

N° 261.

ALLEMAGNE ET CHINE

Accords concernant le rétablissement
de la paix. Pékin, le 20 mai 1921.

GERMANY AND CHINA

Agreements regarding the restora-
tion of the state of peace. Peking,
May 20, 1921.

¹ TRADUCTION. — TRANSLATION.No. 261. — AGREEMENTS BETWEEN GERMANY AND CHINA
REGARDING THE RESTORATION OF THE STATE OF PEACE.
PEKIN MAY 20, 1921.

I. (a) DECLARATION OF THE GERMAN PLENIPOTENTIARY.

The undersigned, duly authorised Representative of the Government of the GERMAN REPUBLIC, has the honour on behalf of his Government to inform the Minister for Foreign Affairs of the CHINESE REPUBLIC as follows :

Whereas the Government of the German Republic is desirous of re-establishing friendly and commercial relations between China and Germany,

And whereas such relations should be based on principles of complete equality and absolute reciprocity in accordance with the rules of international law,

And whereas, on September 15, 1919, the President of the Chinese Republic promulgated a Decree concerning the re-establishment of peace with Germany,

And whereas Germany undertakes to fulfil towards China the obligations arising out of Articles 128 to 134 of the Treaty of Versailles of June 28, 1919, which came into force on January 10, 1920,

The German Government points out that, owing to the events of the war and the Treaty of Versailles, Germany has been obliged to renounce all her rights, titles and privileges acquired by virtue of the Treaty concluded between Germany and China on March 6, 1898, and by virtue of all other Acts concerning the province of Shantung, and is thus deprived of the possibility of restoring them to China,

And the German Government formally declares :

That Germany hereby consents to the abrogation of consular jurisdiction in China,

That Germany renounces in favour of China all rights which the German Government possesses in respect of the "glacis" appertaining to the German Legation at Pekin, and admits that the expression "public property" in the first paragraph of Article 130 of the Treaty of Versailles applies to the above-mentioned piece of land,

And that Germany is prepared to reimburse the Chinese Government for the cost of interning German troops in the different internment camps in China.

The undersigned has the honour to be, etc.,

(Signed) VON BORCH,
Representing the German Government.

Pekin, May 20, 1921.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

(b) LETTER OF CONFIRMATION FROM THE CHINESE MINISTER FOR FOREIGN AFFAIRS.

The undersigned, Minister for Foreign Affairs of the Chinese Republic, has the honour to acknowledge receipt of the letter of to-day's date from the duly authorised representative of the Government of the German Republic, informing him on behalf of his Government as follows :

“ Whereas the Government of the German Republic is desirous of re-establishing friendly and commercial relations between China and Germany,

“ And whereas such relations should be based on principles of complete equality and absolute reciprocity in accordance with the rules of international law,

“ And whereas on September 15, 1919, the President of the Chinese Republic promulgated a Decree concerning the re-establishment of peace with Germany,

“ And whereas Germany undertakes to fulfil towards China the obligations arising out of Articles 128 to 134 of the Treaty of Versailles of June 28, 1919, which came into force on January 10, 1920,

“ The German Government points out that, owing to the events of the war and the Treaty of Versailles, Germany has been obliged to renounce all her rights, titles and privileges acquired by virtue of the Treaty concluded between Germany and China on March 6th, 1898, and by virtue of all other Acts concerning the province of Shantung, and whereas she is thus deprived of the possibility of restoring them to China,

The German Government formally declares :

That Germany hereby consents to the abrogation of consular jurisdiction in China,

That Germany renounces in favour of China all rights which the German Government possesses in respect of the “glacis” appertaining to the German Legation at Peking, and admits that the expression “public property” in the first paragraph of Article 130 of the Treaty of Versailles applies to the above-mentioned piece of land,

And that Germany is prepared to reimburse the Chinese Government for the expense of internment German troops in the different internment camps in China.

The undersigned has the honour to be,

(Signed) W. W. YEN,
Minister for Foreign Affairs.

Peking, May 20, 1921.

2. COVERING LETTER FROM THE GERMAN PLENIPOTENTIARY TO THE CHINESE MINISTER FOR FOREIGN AFFAIRS.

PEKIN, May 20, 1921.

YOUR EXCELLENCY,

In compliance with instructions from my Government, I have the honour to inform you once more that it is not prepared at the present time to declare again its general recognition of the Treaty of Versailles. Such a step would be equivalent to a voluntary acceptance of the Treaty on the part of the German Government, and would prejudice the subsequent revision of the said Treaty. The German Government would not, however, raise any objection should China, apart from the provisions of Articles 128 to 134 of the Treaty, avail herself of certain other rights which she derives from the Treaty, and which she may consider of importance to herself, either in their present form or, should the Treaty be revised, in their modified form.

I have the honour to be, etc.

(Signed) VON BORCH.

3. AGREEMENT BETWEEN GERMANY AND CHINA.

The Government of the GERMAN REPUBLIC and the Government of the CHINESE REPUBLIC, being desirous of re-establishing friendly and commercial relations by an agreement between the two countries, taking as a basis the German Republic's Declaration of this date and recognising that the application of the principles of respect for territorial sovereignty, of equality and of reciprocity is the only means of maintaining good relations between peoples, have appointed as their plenipotentiaries for that purpose :

FOR THE GOVERNMENT OF THE GERMAN REPUBLIC :

H. von BORCH, Consul-General ;

FOR THE GOVERNMENT OF THE CHINESE REPUBLIC :

W. W. YEN, Minister for Foreign Affairs ;

Who, having communicated to each other their full powers, which were found in good and due form, have agreed upon the following provisions :

Article 1.

The two High Contracting Parties shall have the right to send to each other duly accredited diplomatic agents, who shall enjoy, in the countries where they respectively reside, the privileges and immunities granted to them by international law.

Article 2.

The two High Contracting Parties shall reciprocally grant each other the right to appoint, in all places where Consulates or Vice-Consulates of other nations exist, Consuls, Vice-Consuls and Consular Agents, who shall be treated with the consideration and respect granted to agents of the same category in the service of other nations.

Article 3.

The nationals of either of the two Republics residing in the territory of the other shall have the right, in accordance with the laws and regulations of the country, to travel, settle and carry on commerce or industry in all places where nationals of any other nation are entitled to do so.

In respect of their persons and property, they shall be subject to the jurisdiction of the local courts, and must comply with the laws of the country in which they reside. They shall pay no duties, taxes or contributions in excess of those paid by the nationals of that country.

Article 4.

The two High Contracting Parties recognise that all matters relating to Customs shall be regulated solely by the internal legislation of the respective parties. Nevertheless, no duties higher than those paid by nationals of the country shall be charged on products, whether raw or manufactured, coming from one of the two Republics or from another country, when such products are imported, exported or in transit.

Article 5.

The German Realm's Declaration of to-day's date and the provisions of this present agreement shall be taken as a basis for the negotiation of the final treaty.

Article 6.

The present agreement is drawn up in German, Chinese and French ; should there be a difference as to interpretation, the French shall be the authentic text.

Article 7.

The present agreement shall be ratified as soon as possible, and shall come into force as from the date on which the two Governments have informed each other that ratification has taken place.

Done at Peking, in duplicate, on May 20, 1921, which date corresponds to the twentieth day of the fifth moon of the tenth year of the Chinese Republic.

(Signed) VON BORCH.

(Signed) W. W. YEN.

4. EXCHANGE OF NOTES BETWEEN THE GERMAN PLENIPOTENTIARY AND THE CHINESE MINISTER FOR FOREIGN AFFAIRS.

(a) Note from the German Plenipotentiary.

PEKIN, May 20, 1921.

YOUR EXCELLENCY,

In pursuance of instructions from the German Government, I have the honour to communicate to you the following additional statements to supplement the texts of the German Declaration and the German-Chinese Agreement.

(1) Customs Duties on Chinese Goods in Germany.

The Customs regulations referred to in Article IV of the Agreement, under which import, export and transit duties in both countries are not to exceed those paid by nationals of the country imposing them, shall not prevent China from availing herself of the advantages conferred on her by Article 264 of the Treaty of Versailles.

(2) Reparations.

The passage in the German Declaration in which Germany declares herself prepared to reimburse China for expenditure in connection with the various internment camps is to be understood to mean that Germany is prepared to make this payment over and above the payments to be made for reparations in accordance with the principles laid down in the Treaty of Versailles.

In order to satisfy the Chinese demands for reparations, the German Government undertakes to pay 4 million dollars in cash and the rest in debentures of the Tientsin-Pukow-Hukuang Railway.

This payment, the total amount of which has yet to be fixed by mutual agreement, shall amount to half the proceeds of the sale of German property in China already liquidated and half the value of property sequestered.

(3) *Chinese Property in Germany.*

Chinese movable and real property in Germany shall, after the ratification of the Agreement, be restored *in toto*.

(4) *Chinese Students in Germany.*

The German Government will have great pleasure in affording every possible assistance to Chinese students resident in Germany in obtaining admission to universities, or in completing their training by practical instruction.

Further, the undersigned would be grateful to Your Excellency for information on the following points :

(a) *Future Security for Property of German Nationals.*

Can the Chinese Government promise that it will grant Germans in China full protection in the peaceful exercise of their vocations and that it will not again confiscate their property, save in accordance with the generally-recognised principles of international law or the provisions of Chinese law ?

(b) *Legal Guarantees.*

Will all law-suits in China in which Germans are involved be decided before the newly-established courts, with right of appeal and according to the new laws, and will a regular method of procedure be applied ?

May German barristers and interpreters, officially accredited to the Courts, act as counsel during the proceedings ?

(c) *Cases before Mixed Courts.*

What procedure does the Chinese Government propose for cases before mixed courts in which Germans are plaintiffs or defendants ?

(d) *Chinese Measures with regard to Enemy Trading.*

Will all measures of this kind be cancelled as from the date on which the Agreement is ratified ?

(e) *Settlement of Chinese-German Obligations.*

Does the Chinese Government intend to adhere to the general system of clearing-houses as laid down in Article 296 of the Treaty of Versailles ?

In bringing the preceding to Your Excellency's notice I have the honour to be, etc.

(Signed) VON BORCH,
Representative of the German Government.

(b) *Note from the Chinese Minister for Foreign Affairs in reply to the preceding Note.*

PEKIN, May 20, 1921.

SIR,

I have the honour to acknowledge receipt of your Note dated May 20, 1921, in which, with a view to defining the meaning of the German Declaration and the Chinese-German Agreement, you were good enough to furnish the following explanations :

(1) *Customs Duties on Chinese Goods in Germany.*

1 The Customs regulations laid down in Article IV of the Agreement, under which import, export and transit duties in both countries are not to exceed those paid by nationals of the country imposing them, shall not prevent China from availing herself of the advantages conferred on her by Article 264 of the Treaty of Versailles.

(2) *Reparations.*

The passage in the German Declaration in which Germany declares herself prepared to reimburse China for expenditure in connection with the various internment camps is to be understood to mean that Germany is prepared to make this payment over and above the payments to be made for reparations in accordance with the principles laid down in the Treaty of Versailles.

In order to satisfy the Chinese demands for reparations, the German Government undertakes to pay a part payment of 4 million dollars in cash, and the rest in Tientsin-Pukow and Hukuang Railway debentures. This payment, the total amount of which has yet to be fixed by mutual agreement, shall amount to half the proceeds of the sale of German property in China already liquidated and half the value of the property sequestered.

(3) *Chinese Property in Germany.*

Chinese movable and real property in Germany shall, after the ratification of the Agreement, be restored *in toto*.

(4) *Chinese Students in Germany.*

The German Government will have great pleasure in affording every possible assistance to Chinese students resident in Germany in obtaining admission to universities or in completing their training by practical instruction.

In reply to the questions which you were good enough to put to me, I have the honour to state the following :

(a) *Future Security for the Property of Chinese and German Nationals.*

The Chinese Government promises that it will grant full protection to Germans in China in the peaceful exercise of their profession and that it will not again confiscate their property, save in accordance with the generally recognised principles of international law or the provisions of Chinese law, provided that the German Government adopts the same procedure with regard to Chinese nationals living in Germany.

(b) *Legal Guarantees.*

All law-suits in China in which Germans are involved will be decided before the newly-established courts, with right of appeal. These law-suits will be conducted in accordance with the regular procedure. German barristers and interpreters, officially accredited to the Courts, may act as counsel during the proceedings.

(c) *Cases before Mixed Courts.*

With regard to proceedings before mixed courts, in which Germans are plaintiffs or defendants, China will seek a solution as regards the future which shall be just to all parties.

(d) *Chinese Measures with regard to Enemy Trading.*

All such provisions will be automatically cancelled as from the date of ratification of the Agreement.

As regards German trade-marks registered at the Maritime Customs Office, the original owners shall regain their rights and privileges after the ratification of the above-mentioned Agreement, provided that they register the said trade-marks again at the Maritime Customs Office.

Until the autonomous Customs regulations come into general application, German imports shall pay Customs duties as provided in the general Customs regulations.

(e) *Settlement of Chinese-German Obligations.*

The Chinese Government does not intend to adhere to the general system of clearing-offices as laid down in Article 296 of the Treaty of Versailles.

In view of the above-mentioned declaration of the German Government, by which the latter promises to make a partial payment to the Chinese Government, to be credited against the demands for war reparations, the Chinese Government further undertakes to put an end completely and effectively to the liquidation of German property as from the date of signature of the Agreement, and, after the ratification of the German-Chinese Agreement and on receipt of the above-mentioned reparations payment, to hand over to their owners all proceeds of liquidation and all property still sequestered.

The above provisions constitute a settlement of the questions referred to in paragraph 2 of Article 133 of the Treaty of Versailles, respecting the liquidation, sequestration and seizure of German property.

The competent Chinese authorities will negotiate separately with the German-Asiatic Bank and the Ching Hsing Mines in regard to the procedure to be adopted.

Any real property of the German-Asiatic Bank in Peking and Hang-Kow which has not yet been liquidated shall, nevertheless, be restored to its owners in conformity with the above provisions.

I have the honour to be, etc..

(Signed) W. W. YEN,
Minister for Foreign Affairs.