

N° 2774.

CHINE ET POLOGNE

Traité d'amitié, de commerce et de navigation, avec protocole final, signés à Nankin, le 18 septembre 1929, échange de notes y relatif de la même date, et protocole additionnel, signé à Nankin, le 1^{er} juillet 1930.

CHINA AND POLAND

Treaty of Friendship, Commerce and Navigation, with Final Protocol, signed at Nankin, September 18, 1929, Exchange of Notes relating thereto of the same date and Additional Protocol, signed at Nankin, July 1, 1930.

TEXTE POLONAIS. — POLISH TEXT.

N^o 2774. — TRAKTAT¹ PRZYJAŹNI, HANDLOWY I NAWIGACYJNY POMIĘDZY RZECZĄPOSPOLITĄ POLSKĄ A REPUBLIKĄ CHIŃSKĄ. PODPISANY W NANKINIE DNIA 18 WRZEŚNIA 1929.

N^o 2774. — TRAITÉ¹ D'AMITIÉ, DE COMMERCE ET DE NAVIGATION ENTRE LA RÉPUBLIQUE DE CHINE ET LA RÉPUBLIQUE DE POLOGNE. SIGNÉ A NANKIN, LE 18 SEPTEMBRE 1929.

Textes officiels français, polonais et chinois communiqués par le délégué de la Pologne auprès de la société des Nations et le ministre plénipotentiaire, directeur du Bureau permanent de la délégation chinoise auprès de la Société des Nations. L'enregistrement de ce traité a eu lieu le 6 août 1931.

French, Polish and Chinese official texts communicated by the Polish Delegate accredited to the League of Nations and the Minister Plenipotentiary, Director of the Permanent Office of the Chinese Delegation accredited to the League of Nations. The registration of this Treaty took place August 6, 1931.

PZECZPOSPOLITA POLSKA i REPUBLIKA CHIŃSKA w zamiarze zacieśnienia stosunków przyjaznych między obu krajami, rozwinięcia stosunków handlowych i rozszerzenia wzajemnych interesów obu narodów, postanowiły zawrzeć, na podstawie zasad równości, wzajemności i wzajemnego poszanowania suwerenności, traktat przyjaźni, handlowy i nawigacyjny i mianowały w tym celu, jako swych pełnomocników :

PREZYDENT RZECZYPOSPOLITEJ POLSKIEJ :

Pana Doktora Jerzego BARTHLA DE WEYDENTHAL, Delegata Pełnomocnego Rzeczypospolitej Polskiej na Chiny ;

PREZYDENT RZĄDU NARODOWEGO REPUBLIKI CHIŃSKIEJ :

Jego Ekscelencję Doktora Chengting T. WANG, Ministra Spraw Zagranicznych ;

LA RÉPUBLIQUE DE POLOGNE ET LA RÉPUBLIQUE DE CHINE, en vue de resserrer les relations amicales entre les deux pays, de développer leurs rapports commerciaux et d'étendre les intérêts mutuels des deux peuples, ont décidé de conclure, sur la base des principes de l'égalité, de la réciprocité et du respect mutuel de la souveraineté, un Traité d'amitié, de commerce et de navigation, et ont nommé, à cet effet, pour leurs plénipotentiaires, à savoir :

LE PRÉSIDENT DE LA RÉPUBLIQUE DE POLOGNE :

M. le Docteur Georges BARTHEL DE WEYDENTHAL, délégué plénipotentiaire de Pologne en Chine ;

LE PRÉSIDENT DU GOUVERNEMENT NATIONAL DE LA RÉPUBLIQUE DE CHINE :

Son Excellence le Docteur Chengting T. WANG, ministre des Affaires étrangères ;

¹La ratification de ce traité a été notifiée par le Gouvernement polonais au Gouvernement chinois le 2 mai 1931, et par le Gouvernement chinois au Gouvernement polonais, le 10 juin 1931.

¹The ratification of this Treaty was notified by the Polish Government to the Chinese Government on May 2, 1931, and by the Chinese Government to the Polish Government on June 10, 1931.

N^o 2774.

TEXTE CHINOIS. — CHINESE TEXT.

亞洲第一號(民國二十年)

中國波蘭友好通商航海條約

民國十八年九月十八日在南京簽訂

附中國波蘭友好通商航海條約附加議定書
民國十九年七月一日在南京簽訂

民國二十年七月九日發生效力

中華民國國民政府外交部編印

¹ TRADUCTION. — TRANSLATION.

No. 2774. — TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE REPUBLIC OF CHINA AND THE REPUBLIC OF POLAND. SIGNED AT NANKIN, SEPTEMBER 18, 1929.

THE REPUBLIC OF POLAND and THE REPUBLIC OF CHINA, desirous of strengthening the friendly relations between the two countries, of developing their commercial relations and of furthering the mutual interests of the two nations, have decided to conclude, on a basis of equality, reciprocity and mutual respect for the sovereignty of the two countries, a Treaty of Friendship, Commerce and Navigation, and have for this purpose appointed as their Plenipotentiaries :

THE PRESIDENT OF THE REPUBLIC OF POLAND :

Dr. George BARTHEL DE WEYDENTHAL, Plenipotentiary Delegate of Poland in China,

THE PRESIDENT OF THE NATIONAL GOVERNMENT OF THE REPUBLIC OF CHINA :

■ His Excellency Dr. Chengting T. WANG, Minister for Foreign Affairs,

Who, having communicated to one another their full powers, found in good and due form, have agreed on the following provisions :

Article I.

There shall be perpetual peace and lasting friendship between the Republic of Poland and the Republic of China and between the two peoples.

Article II.

The two Contracting Parties shall have the right to appoint and send to one another's country duly accredited diplomatic agents, who shall enjoy, in the country to which they are appointed, the honours, privileges, favours and immunities generally acknowledged by international law.

Article III.

The two Contracting Parties accord one another the right to appoint Consuls-General, Consuls, Vice-Consuls and Consular Agents in all those places where agents of any other nation are permitted to reside. They shall, subject to reciprocity, be treated with the honours and consideration accorded to agents of the same category of other nations and shall perform the functions generally acknowledged by international usage. In the exercise of their duties, Consuls-General, Consuls, Vice-Consuls and Consular Agents shall receive the most willing and friendly assistance from the local authorities.

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.

Consuls-General, Consuls, Vice-Consuls and Consular Agents of the two countries are required, before taking up their duties, to obtain, in accordance with international usage, the *exequatur* issued by the Government of the country where they are to reside. The said Government may withdraw the *exequatur*, if it gives a sufficient reason for so doing.

The two Governments shall not appoint as Consuls-General, Consuls, Vice-Consuls and Consular Agents (except as honorary Consuls) persons engaged in commerce or industry in the country where they are to carry out their duties.

Article IV.

Nationals of either of the two Contracting Parties shall be free to enter the territory of the other Party. Before they enter the territory of the other Contracting Party they must provide themselves with a passport issued by the competent authority of their own country indicating their nationality and the object of their journey. The passport shall not be valid until it has been *visé* at a consulate of the country of destination. The cost of the visa shall be based on the principle of reciprocity and shall be as low as possible.

Article V.

Nationals of the two Contracting Parties engaged in any legitimate occupation shall, in the territory of the other Party, enjoy the complete protection of the laws and regulations of the country in respect both of their persons and of their property, each of the two Contracting Parties guaranteeing to nationals of the other Party in its territory, in accordance with the law of the country personal safety, inviolability of their private property and protection of all their private rights and interests. They shall be free to travel, establish themselves, study in schools, reside, work, and engage in commerce or other legitimate undertakings or occupations, in accordance with the laws and regulations of the country in which they are residing, on the same footing as nationals of any other country. Nevertheless, nationals of the two countries may only exercise these rights in localities where nationals of any other country are authorised to exercise them. They must observe the laws and regulations of the country and may not be called upon to pay any taxes, charges or contributions other or higher than those paid by nationals of the country.

Article VI.

Nationals of either of the two Contracting Parties shall, as regards any civil or criminal cases in which they may be involved, be subject, like nationals of the country, to the laws and regulations of the country in which they reside and to the jurisdiction of the local courts.

Nationals of the two States shall have free access to the local courts to vindicate and defend their rights, and may, like nationals of the country, choose counsel and representatives at their discretion.

Article VII.

Each of the two Contracting Parties undertakes not to subject nationals of the other Party to military service or contributions in money or kind leviable in lieu of such service, or to any forced loans or compulsory public contributions.

Article VIII.

As regards property and inheritances of nationals of one of the Contracting Parties in the territory of the other, the following provisions have been agreed upon :

(1) Nationals of one of the two Contracting Parties shall have the right freely to remove from the territory of the other Party any of their property which may be situated

there and freely to dispose of the said property by testament or by any other means of transfer.

(2) Successions shall be governed by the law of the State to which the deceased person belongs, but shall be governed by the *lex situs* as regards public law restrictions affecting the estate or part thereof.

(3) As regards inheritances *ab intestato* or by testament, it is agreed that the nationals of each of the Contracting Parties shall be entitled to acquire them in the territory of the other Party. In the event of the decease of a national of one of the Contracting Parties in the territory of the other without his having left a legal heir or administrator, according to the terms of the law of his country, at the place where his property is situated, and without his having left any testamentary dispositions with regard to the administration of the estate, the Consul of the State of which the deceased person was a national shall be entitled provisionally to administer the estate in accordance with the law of the country to which the deceased belonged.

The foregoing provisions shall also be applicable where a national of one of the Contracting Parties who has property in the territory of the other Party dies outside the territory without having left a legal heir or administrator in the place where his property is situated.

(4) In the event of the death at sea of a national of one of the Contracting Parties, the property which he had with him shall be handed over to the nearest Consul of his country.

(5) Duties, charges and fees leviable upon the transfer by decease of property of nationals of one of the Contracting Parties in the territory of the other, may not be other or higher than those paid by the nationals of the country where the duties are levied.

Article IX.

Each of the two Contracting Parties undertakes not to carry out inspections or searches in its territory (save in cases expressly provided for in its laws and regulations), in premises, dwellings, commercial establishments, warehouses or shops or with regard to books or commercial correspondence belonging to nationals of the other Party, or property and articles connected therewith.

Article X.

The two Contracting Parties are agreed that Customs duties and cognate matters shall be governed exclusively by the municipal law of the respective countries.

The two Contracting Parties are also agreed that, as regards Customs duties and cognate matters, each of the two Parties shall enjoy, in the territory of the other, treatment not less favourable than that actually enjoyed by any other Power.

Nationals of either of the two Contracting Parties may not under any pretext be called upon to pay, in the territories of the other Party, any duties, charges or internal taxes on imports or exports other or higher than those paid by nationals of the country or by those of any other Power.

Article XI.

The two Contracting Parties undertake not to impose on raw or manufactured products conveyed from the territory of one of the Parties to that of the other any import, export or transit prohibition or restriction which is not applied to articles of the same nature conveyed from or to a third country.

Nevertheless, for reasons connected with national defence, food supplies, public safety and health, the protection of artistic and archaeological treasures, State monopolies and epizootic diseases

the two Contracting Parties shall be free to introduce measures prohibiting or restricting the importation, exportation or transit of certain articles coming from or going to either of the two Countries.

Article XII.

Each of the two Contracting Parties undertakes to protect, in accordance with its laws and regulations and on condition that they have previously been registered in its competent offices, trade marks, designs and models of nationals of the other Party.

Article XIII.

All commercial companies established in accordance with the laws and regulations of one of the Contracting Parties may, after complying with the formalities laid down in the laws and regulations of the country where they are situated, establish themselves on the territory of the latter and exercise their occupation there in accordance with its laws and regulations. They shall enjoy the advantages provided for in Articles V, VI, VII, VIII, IX, X, and XII of the present Treaty, with the exception of those which of their nature can only be applied to natural persons.

Article XIV.

The two Contracting Parties reserve the right to engage in the coasting trade and in internal navigation for their respective nationals.

Article XV.

All vessels which under Polish law are regarded as Polish vessels, and all vessels which under Chinese law are regarded as Chinese vessels, shall be considered, for the purposes of this Treaty, as Polish and Chinese vessels respectively.

Each of the two Contracting Parties undertakes to allow merchant vessels of the other Party, within the limits of the laws and regulations in force, to enter, anchor, load or unload goods and take on board and land passengers in those of its seaports which are open to trade. These vessels must comply with all the regulations of the port in which they are.

Chinese vessels in Polish ports or Polish vessels in Chinese ports, which have fulfilled the obligations laid down by the laws and Customs regulations and the harbour regulations and have not infringed the laws relating to prohibitions as well as their cargo or equipment, may not be detained or seized except through the judicial channel.

Article XVI.

Any merchant vessel of either of the two Contracting Parties may, in the event of shipwreck, stress of weather or other danger near the coasts of the other Party, be entitled provisionally to enter any neighbouring roadsteads, ports or bays of the latter for the purpose of taking refuge there. The local authorities shall notify the nearest competent Consulate and shall give aid and assistance in accordance with international usage. The vessel in question may undertake repairs and procure provisions or any other necessary articles and shall immediately continue its voyage without being subjected to harbour dues or charges.

Should such vessel be obliged to unload and sell goods on board, it must pay dues and charges in accordance with the laws and regulations of the country. It shall also pay the dues and charges prescribed if, in the circumstances provided for in paragraph 1, it carries out any commercial transaction in those harbours where it is allowed, in accordance with the laws and regulations, to engage in such transactions.

Article XVII.

Warships and merchant ships conveying troops and war material of one of the two Contracting Parties may not, save with the special permission of the Government of the other Party, enter its territorial seas or its roadsteads, bays or ports. Should such vessels run aground or encounter rough weather or other dangers near the coasts of the other Contracting Party, the local authorities shall give them aid and assistance in accordance with international usage.

Article XVIII.

Should any disorders, which in the opinion of the authorities of the locality, are calculated to cause a breach of the peace or of public order break out on board a merchant ship of one of the two Contracting Parties in the territorial waters of the other Party, the local authorities shall be empowered to intervene and to put an end to such disorders.

Article XIX.

The present Treaty is concluded for a period of three years as from the date of its entry into force. Six months before the expiry of the said period one of the two Contracting Parties shall be entitled to notify the other Party of its intention of altering or denouncing the present Treaty. If, within the period agreed upon, neither of the two Parties has made known its intention of altering or denouncing it, the present Treaty shall remain in force by tacit agreement, either of the two Contracting Parties being free at any time to notify the other Party of its intention of altering or denouncing it. It shall thereupon cease to be valid after the expiry of a period of one year from the date of such notification.

Article XX.

The Polish Government, which is entrusted with the conduct of the foreign affairs of the Free City of Danzig, reserves the right to declare that the Free City is a Contracting Party to the Present Treaty and that it accepts the obligations and acquires the rights deriving therefrom.

Article XXI.

The present Treaty shall be drawn up in duplicate Polish, Chinese and French texts. In the event of a difference of interpretation, the French text shall be authoritative.

Article XXII.

The present Treaty shall be ratified in accordance with the fundamental laws of the two Contracting Parties.

The instruments of ratification shall be exchanged at Nanking as soon as possible and the Treaty shall come into force on the thirtieth day from the date on which the two Governments have notified one another that the ratifications have been exchanged. It is understood that the said period of thirty days shall commence to run from the date of the note sent by the Contracting Party which has been the last to notify.

In faith whereof, the above-mentioned Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done at Nankin, September the eighteenth, one thousand nine hundred and twenty-nine, corresponding to the eighteenth day of the ninth month of the XVIIIth year of the Republic of China.

(L. S.) (Signed) Jerzy BARTHEL DE WEYDENTHAL.

(L. S.) (Signed) Chengting T. WANG.

FINAL PROTOCOL.

At the moment of signing the Treaty of Friendship, Commerce and Navigation between Poland and China concluded on to-day's date, the undersigned Plenipotentiaries have by common agreement made the following declarations :

Declaration I to Article IV.

1. Passports of Poles established in China before the conclusion of the present Treaty must, as soon as it is concluded, be *visés* by the Chinese authorities of their place of residence. Such passports shall replace the Chinese certificates of identity previously issued to Poles in China.

2. Every Polish national in China in possession of a national passport, which shall be *visé* by the competent Chinese authorities shall be free to travel without previous permission in any place where nationals of any other foreign State may also do so without previous permission. Chinese nationals in possession of passports *visés* by the competent Polish authorities shall enjoy the same right in Poland.

Declaration II to Article X.

The provisions of Article X shall not apply to tariff concessions which one of the Contracting Parties has granted or may hereafter grant in exceptional cases to contiguous States with the object of facilitating frontier traffic, or to privileges arising out of a Customs Union, or to the special régime existing between the Polish and German parts of Upper Silesia.

Declaration III.

The present Final Protocol constitutes an integral part of the Treaty of Friendship, Commerce and Navigation concluded between Poland and China on to-day's date.

In faith whereof, the Plenipotentiaries have signed the present Protocol and have thereto affixed their seals.

Done at Nankin, September the eighteenth, one thousand nine hundred and twenty-nine, corresponding to the eighteenth day of the ninth month of the XVIIIth year of the Republic of China.

Jerzy BARTHEL DE WEYDENTHAL.
Chengting T. WANG.

ANNEX.

NANKIN, *September 18, 1929.*

YOUR EXCELLENCY,

Up to the present, the Chinese authorities have accorded every protection to Polish churches, cultural institutions and schools established in China. Now that the bonds of friendship between our two countries have been rendered still closer by the conclusion of the Treaty signed to-day, the Polish Government is convinced that the Chinese authorities will continue as in the past to accord full protection to the said institutions.

It is understood that the Polish Government will also, in accordance with the Constitution of Poland, accord full protection to religious and educational institutions which Chinese nationals have established or may hereafter establish in Poland.

I have the honour to be, etc.

Jerzy BARTHEL DE WEYDENTHAL.

To His Excellency

Dr. Chengting T. Wang,
Minister for Foreign Affairs
of the Republic of China,
Nankin.

NANKIN, *September 18, 1929.*

SIR,

With reference to your letter of to-day's date, I am glad to learn that the Polish Government will, in accordance with the Constitution of Poland, accord full protection to religious and educational institutions which Chinese nationals have established or may hereafter establish in Poland.

It is understood that the Government of China will also, as in the past, afford full protection to Polish churches, cultural institutions and schools established in China, on condition that the latter observe the laws and regulations in force.

I have the honour to be, etc.

Chengting T. WANG.

To Dr. Georges Barthel de Weydenthal,
Plenipotentiary Delegate of the
Republic of Poland in China,
Nankin.

ADDITIONAL PROTOCOL

TO THE TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE REPUBLIC OF POLAND
AND THE REPUBLIC OF CHINA OF SEPTEMBER 18, 1929.

The undersigned Plenipotentiaries, duly authorised to this effect, declare that they have agreed to supplement the provisions of the Treaty of Friendship, Commerce and Navigation of September 18, 1929, by the following explanations :

Ad Article IV.

It is understood that freedom to enter the territory of the other Contracting Party is subject to the municipal law of the latter, applicable without distinction to the nationals of all other countries.

Ad Article VI.

It is understood that the local courts mentioned in Article VI are the courts of justice of the country of residence of the nationals in question, which are competent in virtue of the laws in force in the said country.

Ad Article VIII.

Paragraph 1. — It is understood that the right freely to export property is without prejudice to municipal law.

Paragraph 3. — It is understood that the right to acquire successions shall only be conferred within the limits of municipal law.

Ad Articles X and XI.

In order to secure for the commerce of the two countries the advantages provided for in Articles X and XI of the present Treaty, each of the Contracting Parties may require that goods imported into its Customs territory shall be accompanied by a certificate of origin.

Ad Article XIII.

It is understood that each of the Contracting Parties reserves the right to make the establishment of foreign companies in its territory conditional upon permission being previously obtained in accordance with its own legislation.

Ad Article XVIII.

It is understood that the local authorities may only intervene on board a vessel at the request of a consul of the other Contracting Party or of the captain of the ship. Where such action is indispensable and delay may have serious consequences or when a person not forming part of the crew is involved in disturbances occurring on board ship, the authorities may intervene without such request, but the authorities in question shall then be required immediately to inform the nearest consul of the other Contracting Party.

The present Additional Protocol, which forms an integral part of the Treaty of Friendship, Commerce and Navigation of September 18, 1929, shall be ratified as soon as possible and shall be dealt with in the same way as the said Treaty as regards exchange of ratifications, entry into force, and period of validity and denunciation.

In faith whereof, the Plenipotentiaries have signed the present Additional Protocol.

Done in duplicate at Nankin, July the first, one thousand nine hundred and thirty, corresponding to the first day of the seventh month of the XIXth year of the Republic of China.

(L. S.) Jerzy BARTHEL DE WEYDENTHAL.

(L. S.) Chengting T. WANG.