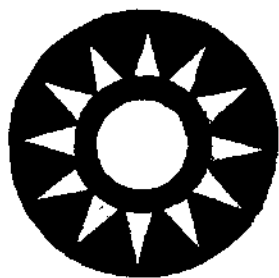


白皮書第七十六號（三十七年一月）



中加為廢除在中國治外法權及處理有關事件條約

（中華民國三十三年四月十四日簽字
中華民國三十四年四月三日互換批准書）
（中華民國三十四年四月三日生效）

中華民國國民政府外交部編印

中加為廢除在中國治外法權及處理有關事件條約

中華民國及海國諸自治領君主兼印度皇帝陛下為加拿大國下願增進中國與加拿大國一般關係中之友好精神，並藉以調

整兩國關係上之若干事件，為此決定訂立本約，並各派全權代表如左：

中華民國國民政府主席閣下特派

駐加拿大國特命全權大使劉師舜閣下，

大不列顛愛爾蘭及海外諸自治領君主兼印度皇帝陛下為加拿大國特派

加拿大國首相樞密院院長外交部部長金麥堅齊閣下；

兩全權代表各將所奉全權證書互相校閱，均屬妥善，議定條款如左：

第一條

本約中「公司」一詞應解釋為分別依照中華民國或加拿大國法律所組成之有限公司及其他公司合夥暨社團。

第二條

中國與加拿大國間之現行條約或協定凡授權英國或加拿大國官員在中國實行管轄加拿大國人民或加拿大國公司之一切

條款，茲特撤銷作廢。加拿大國民及公司在中國，應依照國際公法之原則及國際慣例受中華民國政府之管轄。

第三條

加拿大政府願在涉及任何加拿大利益之範圍內協助中華民國政府交涉並設法使各國政府放棄其在北平、上海、廈門、天津及廣州所享特權，並對任何廢除此項特權之措置不予反對。

第四條

(一)本約第二條不得影響加拿大國民或公司在中國之現有不動產權利。上述現有之權利不得取消作廢，但依照法律手續提出證據證明此項權利係以詐欺或類似詐欺或不正當之手段所取得者不在此限。同時相互了解此項權利取得時所根據之官廳手續如日後有任何變更之處，該項權利不得因之作廢。雙方並同意此項權利之行使應受中華民國關於徵收捐稅徵用土地及有關國防各項法令之約束，非經中華民國政府之明白許可不得將此項權利移轉於任何第三國政府或人民（包括公司）。雙方又同意本條內所指對於現有不動產權利轉讓權之限制中國官廳當秉公辦理。如中華民國政府對於提出之轉讓拒絕同意，而被拒絕轉讓之人民或公司請求收購時，中華民國政府本公平之精神及為避免使此等利益關係人民或公司損失起見，當以適當之代價收購該項權利。

(二)中華民國政府對於加拿大國民或公司現在持有關於不動產之證件如欲另行換發適當之新契據時，此項新契據應

充分保障該加拿大國人民或公司及其合法之繼承人、承受人或受讓人之原來權益。

(三)中國官廳不得向加拿大國人民或公司要求繳納涉及本約發生效力以前有關土地移轉之任何費用。

第五條

加拿大國政府對於中華民國人民在加拿大國領土內早已予以旅行、居住及經商之權利，中華民國政府同意對於加拿大國人民在中華民國領土內予以相同之權利。締約一方之政府在其領土內盡力給予締約彼方之人民或公司關於各項法律手續司法事件之處理及租稅之徵收與其有關事項不低於所給予本國人民或公司之待遇。

第六條

締約此方之領事官經締約彼方給予執行職務證書後，得在雙方所同意之締約彼方之口岸地方與城市駐紮。締約雙方之領事官在其領事轄區內應有與其本國人民或公司會晤通訊以及指示之權。倘其本國人民在其領事區內被拘留、逮捕、監禁或聽候審判時，應立即通知該領事官。該領事官於通知主管官廳後得探視此等人民。總之，締約此方之領事官在締約彼方之領土內應享有現代國際慣例所給予之權利、特權與豁免。

雙方並同意締約此方之人民或公司在締約彼方之領土內隨時有與其本國領事官通訊之權。締約此方之人民在締約彼方領土內被拘留、逮捕、監禁或聽候審判者，其與本國領事官之通訊地方官廳應予轉遞。

第七條

(一)締約雙方經一方之請求或於現在抵抗共同敵國之戰爭停止後至遲六個月內進行談判，簽訂現代廣泛之友好通商航海設領條約。此項條約將以近代國際程序與締約雙方近年來與他國政府所締結之近代條約中所表現之國際公法原則與國際慣例爲根據。

(二)前項廣泛條約未經訂立以前，倘日後遇有涉及中華民國領土內加拿大國政府或加拿大國人民或公司權利之任何問題發生，而不在本約及所附換文範圍內或不在締約雙方間現行而未經本約及所附換文廢止或與本約及所附換文不相牴觸之條約、專約及協定之範圍內者，應由締約雙方代表會商，依照普通承認之國際公法原則及近代國際慣例解決之。

第八條

締約雙方同意凡本約及所附換文未涉及之問題，如有影響中華民國主權時，應由締約雙方代表會商，依照普通承認之國際公法原則及近代國際慣例解決之。

第九條

本約應予批准。批准書應於重慶迅速互換。本約自互換批准書之日起發生效力。

上開全權代表爰於本約簽字蓋印以昭信守。

本約用中英文各繕兩份，中英文均有同等之效力。

中華民國三十三年四月十四日即西曆一九四四年四月十四日訂於奧太瓦。

劉師舜 (簽字)

金麥堅齊 (簽字)

換文

甲 劉大使致加拿大國外交部部長照會

關於 中華民國國民政府主席閣下與 大不列顛、愛爾蘭及海外諸自治領君主兼印度皇帝陛下爲加拿大國本日所簽訂之條約，本代表茲特聲明：中華民國國民政府認爲 英王陛下代表大不列顛、北愛爾蘭聯合王國及印度依照一九四三年一月十一日中華民國與大不列顛、北愛爾蘭聯合王國及印度所簽訂之條約及換文之規定所放棄之一切權利與特權，茲並代表加拿大國同樣予以放棄。此種了解經

貴國政府證實後，卽作爲本日所簽訂條約內容之一部份，並自該約生效之日起發生效力。如荷閣下以加拿大國政府之名義，證實上述了解，本代表至深感幸。

本代表順向

貴代表重表敬意。此致

加拿大國外交部部長金

中華民國三十三年四月十四日卽一九四四年四月十四日

劉師舜（簽字）

乙 加拿大國外交部部長復劉大使照會

接准

貴代表本日照會內開：

「關於 中華民國國民政府主席閣下與 大不列顛、愛爾蘭及海外諸自治領君主兼印度皇帝陛下爲加拿大國本日所簽訂之條約，本代表茲特聲明：中華民國國民政府認爲 英王陛下代表大不列顛、北愛爾蘭聯合王國及印度依照一九四三年一月十一日中華民國與大不列顛、北愛爾蘭聯合王國及印度所簽訂之條約及換文之規定所放棄之一切權利與特權，茲並代表加拿大國同樣予以放棄。此種了解經 貴國政府證實後，卽作爲本日所簽訂條約內容之一部份，並自該約生效之日起發生效力。如荷 閣下以加拿大國政府之名義證實上述了解，本代表至深感幸。」

「本代表順向 貴代表重表敬意。此致 加拿大國外交部部長金。 劉師舜。」

本代表茲以加拿大國政府名義，證實中華民國國民政府之了解認爲 英王陛下代表大不列顛、北愛爾蘭聯合王國及印度依照一九四三年一月十一日中華民國與大不列顛北愛爾蘭聯合王國及印度所簽訂之條約及換文之規定所放棄之一切權利與特權，並代表加拿大國同樣予以放棄。

此種了解應作爲本日所簽訂條約內容之一部份，並自該約生效之日起發生效力。

本代表順向

貴代表重表敬意。此致

中華民國駐加拿大國特命全權大使劉

一九四四年四月十四日

加拿大國外交部部長金麥堅齊

（簽字）

SINO-CANADIAN TREATY FOR THE RELINQUISH-
MENT OF EXTRATERRITORIAL RIGHTS
IN CHINA AND THE REGULATION
OF RELATED MATTERS

His Excellency the President of the National Government of the Republic of China and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, in respect of Canada;

Desiring to promote a spirit of friendship in the general relations between China and Canada, and for this purpose to adjust certain matters in the relations of the two countries;

Have decided to conclude a Treaty for this purpose, and to that end have appointed as their Plenipotentiaries:

His Excellency the President of the National Government of the Republic of China:

His Excellency Dr. Liu Shih Shun, Ambassador Extraordinary and Plenipotentiary of the Republic of China to Canada; and

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, for Canada:

The Right Honourable W.L. Mackenzie King, Prime Minister, President of the Privy Council and Secretary of State for External Affairs of Canada;

Who, having communicated to each other their full powers, found in good and due form, have agreed on the following Articles:

ARTICLE I

In the present Treaty the expression "companies" shall be interpreted as meaning limited liability and other companies, partnerships and associations constituted under the laws of the Republic of China or of Canada as the case may be.

ARTICLE II

All provisions of treaties or agreements in force between China and Canada, which authorize any Canadian or British authority to exercise jurisdiction in China over Canadian nationals or companies are hereby abrogated. Canadian nationals and companies shall be subject in China to the jurisdiction of the Government of the Republic of China, in accordance with the principles of international law and practice.

ARTICLE III

The Government of Canada will cooperate, to the extent that any Canadian interest may be involved, with the Government of the Republic of China in negotiations and arrangements for the abandonment by foreign Governments of special privileges held by them in Peiping, Shanghai, Amoy, Tientsin and Canton, and will raise no objection to any measures which may be directed to the abolition of such special privileges.

ARTICLE IV

(1) Article II of the present Treaty shall not affect existing rights in respect of, or existing titles to, real property in China held by Canadian nationals or companies. Such existing rights and titles shall be indefeasible except upon proof, established through due process of law, that such rights or titles have been acquired by fraud or by fraudulent or dishonest practices, it being understood that no right or title shall be rendered invalid by virtue of any subsequent change in the official procedure through which it was acquired. It is agreed that the exercise of these rights or titles shall be subject to the laws and regulations of the Republic of China concerning taxation, national defence and the right of eminent domain and that no such rights or titles may be alienated to the Government or nationals (including companies) of any third country without the express consent of the Government of the Republic of China. And it is further agreed that the restriction on the right of alienation of existing rights and titles to real property referred to in this Article will be applied by

the Chinese authorities in an equitable manner and that if, and when, the Government of the Republic of China declines to give assent to a proposed transfer, the Government of the Republic of China will, in a spirit of justice and with a view to precluding loss on the part of the nationals or companies whose interests are affected, undertake, if so requested by the nationals or companies to whom permission to alienate has been refused, to take over the rights and titles in question and to pay adequate compensation therefor.

(2) Should the Government of the Republic of China desire to replace by new and appropriate deeds existing documentary evidence relating to real property held by Canadian nationals or companies, the new deeds shall fully protect the prior rights and interests of the Canadian nationals or companies, and their legal heirs, successors or assigns.

(3) Canadian nationals or companies shall not be required by the Chinese authorities to make any payments of fees in connection with land transfers for or with relation to any period prior to the day of coming into force of the present Treaty.

ARTICLE V

The Government of Canada having long accorded rights to nationals of the Republic of China within the territory of Canada to travel, reside and carry on trade throughout the whole extent of that territory, the Government of the Republic of China agrees to accord similar rights to Canadian nationals within the territory of the Republic of China. Each of the two Governments will endeavour to accord in territory under its jurisdiction to nationals and companies of the other country in regard to all legal proceedings and in matters relating to the administration of justice, and to the levying of taxes or requirements in connection therewith, treatment not less favourable than that accorded to its own nationals and companies.

ARTICLE VI

The consular officers of one High Contracting

Party, duly provided with ~~6~~exequaturs, shall be permitted to reside in such ports, places and cities of the other High Contracting Party as may be agreed upon. The consular officers of each of the High Contracting Parties shall have the right to interview, to communicate with, and to advise nationals or companies of their country within their consular districts; they shall be informed immediately whenever nationals of their country are under detention or arrest or in prison or are awaiting trial in their consular districts and they shall, upon notification to the appropriate authorities, be permitted to visit any such nationals; and, in general, the consular officers of each of the High Contracting Parties in the territory of the other shall be accorded the rights, privileges and immunities enjoyed by consular officers under modern international usage.

It is likewise agreed that the nationals or companies of each of the High Contracting Parties in the territory of the other shall have the right at all times to communicate with the consular officers of their country. Communications to their consular officers from nationals of each of the High Contracting Parties who are under detention or arrest or in prison or are awaiting trial in the territory of the other High Contracting Party shall be forwarded to such consular officers by the local authorities.

ARTICLE VII

(1) The High Contracting Parties agree that they will enter into negotiations for the conclusion of a comprehensive modern treaty or treaties of friendship, commerce, navigation and consular rights upon the request of either of them or in any case within six months after the cessation of the hostilities in the war against the common enemies in which they are both now engaged. The treaty or treaties to be thus negotiated will be based upon the principles of international law and practice as reflected in modern international procedure and in the modern treaties which each of the Governments has concluded with other Powers in recent years.

(2) Pending the conclusion of the comprehensive treaty or treaties referred to in the preceding paragraph, if any questions affecting the rights in the territory of the Republic of China of the Canadian Government or of Canadian nationals or companies should arise in future and if these questions are not covered by the present Treaty and annexed exchange of notes or by the provisions of the existing treaties, conventions and agreements between the Governments of the Republic of China and Canada which are not abrogated by or inconsistent with the present Treaty and annexed exchange of notes, such questions shall be discussed by representatives of the two Governments and shall be decided in accordance with the generally accepted principles of international law and with modern international practice.

ARTICLE VIII

The High Contracting Parties agree that questions which may affect the sovereignty of the Republic of China and which are not covered by the present Treaty and annexed exchange of notes shall be discussed by representatives of the High Contracting Parties and decided in accordance with generally accepted principles of international law and modern international practice.

ARTICLE IX

The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Chungking as soon as possible. The present Treaty shall come into force and be effective on the day of the exchange of ratifications.

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

Done at Ottawa this fourteenth day of the fourth month of the thirty-third year of the Republic of China, corresponding to the fourteenth day of April, 1944, in duplicate in Chinese and English, both texts

being equally authentic.

(L.S.) LIU Shih, Shun.

(L.S.) W.L. Mackenzie KING.

EXCHANGE OF NOTES

(1) NOTE FROM THE CHINESE AMBASSADOR TO THE CANADIAN SECRETARY OF STATE FOR EXTERNAL AFFAIRS

Embassy of the
Republic of China,
Ottawa, April 14, 1944.

Sir:

In connection with the Treaty signed today between His Excellency the President of the National Government of the Republic of China and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, for Canada. I have the honour to state that it is the understanding of the National Government of the Republic of China that all the rights and privileges relinquished by His Majesty the King, for the United Kingdom of Great Britain and Northern Ireland and India, as provided in the Treaty and exchange of notes of January 11, 1943, between the Republic of China on the one hand and the United Kingdom of Great Britain and Northern Ireland and India on the other, have been similarly relinquished by His Majesty the King for Canada. This understanding, if confirmed by your Government, shall be considered as forming an integral part of the Treaty signed today and shall be considered to be effective upon the date of the entry into force of that Treaty. I should be glad if you would confirm the above understanding on behalf of the Government of Canada.

I avail myself of this opportunity to renew to you, Sir, the assurances of my highest consideration.

(Signed) LIU Shih Shun

The Secretary of State
for External Affairs,
OTTAWA.

(II) NOTE FROM THE CANADIAN SECRETARY
OF STATE FOR EXTERNAL AFFAIRS TO
THE CHINESE AMBASSADOR

Ottawa, April 14, 1944.

Excellency:

I have the honour to acknowledge the receipt of your Excellency's note of today's date reading as follows—

"Sir:

In connection with the Treaty signed today between His Excellency the President of the National Government of the Republic of China and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, for Canada, I have the honour to state that it is the understanding of the National Government of the Republic of China that all the rights and privileges relinquished by His Majesty the King, for the United Kingdom of Great Britain and Northern Ireland and India, as provided in the Treaty and exchange of notes of January 11, 1943, between the Republic of China on the one hand and the United Kingdom of Great Britain and Northern Ireland and India on the other, have been similarly relinquished by His Majesty the King for Canada. This understanding, if confirmed by your Government, shall be considered as forming an integral part of the Treaty signed today and shall be considered to be effective upon the date of the entry into force of that Treaty. I should be glad if you would confirm the above understanding on behalf of the Government of Canada.

I avail myself of this opportunity to renew to you, Sir, the assurances of my highest consideration.

Liu Shih Shun

The Secretary of State
for External Affairs,
OTTAWA.

I have the honour on behalf of the Government