

TREATIES AND AGREEMENTS

WITH AND CONCERNING

CHINA

1894-1919

A collection of state papers, private agreements, and other documents, in reference to the rights and obligations of the Chinese Government in relation to foreign powers, and in reference to the interrelation of those powers in respect to China, during the period from the Sino-Japanese War to the conclusion of the World War of 1914-1919

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VOLUME I

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INTRODUCTORY NOTE.

Approximately sixteen years ago—to be accurate, in 1904—the Honorable William Woodville Rockhill, an American diplomat of large experience, issued a volume of *Treaties and Conventions with or concerning China and Korea, 1894–1904, together with various State Papers and Documents affecting Foreign Interests*. The collection was official in its nature, and it was official in its publication, in that it was set up by the Government Printing Office, and appeared as a public document. It would therefore have been in keeping with precedent if Mr. John V. A. MacMurray, a younger diplomat but already of large experience, had issued as a public document, his collection of *Treaties and Agreements with and concerning China, 1894–1919*, which he has industriously brought together and intelligently edited. The Department of State, however, was unable to issue Mr. MacMurray's collection as a public document, owing to the many demands upon it; hence the Carnegie Endowment for International Peace has the good fortune to render this public service through its Division of International Law.

It will be observed that Mr. MacMurray's collection is not a supplement to Mr. Rockhill's volume. It covers the same field for a decade; but it covers it, as was to be expected, more fully and completely, in that additional documents are included, which were not at Mr. Rockhill's disposal, and which then did not seem to possess the importance which they now have. Mr. Rockhill's collection is therefore merged in Mr. MacMurray's, and it is enlarged and enriched in the process. From 1904 to the end of the World War in 1919, Mr. MacMurray blazes his own trail and does not tread in the path of a predecessor.

These two stately volumes, which no student of the Far East can afford to overlook for many a year to come, are a labor of love. They are the free offering to the public on the part of Mr. MacMurray, who has given to the Carnegie Endowment his manuscript without any compensation other than the reward that sometimes comes from a good deed. And it is proper to mention in the same connection, that they are issued by the Endowment in the same spirit, inasmuch as many copies will be placed in public libraries, and the copies which are not so placed, but are purchased in ordinary course, can never be expected to make good the original outlay.

It is a source of pleasure to the good people of these United States, that the policy of their government has invariably been one of sympathetic interest in and toward the Far East, and that it has never sought to make of the needs and distress of the peoples of Japan and China, a source of profit. It is worth while recalling that as a consequence of the Boxer troubles an indemnity equivalent in round numbers to \$333,000,000 United States gold was exacted from China under the Protocol of September 7, 1901, which sum was to be paid with interest at 4 per cent per annum, by installments running through a period of thirty-nine

years. The sum of \$24,440,778.81 was allotted to the United States. But as this sum was found to exceed the actual losses to American interests and property, the amount in excess of \$11,961,121.76 was remitted by the Government of the United States. It was felt that the sum originally allotted might exceed American claims, but it was feared that if the United States should refuse to accept it, it would not be credited to China, but would be apportioned among the other Powers. In communicating the intention of the United States to remit the payment of the balance of the sums to which the United States was entitled under the agreement of 1901, Mr. Elihu Root, then Secretary of State, said in his note of June 15, 1907, addressed to the Chinese Minister in Washington:

It was from the first the intention of this Government at the proper time, when all claims should have been presented and all expenses should have been ascertained as fully as possible, to revise the estimate and account against which these payments were to be made, and, as proof of sincere friendship for China, to voluntarily release that country from its legal liability for all payments in excess of the sum which should prove to be necessary for actual indemnity to the United States and its citizens.¹

The remission was gratefully accepted by the Chinese Government, on behalf of which the Prince of Ch'ing, President of the Chinese Foreign Office, said in a note dated July 14, 1908, to the Honorable William Woodville Rockhill, then American Minister to China:

The Imperial Government, wishing to give expression to the high value it places on the friendship of the United States, finds in its present action a favorable opportunity for doing so. Mindful of the desire recently expressed by the President of the United States to promote the coming of Chinese students to the United States to take courses in the schools and higher educational institutions of the country, and convinced by the happy results of past experience of the great value to China of education in American schools, the Imperial Government has the honor to state that it is its intention to send henceforth yearly to the United States a considerable number of students there to receive their education.²

This is not an isolated case. Many years before, in 1863, the Strait of Shimonoseki, improperly closed to commerce, was opened by the joint action of France, Great Britain, Holland and the United States. An indemnity, amounting to \$3,000,000, was exacted from Japan, which was paid, as the late General Foster says in his admirable little volume entitled *American Diplomacy in the Orient*, "after some delay and great embarrassment, because of the poverty of the treasury."³ Each participating nation received an equal share. The action of the United States and the action of the other Powers is thus stated by General Foster:³

The sum paid to the United States remained in the treasury unused for twenty years. The public conscience was troubled as to the justness of the exaction, and in 1883 by an act of Congress the amount received was returned to Japan, and accepted by that government "as a strong manifesta-

¹ *Foreign Relations of the United States*, 1907, pt. 1, p. 174.

² *Ibid.*, 1908, p. 68.

³ John W. Foster, *American Diplomacy in the Orient* (1903), p. 194.

tion of that spirit of justice and equity which has always animated the United States in its relations with Japan." None of the other three nations partaking of the indemnity have seen fit to follow this example.

It is also to be said that none of the Powers partaking of the Chinese indemnity—France, Germany, Great Britain, Japan and Russia—"have seen fit to follow this example."

Other illustrations might be given of the policy of the United States toward the peoples of the Far East. They will be found, however, in Mr. MacMurray's two volumes. It is therefore sufficient to remark in this place that the United States has invariably framed its policy in such a way that it should be just to China—to speak specifically of this one country,—that the policy of China should be just to the United States, and that the door of opportunity should be open to the United States and to all other countries upon a footing of equality.

It is a pleasure to publish Mr. MacMurray's volumes, and none the less a pleasure because they are the work of a former student and a constant friend.

JAMES BROWN SCOTT,
Director of the Division of International Law.

WASHINGTON, D. C.,
January 8, 1921.

EDITOR'S PREFACE.

THE present compilation of documents relating to the affairs of China, as involving foreign interests, during the period beginning with the Sino-Japanese War of 1894-95, is an outgrowth of the collection edited by the late Mr. William Woodville Rockhill under the title "Treaties and Conventions with or concerning China and Korea, 1894-1904, together with various State Papers and Documents affecting Foreign Interests" (Washington: Government Printing Office, 1904).

The underlying principle of Mr. Rockhill's collection was his appreciation of the fact that, with the Japanese War, China entered upon a new course of national development, the history of which is to be read not only—nor even primarily—in the Treaties and other formal international engagements, but rather in the arrangements of nominally private character, with syndicates or firms of foreign nationality, under which the Chinese Government then began to incur a complex and far-reaching set of obligations and commitments, in which the financial or economic element is often merged indistinguishably with political considerations.

Up to that time, the whole purpose of Chinese statesmanship, in relation to the outer world, had been to maintain the traditional isolation of the country; and against that aloofness, the foreign nations had struggled to establish the right of free intercourse. The results of that struggle, as embodied in the earlier Treaties, may be roughly summarized under three headings, namely:—Extraterritoriality, or the right of foreigners to be exempt from the processes of Chinese law and amenable only to the jurisdiction of their national tribunals; the right of residence in designated places, and of access to the interior of the country; and the right to trade freely, unhampered by monopolies, subject to a fixed tariff of import and export duties, and with the privilege of commuting by a single fixed charge all local taxes and levies upon commerce. These rights were essential, and even to-day are fundamental to the whole system of foreign intercourse with China; but they were and are, from the view-point of the development of the nation, rather negative than positive.

The conditions—particularly the financial requirements—incidental to the war with Japan compelled a readjustment of China's attitude towards foreign nations and towards their resources and their influences. The Chinese nation found itself perforce face to face with the world, and under the necessity of accommodating itself to a relationship with it. Thenceforward, the problem of China was to avail itself of the material resources and experience of the West, while retaining what was vital in its own institutions and preserving as best it could not merely the integrity of its territories, but its political and national entity. How clearly this problem of assimilating the new conditions to the old

and of adapting the old ideas to the new has been realized by those responsible for the destinies of the country—how wisely, how courageously, and how disinterestedly they have acted in seeking solutions of the problem—how well and how loyally they have been served by the various foreign interests to which they have from time to time turned for assistance and cooperation,—those are speculations in regard to which some indications may be found in the data here gathered together, but for which no categorical answers are possible. There have been times of progress and of reaction; there has been confusion of purposes; there has been blind Utopianism, and bitter disillusionment: but the process of association of foreign with Chinese interests has gone on almost without interruption or pause, China repeatedly seeking foreign assistance in the solution of its problems of industrial, economic and administrative development, and giving in return rights that carried with them in many instances at least an implication of political interest.

This process has been marked by certain critical events which have in turn initiated new phases of development:—first, the rapprochement with Russia, immediately prompted by the apprehensions arising out of China's defeat at the hands of Japan; then the Battle of Concessions, in 1898, originating with Germany's exaction of the lease of the Kiaochow Territory; thereupon, the abortive reaction that found expression in the Boxer movement of 1900, irresolutely abetted and restrained by the Manchu Court; the succeeding period of reconstruction, when China sought to restore and stabilize normal relations with the Powers, and those Powers endeavored to establish among themselves an equilibrium based upon the mutual recognition of existing interests and upon the adoption of the principles of preservation of Chinese territorial and administrative integrity and maintenance of equality of commercial opportunity for all nationalities in China; then the defeat of Russia by Japan, in 1904-5, with the consequent transfer to the victor of a great share of both the material advantages and the political influence theretofore enjoyed by Russia; in 1911, the overthrow of the Manchu Dynasty, which brought with it an intensified preoccupation with questions of internal development, and which was the beginning of the period of unrest and civil dissension which continues to the present time; then the outbreak of the European War, in 1914, affecting China economically through the dislocation of foreign trade and the drying up of the European money markets to which it had hitherto looked for financial accommodation at need, and perhaps more profoundly affecting it politically through Japan's entering the war and taking military occupation of the Kiaochow Leased Territory and other German concessions in Shantung Province, and through the Treaties of May 25th, 1915; and lastly, the entry of China itself into the war, in August, 1917.

Throughout these phases of development, financial, economic and industrial concessions have been made the objects of international policies; such advantages have been sought by Governments,—both directly, in the form of general conventional stipulations, and indirectly, in the form of special grants to particular banks or industrial organizations,—through all the means available to one State in its intercourse with another; the holders of such concessions have often spoken with the voice of their Governments in insisting upon their own

construction of the rights granted to them; and such commitments to individuals of one nationality, even when left unutilized and allowed to lapse by the terms of the concession, have now and again been claimed as a basis of protest against a grant to the nationals of any other country. The result of this merging of individual with governmental interests has been that matters which would elsewhere be of merely commercial character, susceptible of judicial determination in case of dispute, are in China matters of international political concern, for the settlement of which the ultimate recourse is to diplomatic action. It is thus in a sense true that the international status of the Chinese Government is determined and conditioned by its business contracts with individual foreign firms or syndicates, scarcely if at all less than by its formal Treaties with other Governments. It is at any rate seldom that any international situation relating to China can be fully understood without reference to the intricate fabric of quasi-public as well as of public obligations which qualify the freedom of action of the Chinese Government.

The object of the present collection is to reproduce as fully and as faithfully as possible the available documents embodying that complex of interrelated rights and obligations. In compiling it, the Editor has drawn upon all sources at his disposal, and save for a few instances in which he has been debarred by obligations of official or of personal confidence, has included in it every available document that seemed to him to fall within the scope of the collection. He has considered it to be beyond his competence, as a compiler, to assume any judgment of the effect or of the validity of the various agreements, but for the sake of completeness has included in the collection documents which would appear to be void or voidable, or which have expired by their own limitations, or have been cancelled by other agreements, if they appeared to be of sufficient interest—whether of actual or potential practical interest, or merely historical interest—to warrant their reproduction.

Although an officer of the American Government, the Editor is, in respect to this compilation, acting wholly upon his personal responsibility, having obtained the permission of the Department of State to edit it independently, under a publication contract with the Carnegie Endowment for International Peace. He has exercised his own discretion in the selection of the documents to be included, and in all editorial questions such as the choice of texts to be adopted, the translations, and the explanatory notes that he has affixed to the various documents. It is therefore to be understood that there is neither actual nor implied responsibility, on the part of any branch of the Government of the United States, for either the substance or the editorial treatment of the present collection.

In the compilation of so great a bulk of material, gathered from many different sources, the Editor has incurred many obligations which he gratefully acknowledges. He is perhaps most deeply indebted to Mr. E. T. Williams, formerly Secretary of the American Legation in Peking, more recently Chief of the Division of Far Eastern Affairs of the Department of State, and now attached to the American Delegation to the Peace Conference, for constant assistance in obtaining texts and translations, and still more for his encourage-

ment and for his helpfulness in the various arrangements incidental to the publication of the book. He likewise owes much to the assistance and cooperation of his recent Chief, the Honorable Paul S. Reinsch, American Minister to China. It would be impossible to acknowledge in detail his obligations to those who have in one way or another assisted him to obtain texts for publication; but he takes pleasure in recording a particular debt of gratitude to Dr. G. E. Morrison, who spared no pains in making available to him the wealth of rare materials gathered in his library of the Far East. He is also much indebted to the assistance of Dr. C. C. Wang, chief compiler of the admirable collection of *Railway Loan Agreements of China*, who placed at his disposal not only the material published in that volume but also that which is being prepared for eventual publication in a separate volume dealing with Railway Agreements other than those involving loans; to Mr. W. H. Donald, Editor of the *Far Eastern Review*, who has given him access to a number of documents gathered for the editorial use of that magazine; to Mr. Igor Mitrophanow, Second Secretary of the Russian Legation in Peking, who very generously made for him a search of the Russian official and semi-official publications dealing with questions concerning China; and to Mr. Alexis Leger, of the French Legation in Peking, who was most helpful in looking up certain documents involving French interests, and obtaining the necessary permission for their publication.

In the matter of translations, he is under special obligations to Mr. Raymond P. Tenney, Assistant Chinese Secretary of the American Legation in Peking, for a great number of careful translations from Chinese; to Mr. Roger S. Greene, of the Rockefeller Medical Foundation, formerly American Consul at Harbin and Consul-General at Hankow, to Mr. G. A. Candlin, of the Russo-Asiatic Bank in Peking, and to Mr. Wilfred Stevens, of the Department of State, for a considerable number of translations from Russian; to Mr. Roger A. Burr, of the American Legation in Peking, for several translations from German; and to Mr. J. W. Ballantine, Japanese Secretary of the American Embassy in Tokyo, and to Mr. A. A. Williamson, American Consul at Dairen, for various translations from Japanese. He is also glad to acknowledge his indebtedness to Mr. W. J. Cannon, formerly of the American Legation at Peking, and to Mr. S. S. Young, of the Siems-Carey Company, who were of very great help to him in gathering and preparing the material for publication.

In conclusion, the Editor wishes to acknowledge to the Carnegie Endowment, and especially to its Secretary, Dr. Scott, his cordial sense of personal obligation for its generous readiness to cooperate in the furtherance of his plans. He is particularly grateful to the Endowment for undertaking to relieve him of the labor and responsibility of preparing an adequate index.

Upon the conclusion of the Treaty of Peace between the Allied and Associated Powers and Germany, there will be added to this compilation a selection of such articles as appear to be of particular interest in relation to the affairs of China.

AMERICAN EMBASSY, TOKYO, JAPAN,
April, 1919.

TABLE OF CONTENTS,

Including Chronological List of Documents.

List of Maps and Plan	PAGE xliii
List of Abbreviations	xliv

DOCUMENTS.

DATE	SPECIFICATIONS OF DOCUMENT	NUMBER *	PAGE
March 1, 1894	GREAT BRITAIN & CHINA—Convention giving Effect to Article III of Convention of July 24, 1886, relative to Burma and Tibet.	1894/1	1
March 17, 1894	UNITED STATES & CHINA—Convention regulating Chinese Immigration	1894/2	9
August 26, 1894	JAPAN & KOREA—Treaty of Alliance	(1895/3)	24
September 6, 1894	GREAT BRITAIN & CHINA—Convention respecting Junction of Chinese and Burmese Telegraph Lines. (Not printed.)	(1905/2)	498
January 26, 1895	GREAT BRITAIN (Hongkong & Shanghai Banking Corporation) & CHINA—Final Agreement for Chinese Imperial Government 7% Silver Loan of 1894	1895/1	11
January 26, 1895	GREAT BRITAIN (Hongkong & Shanghai Banking Corporation) & CHINA—Final Agreement for Chinese Imperial Government 6% Sterling Loan of 1895	1895/2	15
April 17, 1895	JAPAN & CHINA—Treaty of Peace (with Separate Articles, and Convention to prolong Armistice)	1895/3	18
March 30, 1895	JAPAN & CHINA—Convention of Armistice	(1895/3)	24
May 10, 1895	JAPAN—Proclamation in regard to Retrocession of Fengtien Peninsula	(1895/10)	52
June 20, 1895	FRANCE & CHINA—Convention complementary to Convention for Delimitation of Frontier between Tongking and China, June 26, 1887	1895/4	26
June 20, 1895	FRANCE & CHINA—Additional Convention to Supplementary Commercial Convention of June 26, 1887	1895/5	28
July 6, 1895	FRANCE & RUSSIA (Franco-Russian Syndicate) & CHINA—Contract for Chinese 4% Gold Loan of 1895	1895/6	35
July 6, 1895	RUSSIA & CHINA—Protocol of Exchange of Declarations concerning Chinese 4% Gold Loan of 1895	1895/7	40
July 6, 1895	RUSSIA & FRANCE (Russian Government, and Franco-Russian Syndicate)—Contract guaranteeing Chinese 4% Gold Loan of 1895 (1895/7)	(1895/7)	42

* Principal documents are indicated by their year, with subjoined serial number: documents which are printed as annexes or in notes to others are designated by the number—*between parentheses*—of the principal document to which they are attached.

	DATE	SPECIFICATIONS OF DOCUMENT	NUMBER	PAGE
October	3, 1895	GERMANY & CHINA—Convention for Concession at Hankow.....	1895/8 . . .	42
October	18, 1895	FRANCE, GERMANY, RUSSIA & JAPAN—Exchange of Notes regarding Retrocession of Fengtien Peninsula, and Navigation of Straits of Formosa.....	(1895/10) . . .	53
October	30, 1895	GERMANY & CHINA—Convention for Concession at Tientsin.....	1895/9 . . .	46
November	8, 1895	JAPAN & CHINA—Convention for Retrocession of Fengtien Peninsula.....	1895/10 . . .	50
January	15, 1896	FRANCE & GREAT BRITAIN—Declaration with regard to the Kingdom of Siam, and other Matters	1896/1 . . .	54
March	23, 1896	GERMANY (Deutsch-Asiatische Bank), GREAT BRITAIN (Hongkong & Shanghai Banking Corporation) & CHINA—Agreement for Chinese Imperial Government 5% Sterling Loan of 1896.....	1896/2 . . .	55
May	(?), 1896	RUSSIA & CHINA—Treaty of Alliance.....	(1896/5) . . .	81
May	7, 1896	FRANCE & CHINA—Regulations for Mixed Police on Sino-Annamite Border.....	(1895/5) . . .	32
July	11, 1896	DENMARK (Great Northern Telegraph Company), GREAT BRITAIN (Eastern Extension, Australasia & China Telegraph Company) & CHINA—Convention regulating Relations between Chinese Telegraph Administration and the Companies	1896/3 . . .	59
July	21, 1896	JAPAN & CHINA—Treaty of Commerce and Navigation	1896/4 . . .	68
July	30, 1896	RUSSIA & CHINA—Supplementary Declaration regarding Connections between Russian and Chinese Telegraphs.....	(1902/11) . . .	382
August	28, 1896	RUSSIA & CHINA—Agreement regarding Russo-Chinese Bank Association.....	(1896/5) . . .	78
September	8, 1896	RUSSIA (Russo-Chinese Bank) & CHINA—Contract for Construction and Operation of Chinese Eastern Railway	1896/5 . . .	74
September	8, 1896	RUSSIA & CHINA—"Cassini Convention"....	(1896/5) . . .	79
October	19, 1896	JAPAN & CHINA—Protocol concerning Japanese Settlements, Inland Navigation, Taxes on Manufactures, etc.	1896/6 . . .	91
December	16, 1896	RUSSIA—Statutes of Chinese Eastern Railway Company	(1896/5) . . .	84
February	4, 1897	GREAT BRITAIN & CHINA—Agreement modifying Convention of March 1, 1894, relative to Burma and Tibet.....	1897/1 . . .	94
March	15, 1897	FRANCE & CHINA—Declaration concerning Non-Alienation of Island of Hainan.....	1897/2 . . .	98
May	13, 1897	DENMARK (Great Northern Telegraph Company) & CHINA—Telegraph Convention... ..	1897/3 . . .	99
May	27, 1897	BELGIUM (Société Financière et Industrielle Belge en Chine) & CHINA—Provisional Contract for Lukouchiao (Peking)—Hankow Railway	(1898/13) . . .	145
June	12, 1897	FRANCE & CHINA—Identical Note explanatory of Provisions of Commercial Convention of June 20, 1895, and of Railway Contract of June 5, 1896.....	(1895/5) . . .	31
July	27, 1897	BELGIUM (Société Financière et Industrielle Belge en Chine) & CHINA—Additional Protocol to Contract of May 27, 1897 for Lukouchiao (Peking)—Hankow Railway....	(1898/13) . . .	148
September	6, 1897	RUSSIA & CHINA—Supplementary Declaration regarding Connections between Russian and Chinese Telegraphs	(1902/11) . . .	382
—(?)—	1898	RUSSIA (Russo-Chinese Bank) & CHINA—Preliminary Loan Agreement for Chengting—Taiyuan Railway	(1902/8) . . .	367

TABLE OF CONTENTS

xix

	DATE	SPECIFICATIONS OF DOCUMENT	NUMBER	PAGE
February	11, 1898	GREAT BRITAIN & CHINA—Declaration concerning Non-Alienation of Yangtze Region.	1898/1	104
February	13, 1898	GREAT BRITAIN & CHINA—Declaration as to British Nationality of Inspector General of Maritime Customs while British Trade predominates	1898/2	105
March	1, 1898	GERMANY (Deutsch-Asiatische Bank), GREAT BRITAIN (Hongkong & Shanghai Banking Corporation) & CHINA—Agreement for the Chinese Imperial Government 4½% Gold Loan of 1898	1898/3	107
March	6, 1898	GERMANY & CHINA—Convention respecting Lease of Kiaochow	1898/4	112
March	27, 1898	RUSSIA & CHINA—Convention for Lease of the Liaotung Peninsula	1898/5	119
April	10, 1898	FRANCE & CHINA—Declaration concerning Non-Alienation of Chinese Territory bordering on Tongking	1898/6	123
April	10, 1898	FRANCE & CHINA—Agreement regarding Concession for Railway from Tongking to Yunnan, Lease of Kuangchouwan, and Organization of Chinese Postal Service.	1898/7	124
April	14, 1898	UNITED STATES (American China Development Company) & CHINA—Contract for Canton-Hankow Railway. (Reference only.)	(1905/7)	519
April	20, 1898	GREAT BRITAIN & GERMANY—Declaration respecting Weihaiwei	(1898/14)	152
April	26, 1898	JAPAN & CHINA—Declaration concerning Non-Alienation of Fukien	1898/8	126
May	7, 1898	RUSSIA & CHINA—Additional Agreement defining Boundaries of Leased and Neutralized Territory in Liaotung Peninsula	1898/9	127
May	13, 1898	GREAT BRITAIN (British & Chinese Corporation) & CHINA—Preliminary Agreement for Shanghai-Nanking Railway	(1903/2)	402
May	21, 1898	GREAT BRITAIN (Pekin Syndicate) & CHINA (Shansi Bureau of Trade)—Regulations for Mining Purposes, etc., in Shansi	(1908/2)	700
May	27, 1898	FRANCE & CHINA—Convention for Lease of Kuangchouwan	1898/10	128
June	7, 1898	GREAT BRITAIN (Hongkong & Shanghai Banking Corporation) & CHINA—Preliminary Loan Agreement for Peking-Newchwang Railway	(1898/20)	179
June	9, 1898	GREAT BRITAIN & CHINA—Convention for Extension of Hongkong Territory	1898/11	130
June	21, 1898	GREAT BRITAIN (Pekin Syndicate) & CHINA (Yü-Feng Company)—Regulations for Mining Purposes, etc., in Honan	1898/12	131
June	26, 1898	BELGIUM (Société d'Etudes des Chemins de Fer en Chine) & CHINA—Loan Contract, and Operating Contract, for Peking-Hankow Railway	1898/13	135
July	1, 1898	GREAT BRITAIN & CHINA—Convention for Lease of Weihaiwei	1898/14	152
July	6, 1898	RUSSIA (Chinese Eastern Railway) & CHINA—Agreement concerning Southern Branch of Chinese Eastern Railway	1898/15	154
July	10, 1898	CONGO FREE STATE & CHINA—Treaty conferring Mutual Most-favored-Nation Treatment	1898/16	159
July	28, 1898	CHINA—Steam Navigation Inland: Regulations (Amended), 1898; and Supplementary Rules thereunder	1898/17	159
August	(?), 1898	INTERNATIONAL & CHINA—Regulations governing Trade on the Yangtzekiang (with Yangtze Port Regulations)	1898/18	163

TABLE OF CONTENTS

	DATE	SPECIFICATIONS OF DOCUMENT	NUMBER	PAGE
August	18, 1898	JAPAN & CHINA—Agreement for Establishment of Japanese Settlement at Shashi.....	(1896/6) . . .	92
August	29, 1898	FRANCE & GREAT BRITAIN—Exchange of Notes respecting Reciprocal Protection of Trademarks in China	1898/19 . . .	171
September	2, 1898	GERMANY (German Syndicate) & GREAT BRITAIN (Hongkong & Shanghai Banking Corporation, and British & Chinese Corporation)—Arrangement regarding Spheres of Interest in Railway Construction.....	(1900/5) . . .	266
October	10, 1898	GREAT BRITAIN (British & Chinese Corporation) & CHINA—Shanhaikwan-Newchwang Railway Loan Agreement.....	1898/20 . . .	173
October	10, 1898	GREAT BRITAIN (British & Chinese Corporation) & CHINA—Agreement for Concession for Nanpiao Mines.....	(1898/20) . . .	181
February	1, 1899	GREAT BRITAIN (British & Chinese Corporation) & UNITED STATES (American China Development Company)—Agreement in regard to Railway Business in China (Reference, only)	(1905/7) . . .	519
February	17, 1899	RUSSIA—First Supplement to Charter of Chinese Eastern Railway	(1898/15) . . .	157
March	6, 1899	DENMARK (Great Northern Telegraph Company) & CHINA—Additional Article to Telegraph Convention of May 13, 1897.....	(1897/3) . . .	103
March	16, 1899	CHINA—Memorial and Rescript concerning Intercourse between Local Officials and Missionaries	(1908/4) . . .	718
April	14, 1899	GREAT BRITAIN (Mr. Pritchard Morgan) & CHINA (Hua Yi and Hui Tung Companies)—Regulations for Mining in Szechuan....	1899/1 . . .	183
April	17, 1899	GERMANY & CHINA—Agreement concerning Establishment of a Maritime Customs Office at Tsingtao	1899/2 . . .	189
April	28, 1899	GREAT BRITAIN & RUSSIA—Exchange of Notes regarding Railway Interests in China	1899/3 . . .	204
May	2, 1899	CHINA—Proclamation in regard to Extension of International Settlement at Shanghai....	1899/4 . . .	205
May	18, 1899	GERMANY (Deutsch-Asiatische Bank), GREAT BRITAIN (British & Chinese Corporation) & CHINA—Preliminary Agreement for Tientsin-Chinkiang Railway	(1908/1) . . .	694
May	31, 1899	RUSSIA (Chinese Eastern Railway) & CHINA (Kirin Province)—Agreement regarding Jurisdiction over Chinese Subjects in Railway Zone	(1901/2) . . .	277
June	1, 1899	GERMANY—Charter of the Shantung Railway Company	(1900/3) . . .	240
June	1, 1899	GERMANY—Charter of Schantung Bergbau Gesellschaft	(1900/4) . . .	252
June	1, 1899	RUSSIA & CHINA—Note regarding Construction of Railways Northward and North-eastward from Peking	1899/5 . . .	207
July	29, 1899	INTERNATIONAL & CHINA—Conventions and Declarations of the First Hague Peace Conference (Note, only)	1907/18 . . .	682
August	11, 1899	RUSSIA—Imperial Order for Building Dalny and Creating it a Free Port.....	(1898/5) . . .	121
September	11, 1899	KOREA & CHINA—Treaty of Amity and Commerce	1899/6 . . .	208
October	10, 1899	GERMANY—Rules of Schantung Bergbau Gesellschaft	(1900/4) . . .	254
December	2, 1899	RUSSIA (Chinese Eastern Railway Company) & CHINA (Heilungkiang Province)—Agreement regarding Jurisdiction over Chinese Subjects in Railway Zone (Reference, only)	(1902/1) . . .	321

TABLE OF CONTENTS

xxi

DATE	SPECIFICATIONS OF DOCUMENT	NUMBER	PAGE
December 14, 1899	MEXICO & CHINA—Treaty of Amity and Commerce	1899/7	214
January 15, 1900	FRANCE & GREAT BRITAIN—Exchange of Notes respecting Regulations to be applied in any future Extension of British or French Concession at Hankow	1900/1	220
February 3, 1900	FRANCE & CHINA—Postal Arrangement	(1906/3)	588
March 20, 1900	UNITED STATES & FRANCE, GERMANY, GREAT BRITAIN, ITALY, JAPAN & RUSSIA—Declarations accepting the Commercial Policy of the "Open Door" in China	1900/2	221
March 21, 1900	GERMANY (Schantung Eisenbahn Gesellschaft) & CHINA—Regulations for Kiaochow-Tsinanfu Railway	1900/3	236
March 21, 1900	GERMANY (Schantung Bergbau Gesellschaft) & CHINA—Agreement for Shantung German-Chinese Mining Company	1900/4	248
July 13, 1900	UNITED STATES (American China Development Company) & CHINA—Supplemental Canton-Hankow Railway Loan Agreement. (Reference, only.)	(1905/7)	519
October 16, 1900	GERMANY & GREAT BRITAIN—Agreement relative to China	1900/5	263
October 26, 1900	DENMARK (Great Northern Telegraph Company), GREAT BRITAIN (Eastern Extension Telegraph Company) & CHINA—Agreement regarding Land Telegraph Lines between Taku and Peking	1900/6	267
January 16, 1901	AUSTRIA-HUNGARY, BELGIUM, FRANCE, GERMANY, GREAT BRITAIN, ITALY, JAPAN, NETHERLANDS, RUSSIA, SPAIN, UNITED STATES & CHINA—Reply of Chinese Plenipotentiaries to Joint Note in behalf of Powers, December 22, 1900, embodying Conditions for Reestablishment of Normal Relations with China	(1901/3)	310
January 30, 1901	RUSSIA & CHINA—Preliminary Arrangement in regard to Manchuria	(1902/3)	329
February (?), 1901	RUSSIA & CHINA—"Secret Treaty" concerning Manchuria	(1902/3)	330
April 23, 1901	GREAT BRITAIN (British Government, and Eastern Extension, Australasia & China Telegraph Company)—Agreement for Submarine Cable between Chefoo and Weihaiwei	1901/1	269
July 18, 1901	RUSSIA (Chinese Eastern Railway) & CHINA (Kirin Province)—Agreement regarding Jurisdiction over Chinese Subjects in Railway Zone	1901/2	274
August 2, 1901	RUSSIA—Ukaz regarding Jurisdiction in Chinese Eastern Railway Zone	(1896/5)	88
September 7, 1901	AUSTRIA-HUNGARY, BELGIUM, FRANCE, GERMANY, GREAT BRITAIN, ITALY, JAPAN, NETHERLANDS, RUSSIA, SPAIN, UNITED STATES & CHINA—Final Protocol for the Settlement of the Disturbances of 1900	1901/3	278
January 14, 1902	RUSSIA (Chinese Eastern Railway) & CHINA (Heilungkiang Province)—Agreement regarding Jurisdiction over Chinese Subjects in Railway Zone	1902/1	321
January 14, 1902	RUSSIA (Chinese Eastern Railway) & CHINA—Agreement for Coal Mining in Heilungkiang Province	(1907/12)	661
January 30, 1902	GREAT BRITAIN & JAPAN—Agreement relative to China and Korea	1902/2	324
April 8, 1902	RUSSIA & CHINA—Convention in regard to Manchuria	1902/3	326

TABLE OF CONTENTS

	DATE	SPECIFICATIONS OF DOCUMENT	NUMBER	PAGE
April	29, 1902	GREAT BRITAIN & CHINA—Agreement for Restoration of Peking-Shanhaikwan Railway, and Additional Agreement respecting Management of Northern Railways and Building of New Branch Lines.....	1902/4	331
June	10, 1902	INTERNATIONAL & CHINA—Provisional Rules defining Respective Jurisdictions of Mixed Courts of International and French Settlements at Shanghai.....	1902/5	338
June	14, 1902	AUSTRIA-HUNGARY, BELGIUM, FRANCE, GERMANY, GREAT BRITAIN, ITALY, JAPAN, NETHERLANDS, RUSSIA, SPAIN, UNITED STATES—Protocol concerning Apportionment of Boxer Indemnity (1901/3)	(1901/3)	311
June	21, 1902	FRANCE & GREAT BRITAIN (Syndicat du Yunnan) & CHINA—Agreement for Mining Concession in Yunnan Province.....	(1911/10)	911
June	23, 1902	RUSSIA & CHINA—Exchange of Notes in regard to Pledging of Peking—Kalgan and other Railways North of Peking.....	(1902/4)	335
July	11, 1902	RUSSIA (Chinese Eastern Railway) & CHINA—Agreement for Kirin-Changchun Railway..	(1907/3)	629
August	7, 1902	GERMANY (Carlowitz & Co.) & CHINA (Ping Yang Coal Mine)—Agreements for Loans..	(1913/13)	1083
August	29, 1902	AUSTRIA-HUNGARY, BELGIUM, DENMARK, FRANCE, GERMANY, GREAT BRITAIN, ITALY, JAPAN, NETHERLANDS, NORWAY, PORTUGAL, RUSSIA, SPAIN, SWEDEN, UNITED STATES & CHINA—Revised Import Tariff Agreement	1902/6	339
September	5, 1902	GREAT BRITAIN & CHINA—Treaty respecting Commercial Relations, etc. (with Annexes)	1902/7	342
September	22, 1902	RUSSIA & CHINA—Agreement for Rendition of Shanhaikwan-Hsinmintun-Yingkow Railway	(1902/3)	330
October	15, 1902	RUSSIA (Russo-Chinese Bank) & CHINA—Loan Contract, and Operating Contract, for Chengtingfu-Taiyuanfu Railway.....	1902/8	356
October	15, 1902	PORTUGAL & CHINA—Supplementary Commercial Convention	1902/9	370
October	22, 1902	DENMARK (Great Northern Telegraph Company) & CHINA—Agreement concerning Taku-Kiakhta Telegraph	1902/10	375
October	22, 1902	GREAT BRITAIN (Eastern Extension Telegraph Company) & CHINA—Agreement concerning Taku-Peking Telegraph.....	(1902/10)	379
November	27, 1902	RUSSIA & CHINA—Supplementary Declaration regarding Connections between Russian and Chinese Telegraphs	1902/11	381
January	27, 1903	PORTUGAL & CHINA—Additional Convention regarding Establishment of Customs House at Macao	1903/1	385
July	9, 1903	GREAT BRITAIN (British & Chinese Corporation) & CHINA—Agreement for Shanghai-Nanking Railway Loan.....	1903/2	387
August	7, 1903	GREAT BRITAIN & ITALY—Exchange of Notes respecting Reciprocal Protection of Trademarks in China.....	1903/3	409
August	12, 1903	RUSSIA—Imperial Order creating Imperial Lieutenancy of Far East.....	(1898/5)	122
September	24, 1903	UNITED STATES & CHINA—Exchange of Notes in regard to taxation.....	(1903/5)	451
October	8, 1903	JAPAN & CHINA—Supplementary Treaty of Commerce and Navigation (with Annexes)..	1903/4	411
October	8, 1903	UNITED STATES & CHINA—Treaty for the Extension of Commercial Relations.....	1903/5	423

TABLE OF CONTENTS

xxiii

DATE	SPECIFICATIONS OF DOCUMENT	NUMBER	PAGE
October 29, 1903	FRANCE & CHINA—Contract for Yunnan Railway	1903/6	453
November 12, 1903	BELGIUM (Compagnie Générale de Chemins de Fer et de Tramways en Chine) & CHINA—Loan Contract, and Operating Contract, for Kaifengfu-Honanfu Railway..	1903/7	462
March 6, 1904	RUSSIA (Chinese Eastern Railway) & CHINA (Heilungkiang Province)—Agreement for Timbering. (Reference, only).....	(1908/6)	724
March 25, 1904	CHINA—Customs Regulations for Port of Kongmoon	1904/1	476
April 17, 1904	GERMANY & CHINA—Agreement concerning Maritime Customs Office at Tsingtao: Inland Waters Steam Navigation.....	(1899/2)	191
May 13, 1904	GREAT BRITAIN & CHINA—Convention respecting Chinese Labor in British Colonies and Protectorates	1904/2	478
June 13, 1904	AUSTRIA-HUNGARY, BELGIUM, FRANCE, GERMANY, GREAT BRITAIN, ITALY, JAPAN, NETHERLANDS, RUSSIA, SPAIN, UNITED STATES—Protocol regarding Administration of Legation Quarter in Peking	(1901/3)	315
July 30, 1904	CHINA—West River Regulations	1904/3	484
August 8, 1904	GREAT BRITAIN & PORTUGAL—Exchange of Notes respecting Reciprocal Protection of Trademarks in China.....	1904/4	489
September 7, 1904	GREAT BRITAIN & TIBET—Convention of Lhasa	(1906/2)	578
September 7, 1904	GREAT BRITAIN & NETHERLANDS—Exchange of Notes respecting Reciprocal Protection of Trademarks in China.....	1904/5	490
September 30, 1904	BELGIUM & GREAT BRITAIN—Exchange of Notes respecting Reciprocal Protection of Trademarks in China.....	1904/6	492
October 21, 1904	FRANCE & CHINA—Parcels Post Arrangement	(1906/3)	590
November 11, 1904	PORTUGAL & CHINA—(Unratified) Treaty of Commerce	(1902/9)	371
December 21, 1904	INTERNATIONAL & CHINA—Convention exempting Hospital Ships from Payment of Dues, etc. (Note, only).....	1904/7	493
December 29, 1904	GREAT BRITAIN (Hongkong) & CHINA—Postal Arrangement	(1906/3)	592
January 15, 1905	RUSSIA & CHINA—Supplementary Declaration regarding Connections between Russian and Chinese Telegraphs	(1902/11)	383
March 22, 1905	BELGIUM (Société des Mines du Luhan) & CHINA (Chihli Lincheng Mining Company)—Contract concerning the Lincheng Mines..	1905/1	493
May 23, 1905	GREAT BRITAIN & CHINA—Convention respecting Junction of Chinese and Burmese Telegraphs	1905/2	498
June 7, 1905	INTERNATIONAL & CHINA—Convention for International Institute of Agriculture. (Note, only)	1905/3	501
June 28, 1905	GREAT BRITAIN & UNITED STATES—Exchange of Notes in regard to Reciprocal Protection of Trademarks in China.....	1905/4	502
July 2, 1905	AUSTRIA-HUNGARY, BELGIUM, FRANCE, GERMANY, GREAT BRITAIN, ITALY, JAPAN, NETHERLANDS, RUSSIA, SPAIN, UNITED STATES & CHINA—Notes effecting final Settlement of Question of Boxer Indemnity	(1901/3)	319
July 2, 1905	GREAT BRITAIN (Pekin Syndicate) & CHINA—Letters regarding Supplementary Taokow-Chinghua Railway Loan	(1905/5)	515
July 3, 1905	GREAT BRITAIN (Pekin Syndicate) & CHINA		

	DATE	SPECIFICATIONS OF DOCUMENT	NUMBER	PAGE
		—Loan Agreement, and Working Agreement, for Taokow-Chinghua Railway	1905/5	506
August	12, 1905	GREAT BRITAIN & JAPAN—Agreement respecting Integrity of China, etc.	1905/6	516
August	13, 1905	BELGIUM (Société d'Etudes de Chemins de Fer en Chine) & CHINA—Contract for Supplementary Loan to complete Peking-Hankow Railway	(1898/13)	151
August	29, 1905	UNITED STATES (American China Development Company) & CHINA—Agreement cancelling Canton-Hankow Railway Concession	1905/7	519
September	1, 1905	JAPAN & RUSSIA—Protocol of Armistice	(1905/8)	527
September	5, 1905	JAPAN & RUSSIA—Treaty of Peace	1905/8	522
September	9, 1905	GREAT BRITAIN (Hongkong) & CHINA—Agreement for Loan to Redeem Canton-Hankow Railway Concession	1905/9	528
September	9, 1905	GREAT BRITAIN & CHINA—Letter of Hukuang Viceroy regarding Preference to British Nationals for Canton-Hankow and other Railways in Hupeh and Hunan	(1905/9)	530
September	27, 1905	INTERNATIONAL & CHINA—New Agreement for Huangpu Conservancy	1905/10	531
October	2, 1905	GREAT BRITAIN (British & Chinese Corporation, Pekin Syndicate, Yangtze Valley Company, and Chinese Central Railways) & FRANCE (Banque de l'Indo-Chine, etc.)—Agreement regarding Construction of certain Railways	1905/11	534
October	3, 1905	FRANCE & UNITED STATES—Exchange of Notes in regard to Reciprocal Protection of Trademarks in China	1905/12	538
October	23, 1905	NETHERLANDS & UNITED STATES—Exchange of Notes in regard to Reciprocal Protection of Trademarks in China	1905/13	540
October	30, 1905	JAPAN & RUSSIA—Protocol of Procedure in withdrawing Troops, and transferring Railways	(1905/8)	527
November	3, 1905	GERMANY & CHINA—Postal Arrangement, and Exchange of Notes supplementary thereto	(1906/3)	594
November	27, 1905	BELGIUM & UNITED STATES—Exchange of Notes in regard to Reciprocal Protection of Trademarks in China	1905/14	542
November	28, 1905	GERMANY & CHINA—Agreement for Withdrawal of German Troops from Kiaochow and Kaomi	(1898/4)	118
December	1, 1905	GERMANY & CHINA—Amendment to Agreement of April 17, 1899, concerning Maritime Customs Office at Tsingtao	(1899/2)	192
December	2, 1905	GERMANY & CHINA—Ordinance regulating Customs Procedure in Kiaochow Territory	(1899/2)	194
December	6, 1905	GERMANY & UNITED STATES—Exchange of Notes in regard to Reciprocal Protection of Trademarks in China	1905/15	544
December	11, 1905	DENMARK & GREAT BRITAIN—Exchange of Notes in regard to Reciprocal Protection of Trademarks in China	1905/16	546
December	18, 1905	ITALY & UNITED STATES—Exchange of Notes in regard to Reciprocal Protection of Trademarks in China	1905/17	547
December	22, 1905	JAPAN & CHINA—Treaty, and Additional Agreement, relating to Manchuria	1905/18	549
December	22, 1905	JAPAN & CHINA—"Secret Protocols" to Treaty of December 22, 1905, relating to Manchuria. (Summary, only)	(1905/18)	554
December	27, 1905	GREAT BRITAIN (Natal) & CHINA—Postal Arrangement	(1906/3)	596
January	4, 1906	RUSSIA & CHINA—Supplementary Declara-		