in terms of the final Protocol signed by China and the Powers on the seventh day of September, A.D. 1901; that the payment of the import duty and surtax shall secure for foreign imports, whether in the hands of Chinese or foreigners, in original packages or otherwise, complete immunity from all other taxation, examination or delay; that the total amount of taxation, inclusive of the tariff export duty, leviable on native produce for export abroad shall, under no circumstances, exceed seven and one-half per centum *ad valorem*.

Nothing in this article is intended to interfere with the inherent right of China to levy such other taxes as are not in conflict with its provisions.

Keeping these fundamental principles in view, the High Contracting Parties have agreed upon the following method of procedure.

The Chinese Government undertakes that all offices, stations and barriers of whatsoever kind for collecting *likin*, duties, or such like dues on goods in transit, shall be permanently abolished on all roads, railways and waterways in the nineteen Provinces of China and the three Eastern Provinces. This provision does not apply to the native Customs offices at present in existence on the seaboard, at open ports where there are offices of the Imperial Maritime Customs, and on the land frontiers of China embracing the nineteen Provinces and the three Eastern Provinces.

Wherever there are offices of the Imperial Maritime Customs, or wherever such may be hereafter placed, native Customs offices may also be established, as well as at any point either on the seaboard or land frontiers.

The Government of the United States agrees that foreign goods on importation, in addition to the effective five per centum import duty as provided for in the Protocol of 1901, shall pay a special surtax of one and one-half times the amount of the said duty to compensate for the abolition of *likin*, of other transit dues besides *likin*, and of all other taxation on foreign goods, and in consideration of the other reforms provided for in this article.

The Chinese Government may recast the foreign export tariff with specific duties, as far as practicable, on a scale not exceeding five per centum *ad valorem*; but existing export

duties shall not be raised until at least six months' notice has been given. In cases where existing export duties are above five per centum, they shall be reduced to not more than that rate. An additional special surtax of one-half the export duty payable for the time being, in lieu of internal taxation of all kinds, may be levied at the place of original shipment or at the time of export on goods exported either to foreign countries or coastwise.

Foreign goods which bear similarity to native goods shall be furnished by the Customs officers, if required by the owner, with a protective certificate for each package, on the payment of import duty and surtax, to prevent the risk of any dispute in the interior.

Native goods brought by junks to open ports, if intended for local consumption, irrespective of the nationality of the owner of the goods, shall be reported at the native Customs offices only, to be dealt with according to the fiscal regulations of the Chinese Government.

Machine-made cotton yarn and cloth manufactured in China, whether by foreigners at the open ports or by Chinese anywhere in China, shall as regards taxation be on a footing of perfect equality. Such goods upon payment of the taxes thereon shall be granted a rebate of the import duty and of two-thirds of the import surtax paid on the cotton used in their manufacture, if it has been imported from abroad, and of all duties paid thereon if it be Chinese grown cotton. They shall also be free of export duty, coast-trade duty and export surtax. The same principle and procedure shall be applied to all other products of foreign type turned out by machinery in China.

A member or members of the Imperial Maritime Customs foreign staff shall be selected by the Governors-General and Governors of each of the various provinces of the Empire for their respective provinces, and appointed in consultation with the Inspector General of Imperial Maritime Customs, for duty in connection with native Customs affairs to have a general supervision of their working.

Cases where illegal action is complained of by citizens of the United States shall be promptly investigated by an officer of the Chinese Government of sufficiently high rank, in conjunction with an officer of the United States Government, and an officer of the Imperial Maritime Customs, each of sufficient standing; and, in the event of it being found by the investigating officers that the complain is well founded and loss has been incurred, due compensation shall be paid through the Imperial Maritime Customs. The high provincial officials shall be held responsible that the officer guilty of the illegal action shall be severely punished and removed from his post. If the complaint is shown to be frivolous or malicious, the complainant shall be held responsible for the expenses of the investigation.

When the ratifications of this Treaty shall have been exchanged by the High Contracting Parties hereto, and the provisions of this Article shall have been accepted by the Powers having treaties with China, then a date shall be agreed upon when the provisions of this Article shall take effect and an Imperial Edict shall be published in due form on yellow paper and circulated throughout the Empire of China setting forth the abolition of all *likin* taxation, duties on goods in transit, offices, stations and barriers for collecting the same, and of all descriptions of internal taxation on foreign goods, and the imposition of the surtax on the import of foreign goods and on the export of native goods, and the other fiscal changes and reforms provided for in this Article, all of which shall take effect from the said date.

The Edict shall state that the provincial high officials are responsible that any official disregarding the letter or the spirit of its injunction shall be severely punished and removed from his post.

ARTICLE V.

The tariff duties to be paid by citizens of the United States on goods imported into China shall be as set forth in the schedule annexed hereto and made part of this Treaty, subject only to such amendments and changes as are authorized by Article IV of the present convention or as may hereafter be agreed upon by the High Contracting Parties hereto. It is expressly agreed, however, that citizens of the United States shall at no time pay other or higher duties on their imports into the United States than those paid by the citizens or subjects of the most favored nation.

Conversely, Chinese subjects shall not pay higher duties on their imports into the United States than those paid by the citizens or subjects of the most favored nation.

ARTICLE VI

The Government of China agrees to the establishment by citizens of the United States of warehouses approved by the proper Chinese authorities as bonded warehouses at the several open Ports of China, for storage, re-packing, or preparation for shipment of lawful goods, subject to such necessary regulations for the protection of the revenue of China, including a reasonable scale of fees according to commodities, distance from the custom house and hours of working, as shall be made from time to time by the proper officers of the Government of China.

ARTICLE VII

The Chinese Government, recognizing that it is advantageous for the country to develop its mineral resources, and that it is desirable to attract foreign as well as Chinese capital to embark in mining enterprises, agrees, within one year from the signing of this Treaty, to initiate and conclude the revision of the existing mining regulations. To this end China will, with all expedition and earnestness, go into the whole question of mining rules; and, selecting from the rules of the United States and other countries regulations which seem applicable to the condition of China, will recast its present mining rules in such a way as, while promoting the interests of Chinese subjects and not injuring in any way the sovereign rights of China, will offer no impediment to the attraction of foreign capital nor place foreign capitalists at a greater disadvantage than they would be under generally accepted foreign regulations; and will permit citizens of the United States to carry on in Chinese territory mining operations and other necessary business relating thereto provided they comply with the new regulations and conditions which will be imposed by China on its subjects and foreigners alike, relating to the opening of mines, the renting of mineral land, and the payment of royalty, and provided they apply for permits, the provisions of which in regard to necessary business relating to such operations shall be observed. The residence of citizens of the United States in connection with such mining operations shall be subject to such regulations as shall be agreed upon by and between the United States and China.

Any mining concession granted after the publication of such new rules shall be subject to their provisions.

ARTICLE VIII

Drawback certificates for the return of duties shall be issued by the Imperial Maritime Customs to citizens of the United States within three weeks of the presentation to the Customs of the papers entitling the applicant to receive such drawback certificates, and they shall be receivable at their face value in payment of duties of all kinds (tonnage dues excepted) at the port of issue; or shall, in the case of drawbacks on foreign goods re-exported within three years from the date of importation, be redeemable by the Imperial Maritime Customs in full in ready money at the port of issue, at the option of the holders thereof. But if, in connection with any application for a drawback certificate, the Customs authorities discover an attempt to defraud the revenue, the applicant shall be dealt with and punished in accordance with the stipulations provided in the Treaty of Tientsin, Article XXI, in the case of detected frauds on the revenue. In case the goods have been removed from Chinese territory, then the consul shall inflict on the guilty party a suitable fine to be paid to the Chinese Government.

ARTICLE IX

Whereas the United States undertakes to protect the citizens of any country in the exclusive use within the United States of any lawful trade-marks, provided that such country agrees by treaty or convention to give like protection to citizens of the United States:—

Therefore the Government of China, in order to secure such protection in the United States for its subjects, now agrees to fully protect any citizen, firm or corporation of the United States in the exclusive use in the Empire of China of any lawful trade-mark to the exclusive use of which in the United States they are entitled, or which they have adopted and used, or intend to adopt and use as soon as registered, for exclusive use within the Empire of China. To this end the Chinese government agrees to issue by its proper authorities proclamations, having the force of law, forbidding all subjects of China from infringing on, imitating, colorably imitating, or knowingly passing off an imitation of trade-marks belonging to citizens of the United States, which shall have been registered by the proper authorities of the United States at such offices as the Chinese Government will establish for such purpose, on payment of a reasonable fee, after due investigation by the Chinese authorities, and in compliance with reasonable regulations.

ARTICLE X

The United States Government allows subjects of China to patent their inventions in the United States and protects them in the use and ownership of such patents. The Government of China now agrees that it will establish a Patent Office. After this office has been established and special laws with regard to inventions have been adopted it will thereupon, after the payment of the prescribed fees, issue certificates of protection, valid for a fixed term of years, to citizens of the United States on all their patents issued by the United States, in respect of articles the sale of which is lawful in China, which do not

infringe on previous inventions of Chinese subjects, in the same manner as patents are to be issued to subjects of China.

ARTICLE XI

Whereas the Government of the United States undertakes to give the benefits of its copyright laws to the citizens of any foreign State which gives to the citizens of the United States the benefits of copyright on an equal basis with its own citizens:—

Therefore the Government of China, in order to secure such benefits in the United States for its subjects, now agrees to give full protection, in the same way and manner and subject to the same conditions upon which it agrees to protect trade-marks, to all citizens of the United States who are authors, designers or proprietors of any book, map, print or engraving especially prepared for the use and education of the Chinese people, or translation into Chinese of any book, in the exclusive right to print and sell such book, map, print, engraving or translation in the Empire of China during ten years from the date of registration. With the exception of the books, maps, etc., specified above, which may not be reprinted in the same form, no work shall be entitled to copyright privileges under this article. It is understood that Chinese subjects shall be at liberty to make, print and sell original translations into Chinese of any works written or of maps compiled by a citizen of the United States. This article shall not be held to protect against due process of law any citizen of the United States or Chinese subject who may be author, proprietor, or seller of any publication calculated to injure the well-being of China.

ARTICLE XII

The Chinese Government having in 1898 opened the navigable inland waters of the Empire to commerce by all steam vessels, native or foreign, that may be specially registered for the purpose, for the conveyance of passengers and lawful merchandise, citizens, firms, and corporations of the United States may engage in such commerce on equal terms with those granted to subjects of any foreign power.

In case either party hereto considers it advantageous at any time that the rules and regulations then in existence for such commerce be altered or amended, the Chinese Government agrees to consider amicably and to adopt such modifications thereof as are found necessary for trade and for the benefit of China.

The Chinese Government agrees that, upon the exchange of the ratifications of this treaty, Mukden and Antung, both in the province of Sheng-king, will be opened by China itself as places of international residence and trade. The selection of suitable localities to be set apart for international use and occupation and the regulations for these places set apart for foreign residence and trade shall be agreed upon by the Governments of the United States and China after consultation together.

ARTICLE XIII

China agrees to take the necessary steps to provide for a uniform national coinage which shall be legal tender in payment of all duties, taxes, and other obligations throughout the Empire by the citizens of the United States as well as Chinese subjects. It is understood,

however, that all customs duties shall continue to be calculated and paid on the basis of the Haikwan Tael.

ARTICLE XIV

The principles of the Christian religion, as professed by the Protestant and Roman Catholic Churches, are recognized as teaching men to do good and to do to others as they would have others do to them. Those who quietly profess and teach these doctrines shall not be harassed or persecuted on account of their faith. Any person, whether citizen of the United States or Chinese convert, who, according to these tenets, peaceably teaches and practices the principles of Christianity shall in no case be interfered with or molested therefor. No restrictions shall be placed on Chinese joining Christian churches. Converts and non-converts, being Chinese subjects, shall alike conform to the laws of China; and shall pay due respect to those in authority, living together in peace and amity; and the fact of being converts shall not protect them from the consequences of any offense they may have committed before or may commit after their admission into the church, or exempt them from paying legal taxes levied on Chinese subjects generally, except taxes levied and contributions for the support of religious customs and practices contrary to their faith. Missionaries shall not interfere with the exercise by the native authorities of their jurisdiction over Chinese subjects; nor shall the native authorities make any distinction between converts and non-converts, but shall administer the laws without partiality, so that both classes can live together in peace.

Missionary societies of the United States shall be permitted to rent and to lease in perpetuity, as the property of such societies, buildings or lands in all parts of the Empire for missionary purposes and, after the title deeds have been found in order and duly stamped by the local authorities, to erect such suitable buildings as may be required for carrying on their good work.

ARTICLE XV

The Government of China having expressed a strong desire to reform its judicial system and to bring it into accord with that of Western nations, the United States agrees to give every assistance to such reform and will also be prepared to relinquish extra-territorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration, and other considerations warrant it in so doing.

ARTICLE XVI

The Government of the United States consents to the prohibition by the Government of China of the importation into China of morphia and of instruments for its injection, excepting morphia and instruments for its injection imported for medical purposes, on payment of tariff duty, and under regulations to be framed by China which shall effectually restrict the use of such import to the said purposes. This prohibition shall be uniformly applied to such importation from all countries. The Chinese Government undertakes to adopt at once measures to prevent the manufacture in China of morphia and of instruments for its injection.

ARTICLE XVII

It is agreed between the high contracting parties hereto that all the provisions of the several treaties between the United States and China which were in force on the first day of January, A.D. 1900, are continued in full force and effect except in so far as they are modified by the present treaty or other treaties to which the United States is a party.

The present treaty shall remain in force for a period of ten years, beginning with the date of the exchange of ratifications and until a revision is effected as hereinafter provided.

It is further agreed that either of the high contracting parties may demand that the tariff and the articles of this convention be revised at the end of ten years from the date of the exchange of the ratifications thereof. If no revision is demanded before the end of the first term of ten years, then these articles in their present form shall remain in full force for a further term of ten years reckoned from the end of the first term, and so on for successive periods of ten years.

The English and Chinese texts of the present Treaty and its three annexes have been carefully compared; but, in the event of their being any difference of meaning between them, the sense as expressed in the English text shall be held to be the correct one.

This Treaty and its three annexes shall be ratified by the two High Contracting Parties in conformity with their respective constitutions, and the ratifications shall be exchanged in Washington not later than twelve months from the present date.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this Treaty in duplicate in the English and Chinese languages, and have affixed our respective seals.

Done at Shanghai, this eighth day of October in the year of our Lord one thousand nine hundred and three, and in the twenty-ninth year of Kuang Hsü eighth month and eighteenth day.

EDWIN H. CONGER [seal.]

JOHN GOODNOW [seal.]

JOHN F. SEAMAN [seal.]

Signatures and seal of Chinese Plenipotentiaries.

[LÜ HAI-HUAN]

[SHENG HSÜAN-HUAI]

ANNEX I

As citizens of the United States are already forbidden by treaty to deal in or handle opium, no mention has been made in this Treaty of opium taxation.

As the trade in salt is a government monopoly in China, no mention has been made in this Treaty of salt taxation.

It is, however, understood, after full discussion and consideration, that the collection of inland dues on opium and salt and the means for the protection of the revenue therefrom and for preventing illicit traffic therein are left to be administered by the Chinese Government in such manner as shall in no wise interfere with the provisions of Article IV of this treaty regarding the unobstructed transit of other goods.

EDWIN H. CONGER [seal.]

JOHN GOODNOW [seal.]

JOHN F. SEAMAN [seal.]

Signature and seal of Chinese Plenipotentiaries

[LÜ HAI-HUAN]

[SHANG HSÜAN-HUAI]

ANNEX II

Article IV of the Treaty of Commerce between the United States and China of this date provides for the retention of the native Customs offices at the open ports. For the purpose of safeguarding the revenue of China at such places, it is understood that the Chinese Government shall be entitled to establish and maintain such branch native Customs offices at each open port, within a reasonable distance of the main native Customs offices at the port, as shall be deemed by the authorities of the Imperial Maritime Customs at that port necessary to collect the revenue from the trade into and out of such port. Such branches, as well as the main native Customs offices at each open port, shall be administered by the Imperial Maritime Customs as provided by the Protocol of 1901.

EDWIN H. CONGER [seal.]

JOHN GOODNOW [seal.]

JOHN F. SEAMAN [seal.]

Signature and seal of Chinese Plenipotentiaries

[LÜ HAI-HUAN]

[SHANG HSÜAN-HUAI]

ANNEX III

The schedule of tariff duties on imported goods annexed to this Treaty under Article V is hereby mutually declared to be the schedule agreed upon between the representatives of China and the United States and signed by John Goodnow for the United States and Their Excellencies Lü Hai-huan and Sheng Hsüan-huai for China at Shanghai on the sixth day of September, A.D. 1902, according to the Protocol of the seventh day of September, A.D. 1901.

EDWIN H. CONGER [seal.]

JOHN GOODNOW [seal.]

JOHN F. SEAMAN [seal.]

Signature and seal of Chinese Plenipotentiaries

[LÜ HAI-HUAN]

[SHANG HSÜAN-HUAI]