

N° 2354.

ÉTATS-UNIS D'AMÉRIQUE, BRÉSIL,
GRANDE-BRETAGNE
ET IRLANDE DU NORD, NORVÈGE,
PAYS-BAS ET CHINE

Accord relatif aux tribunaux chinois dans le
" Settlement " international de Shanghai,
signé à Nankin, le 17 février 1930, et
échange de notes y relatif de la même date.

UNITED STATES OF AMERICA,
BRAZIL, GREAT BRITAIN
AND NORTHERN IRELAND,
NORWAY, THE NETHERLANDS
AND CHINA

Agreement relating to the Chinese Courts in
the International Settlement at Shanghai,
signed at Nanking, February 17, 1930,
and Exchange of Notes relating thereto of
the same date.

No. 2354. — AGREEMENT BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE BRAZILIAN, NETHERLANDS, NORWEGIAN AND UNITED STATES GOVERNMENTS AND THE CHINESE GOVERNMENT RELATING TO THE CHINESE COURTS IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI. SIGNED AT NANKING, FEBRUARY 17, 1930.

Texte officiel anglais communiqué par le Secrétaire d'Etat aux affaires étrangères de Sa Majesté en Grande-Bretagne. L'enregistrement de cet accord a eu lieu le 19 juin 1930.

Article 1.

From the date on which the present Agreement comes into force, all former rules, agreements, exchanges of notes, *etcetera*, having special reference to the establishment of a Chinese court in the International Settlement at Shanghai shall be abolished.

Article 2.

The Chinese Government shall, in accordance with Chinese laws and regulations relating to the judiciary and subject to the terms of the present Agreement, establish in the International Settlement at Shanghai a District Court (*Ti Fang Fa Yuan*) and a Branch High Court (*Kao Teng Fa Yuan Fen Yuan*). All Chinese laws and regulations, substantive as well as procedural, which are now in force or which may hereafter be duly enacted and promulgated shall be applicable in the Courts, due account being taken of the Land Regulations and Bye-Laws of the International Settlement, which are applicable pending their adoption and promulgation by the Chinese Government, and of the terms of the present Agreement.

Judgments, decisions and rulings of the Branch High Court are subject to appeal, according to Chinese law, to the Supreme Court of China.

Article 3.

The former practice of Consular deputies or Consular officials appearing to watch proceedings or to sit jointly in the Chinese court now functioning in the International Settlement shall be discontinued in the Courts established under the present Agreement.

Article 4.

When any person is arrested by the municipal or judicial police, he shall, within twenty-four hours, exclusive of holidays, be sent to the Courts established under the present Agreement to be dealt with, failing which he shall be released.

¹ TRADUCTION. — TRANSLATION.

N^o 2354. — ACCORD ENTRE LE GOUVERNEMENT DE SA MAJESTÉ DANS LE ROYAUME-UNI ET LES GOUVERNEMENTS DU BRÉSIL, DES PAYS-BAS, DE LA NORVÈGE ET DES ÉTATS-UNIS, ET LE GOUVERNEMENT CHINOIS, CONCERNANT LES TRIBUNAUX CHINOIS DANS LE SETTLEMENT INTERNATIONAL DE SHANGHAÏ. SIGNÉ A NANKIN, LE 17 FÉVRIER 1930.

English official text communicated by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration of this Agreement took place June 19, 1930.

Article premier.

Sont abolis, à partir de l'entrée en vigueur du présent accord, tous les règlements, accords, échanges de notes, etc., antérieurs, ayant spécialement trait à l'établissement d'un Tribunal chinois dans le Settlement international de Changhaï.

Article 2.

Le Gouvernement chinois établira dans le Settlement international de Changhaï un Tribunal de district (*Ti Fang Fa Yuan*) et un Tribunal supérieur subsidiaire (*Kao Teng Fa Yuan Fen Yuan*), conformément aux lois et règlements chinois concernant l'administration judiciaire, et sous réserve des dispositions du présent accord. Tous les lois et règlements chinois, de fond comme de procédure, actuellement en vigueur ou susceptibles d'être ultérieurement adoptés et promulgués, seront applicables dans les tribunaux ; toutefois, il sera fait état des règlements et ordonnances du Settlement international, qui seront applicables en attendant leur adoption et leur promulgation par le Gouvernement chinois, ainsi que des dispositions du présent accord.

Les jugements, décisions et ordonnances du tribunal supérieur subsidiaire sont susceptibles d'appel, conformément à la législation chinoise, devant la Cour suprême de Chine.

Article 3.

La pratique antérieure, d'après laquelle des suppléants consulaires ou des fonctionnaires consulaires surveillaient la procédure ou siégeaient conjointement au tribunal chinois fonctionnant actuellement dans le Settlement international, prendra fin dans les tribunaux établis en vertu du présent accord.

Article 4.

Toute personne arrêtée par la police municipale ou judiciaire devra être traduite dans les vingt-quatre heures, non compris les jours fériés, devant les tribunaux établis en vertu du présent accord, pour y être jugée, faute de quoi elle sera remise en liberté.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

Article 5.

The Courts established under the present Agreement shall each have a certain number of procurators to be appointed by the Chinese Government, who shall hold inquests and autopsies (*Chien Yen*) within the jurisdiction of these Courts and shall otherwise perform their functions in accordance with Chinese law in all cases involving the application of Articles 103 to 186 of the Chinese Criminal Code, except where the Municipal Police of the International Settlement or the party concerned has already initiated prosecution, provided that all preliminary investigations conducted by the procurator shall be held publicly and counsel for the accused shall have the right to be present and heard.

In other cases arising within the jurisdiction of the Courts, the Municipal Police or the party concerned shall prosecute. The procurator shall have the right to express his views in court in all criminal cases in which the prosecution is initiated by the Municipal Police or the party concerned.

Article 6.

All judicial processes, such as summonses, warrants, orders, *etcetera*, shall be valid only after they have been signed by a judge of the Courts established under the present Agreement, whereupon they shall be served or executed by the judicial police or, as provided below, by the process-servers thereof.

No person found in the International Settlement shall be handed over to the extra-Settlement authorities without a preliminary investigation in court at which counsel for the accused shall have the right to be present and heard, except in the case of requests emanating from other modern law courts when the accused may be handed over after his identity has been established by the Court.

All judgments, decisions and rulings of the Courts shall be executed as soon as they become final as a result of the judicial procedure in force in the said Courts. Whenever necessary, the Municipal Police shall render any assistance within their power as may be requested of them.

The process-servers of the Courts shall be appointed by the Presidents of the Courts respectively and their duties shall be to serve all summonses and deliver other documents of the Courts in connexion with civil cases. For the execution of judgments in civil cases, the process-servers shall be accompanied by the judicial police. The officers and members of the judicial police of the Courts shall be appointed by the President of the Branch High Court upon recommendation of the Municipal Council and shall be subject to dismissal by the President of that Court upon cause shown. Their services will also be terminated by the President at the request of the Municipal Council upon cause shown. They shall wear the uniform designed by the Chinese judicial authorities, and shall be subject to the orders and direction of the Courts and faithful to their duties.

Article 7.

The House of Detention for civil cases and the Women's Prison attached to the Chinese court now functioning in the International Settlement at Shanghai shall be transferred from that court to the Courts established under the present Agreement and shall be supervised and administered by the Chinese authorities.

All prisoners now serving sentences in the prisons attached to the Chinese court now functioning in the International Settlement and those sentenced by the Courts established under the present Agreement shall, at the discretion of the said Courts, serve their sentences either in such prisons in the Settlement or in Chinese prisons outside the Settlement, except that offenders against the Police Offences Code and the Land Regulations and Bye-Laws and persons under arrest awaiting trial shall serve their periods of detention in the Settlement. The prisons in the Settlement shall be operated, as far as practicable, in conformity with Chinese prison regulations and shall be subject to inspection, from time to time, by officers appointed by the Chinese judicial authorities.

Persons sentenced to death by the Courts established under the present Agreement shall be sent to the Chinese authorities outside of the Settlement for execution of such sentence.

Article 8.

Foreign lawyers duly qualified will be admitted to practise in the Courts established under the present Agreement in all cases in which a foreigner is a party, provided such foreign lawyer can only represent the foreign party concerned. The Municipal Council may also be represented in the same manner by duly qualified lawyers, Chinese or foreign, in any proceedings in which the Council is complainant or plaintiff or the Municipal Police is the prosecutor.

In other cases or proceedings in which the Council considers the interests of the Settlement to be involved, it may be represented by a duly qualified lawyer, Chinese or foreign, who may submit to the Court his views in writing during proceedings and who may, if he deems necessary, file a petition in intervention in accordance with the provisions of the Code of Civil Procedure.

Foreign lawyers who are entitled to practise under this Article in the above-mentioned Courts shall apply to the Ministry of Justice for lawyers' certificates and shall be subject to Chinese laws and regulations applicable to lawyers, including those governing their disciplinary punishment.

Article 9.

Four permanent representatives shall be appointed, two by the Chinese Government and two by the Governments of the other Powers signatory to the present Agreement, who together shall seek to reconcile such differences of opinion regarding the interpretation or application of the present Agreement as may be referred to them by the President of the Branch High Court or by the authorities of the signatory foreign Powers, provided that their Report shall have no binding force upon either party except by mutual consent, it being understood that no judgments, decisions, rulings or orders of the Courts, as such, shall be referred to the aforesaid representatives for consideration.

Article 10.

The present Agreement and the attached Notes shall enter into effect on April 1st, 1930, and shall continue in force for a period of three years from that date, provided that they may be extended for an additional period upon mutual consent of the parties thereto.

NANKING, *February 17, 19th Year R. C. (1930).*

On behalf of the Minister for Foreign Affairs :

Hsu Mo.

On behalf of the Brazilian Chargé d'Affaires :

J. DE PINTO DIAS.

In the name of the American Minister :

Joseph E. JACOBS.

On behalf of His Britannic Majesty's Minister :

W. MEYRICK HEWLETT.

On behalf of the Norwegian Minister :

L. GRÖNVOLD.

On behalf of the Netherlands Chargé d'Affaires :

F. E. H. GROENMAN.

Seal of Waichiaopu.

EXCHANGE OF NOTES.

THE BRITISH, BRAZILIAN, NETHERLANDS, NORWEGIAN AND UNITED STATES REPRESENTATIVES
TO DR. WANG.

NANKING, *February 17, 1930.*

SIR,

With reference to the Agreement which we have signed to-day concerning the establishment of a District Court and a Branch High Court in the International Settlement at Shanghai, we have the honour to request your confirmation of our understanding on the following points :

(1) It is understood that the Courts established under the present Agreement shall exercise jurisdiction over civil and criminal cases as well as police offences and inquests in the International Settlement at Shanghai, provided that the jurisdiction of the said Courts over persons shall be the same as that of other Chinese Courts and provided that their territorial jurisdiction shall be the same as that of the Chinese court now functioning in the International Settlement at Shanghai, except (a) mixed criminal cases arising on private foreign property outside the limits of the Settlement and (b) mixed civil cases arising in areas surrounding the Settlement.

(2) It is understood that the present practice regarding the respective jurisdiction of the Chinese court now functioning in the International Settlement and the Court existing in the French Concession shall be followed, pending a definite arrangement between the Chinese Government and the authorities concerned.

(3) It is understood that as far as practicable Chinese shall be recommended by the Municipal Council to serve as officers and members of the judicial police of the Courts established under the present Agreement. It is further understood that among the officers of the judicial police appointed by the President of the Branch High Court under Article 6 of the present Agreement, there will be one to be designated by the Municipal Council, to whom will be allotted by the President an office on the Court premises and who will make an entry of all judicial processes of the Courts, such as summonses, warrants orders and judgments, for the purpose of service or execution in accordance with the provisions of the above-mentioned Article.

(4) It is understood that the establishment of the Courts provided for in the present Agreement in no way affects the validity of judgments rendered by the Chinese court now functioning in the International Settlement and its predecessor, and that such judgments shall be considered as final and valid except where an appeal has been lawfully taken or reserved. It is further understood that the judgments of the Courts established under the present Agreement shall be on the same footing as regards validity as the judgments of all other Chinese Courts.

(5) It is understood that the present Agreement does not in any way affect or prejudice any future negotiations regarding the status of extra-Settlement roads.

(6) It is understood that the sum of sixty thousand dollars (\$60,000) now on deposit with the Bank of China to the credit of the present Chinese court in the International Settlement shall be maintained by the Chinese Government to the credit of the new Courts established under the present Agreement.

(7) It is agreed that in accordance with Chinese law, there shall be maintained by the Court established under the present Agreement a storage room for articles confiscated by the Courts, which remain the property of the Chinese Government, it being understood

that confiscated opium and instruments for the smoking and preparation thereof shall be burned publicly in the International Settlement every three months and that the Municipal Council may present to the Presidents of the Courts for transmission to the Ministry of Justice such suggestions as it may desire to make regarding the disposal of confiscated arms.

(8) It is understood that upon the coming into force of the present Agreement, all cases pending in the Chinese court now functioning in the International Settlement shall be dealt with in the Courts established under the present Agreement in accordance with the procedure in force in the latter Courts, provided that the proceedings in mixed cases shall, as far as practicable, be continued from the point where they are taken over and concluded within a period of twelve months, which period may be extended at the discretion of the Courts when the circumstances in any case so warrant.

We avail ourselves, etc.

On behalf of the Brazilian Chargé d'Affaires :
J. DE PINTO DIAS.

In the name of the American Minister :
Joseph E. JACOBS.

On behalf of His Britannic Majesty's Minister :
W. MEYRICK HEWLETT.

On behalf of the Norwegian Minister :
L. GRÖNVOLD.

On behalf of the Netherlands Chargé d'Affaires :
F. E. H. GROENMAN.

DR. WANG TO SIR MILES LAMPSON.

NANKING, *February 17, 1930.*

SIR,

I have the honour to acknowledge the receipt of your Note referring to the Agreement which we have signed to-day concerning the establishment of a District Court and a Branch High Court in the International Settlement at Shanghai, in which you request my confirmation of the following points :

(1) It is understood that the Courts established under the present Agreement shall exercise jurisdiction over civil and criminal cases as well as police offences and inquests in the International Settlement at Shanghai, provided that the jurisdiction of the said Courts over persons shall be the same as that of other Chinese Courts and provided that their territorial jurisdiction shall be the same as that of the Chinese court now functioning in the International Settlement at Shanghai, except (a) mixed criminal cases arising on private foreign property outside the limits of the Settlement and (d) mixed civil cases arising in areas surrounding the Settlement.

(2) It is understood that the present practice regarding the respective jurisdictions of the Chinese court now functioning in the International Settlement and the Court existing in the French Concession shall be followed, pending a definite arrangement between the Chinese Government and the authorities concerned.

(3) It is understood that as far as practicable Chinese shall be recommended by the Municipal Council to serve as officers and members of the judicial police of the Courts

established under the present Agreement. It is further understood that among the officers of the judicial police appointed by the President of the Branch High Court under Article 6 of the present Agreement, there will be one to be designated by the Municipal Council, to whom will be allotted by the President an office on the Court premises and who will make an entry of all judicial processes of the Courts, such as summonses, warrants, orders and judgments, for the purpose of service or execution in accordance with the provisions of the above-mentioned Article.

(4) It is understood that the establishment of the Courts provided for in the present Agreement in no way affects the validity of judgments rendered by the Chinese court now functioning in the International Settlement and its predecessor, and that such judgments shall be considered as final and valid except where an appeal has been lawfully taken or reserved. It is further understood that the judgments of the Courts established under the present Agreement shall be on the same footing as regards validity as the judgments of all other Chinese Courts.

(5) It is understood that the present Agreement does not in any way affect or prejudice any future negotiations regarding the status of extra-Settlement roads.

(6) It is understood that the sum of sixty thousand dollars (\$60,000) now on deposit with the Bank of China to the credit of the present Chinese court in the International Settlement shall be maintained by the Chinese Government to the credit of the new Courts established under the present Agreement.

(7) It is agreed that in accordance with Chinese law, there shall be maintained by the Courts established under the present Agreement a storage room for articles confiscated by the Courts, which remain the property of the Chinese Government, it being understood that confiscated opium and instruments for the smoking and preparation thereof shall be burned publicly in the International Settlement every three months and that the Municipal Council may present to the Presidents of the Courts for transmission to the Ministry of Justice such suggestions as it may desire to make regarding the disposal of confiscated arms.

(8) It is understood that upon the coming into force of the present Agreement, all cases pending in the Chinese court now functioning in the International Settlement shall be dealt with in the Courts established under the present Agreement in accordance with the procedure in force in the latter Courts, provided that the proceedings in mixed cases shall, as far as practicable, be continued from the point where they are taken over and concluded within a period of twelve months, which period may be extended at the discretion of the Courts when the circumstances in any case so warrant.

In reply I have the honour to confirm the understanding of the points as quoted above. I avail myself, etc.

Hsu Mo,

On behalf of the Minister for Foreign Affairs.

DECLARATION.

THE BRITISH, BRAZILIAN, NETHERLANDS, NORWEGIAN AND UNITED STATES REPRESENTATIVES
TO DR. WANG.

NANKING, CHINA, *February 17, 1930.*

EXCELLENCY,

With reference to the agreement which we have signed to-day establishing a new Chinese judicial system in the International Settlement at Shanghai, we desire to point out that such

Agreement cannot in any way affect or invalidate rights guaranteed to the Powers concerned and to their nationals under existing treaties between such Powers and China and we accordingly reserve our full rights in this regard.

We further reserve the right to object to the enforcement in the International Settlement of any future Chinese laws that affect or in any way invalidate the Land Regulations or Bye-Laws of the International Settlement or that may be considered prejudicial to the maintenance of peace and order within this area.

We avail, etc.

On behalf of the Brazilian Chargé d'Affaires :
J. DE PINTO DIAS.

In the name of the American Minister :
Joseph E. JACOBS.

On behalf of His Britannic Majesty's Minister :
W. Meyrick HEWLETT.

On behalf of the Norwegian Minister :
L. GRÖNVOLD.

On behalf of the Netherlands Chargé d'Affaires :
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