

# China

## PEACE, AMITY, AND COMMERCE

*Treaty signed at Wang Hiya July 3, 1844*<sup>1</sup>

*Ratified by China August 15, 1844*

*Senate advice and consent to ratification January 16, 1845*

*Ratified by the President of the United States January 17, 1845*

*Ratifications exchanged at Poon Tong December 31, 1845*

*Entered into force December 31, 1845*

*Proclaimed by the President of the United States April 18, 1846*

*Supplemented and revised by treaty of June 18, 1858,<sup>2</sup> and convention of November 8, 1858*<sup>3</sup>

*All provisions continued in force by treaty of October 8, 1903, "except in so far as they are modified by the present Treaty or other treaties to which the United States is a party"*<sup>4</sup>

*Superseded November 30, 1948, by treaty of November 4, 1946*<sup>5</sup>

8 Stat. 592; Treaty Series 45<sup>6</sup>

### TREATY

The United States of America, and The Ta Tsing Empire, Desiring to establish firm, lasting, and sincere friendship between the two Nations, have resolved to fix, in a manner clear and positive, by means of a treaty or general convention of peace, amity, and commerce, the rules which shall in future be mutually observed in the intercourse of their respective countries:—For which most desirable object, the President of the United States has conferred full powers on their Commissioner Caleb Cushing, Envoy Extraordinary and Minister Plenipotentiary of the United States to China; and the August

<sup>1</sup> For tariff schedule attached to treaty, see 8 Stat. 600 or TS 45.

<sup>2</sup> TS 46, *post*, p. 659.

<sup>3</sup> TS 47, *post*, p. 671.

<sup>4</sup> TS 430, *post*, p. 704 (art. XVII).

<sup>5</sup> TIAS 1871, *post*, p. 761.

<sup>6</sup> For a detailed study of this treaty, see 4 Miller 559.

Sovereign of the Ta Tsing Empire on his Minister and Commissioner Extraordinary Tsiyeng, of the Imperial House, a vice Guardian of the Heir Apparent, Governor-general of the Two Kwang, and Superintendent General of the trade and foreign intercourse of the five ports.

And the said Commissioners, after having exchanged their said full powers, and duly considered the premises, have agreed to the following articles.

#### ARTICLE I

There shall be a perfect, permanent, universal peace, and a sincere and cordial amity, between the United States of America on the one part, and the Ta Tsing Empire on the other part, and between their people respectively, without exception of persons or places.

#### ARTICLE II

Citizens of the United States resorting to China for the purposes of commerce will pay the duties of import and export prescribed in the Tariff, which is fixed by and made a part of this Treaty.<sup>7</sup> They shall, in no case, be subject to other or higher duties than are or shall be required of the people of any other nation whatever. Fees and charges of every sort are wholly abolished, and officers of the revenue, who may be guilty of exaction, shall be punished according to the laws of China. If the Chinese Government desire to modify, in any respect, the said Tariff, such modifications shall be made only in consultation with consuls or other functionaries thereto. duly authorized in behalf of the United States, and with consent thereof. And if additional advantages or privileges, of whatever description, be conceded hereafter by China to any other nation, the United States, and the citizens thereof, shall be entitled thereupon, to a complete, equal, and impartial participation in the same.

#### ARTICLE III

The citizens of the United States are permitted to frequent the five ports of Kwangchow, Amoy, Fuchow, Ningpo and Shanghai, and to reside with their families and trade there, and to proceed at pleasure with their vessels and merchandize to and from any foreign port and either of the said five ports, and from either of the said five ports to any other of them. But said vessels shall not unlawfully enter the other ports of China, nor carry on a clandestine and fraudulent trade along the coasts thereof. And any vessel belonging to a citizen of the United States, which violates this provision, shall, with her cargo, be subject to confiscation to the Chinese government.

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<sup>7</sup> See footnote 1. p. 647.

## ARTICLE IV

For the superintendence and regulation of the concerns of the citizens of the United States doing business at the said five ports, the government of the United States may appoint Consuls, or other officers, at the same, who shall be duly recognized as such by the officers of the Chinese government, and shall hold official intercourse and correspondence with the latter, either personal or in writing, as occasions may require, on terms of equality and reciprocal respect. If disrespectfully treated or aggrieved in any way by the local authorities, said officers on the one hand shall have the right to make representation of the same to the superior officers of the Chinese Government, who will see that full inquiry and strict justice be had in the premises; and on the other hand, the said Consuls will carefully avoid all acts of unnecessary offence to, or collision with, the officers and people of China.

## ARTICLE V

At each of the said five ports, citizens of the United States lawfully engaged in commerce, shall be permitted to import from their own or any other ports into China, and sell there, and purchase therein, and export to their own or any other ports, all manner of merchandize, of which the importation or exportation is not prohibited by this Treaty, paying the duties which are prescribed by the Tariff hereinbefore established, and no other charges whatsoever.

## ARTICLE VI

Whenever any merchant-vessel belonging to the United States shall enter either of the said five ports for trade, her papers shall be lodged with the Consul, or person charged with affairs, who will report the same to the commissioner of customs; and tonnage duty shall be paid on said vessel at the rate of five mace per ton, if she be over one hundred and fifty tons burden; and one mace per ton if she be of the burden of one hundred and fifty tons or under, according to the amount of her tonnage as specified in the register; said payment to be in full of the former charges of measurement and other fees, which are wholly abolished. And if any vessel, which having anchored at one of the said ports, and there paid tonnage duty, shall have occasion to go to any others of the said ports to complete the disposal of her cargo, the Consul, or person charged with affairs, will report the same to the commissioner of customs, who, on the departure of the said vessel will note in the port-clearance that the tonnage duties have been paid, and report the same to the other custom-houses; in which case on entering another port the said vessel will only pay duty there on her cargo, but shall not be subject to the payment of tonnage duty a second time.

## ARTICLE VII

No Tonnage duty shall be required on boats belonging to citizens of the United States, employed in the conveyance of passengers, baggage, letters, and articles of provision, or others not subject to duty to or from any of the five ports. All cargo-boats, however, conveying merchandize subject to duty shall pay the regular tonnage duty of one mace per ton, provided they belong to citizens of the United States, but not if hired by them from subjects of China.

## ARTICLE VIII

Citizens of the United States for their vessels bound in shall be allowed to engage pilots, who will report said vessels at the passes and take them into port; and when the lawful duties have all been paid they may engage pilots to leave port. It shall also be lawful for them to hire at pleasure, servants, compradors, linguists, and writers, and passage or cargo boats, and to employ laborers, seamen, and persons for whatever necessary service for a reasonable compensation to be agreed on by the parties, or settled by application to the consular officer of their government, without interference on the part of the local officers of the Chinese government.

## ARTICLE IX

Whenever merchant vessels belonging to the United States shall have entered port, the Superintendent of Customs, will, if he see fit, appoint custom-house officers to guard said vessels, who may live on board the ship or their own boats, at their convenience; but provision for the subsistence of said officers shall be made by the superintendent of customs, and they shall not be entitled to any allowance from the vessel or owner thereof; and they shall be subject to suitable punishment for any exaction practiced by them in violation of this regulation.

## ARTICLE X

Whenever a merchant-vessel belonging to the United States shall cast anchor in either of said ports, the supercargo, master, or consignee, will, within forty-eight hours deposit the ship's papers in the hands of the consul, or person charged with the affairs of the United States; who will cause to be communicated to the superintendent of customs, a true report of the name and tonnage of such vessel, the names of her men, and of the cargo on board; which being done, the superintendent will give a permit for the discharge of her cargo.

And the master, supercargo, or consignee, if he proceed to discharge the cargo without such permit, shall incur a fine of five hundred dollars; and the goods so discharged without permit shall be subject to forfeiture to the Chinese

government. But if the master of any vessel in port desire to discharge a part only of the cargo, it shall be lawful for him to do so, paying duties on such part only, and to proceed with the remainder to any other ports.

Or, if the master so desire, he may, within forty-eight hours after the arrival of the vessel, but not later, decide to depart without breaking bulk; in which case he will not be subject to pay tonnage or other duties or charges, until on his arrival at another port he shall proceed to discharge cargo, when he will pay the duties on vessel and cargo according to law. And the tonnage-duties shall be held to be due after the expiration of said forty-eight hours.

#### ARTICLE XI

The Superintendent of Customs, in order to the collection of the proper duties, will, on application made to him through the Consul, appoint suitable officers, who shall proceed, in the presence of the captain, supercargo, or consignee, to make a just and fair examination of all goods in the act of being discharged for importation, or laden for exportation, on board any merchant vessel of the United States. And if dispute occur in regard to the value of goods subject to an ad valorem duty, or in regard to the amount of tare, and the same cannot be satisfactorily arranged by the parties, the question may, within twenty-four hours, and not afterwards, be referred to the said Consul to adjust with the Superintendent of Customs.

#### ARTICLE XII

Sets of standard balances, and also weights and measures, duly prepared, stamped, and sealed, according to the standard of the customhouse at Canton, shall be delivered by the Superintendents of customs to the consuls at each of the five ports, to secure uniformity, and prevent confusion in measures and weights of merchandize.

#### ARTICLE XIII

The tonnage duty on vessels belonging to citizens of the United States shall be paid on their being admitted to entry. Duties of import shall be paid on the discharge of the goods, and duties of export on the lading of the same. When all such duties shall have been paid, and not before, the Superintendent of Customs shall give a port-clearance, and the Consul shall return the ship's papers, so that she may depart on her voyage. The duties shall be paid to the shroffs authorized by the Chinese government to receive the same in its behalf. Duties payable by merchants of the United States shall be received, either in sycee silver or in foreign money, at the rate of exchange as ascertained by the regulations now in force. And imported goods, on their resale or transit in any part of the empire, shall be subject to the imposition of no other duty than they are accustomed to pay at the date of this Treaty.

## ARTICLE XIV

No goods on board any merchant vessel of the United States in port are to be transhipped to another vessel, unless there be particular occasion therefor; in which case the occasion shall be certified by the Consul to the Superintendent of Customs, who may appoint officers to examine into the facts, and permit the transhipment. And if any goods be transhipped without such application, inquiry and permit, they shall be subject to be forfeited to the Chinese Government.

## ARTICLE XV

The former limitation of the trade of foreign nations to certain persons appointed at Canton by the government, and commonly called hong-merchants, having been abolished, citizens of the United States engaged in the purchase or sale of goods of import or export, are admitted to trade with any and all subjects of China without distinction; they shall not be subject to any new limitations, nor impeded in their business by monopolies or other injurious restrictions.

## ARTICLE XVI

The Chinese Government will not hold itself responsible for any debts which may happen to be due from subjects of China to citizens of the United States, or for frauds committed by them: but citizens of the United States may seek redress in law; and on suitable representation being made to the Chinese local authorities through the Consul, they will cause due examination in the premises, and take all proper steps to compel satisfaction. But in case the debtor be dead, or without property, or have absconded, the creditor cannot be indemnified according to the old system of the co-hong so called. And if citizens of the United States be indebted to subjects of China, the latter may seek redress in the same way through the Consul, but without any responsibility for the debt on the part of the United States.

## ARTICLE XVII

Citizens of the United States residing or sojourning at any of the ports open to foreign commerce, shall enjoy all proper accommodation in obtaining houses and places of business, or in hiring sites from the inhabitants on which to construct houses and places of business, and also hospitals, churches and cemeteries. The local authorities of the two Governments shall select in concert the sites for the foregoing objects, having due regard to the feelings of the people in the location thereof: and the parties interested will fix the rent by mutual agreement, the proprietors on the one hand not demanding any exorbitant price, nor the merchants on the other unreasonably insisting on particular spots, but each conducting with justice and moderation. And any desecration of said cemeteries by subjects of China shall be severely punished according to law.

At the places of anchorage of the vessels of the United States, the citizens of the United States, merchants, seamen, or others sojourning there, may pass and repass in the immediate neighborhood; but they shall not at their pleasure make excursions into the country among the villages at large, nor shall they repair to public marts for the purpose of disposing of goods unlawfully and in fraud of the revenue.

And, in order to the preservation of the public peace, the local officers of government at each of the five ports, shall, in concert with the Consuls, define the limits beyond which it shall not be lawful for citizens of the United States to go.

#### ARTICLE XVIII

It shall be lawful for the officers or citizens of the United States to employ scholars and people of any part of China without distinction of persons, to teach any of the languages of the Empire, and to assist in literary labors; and the persons so employed shall not, for that cause, be subject to any injury on the part either of the government or of individuals; and it shall in like manner be lawful for citizens of the United States to purchase all manner of books in China.

#### ARTICLE XIX

All citizens of the United States in China, peaceably attending to their affairs, being placed on a common footing of amity and goodwill with subjects of China, shall receive and enjoy, for themselves and everything appertaining to them, the special protection of the local authorities of Government, who shall defend them from all insult or injury of any sort on the part of the Chinese. If their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the Consul, will immediately dispatch a military force to disperse the rioters, and will apprehend the guilty individuals, and punish them with the utmost rigor of the law.

#### ARTICLE XX

Citizens of the United States who may have imported merchandize into any of the free ports of China, and paid the duty thereon, if they desire to re-export the same, in part or in whole, to any other of the said ports, shall be entitled to make application, through their Consul, to the Superintendent of Customs, who, in order to prevent frauds on the revenue, shall cause examination to be made by suitable officers to see that the duties paid on such goods, as entered on the custom-house books, correspond with the representation made, and that the goods remain with their original marks unchanged, and shall then make a memorandum in the port-clearance, of the goods, and the amount of duties paid on the same, and deliver the same to the merchant; and shall also certify the facts to the officers of customs of

the other ports. All which being done, on the arrival in port of the vessel in which the goods are laden, and everything being found on examination there to correspond, she shall be permitted to break bulk and land the said goods, without being subject to the payment of any additional duty thereon. But if, on such examination, the superintendent of customs shall detect any fraud on the revenue in the case, then the goods shall be subject to forfeiture and confiscation to the Chinese Government.

#### ARTICLE XXI

Subjects of China who may be guilty of any criminal act towards citizens of the United States, shall be arrested and punished by the Chinese authorities according to the laws of China: and citizens of the United States, who may commit any crime in China, shall be subject to be tried and punished only by the Consul, or other public functionary of the United States, thereto authorized according to the laws of the United States. And in order to the prevention of all controversy and disaffection, justice shall be equitably and impartially administered on both sides.

#### ARTICLE XXII

Relations of peace and amity between the United States and China being established by this Treaty, and the vessels of the United States being admitted to trade freely to and from the five ports of China open to foreign commerce, it is further agreed that in case at any time hereafter, China should be at war with any foreign nation whatever, and for that cause should exclude such nation from entering her ports, still the vessels of the United States shall not the less continue to pursue their commerce in freedom and security, and to transport goods to and from the ports of the belligerent parties, full respect being paid to the neutrality of the flag of the United States: Provided that the said flag shall not protect vessels engaged in the transportation of officers or soldiers in the enemy's service; nor shall said flag be fraudulently used to enable the enemy's ships with their cargoes to enter the ports of China; but all such vessels so offending shall be subject to forfeiture and confiscation to the Chinese Government.

#### ARTICLE XXIII

The Consuls of the United States at each of the five ports open to foreign trade, shall make annually to the respective Governors-general thereof, a detailed report of the number of vessels belonging to the United States which have entered and left said ports during the year, and of the amount and value of goods imported or exported in said vessels, for transmission to and inspection of the Board of Revenue.



## ARTICLE XXIV

If citizens of the United States have special occasion to address any communication to the Chinese local officers of government, they shall submit the same to their consul, or other officer, to determine if the language be proper and respectful, and the matter just and right; in which event he shall transmit the same to the appropriate authorities for their consideration and action in the premises. In like manner, if subjects of China have special occasion to address the consul of the United States, they shall submit the communication to the local authorities of their own Government, to determine if the language be respectful and proper and the matter just and right; in which case the said authorities will transmit the same to the Consul or other officer for his consideration and action in the premises. And if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction.

## ARTICLE XXV

All questions in regard to rights, whether of property or person, arising between citizens of the United States in China shall be subject to the jurisdiction, and regulated by the authorities of their own Government. And all controversies occurring in China between citizens of the United States and the subjects of any other government, shall be regulated by the treaties existing between the United States and such governments respectively, without interference on the part of China.

## ARTICLE XXVI

Merchant vessels of the United States lying in the waters of the five ports of China open to foreign commerce, will be under the jurisdiction of the officers of their own government, who, with the masters and owners thereof, will manage the same without control on the part of China. For injuries done to the citizens or the commerce of the United States by any foreign power, the Chinese Government will not hold itself bound to make reparation. But if the merchant-vessels of the United States, while within the waters over which the Chinese government exercises jurisdiction, be plundered by robbers or pirates, then the Chinese local authorities, civil and military, on receiving information thereof, will arrest the said robbers or pirates, and punish them according to law, and will cause all the property which can be recovered, to be placed in the hands of the nearest consul, or other officer of the United States, to be by him restored to the true owner. But if, by reason of the extent of territory and numerous population of China, it should, in any case, happen that the robbers cannot be apprehended, or the property only in part recovered, then the law will take its course in regard to the local au-

thorities, but the Chinese government will not make indemnity for the goods lost.

#### ARTICLE XXVII

If any vessel of the United States shall be wrecked or stranded on the coast of China, and be subjected to plunder or other damage, the proper officers of government on receiving information of the fact, will immediately adopt measures for their relief and security; and the persons on board shall receive friendly treatment, and be enabled at once to repair to the most convenient of the free ports, and shall enjoy all facilities for obtaining supplies of provisions and water. And if a vessel shall be forced in whatever way to take refuge in any port other than one of the free ports, then in like manner the persons on board shall receive friendly treatment, and the means of safety and security.

#### ARTICLE XXVIII

Citizens of the United States, their vessels and property, shall not be subject to any embargo; nor shall they be seized or forcibly detained for any pretense of the public service; but they shall be suffered to prosecute their commerce in quiet, and without molestation or embarrassment.

#### ARTICLE XXIX

The local authorities of the Chinese Government will cause to be apprehended all mutineers or deserters from on board the vessels of the United States in China, and will deliver them up to the consuls or other officers for punishment. And if criminals, subjects of China, take refuge in the houses or on board the vessels of citizens of the United States, they shall not be harbored or concealed, but shall be delivered up to justice, on due requisition by the Chinese local officers addressed to those of the United States.

The merchants, seamen, and other citizens of the United States, shall be under the superintendence of the appropriate officers of their government. If individuals of either nation commit acts of violence and disorder, use arms to the injury of others, or create disturbances endangering life, the officers of the two governments will exert themselves to enforce order, and to maintain the public peace by doing impartial justice in the premises.

#### ARTICLE XXX

The superior authorities of the United States and of China, in corresponding together, shall do so in terms of equality, and in the form of mutual communication (*cháu hwui*). The Consuls, and the local officers civil and military, in corresponding together, shall likewise employ the style and form of mutual communication (*cháu hwui*). When inferior officers of the one government address superior officers of the other, they shall do so in the style and form of memorial (*shin chin*). Private individuals, in addressing superior

officers, shall employ the style of petition (*pin ching*). In no case shall any terms or style be suffered which shall be offensive or disrespectful to either party. And it is agreed that no presents, under any pretext or form whatever, shall ever be demanded of the United States by China, or of China by the United States.

#### ARTICLE XXXI

Communications from the government of the United States to the court of China shall be transmitted through the medium of the Imperial Commissioner charged with the superintendence of the concerns of foreign nations with China, or through the Governor-general of the Liang Kwang, that of Min and Cheh, or that of the Liang Kiang.

#### ARTICLE XXXII

Whenever ships of war of the United States, in cruising for the protection of the commerce of their country, shall arrive at any of the ports of China, the commanders of said ships and the superior local authorities of Government, shall hold intercourse together in terms of equality and courtesy, in token of the friendly relations of their respective nations. And the said ships of war shall enjoy all suitable facilities on the part of the Chinese Government in the purchase of provisions, procuring water, and making repairs if occasion require.

#### ARTICLE XXXIII

Citizens of the United States, who shall attempt to trade clandestinely with such of the ports of China as are not open to foreign commerce, or who shall trade in opium or any other contraband article of merchandize, shall be subject to be dealt with by the Chinese Government, without being entitled to any countenance or protection from that of the United States; and the United States will take measures to prevent their flag from being abused by the subjects of other nations, as a cover for the violation of the laws of the Empire.

#### ARTICLE XXXIV

When the present convention shall have been definitively concluded, it shall be obligatory on both Powers, and its provisions shall not be altered without grave cause; but, inasmuch as the circumstances of the several ports of China open to foreign commerce are different, experience may show that inconsiderable modifications are requisite in those parts which relate to commerce and navigation: in which case, the two Governments will, at the expiration of twelve years from the date of said convention, treat amicably concerning the same, by the means of suitable persons appointed to conduct such negotiation.

And when ratified, this Treaty shall be faithfully observed in all its parts by the United States and China, and by every citizen and subject of each.

And no individual State of the United States can appoint or send a minister to China to call in question the provisions of the same.

The present Treaty of peace, amity, and commerce, shall be ratified and approved by the President of the United States, by and with the advice and consent of the Senate thereof, and by the August Sovereign of the Ta Tsing Empire, and the ratifications shall be exchanged, within eighteen months from the date of the signature thereof, or sooner if possible.

In Faith Whereof, We, the respective Plenipotentiaries of the United States of America, and of the Ta Tsing Empire, as aforesaid, have signed and sealed these Presents.

Done at Wang Shia, this third day of July, in the year of our Lord Jesus Christ, one thousand eight hundred and forty-four; and of Taoukwang, the twenty-fourth year, fifth month, and eighteenth day.

|            |                                |
|------------|--------------------------------|
| C. CUSHING | [SEAL]                         |
| TSIYENG    | [ideographic signature] [SEAL] |

[For tariff schedule attached to treaty, see 8 Stat. 600 or TS 45.]

## PEACE, AMITY, AND COMMERCE

*Treaty signed at Tientsin June 18, 1858, supplementing and revising treaty of July 3, 1844*<sup>1</sup>

*Senate advice and consent to ratification December 15, 1858*

*Ratified by the President of the United States December 21, 1858*

*Ratified by China August 9, 1859*

*Ratifications exchanged at Pehtang August 16, 1859*

*Entered into force August 16, 1859*

*Proclaimed by the President of the United States January 26, 1860*

*Supplemented by agreements of November 8, 1858,<sup>2</sup> and July 28, 1868,<sup>3</sup> and November 17, 1880<sup>4</sup>*

*Article XIV modified October 21, 1863; article XIX modified July 11, 1867; and article XXI modified April 7, 1863*

*All provisions continued in force by treaty of October 8, 1903, "except in so far as they are modified by the present Treaty or other treaties to which the United States is a party"<sup>5</sup>*

*Second sentence of article XVIII abrogated by the United States July 1, 1916, in accordance with Seamen's Act of March 4, 1915<sup>6</sup>*

*Superseded November 30, 1948, by treaty of November 4, 1946<sup>7</sup>*

12 Stat. 1023; Treaty Series 46<sup>8</sup>

The United States of America and the Ta Tsing Empire, desiring to maintain firm, lasting, and sincere friendship, have resolved to renew, in a manner clear and positive, by means of a Treaty or general convention of peace, amity and commerce, the rules which shall in future be mutually observed in the intercourse of their respective countries; for which most desirable object, the President of the United States and the August Sovereign of the Ta Tsing Empire, have named for their Plenipotentiaries to wit: The Presi-

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<sup>1</sup> TS 45, *ante*, p. 647.

<sup>2</sup> TS 47 and TS 47-1, *post*, pp. 671 and 678.

<sup>3</sup> TS 48, *post*, p. 680.

<sup>4</sup> TS 49, *post*, p. 685.

<sup>5</sup> TS 430, *post*, p. 704 (art. XVII).

<sup>6</sup> 38 Stat. 1164.

<sup>7</sup> TIAS 1871, *post*, p. 761.

<sup>8</sup> For a detailed study of this treaty, see 7 Miller 793.

dent of the United States of America, William B. Reed, Envoy Extraordinary and Minister Plenipotentiary to China and His Majesty the Emperor of China, Kweiliang, a member of the Privy Council and Superintendent of the Board of Punishments; and Hwashana, President of the Board of Civil Office and Major General of the Bordered Blue Banner Division of the Chinese Bannermen, both of them being Imperial Commissioners and Plenipotentiaries: And the said Ministers, in virtue of the respective full powers they have received from their Governments, have agreed upon the following articles.

#### ARTICLE I

There shall be, as there have always been, peace and friendship between the United States of America and the Ta Tsing Empire, and between their people respectively. They shall not insult or oppress each other for any trifling cause so as to produce an estrangement between them, and, if any other nation should act unjustly or oppressively, the United States will exert their good offices, on being informed of the case, to bring about an amicable arrangement of the question, thus showing their friendly feelings.

#### ARTICLE II

In order to perpetuate friendship, on the exchange of ratifications by the President, with the advice and consent of the Senate of the United States, and by His Majesty the Emperor of China, this treaty shall be kept and sacredly guarded in this way: viz: The Original treaty as ratified by the President of the United States, shall be deposited at Peking, the capital of His Majesty the Emperor of China in charge of the Privy Council; and as ratified by His Majesty the Emperor of China, shall be deposited at Washington, the capital of the United States, in charge of the Secretary of State.

#### ARTICLE III

In order that the people of the two countries may know and obey the provisions of this treaty, the United States of America agree immediately on the exchange of ratifications to proclaim the same and to publish it by proclamation in the gazettes where the laws of the United States of America are published by authority and His Majesty the Emperor of China, on the exchange of ratifications, agrees immediately to direct the publication of the same at the capital and by the Governors of all the Provinces.

#### ARTICLE IV

In order further to perpetuate friendship, the Minister or Commissioner or the highest diplomatic representative of the United States of America in China, shall at all times have the right to correspond on terms of perfect equality and confidence with the Officers of the Privy Council at the capital,

or with the Governors General of the Two Kwangs, the Provinces of Fuhkien and Chehkiang or of the Two Kiangs, and whenever he desires to have such correspondence with the Privy Council at the Capital, he shall have the right to send it through either of the said Governors General or by the General Post, and all such communications shall be sent under seal which shall be most carefully respected. The Privy Council and Governors General, as the case may be, shall in all cases consider and acknowledge such communications promptly and respectfully.

#### ARTICLE V

The Minister of the United States of America in China, whenever he has business, shall have the right to visit and sojourn at the Capital of His Majesty the Emperor of China, and there confer with a member of the Privy Council, or any other high officer of equal rank deputed for that purpose, on matters of common interest and advantage. His visits shall not exceed one in each year, and he shall complete his business without unnecessary delay. He shall be allowed to go by land or come to the mouth of the Peiho, into which he shall not bring ships of war and he shall inform the authorities at that place in order that boats may be provided for him to go on his journey. He is not to take advantage of this stipulation to request visits to the capital on trivial occasions. Whenever he means to proceed to the capital he shall communicate in writing his intention to the Board of Rites at the capital, and thereupon the said Board shall give the necessary directions to facilitate his journey and give him necessary protection and respect on his way. On his arrival at the capital, he shall be furnished with a suitable residence prepared for him and he shall defray his own expenses and his entire suite shall not exceed twenty persons, exclusive of his Chinese attendants, none of whom shall be engaged in trade.

#### ARTICLE VI

If at any time His Majesty the Emperor of China shall by Treaty voluntarily made, or for any other reason, permit the Representative of any friendly nation to reside at his Capital for a long or short time, then without any further consultation or express permission, the Representative of the United States in China shall have the same privilege.

#### ARTICLE VII

The superior authorities of the United States and of China in corresponding together, shall do so on terms of equality, and in form of mutual communication (*chau hwui*). The consuls and the local officers, civil and military, in corresponding together, shall likewise employ the style and form of mutual communication (*chau-hwui*). When inferior officers of the one government address superior officers of the other, they shall do so in the style and form of memorial (*shin chin*). Private individuals in addressing superior officers,

shall employ the style of petition (pin ching). In no case shall any terms or style be used or suffered which shall be offensive or disrespectful to either party. And it is agreed that no presents, under any pretext or form whatever shall ever be demanded of the United States by China, or of China by the United States.

#### ARTICLE VIII

In all future personal intercourse between the Representative of the United States of America and the Governors General or Governors the interviews shall be had at the official residence of the said officers or at their temporary residence or at the residence of the Representative of the United States of America, whichever may be agreed upon between them nor shall they make any pretext for declining these interviews. Current matters shall be discussed by correspondence so as not to give the trouble of a personal meeting.

#### ARTICLE IX

Whenever national vessels of the United States of America in cruising along the coast and among the ports opened for trade, for the protection of the commerce of their country, or for the advancement of science, shall arrive at or near any of the ports of China, Commanders of said ships and the superior local authorities of Government shall, if it be necessary, hold intercourse on terms of equality and courtesy in token of the friendly relations of their respective nations, and the said vessels shall enjoy all suitable facilities on the part of the Chinese Government in procuring provisions or other supplies and making necessary repairs. And the United States of America agree that in case of the shipwreck of any American vessel and its being pillaged by pirates or in case any American vessel shall be pillaged or captured by pirates, on the seas adjacent to the coast, without being shipwrecked, the national vessels of the United States shall pursue the said pirates, and if captured deliver them over for trial and punishment.

#### ARTICLE X

The United States of America shall have the right to appoint Consuls and other commercial Agents for the protection of trade to reside at such places in the dominions of China as shall be agreed to be opened, who shall hold official intercourse and correspondence with the local Officers of the Chinese Government (a Consul or a Vice-Consul in charge taking rank with an intendant of circuit or a prefect) either personally or in writing as occasions may require, on terms of equality and reciprocal respect. And the Consuls and local Officers shall employ the style of mutual communication. If the Officers of either nation are disrespectfully treated or aggrieved in any way by the other authorities they have the right to make representation of the same to the Superior Officers of the respective Governments who shall see that full inquiry and strict justice shall be had in the premises; and the said Consuls



and Agents shall carefully avoid all acts of offense to the officers and people of China. On the arrival of a Consul duly accredited at any port in China, it shall be the duty of the Minister of the United States to notify the same to the Governor General of the Province where such port is, who shall forthwith recognize the said Consul and grant him authority to act.

#### ARTICLE XI

All citizens of the United States of America in China, peaceably attending to their affairs, being placed on a common footing of amity and good will with subjects of China, shall receive and enjoy for themselves and everything appertaining to them the protection of the local authorities of government, who shall defend them from all insult or injury of any sort. If their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the Consul, shall immediately dispatch a military force to disperse the rioters, apprehend the guilty individuals and punish them with the utmost rigor of the law. Subjects of China guilty of any criminal act towards citizens of the United States shall be punished by the Chinese authorities according to the laws of China. And citizens of the United States, either on shore or in any merchant vessel, who may insult, trouble or wound the persons or injure the property of Chinese or commit any other improper act in China, shall be punished only by the Consul or other public functionary thereto authorised according to the laws of the United States. Arrests in order to trial may be made by either the Chinese or the United States authorities.

#### ARTICLE XII

Citizens of the United States residing or sojourning at any of the ports open to foreign commerce shall be permitted to rent houses and places of business or hire sites on which they can themselves build houses or hospitals, churches and cemeteries. The parties interested can fix the rent by mutual and equitable agreement, the proprietors shall not demand an exorbitant price, nor shall the local authorities interfere unless there be some objections offered on the part of the inhabitants respecting the place. The legal fees to the officers for applying their seal shall be paid. The citizens of the United States shall not unreasonably insist on particular spots but each party shall conduct with justice and moderation. Any desecration of the cemeteries by natives of China shall be severely punished according to law. At the places where the ships of the United States anchor or their citizens reside, the merchants seamen or others can freely pass and repass in the immediate neighbourhood, but in order to the preservation of the public peace, they shall not go into the country to the villages and marts to sell their goods unlawfully in fraud of the revenue.

## ARTICLE XIII

If any vessel of the United States be wrecked or stranded on the coast of China, and be subjected to plunder or other damage, the proper officers of Government, on receiving information of the fact, shall immediately adopt measures for its relief and security: the persons on board shall receive friendly treatment and be enabled to repair at once to the nearest port, and shall enjoy all facilities for obtaining supplies of provisions and water. If the merchant vessels of the United States, while within the waters over which the Chinese Government exercises jurisdiction, be plundered by robbers or pirates, then the Chinese local authorities civil and military, on receiving information thereof, shall arrest the said robbers or pirates, and punish them according to law, and shall cause all the property which can be recovered, to be restored to the owners or placed in the hands of the Consul. If by reason of the extent of territory and numerous population of China, it shall in any case happen that the robbers cannot be apprehended, and the property only in part recovered, the Chinese Government shall not make indemnity for the goods lost. But if it shall be proved that the local authorities have been in collusion with the robbers, the same shall be communicated to the superior authorities for memorializing the Throne and these officers shall be severely punished and their property be confiscated to repay the losses.

ARTICLE XIV<sup>9</sup>

The citizens of the United States are permitted to frequent the ports and cities of Canton and Chau-chau or Swatau, in the Province of Kwang-tung: Amoy, Fuh-chau, and Tai-wan in Formosa, in the Province of Fuh-Kien: Ningpo in the Province of Cheh-Kiang and Shanghai in the Province of Kiang-su, and any other port or place hereafter by treaty with other powers or with the United States opened to commerce, and to reside with their families and trade there: and to proceed at pleasure with their vessels and merchandize from any of these ports to any other of them. But said vessels shall not carry on a clandestine and fraudulent trade at other ports of China not declared to be legal or along the coasts thereof; and any vessel under the American flag violating this provision shall, with her cargo, be subject to confiscation to the Chinese Government; and any citizen of the United States who shall

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<sup>9</sup> A modification of art. XIV proposed by China Sept. 22, 1863, and agreed to by the American Minister Oct. 21, 1863, pending reference to Washington, provided that the penalty for presenting a false manifest of cargo be that contained in the treaty of peace, friendship, and commerce of June 26, 1858, between China and Great Britain, which read as follows:

"For presenting a false manifest, he [the master] will subject himself to a fine of 500 taels; but he will be allowed to correct, within 24 hours after delivery of it to the Customs officers, any mistake he may discover in his manifest, without incurring this penalty." (48 BFSP 55.)

The modification was approved by the United States.

trade in any contraband article of merchandize, shall be subject to be dealt with by the Chinese Government, without being entitled to any countenance or protection from that of the United-States; and the United States will take measures to prevent their flag from being abused by the subjects of other nations as a cover for the violation of the laws of the Empire.

#### ARTICLE XV

At each of the ports open to Commerce, citizens of the United States shall be permitted to import from abroad and sell, purchase, and export, all merchandize of which the importation or exportation is not prohibited by the laws of the Empire. The Tariff of duties to be paid by citizens of the United States on the export and import of goods from and into China shall be the same as was agreed upon at the Treaty of Wanghia, except so far as it may be modified by treaties with other nations; it being expressly agreed that citizens of the United States shall never pay higher duties than those paid by the most favoured nation.

#### ARTICLE XVI

Tonnage duties shall be paid on every merchant vessel belonging to the United States entering either of the open ports at the rate of four mace per ton of forty cubic feet, if she be over one hundred and fifty tons burden: and one mace per ton of forty cubic feet, if she be of the burden of one hundred and fifty tons or under, according to the tonnage specified in the register, which with her other papers, shall on her arrival, be lodged with the Consul, who shall report the same to the Commissioner of Customs. And if any vessel having paid tonnage duty at one port shall go to any other port to complete the disposal of her cargo, or being in ballast to purchase an entire or fill up an incomplete cargo, the Consul shall report the same to the Commissioner of customs, who shall note on the port clearance that the tonnage duties have been paid and report the circumstances to the collectors at the other customs-houses, in which case the said vessel shall only pay duty on her cargo, and not be charged with tonnage duty a second time. The collectors of customs at the open ports shall consult with the consuls about the erection of beacons or light houses, and where buoys and light-ships should be placed.

#### ARTICLE XVII

Citizens of the United States shall be allowed to engage pilots to take their vessels into port, and when the lawful duties have all been paid, take them out of port. It shall be lawful for them to hire at pleasure servants, compradores, linguists, writers, labourers, seamen and persons for whatever necessary service with passage or cargo boats for a reasonable compensation, to be agreed upon by the parties, or determined by the Consul.

## ARTICLE XVIII

Whenever merchant vessels of the the United States shall enter a port, the collector of customs shall, if he see fit, appoint custom house Officers to guard said vessels, who may live on board the ship or their own boats at their convenience. The local authorities of the Chinese Government shall cause to be apprehended all mutineers or deserters from on board the vessels of the United States in China on being informed by the Consul, and will deliver them up to the consuls or other officers for punishment.<sup>10</sup> And if criminals, subjects of China, take refuge in the houses or on board the vessels of citizens of the United States, they shall not be harboured or concealed, but shall be delivered up to justice, on due requisition by the Chinese local Officers, addressed to those of the United States. The merchants, seamen and other citizens of the United States, shall be under the superintendence of the appropriate officers of their government. If individuals of either nation commit acts of violence or disorder, use arms to the injury of others, or create disturbances endangering life, the Officers of the two governments will exert themselves to enforce order, and to maintain the public peace by doing impartial justice in the premises.

ARTICLE XIX <sup>11</sup>

Whenever a merchant vessel belonging to the United States shall cast anchor in either of the said ports, the supercargo, master or consignee, shall within forty eight hours, deposit the ship's papers in the hands of the Consul, or person charged with his functions, who shall cause to be communicated to the superintendant of customs a true report of the name and tonnage of such vessel, the number of her crew and the nature of her cargo, which being done, he shall give a permit for her discharge. And the master, supercargo or consignee, if he proceed to discharge the cargo without such permit, shall incur a fine of five hundred dollars, and the goods so discharged without permit shall be subject to forfeiture to the Chinese Government. But

<sup>10</sup> Second sentence of art. XVIII abrogated July 1, 1916, in accordance with Seamen's Act of Mar. 4, 1915 (38 Stat. 1164).

<sup>11</sup> A modification of art. XIX, subject to ratification by the United States, was agreed to on July 11, 1867, by the American Minister and the Chinese Government. On Jan. 20, 1868, the Senate adopted the following resolution of advice and consent to the proposed modification:

"Resolved, (two thirds of the Senators present concurring) That the Senate do advise and consent to the modification of the treaty between the United States and China concluded at Tientsin on the 18th of June 1858, so that the nineteenth article shall be understood to include hulks and storeships of every kind under the term merchant vessels: and so that it shall provide that if the supercargo, master, or consignee shall neglect, within forty-eight hours after a vessel casts anchor in either of the ports named in the treaty, to deposit the ships papers in the hands of the consul or person charged with his functions, who shall then comply with the requisitions of the nineteenth article of the treaty in question, he shall be liable to a fine of fifty taels for each days delay, the total amount of penalty however shall no: exceed two hundred taels."

if a master of any vessel in port desire to discharge a part only of the cargo, it shall be lawful for him to do so, paying duty on such part only, and to proceed with the remainder to any other ports. Or if the master so desire, he may within forty-eight hours after the arrival of the vessel, but not later, decide to depart without breaking bulk; in which case he shall not be subject to pay tonnage or other duties or charges, until on his arrival at another port, he shall proceed to discharge cargo, when he shall pay the duties on vessel and cargo according to law. And the tonnage duties shall be held due after the expiration of the said forty-eight hours. In case of the absence of the Consul or person charged with his functions, the captain or supercargo of the vessel may have recourse to the Consul of a friendly power, or if he please, directly to the Superintendent of customs, who shall do all that is required to conduct the ship's business.

#### ARTICLE XX

The Superintendent of customs in order to the collection of the proper duties, shall on application made to him through the consul, appoint suitable officers, who shall proceed in the presence of the captain, supercargo or consignee, to make a just and fair examination of all goods in the act of being discharged for importation, or laden for exportation, on board any merchant vessel of the United States. And if disputes occur in regard to the value of goods subject to *ad valorem* duty, or in regard to the amount of tare, and the same cannot be satisfactorily arranged by the parties, the question may within twenty four hours, and not afterwards, be referred to the said consul to adjust with the superintendent of customs.

#### ARTICLE XXI <sup>12</sup>

Citizens of the United States who may have imported merchandize into any of the free ports of China, and paid the duty thereon, if they desire to reëxport the same in part or in whole to any other of the said ports, shall be entitled to make application through their Consul, to the superintendent of customs, who in order to prevent fraud on the revenue, shall cause examination to be made by suitable officers to see that the duties paid on such goods as are entered on the custom-house books, correspond with the representation made, and that the goods remain with their original marks

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<sup>12</sup> On Apr. 7, 1863, the American Minister and the Government of China agreed, subject to ratification by the United States, that art. XXI "shall be so modified as to permit duties to be paid, when goods are re-exported from any one of the free ports of China, at the port into which they are finally imported, and that drawbacks shall be substituted for exemption certificates at all the ports, which drawbacks shall be regarded as negotiable and transferable articles and be accepted by the Custom House from whatsoever merchant who may tender them either for import or export duty to be paid by him". By a resolution of Feb. 4, 1864, the Senate gave its advice and consent to the modification, and it was accepted, ratified, and confirmed by the President on Feb. 22, 1864.

unchanged, and shall then make a memorandum in the port clearance, of the goods and the amount of duties paid on the same, and deliver the same to the merchant, and shall also certify the facts to the officers of customs of the other ports; all which being done, on the arrival in port of the vessel in which the goods are laden, and everything being found on examination there to correspond, she shall be permitted to break bulk and land the said goods, without being subject to the payment of any additional duty thereon. But if on such examination, the superintendant of customs shall detect any fraud on the revenue in the case, then the goods shall be subject to forfeiture and confiscation to the Chinese Government. Foreign grain or rice brought into any port of China in a ship of the United States, and not landed, may be re-exported without hindrance.

#### ARTICLE XXII

The tonnage duty on vessels of the United States shall be paid on their being admitted to entry. Duties of import shall be paid on the discharge of the goods, and duties of export on the lading of the same. When all such duties shall have been paid and not before, the collector of customs shall give a port clearance, and the Consul shall return the ship's papers. The duties shall be paid to the shroffs authorized by the Chinese Government to receive the same. Duties shall be paid and received either in sycee silver or in foreign money at the rate of the day. If the Consul permits a ship to leave the port before the duties and tonnage dues are paid, he shall be held responsible therefor.

#### ARTICLE XXIII

When goods on board any merchant vessel of the United States in port require to be transhipped to another vessel, application shall be made to the consul, who shall certify what is the occasion therefor to the Superintendent of customs, who may appoint officers to examine into the facts and permit the transhipment. And if any goods be transhipped without written permits, they shall be subject to be forfeited to the Chinese Government.

#### ARTICLE XXIV

Where there are debts due by subjects of China to citizens of the United States, the latter may seek redress in law; and on suitable representations being made to the local authorities through the consul, they will cause due examination in the premises, and take proper steps to compel satisfaction—And if citizens of the United States be indebted to subjects of China, the latter may seek redress by representation through the consul, or by suit in the Consular Court: But neither government will hold itself responsible for such debts.

## ARTICLE XXV

It shall be lawful for the officers or citizens of the United States to employ scholars and people of any part of China without distinction of persons to teach any of the languages of the Empire, and to assist in literary labours; and the persons so employed shall not for that cause be subject to any injury on the part either of the government or of individuals; and it shall in like manner be lawful for citizens of the United States to purchase all manner of books in China.

## ARTICLE XXVI

Relations of peace and amity between the United States and China being established by this treaty, and the vessels of the United States being admitted to trade, freely to and from the ports of China open to foreign commerce, it is further agreed, that in case at any time hereafter China should be at war with any foreign nation whatever, and should for that cause exclude such nation from entering her ports, still the vessels of the United States shall not the less continue to pursue their commerce in freedom and security, and to transport goods to and from the ports of the belligerent powers, full respect being paid to the neutrality of the flag of the United States: provided that the said flag shall not protect vessels engaged in the transportation of officers or soldiers in the enemy's service, nor shall said flag be fraudulently used to enable the enemy's ships with their cargoes to enter the ports of China: but all such vessels so offending shall be subject to forfeiture and confiscation to the Chinese Government.

## ARTICLE XXVII

All questions in regard to rights whether of property or person, arising between citizens of the United States in China shall be subject to the jurisdiction and regulated by the authorities of their own government. And all controversies occurring in China between citizens of the United States and the subjects of any other government, shall be regulated by the treaties existing between the United States and such Governments respectively without interference on the part of China.

## ARTICLE XXVIII

If citizens of the United States have special occasion to address any communication to the Chinese local officers of government, they shall submit the same to their consul or other officer to determine if the language be proper and respectful, and the matter just and right, in which event he shall transmit the same to the appropriate authorities for their consideration and action in the premises. If subjects of China have occasion to address the Consul of the United States, they may address him directly at the same time they inform their own officers, representing the case for his consideration and action in

the premises. And if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction. The extortion of illegal fees is expressly prohibited. Any peaceable persons are allowed to enter the court in order to interpret, lest injustice be done.

#### ARTICLE XXIX

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. Hereafter, 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 teach and practice the principles of Christianity, shall in no case be interfered with or molested.

#### ARTICLE XXX

The contracting parties hereby agree that should at any time the Ta Tsing Empire, grant to any nation or the merchants or citizens of any nation, any right, privilege or favour, connected either with navigation, commerce, political or other intercourse which is not conferred by this treaty, such right, privilege and favour shall at once freely enure to the benefit of the United States, its public officers, merchants and citizens.

The present treaty of peace, amity and commerce shall be ratified by the President of the United States, by and with the advice and consent of the Senate, within one year, or sooner, if possible, and by the August Sovereign of the Ta Tsing Empire forthwith: and the ratifications shall be exchanged within one year from the date of the signatures thereof.<sup>13</sup>

In faith whereof, we the Respective Plenipotentiaries of the United States of America and of the Ta Tsing Empire, as aforesaid, have signed and sealed these presents.

Done at Tientsin, this eighteenth day of June, in the year of our Lord one thousand eight hundred and fifty eight, and the Independence of the United States of America the eighty second, and in the eighth year of Hienfung, fifth month and eighth day.

|                  |                         |        |
|------------------|-------------------------|--------|
| WILLIAM. B. REED |                         | [SEAL] |
| KWEILIANG        | [ideographic signature] | [SEAL] |
| HWASHANA         | [ideographic signature] | [SEAL] |

<sup>13</sup> For a note regarding the delay in the exchange of instruments of ratification, see 7 Miller 913.



## PEACE, AMITY, AND COMMERCE

*Treaty signed at Washington July 28, 1868, supplementing treaty of June 18, 1858*

*Senate advice and consent to ratification, with amendments, July 24, 1868*<sup>1</sup>

*Ratified by the President of the United States October 19, 1868*

*Ratified by China November 23, 1869*

*Ratifications exchanged at Peking November 23, 1869*

*Entered into force November 23, 1869*

*Proclaimed by the President of the United States February 5, 1870*

*Provisions relating to immigration modified by treaty of November 17, 1880*<sup>2</sup>

*All provisions continued in force by treaty of October 8, 1903, "except in so far as they are modified by the present Treaty or other treaties to which the United States is a party"*<sup>3</sup>

*Superseded November 30, 1948, by treaty of November 4, 1946*<sup>4</sup>

16 Stat. 739; Treaty Series 48

### ADDITIONAL ARTICLES TO THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE TA-TSING EMPIRE OF THE 18TH OF JUNE, 1858

Whereas since the conclusion of the treaty between the United States of America and the Ta-Tsing Empire (China) of the 18th of June, 1858, circumstances have arisen showing the necessity of additional articles thereto, the President of the United States and the august sovereign of the Ta-Tsing

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<sup>1</sup> The treaty was originally signed July 4, 1868. The Senate resolution of advice and consent to ratification contained the following amendments, which were incorporated in a new engrossed text signed July 28, 1868:

Art. V: after the words "United States" where they occur the second time, insert *or Chinese subjects*.

Art. V: After the words "Chinese subject", insert *or citizen of the United States*.

Art. VI: At the end, insert *But nothing herein contained shall be held to confer naturalization upon citizens of the United States in China, nor upon the subjects of China in the United States*.

Art. VII: Delete. [Art. VII reads as follows: "The United States and the Emperor of China recognizing in the present progress of nations a favorable tendency towards a unity of civilization, and regarding a unity of money and a unity of weights and of measures as favorable to that great object, do hereby agree that they will use their influence and efforts to obtain the establishment by the general agreement of nations of representative

Empire have named for their plenipotentiaries, to wit: the President of the United States of America, William H. Seward, Secretary of State, and his Majesty the Emperor of China, Anson Burlingame, accredited as his Envoy Extraordinary and Minister Plenipotentiary, and Chih-Kang and Sun Chia-Ku, of the second Chinese rank, associated high envoys and ministers of his said Majesty, and the said plenipotentiaries, after having exchanged their full powers, found to be in due and proper form, have agreed upon the following articles:

#### ARTICLE I

His Majesty the Emperor of China, being of the opinion that, in making concessions to the citizens or subjects of foreign Powers of the privilege of residing on certain tracts of land, or resorting to certain waters of that empire for purposes of trade, he has by no means relinquished his right of eminent domain or dominion over the said land and waters, hereby agrees that no such concession or grant shall be construed to give to any Power or party which may be at war with or hostile to the United States the right to attack the citizens of the United States or their property within the said lands or waters; and the United States, for themselves, hereby agree to abstain from offensively attacking the citizens or subjects of any Power or party or their property with which they may be at war on any such tract of land or waters of the said empire; but nothing in this article shall be construed to prevent the United States from resisting an attack by any hostile Power or party upon their citizens or their property. It is further agreed that if any right or interest in any tract of land in China has been or shall hereafter be granted by the Government of China to the United States or their citizens for purposes of trade or commerce, that grant shall in no event be construed to divest

coins having a common value and also a common standard of weights and measures for all countries.”]

Art. VIII: Delete and insert the following: *Citizens of the United States shall enjoy all the privileges of the public educational institutions under the control of the government of China, and reciprocally, Chinese subjects shall enjoy all the privileges of the public educational institutions under the control of the government of the United States, which are enjoyed in the respective countries by the citizens or subjects of the most favored nation. The citizens of the United States may freely establish and maintain schools within the empire of China at those places where foreigners are, by treaty, permitted to reside and, reciprocally, Chinese subjects may enjoy the same privileges and immunities in the United States*. [The deleted text reads as follows: “The United States freely agrees that Chinese subjects shall, without hindrance on account of their nationality or religion, be admitted to all schools, colleges and other public educational institutions, without being subject to any religious or political test. And on the other hand His Majesty the Emperor of China agrees that citizens of the United States may freely establish and maintain schools in that Empire at those places where foreigners are by treaty permitted to reside.”]

The Senate amendments were incorporated in a new engrossed text which was signed on July 28, 1868.

<sup>2</sup> TS 49, *post*, p. 685.

<sup>3</sup> TS 430, *post*, p. 704 (art. XVII).

<sup>4</sup> TIAS 1871, *post*, p. 761.

the Chinese authorities of their right of jurisdiction over persons and property within said tract of land, except so far as that right may have been expressly relinquished by treaty.

#### ARTICLE II

The United States of America and his Majesty the Emperor of China, believing that the safety and prosperity of commerce will thereby best be promoted, agree that any privilege or immunity in respect to trade or navigation within the Chinese dominions which may not have been stipulated for by treaty, shall be subject to the discretion of the Chinese Government and may be regulated by it accordingly, but not in a manner or spirit incompatible with the treaty stipulations of the parties.

#### ARTICLE III

The Emperor of China shall have the right to appoint consuls at ports of the United States, who shall enjoy the same privileges and immunities as those which are enjoyed by public law and treaty in the United States by the consuls of Great Britain and Russia, or either of them.

#### ARTICLE IV

The twenty-ninth article of the treaty of the 18th of June, 1858, having stipulated for the exemption of Christian citizens of the United States and Chinese converts from persecution in China on account of their faith, it is further agreed that citizens of the United States in China of every religious persuasion and Chinese subjects in the United States shall enjoy entire liberty of conscience and shall be exempt from all disability or persecution on account of their religious faith or worship in either country. Cemeteries for sepulture of the dead of whatever nativity or nationality shall be held in respect and free from disturbance or profanation.

#### ARTICLE V

The United States of America and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and emigration of their citizens and subjects respectively from the one country to the other, for purposes of curiosity, of trade, or as permanent residents. The high contracting parties, therefore, join in reprobating any other than an entirely voluntary emigration for these purposes. They consequently agree to pass laws making it a penal offence for a citizen of the United States or Chinese subjects to take Chinese subjects either to the United States or to any other foreign country, or for a Chinese subject or citizen of the United States to take citizens of the United States to China or to any other foreign country, without their free and voluntary consent respectively.

## ARTICLE VI

Citizens of the United States visiting or residing in China shall enjoy the same privileges, immunities or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation, and, reciprocally, Chinese subjects visiting or residing in the United States, shall enjoy the same privileges, immunities and exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation. But nothing herein contained shall be held to confer naturalization upon citizens of the United States in China, nor upon the subjects of China in the United States.

## ARTICLE VII

Citizens of the United States shall enjoy all the privileges of the public educational institutions under the control of the government of China, and reciprocally, Chinese subjects shall enjoy all the privileges of the public educational institutions under the control of the government of the United States, which are enjoyed in the respective countries by the citizens or subjects of the most favored nation. The citizens of the United States may freely establish and maintain schools within the Empire of China at those places where foreigners are by treaty permitted to reside, and, reciprocally, Chinese subjects may enjoy the same privileges and immunities in the United States.

## ARTICLE VIII

The United States, always disclaiming and discouraging all practices of unnecessary dictation and intervention by one nation in the affairs or domestic administration of another, do hereby freely disclaim and disavow any intention or right to intervene in the domestic administration of China in regard to the construction of railroads, telegraphs or other material internal improvements. On the other hand, his Majesty, the Emperor of China, reserves to himself the right to decide the time and manner and circumstances of introducing such improvements within his dominions. With this mutual understanding it is agreed by the contracting parties that if at any time hereafter his imperial Majesty shall determine to construct or cause to be constructed works of the character mentioned within the empire, and shall make application to the United States or any other Western Power for facilities to carry out that policy, the United States will, in that case, designate and authorize suitable engineers to be employed by the Chinese Government, and will recommend to other nations an equal compliance with such application, the Chinese Government in that case protecting such engineers in their persons and property, and paying them a reasonable compensation for their service.

In faith whereof the respective Plenipotentiaries have signed this treaty and thereto affixed the seals of their arms.

Done at Washington the twenty-eighth day of July, in the year of our Lord one thousand eight hundred and sixty-eight.

WILLIAM H. SEWARD [SEAL]

ANSON BURLINGAME

CHIH-KANG [ideographic signature] [SEAL]

SUN CHIA-KU [ideographic signature]

## REDUCTION OF VISA FEES FOR NONIMMIGRANTS

*Exchange of notes at Nanking April 9, 1935, with supplementary notes  
of April 29 and May 8 and 10, 1935*

*Entered into force July 1, 1935*

*Superseded April 1, 1956, by agreement of December 20, 1955, and  
February 20, 1956<sup>1</sup>*

Department of State files

*The American Minister to the Acting Minister of Foreign Affairs*

LEGATION OF THE  
UNITED STATES OF AMERICA  
NANKING OFFICE  
*April 9, 1935*

### EXCELLENCY:

I have the honor to confirm in the following terms the tentative agreement reached as a result of discussions between the Ministry of Foreign Affairs and this Legation for reductions in the tariff of passport visa fees charged by the Governments of the Republic of China and of the United States:

1. The Government of the United States will from July 1, 1935, collect the following specified fees for visaeing travel documents (but will collect no fee for the execution of an application for a visa) of nationals of China proceeding to the United States (including the insular possessions) who fall within the following categories:

(1) A government official, his family, attendants, servants, and employees; no fee.

(2) An alien visiting the United States temporarily as a tourist or temporarily for business or pleasure: \$2.50.

(3) An alien in continuous transit through the United States; no fee.

(4) An alien lawfully admitted to the United States who later goes in transit from one part of the United States to another through foreign contiguous territory; no fee.

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<sup>1</sup> 7 UST 585; TIAS 3539.

(5) A bona fide alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter temporarily the United States solely in the pursuit of his calling as a seaman (the payment of \$2 is collected for the visa of a crew list covering all the members of the crew. No separate visa is required for each member of the crew); \$2.

(6) An alien entitled to enter the United States solely to carry on trade between the United States and the foreign state of which he is a national under and in pursuance of the provisions of a treaty of commerce and navigation, and his wife, and his unmarried children under 21 years of age, if accompanying or following to join him. (The wife and unmarried minor children who are accompanying the husband or father are covered by his visa; those who are following to join him must be covered by a separate visa); \$2.50.

2. The Government of China reciprocally will from July 1, 1935, collect fees in the following manner for visaeing the passports of nationals of the United States of corresponding categories as described above, who are proceeding to China including possessions:

- (1) For persons in category (1); no fee.
- (2) For persons in category (2); \$8 Chinese National Currency.
- (3) For persons in category (3); no fee.
- (4) For persons in category (4); no fee.
- (5) For crew lists in category (5); \$6.50 Chinese National Currency.
- (6) For persons in category (6); \$8 Chinese National Currency.

The above fees will be collected in Chinese National Currency or in the currency of the country where the visas are granted at the current rate of exchange.

3. The Government of China further agrees, in consideration of the privileges accorded Chinese residents of the United States to reenter the United States without visas for temporary visits to countries adjacent to the United States, that it will collect a fee of eight dollars Chinese National Currency, either in Chinese National Currency or in the currency of the country where the visas are granted, at the current rate of exchange, for visaeing the passports of nationals of the United States residing in China to reenter China from visits of not more than six months to countries adjacent to China, the visas issued in accordance with the provisions of this paragraph to be valid as specified in Article 4 for a period of twelve months and for any number of entries within that period.

4. The period of validity of a passport visa falling within any of the categories mentioned in Articles 1 and 2 (except in the case of a transit visa and a crew list visa which are valid for the particular journey involved) shall be 12 months from the date of the issuance of the visa and shall be valid for any number of visits during the validity of the visa provided the travel docu-

ment continues to be valid for this period. In the event the travel document expires sooner than 12 months from the date of issuance of the visa, the validity of the visa expires on the date of the expiration of such travel document.

5. Only one fee shall be charged for each passport visa falling within the terms of this agreement, provided that the travel document continues to be valid for the period of the visa and each visa shall cover the persons who may properly be included in the travel document and whose photographs are attached thereto.

6. The present agreement shall come into effect on July 1, 1935, and, unless sooner terminated by mutual agreement, shall continue in force until 90 days after notice through diplomatic channels of its termination shall have been given by either party.

I shall be glad to have your confirmation of the accord thus reached.

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

For the American Minister:

WILLYS R. PECK  
*Counselor of Legation*

His Excellency

Mr. WANG CHAO-MING,  
*Acting Minister for Foreign Affairs,  
Nanking.*

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*The Minister of Foreign Affairs to the American Minister*

WAICHIAOPU  
NANKING  
*April 9, 1935*

EXCELLENCY:

In reply to your note of today's date I have the honor to inform you that the National Government agrees with the American Government on the plan with respect to visas for passports set forth in your note under acknowledgment, as follows:

[For text of U.S. note, see above.]

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

WANGCHINGWEI

His Excellency

Mr. NELSON T. JOHNSON,  
*American Minister,  
Nanking.*



*The Second Secretary of the American Legation to the Political  
Vice Minister of Foreign Affairs*

LEGATION OF THE  
UNITED STATES OF AMERICA  
NANKING OFFICE  
*April 29, 1935*

MY DEAR MR. VICE MINISTER:

Let me refer to the recent agreement for reductions in the tariff of passport visa fees charged by the Government of the United States and the Government of China, which was embodied in an exchange of Notes between the American Legation and the Ministry of Foreign Affairs dated April 9, 1935, and particularly to Article 3 of the agreement which reads as follows:

3. The Government of China further agrees, in consideration of the privileges accorded Chinese residents of the United States to reenter the United States without visas from temporary visits to countries adjacent to the United States, that it will collect a fee of eight dollars Chinese National Currency, either in Chinese National Currency or in the currency of the country where the visas are granted, at the current rate of exchange, for visaing the passports of nationals of the United States residing in China to reenter China from visits of not more than six months to countries adjacent to China, the visas issued in accordance with the provisions of this paragraph to be valid as specified in Article 4 for a period of twelve months and for any number of entries within that period.

The American Legation at Peiping has received a telegraphic instruction from the Department of State at Washington, dated April 26, 1935, which states that under new regulations now being issued the following are the countries from which alien residents may return to the United States after temporary visits not exceeding six months and be readmitted into the United States without passports or visas:

Canada  
Newfoundland  
St. Pierre  
Miquelon  
Mexico

Cuba  
Haiti  
Dominican Republic  
Panama and the British, French, and Netherlands possessions in the West Indies.<sup>2</sup>

I am pleased to communicate to you, for the information of the Ministry of Foreign Affairs, this list of countries which the Department of State considers to be "adjacent to the United States" and, under instructions of the Legation, respectfully request that you kindly furnish me a list, for com-

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<sup>2</sup> See also U.S. note dated May 8, 1935, p. 733.

munication to the Legation, of the countries which are considered by the Ministry to be "adjacent to China".

I am, my dear Mr. Vice Minister,

Very sincerely yours,

GEORGE ATCHESON, JR.,  
*Second Secretary of Legation.*

Dr. Hsu Mo,  
*Political Vice Minister for Foreign Affairs,  
Ministry of Foreign Affairs,  
Nanking.*

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*The Director, Department of International Affairs of the Ministry for  
Foreign Affairs, to the Second Secretary of the American Legation*

NANKING  
May 8, 1935

DEAR MR. ATCHESON,

Referring to your letter dated April 29, 1935, addressed to Vice Minister Dr. Hsu Mo, I am directed to inform you that the following countries are considered by the Ministry to be "adjacent to China":

Hongkong  
French Indo-China  
Burma

Japan (including Korea and Formosa)  
Eastern Siberia.

Yours sincerely,

LOUIS NGAOSIANG TCHOU  
*Director  
Department of International Affairs*

Mr. GEORGE ATCHESON, JR.,  
*Second Secretary,  
American Legation.*

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*The Second Secretary of the American Legation to the Political Vice Minister  
of Foreign Affairs*

LEGATION OF THE  
UNITED STATES OF AMERICA  
Nanking, May 10, 1935

MY DEAR MR. VICE MINISTER:

With reference to my letter of April 29, 1935, communicating to you a list of the countries which the Department of State considers to be "adjacent to the United States" in connection with the application of Article 3 of the visa

fee agreement of April 9, 1935, I write to inform you that the Legation has received a telegram from the Department, dated May 9, stating that Bermuda should be added to the countries named.

I am, my dear Mr. Vice Minister,

Very sincerely yours,

GEORGE ATCHESON, JR.

Dr. Hsu Mo,  
*Political Vice Minister for Foreign Affairs,*  
*Ministry of Foreign Affairs,*  
*Nanking.*