



International Relations: The Status of Foreign Concessions and Settlements in the Treaty Ports of China

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INTERNATIONAL RELATIONS

The Status of Foreign Concessions and Settlements in the Treaty Ports of China. Hostilities now in progress in the Far East may produce significant changes in the status of foreign concessions and settlements in China. It may be useful, therefore, to classify these areas and to survey their status prior to the present "undeclared war." Among the several privileges gained by Great Britain, the United States, and France in their treaties with China in 1842-44 was the right of foreign residence in the five ports opened to trade by these treaties: Amoy, Canton, Foochow, Ningpo, and Shanghai. Arrangements for the residence of foreigners and their families in these ports were to be made by the consular officials and the local Chinese authorities acting "in concert together." These arrangements resulted in the delimitation of areas for foreign residence, generally called "settlements," which grew into municipalities exempt from Chinese jurisdiction and completely under foreign control. As more ports were opened for trade by the various treaties negotiated after 1844, certain nations requested exclusive areas in many of them. Such areas were generally called "concessions."

The terms "settlement" and "concession" have often been used indiscriminately, but the word "settlement" has most often been applied to a foreign-controlled area in which all the Treaty Powers have equal rights.¹ Such an area is governed by a locally elected municipal council of foreigners. In existing settlements, a minority of Chinese members has been added in recent years. Both Chinese and foreigners may reside in a foreign settlement. Its chief characteristic is the fact that land can be leased by foreigners directly from the Chinese owner, the deeds being registered through the consulate of the foreigner and with the local Chinese authorities.

The term "concession," on the other hand, has been applied to a grant of land by the Chinese government to a single foreign nation, either directly by treaty or indirectly under general treaty terms by the local Chinese authorities. A concession is governed by the consular representative of the nation controlling the grant, sometimes with the assistance of an elected municipal council. The chief characteristic of a national concession is that the grant is in the form of a long-term or perpetual

¹ The "treaty powers" are those nations possessing special rights and privileges in China by treaty. There are at present 15: Great Britain, the United States, Japan, France, Italy, Norway, Sweden, Denmark, the Netherlands, Spain, Portugal, Peru, Mexico, and Switzerland. Germany and Austria-Hungary lost their treaty rights after the World War, and Russia gave up her rights as a matter of political expediency. Belgium was declared by China to have lost her rights in 1927. See W. W. Willoughby, *Foreign Rights and Interests in China* (Baltimore, 1927), Vol. II, p. 586.

lease on which the nation concerned pays a nominal ground rent to the Chinese government. The nation controlling the concession, in turn, acts as landlord by sub-leasing plots to individuals, either foreign or Chinese.²

Classification of Settlements. There exist at present two general foreign settlements as defined—the International Settlement at Shanghai and the International Settlement at Kulangsu (Amoy). The Shanghai International Settlement was the result of amalgamation of areas set aside for British and American residence in 1845 and 1863 respectively. Its international character is due largely to an early insistence by Americans in Shanghai that the treaties of 1842–44 did not provide for the establishment of exclusive national concessions. The International Settlement at the port of Amoy covers the whole of the island of Kulangsu. An informal organization was established by foreigners resident there soon after the port was opened, but the settlement was not formally organized until the approval of its Land Regulations by the Chinese government in May, 1902.³

In addition to the settlements at Shanghai and Amoy, informal foreign settlements developed in Chefoo, Foochow, and Ningpo. At these ports, foreigners congregated in an area and set up a quasi-municipal organization, assessing themselves for the upkeep of roads, sanitation, etc., with the tacit but not explicit consent of the Chinese government. Chefoo is the only port at which such a settlement exists at present.

As the foreign powers demanded that more and more ports be opened to trade, the Chinese government adopted the expedient of expropriating land in some of these ports which it set aside for foreign residence. This was done in Yochow, Wuhu, Soochow, Hangchow, Foochow, Nanning, and Nanking. But in all of these so-called "settlements" the Chinese government retained full jurisdiction as to taxation, policing, etc. Gradually these settlements were absorbed into the Chinese city, and they cannot now be distinguished as separate areas.

Classification of National Concessions. There is definite record of grants by the Chinese government of 23 concessions to eight nations in 10 Chinese ports.⁴ At present, only four nations possess concessions, as follows: Great Britain—two, at Canton and Tientsin; Japan—three, at Hangchow, Hankow, and Tientsin; France—four, at Canton, Hankow, Shanghai, and Tientsin; Italy—one, at Tientsin. Thirteen concessions,

² In some concessions, Chinese are excluded from renting land, but circumvent this by renting in the name of a foreigner, paying him for the privilege. In the area known as the British Extra-Mural Extension in Tientsin, and in the extensions of 1898 and 1914 to the French concession in Shanghai, land leasing is on the same basis as in a general foreign settlement.

³ G. E. B. Hertslet, *China Treaties*, Vol. II, p. 774.

⁴ See table appended.

therefore, have reverted to China. Great Britain has given up four. The British concession at Amoy was formally organized in 1877,⁵ but with the development of the International Settlement on the island of Kulangsu, where the British had equal rights with other treaty powers, a separate concession became unnecessary, and with the exchange of British registered title deeds for Chinese title deeds in 1930, the last vestige of the concession disappeared. As a result of the establishment of the Chinese Nationalist government in 1927, Great Britain returned to China her concessions at the ports of Hankow, Chinkiang, and Kiukiang.⁶

By treaties with China in 1896, Japan gained rights to exclusive concessions in a number of ports. In addition to the four concessions still retained by Japan, concessions were established at Amoy, Chungking, and Shashih. Only the one at the latter port was formally organized. Trade was insufficient to warrant the development of municipalities in these areas, and so far as is known the Japanese concessions at these ports have disappeared as such and the areas are under control of the local Chinese authorities.

Germany and Austria-Hungary lost all special privileges in China as a result of the World War, and consequently the Chinese government took over the German concession at Hankow and the German and Austro-Hungarian concessions at Tientsin. In 1920, the Chinese also took over administrative control of the Russian concessions in Hankow and Tientsin. This was later confirmed when Soviet Russia gave up the special privileges in China acquired by the Tsarist government. In 1930, the Belgian concession in Tientsin was returned to China by special agreement.⁷

In addition to the 23 concessions formally established as noted above, Great Britain, Japan, and the United States were granted rights to concessions which either were not established or have a doubtful status at the present time. At the port of Wuhu on the Yangtze, an area was delimited for a British concession in 1877 but was never organized. By a protocol with China in 1896, Japan was granted the right to exclusive conces-

⁵ Hertslet, Vol. II, p. 1125.

⁶ Rendition of British concessions at Hankow and Kiukiang, by Chen O'Malley agreement, March 15, 1927. Text in *China Year Book*, 1928, pp. 739 and 741 ff.; and in Great Britain, Foreign Office, *Papers Relating to British Concessions in Hankow and Kiukiang*, China No. 3 (1927). Rendition of British concession at Chinkiang by exchange of notes, October 31, 1929. Texts in *China Year Book*, 1929-30, pp. 105-109, and in League of Nations, Treaty Series, No. 2289, Vol. XCIX, p. 441.

⁷ Rendition of Belgian concession in Tientsin by agreement of August 31, 1929. Text in *China Year Book*, 1929-30, pp. 916 ff., and in League of Nations, Treaty Series, No. 2810, Vol. CXII, p. 105.

sions in the ports of Amoy, Chungking, Hangchow, Hankow, Shanghai, Shashih, Soochow, and Tientsin.⁸ This right has not been exercised in Soochow and Shanghai. Both Great Britain and Japan, as well as Russia, made tentative arrangements for the establishment of concessions at the port of Newchwang in Manchuria after 1861. Although a Russian area was partially organized about the time of the Boxer rebellion, no other concessions were formally established there. Newchwang is now a part of Manchoukuo.

It has frequently been stated that the United States has never held concessions in China. While such a statement may be legally correct, it does not represent the whole truth. In Shanghai, the local Chinese officials offered to set aside an area for the use of Americans soon after the port was opened. This was refused by the American consul, who thought the site disadvantageous. In 1863, toward the end of the Taiping rebellion, an unofficial American settlement had developed outside the then foreign settlement in the area known as Hongkew. On July 4, 1863, the American consul, George M. Seward, concluded an agreement with the local Chinese officials for delimitation of an American "settlement" or, by my definition, actually a concession.⁹ This action, so far as is known, was never approved by the United States government, then involved in the Civil War, and before the year ended the area was amalgamated with the former British area to form an enlarged international settlement. The United States, however, possesses equal rights with the other treaty powers in the International Settlement at Shanghai, and likewise has equal responsibility.

At the port of Amoy, there existed an area adjacent to the British concession which was known locally as the "American Settlement" until about 1900. This area was never officially recognized as a concession, and in 1903 the United States approved the Land Regulations for the International Settlement at Kulangsu, thus placing itself on a basis of equality with the other treaty powers and assuming an equal responsibility for this settlement.

At Tientsin, an area was set aside for American residence by the local Chinese officials in 1869. This area came to be known locally as the American concession, and was so referred to in diplomatic correspondence.¹⁰ Apparently the United States consular authorities in Tientsin exercised jurisdiction over this land until 1880. In 1896, all claim to control or jurisdiction was formally abandoned by the United States govern-

⁸ Protocol concerning Japanese settlements, inland navigation, etc. Oct. 19, 1896. *Hertslet*, Vol. I, p. 91. 1896/6, Arts. 1, 3.

⁹ *Foreign Relations of the United States*, 1867, Part I, China, Inclosure in No. 125.

¹⁰ *Ibid.*, 1901, Vol. I, pp. 40 ff. See inclosure No. 2 in No. 551, p. 50.

ment.¹¹ Although in 1900 Mr. Conger, the American minister to China, urged that the government reassert its rights, such action was not taken and the area was included in the extension of the British concession in 1901-02. In the British extension, Americans and other foreigners possessing treaty privileges were allowed (by the British) to rent land through registration of their deeds with their own consulates.

The legal bases for the existence of these areas varies with the circumstances of their establishment. The International Settlement and the French concession at Shanghai were developed under the terms of the treaties of 1842-44, which made no specific provisions for foreign municipalities on Chinese soil. Approval of local regulations and of extensions of these two areas was in all cases obtained from the local Chinese authorities with the tacit, but not explicit, consent of the Central Chinese government. Their legal position, therefore, is that of a customary servitude of long standing maintained by force, and recognized as such by the Chinese government. The remaining settlements and concessions have a more definitive treaty basis than those at Shanghai, and their development has been regularized by agreements with the Chinese government respecting their establishment and extensions of their boundaries.

Perhaps the most important question concerning the status of these settlements and concessions is whether a change in the status of one area can be made without affecting the status of other areas or without affecting the exercise of extraterritoriality. Historically, 13 concessions have reverted to China, while the remaining areas are intact; and extraterritoriality was not impaired by this process. Theoretically, the process could continue without any change in the exercise of extraterritoriality, but it must be pointed out that the areas given up were in minor ports or were held by minor powers, as in the case of the Belgian concession in Tientsin. It is extremely doubtful whether Great Britain, France, and Japan would agree to the rendition of their respective concessions in Tientsin unless they were also prepared to negotiate on the question of extraterritoriality. It is equally doubtful whether Great Britain, France, Japan, and the United States would agree to rendition of the Shanghai International Settlement, or even the one at Amoy, except as part of a general settlement of the question of foreign rights and privileges in China.

The second question to be considered with respect to the status of existing foreign settlements and concessions is their relation to the political and economic development of China. It is a recognized fact that the security of these areas, particularly in Tientsin and Shanghai, has been an important factor in the flow of Chinese capital from the interior to these treaty ports. This has resulted in intense speculation, particularly

¹¹ Instructions to this effect quoted in sub-inclosure No. 3 in No. 551, *op. cit.*

in Shanghai, and has undoubtedly hindered rural rehabilitation in the interior. The implications of this process need to be thoroughly studied before definite conclusions can be drawn.

On the other hand, these settlements and concessions, rendered secure on occasion by the armed forces of the foreign powers, have provided safe bases for the economic, political, and even military, penetration of China by the foreign powers. The Shanghai International Settlement and the Tientsin concessions contain headquarters for most of the foreign banks and business houses operating in China. A large proportion of foreign and Chinese industries are also located in these foreign-controlled areas, where they are generally free from Chinese jurisdiction and taxation, and where their property is under the protection of foreign guns. In Tientsin, the Japanese Concession was the initial base for Japan's military operations in North China. In Shanghai, the Hongkew district of the International Settlement, known locally as "little Tokyo," was used as a military base by the Japanese in 1932 and, now under their complete control, serves as their base of operations in the Yangtze valley. Japanese withdrawal from their Hankow concession was dictated by military strategy and does not mean that the Japanese will forego their rights in that port.

The full implications of the relation between existing settlements and concessions in the treaty ports and the economic, political, or military penetration of China by the foreign powers needs detailed study. It will suffice here to point out that the question of the future status of settlements and concessions is more than a problem of treaty agreements and legal technicalities; it is one fundamentally connected with all aspects of Sino-foreign relations.¹

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¹ The following table indicates the location of settlements and concessions, the dates of the original grants or agreements for their establishment, and dates of extensions and of rendition where that has taken place.

International Settlements:

Shanghai: British settlement delimited, 1845; made international, 1854; extensions, 1863 and 1899.

Kulangsu (Amoy): Developed as a general foreign settlement after 1843; right to national concessions granted Great Britain and Japan, 1860; international settlement established formally, 1903.

National Concessions:

Great Britain:

Canton—formally granted, 1859.

Tientsin—granted, 1860; extension, 1897; additional grant, 1900-02; grants consolidated, 1918.

(Continued on the following page)

Hankow—granted, 1861; extended, 1896; returned to China, 1927.

Kiukiang—granted, 1861; returned to China, 1927.

Chinking—granted, 1861; returned to China, 1929.

Amoy—right to concession, 1861; right given up, 1930.

France:

Shanghai—granted, 1849; extended, 1861, 1898, 1915.

Tientsin—granted, 1861; extended, 1902.

Hankow—granted, 1861; right not exercised; regranted, 1896.

Canton—granted, 1859.

Japan:

Tientsin—granted, 1896; extended, 1900–02; additional property leased in 1934–36; status of this property in doubt in relation to concession.

Hankow—granted, 1896.

Amoy—right granted, 1896. (See International Settlements above.)

Shanghai—right to request concession granted, 1896; not exercised to date.

Hangchow—granted, 1896—reported renewed for 30 years, 1935.

Shanghai—granted, 1896; present status in doubt.

Yochow—granted, 1898; present status in doubt.

Samsha—granted, 1898; never taken up.

Foochow—granted, 1898; never taken up.

Chinking—granted, 1896; present status in doubt.

Soochow—granted, 1896; present status in doubt.

Belgium:

Tientsin—granted, 1902; returned to China, 1931.

Italy:

Tientsin—granted, 1901.

Germany:

Tientsin—granted, 1895; extended, 1901; taken over by China, 1919–20.

Hankow—granted, 1895; taken over by China, 1919–20.

Austria-Hungary:

Tientsin—granted, 1902; taken over by China, 1919–20.

Russia:

Tientsin—granted, 1900; taken over by China, 1920.

Hankow—granted, 1896; confirmed by China, 1900; taken over by China, 1920.

United States:

Shanghai—American settlement delimited, 1863; not recognized by United States government; amalgamated with former British settlement to form part of International Settlement, 1863.

Tientsin—Area delimited for American residence, 1869; quasi-U.S. jurisdiction over land until 1880; all jurisdiction abandoned, 1896; area included in British extension, 1901–02.

Amoy—Area known as American Settlement until 1900; never formally recognized.