

白皮書第七十三號（三十七年一月）

中那為廢除在中國治外法權及處理有關事件條約

（中華民國三十二年十一月十日簽字
中華民國三十三年六月十三日互換批准書）
（中華民國三十三年六月十三日生效）

中華民國國民政府外交部編印

中那為廢除在中國治外法權及處理有關事件條約

中華民國國民政府主席閣下願以友好精神使兩國間之一般關係更為明顯並藉以解決若干與在中國之管轄權有關事件起見訂
那威國君主陛下

立本約為此各派全權代表如左

中華民國國民政府主席閣下特派

中華民國外交部長宋子文

那威國君主陛下特派

那威國君主陛下欽命駐中華民國全權大使赫塞爾

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

「締約此方（或彼方）公司」字樣在本約適用上應解釋為依照各該方之法律而組成之有限公司及其他公司合夥暨社團

第二條

中華民國國民政府主席閣下與那威國君主陛下間之現行條約或協定凡授權那威國君主陛下或其代表實行管轄在中華民國

國領土內那威國人民或公司之一切條款茲特撤銷作廢那威國君主陛下之人民及公司在中華民國領土內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

(一) 爲免除那威國君主陛下之人民及公司或那威國政府在中華民國領土內現有關於不動產之權利發生任何問題尤爲免除各條約及協定之各條款因本約第二條規定廢止而可能發生之問題起見雙方同意上述現有之權利不得取銷作廢並不得以任何理由加以追究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其他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原來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並不得移轉於第三國政府或人民(包括公司)

(二) 雙方並同意中華民國政府對於那威國君主陛下之人民或公司或那威國政府持有之不動產承租契或其他證據如欲另行換發新所有權狀時中國官廳當不徵收任何費用此項新所有權狀應充分保障上述租契或其他證據之持有人與合法之繼承人及受讓人並不得減損其原來權益包括轉讓權在內

(三) 雙方並同意中國官廳不得向那威國君主陛下之人民或公司或那威國政府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

第四條

那威國君主陛下對於中華民國人民在那威國領土內早予以旅行居住及經商之權利中華民國政府同意對於那威國君主陛下之人民在中華民國領土內予以相同之權利締約雙方在各該方之領土內盡力給予對方之人民及公司關於各項法律手續司法事件之處理及各種租稅之徵收與其有關事項不低於所給予本國人民與公司之待遇

第五條

締約此方之領事官經彼方給予執行職務證書後得在彼方領土內雙方所同意之口岸地方與城市駐紮彼方領土內之締約此方領事官在其領事區內應有與其本國人民及公司會晤通訊以及指示之權而締約此方之人民及公司在彼方領土之內亦隨時有與其本國領事官通訊之權遇有締約此方之任何人民在彼方領土內被地方官廳逮捕或拘留時該地方主管官廳應立即通知在該地領事區內之彼方領事官該領事官於其管轄範圍以內有權探視其任何被逮捕或在獄候審之本國人民締約此方之人民在彼方領土內被監禁者其與本國領事官之通信地方官廳應轉遞與其主管之領事官締約此方之領事官在彼方領土內應享有現代國際慣例所給予之權利特權與豁免

第六條

(一) 締約雙方經一方之請求或於現在之戰事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那威國君主陛下之人民或公司或那威國政府權利之任何問題發生而不在本約及換文範圍內或不在締約雙方間現行而未經本約及換文廢止或與本約及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

第七條

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

本約用中那英文各繕兩份以英文本爲準

中華民國三十二年十一月十日即西曆一千九百四十三年十一月十日訂於重慶

宋子文 (簽字)
赫塞爾 (簽字)

換 文

(甲) 中國外交部長致那威國大使照會

中華民國國民政府主席閣下與那威國君主陛下本日所簽訂之條約於其談判時曾討論若干問題雙方均已同意茲將關於各點所獲之諒解記錄於本照會之附件該項附件作爲本日所簽訂條約內容之一部分並自該約生效之日起發生效力如荷閣下以那威王國政府之名義證實此等諒解本部長至深感幸

本部長順向

貴大使重表敬意

此致

那威國君主陛下欽命駐中華民國全權大使赫塞爾閣下

中 華 民 國 三 十 二 年 十 一 月 十 日

宋 子 文 (簽 字)

附件

六

(一) 關於本約第二條及第六條第二項雙方了解

(甲) 那威國君主陛下放棄關於在中國通商口岸制度之一切現行條約權利中華民國國民政府主席與那威國君主陛下相互同意締約一方之商船許其自由駛至締約彼方領土內對於海外商運業已或將來開放之口岸地方及領水並同意在該口岸地方及領水內給予此等船舶之待遇不得低於所給予各該本國船舶之待遇且應與所給予任何第三國船舶之待遇同樣優厚締約一方之「船舶」字樣指依照各該方之法律登記者

(乙) 那威國君主陛下放棄關於在中華民國領土內各口岸雇用外籍引水人之一切現行權利

(丙) 那威國君主陛下放棄關於其軍艦駛入中華民國領水之一切現行條約權利中華民國政府與那威國政府關於締約一方軍艦訪問彼方口岸應依照通常國際慣例相互給予優禮

(丁) 所有現在中華民國領土內設置之那威國君主陛下一切法院既經依照本約第二條之規定予以停閉該項法院之命令宣告判決及其他處分應認為確定案件於必要時中國官廳應予以執行又當本約發生效力時凡在中國之那威國法院任何未結案件如原告或告訴人希望移交中華民國政府之主管法院時應即交由該法院從速進行處理並於可能範圍內適用那威國法庭所適用之法律

(戊)那威國君主陛下放棄給予其船舶在中華民國領水內關於沿海貿易及內河航行之特權那威國人民或公司用以經營此項事業之產業如業主願意出賣時中華民國政府準備以公平價格收購之如締約一方在其領土內以沿海貿易或內河航行之權利給予任何第三國之船舶則此項權利亦應同樣給予締約彼方之船舶但以締約彼方准許締約此方之船舶在彼方領土內經營沿海貿易或內河航行爲條件沿海貿易與內河航行依照彼方有關法律之規定辦理不得要求彼方之本國待遇惟雙方同意締約一方之船舶在締約彼方之領土內關於沿海貿易及內河航行所享受之待遇應與任何第三國船舶之待遇同樣優厚惟須遵守上述但書之規定

(己)那威國君主陛下在北平使館界及在上海與廈門公共租界如有任何特權一概放棄

(二)關於本約第三條第一節最末句中華民國政府茲聲明該條內所指現有不動產權利之轉讓權所受之限制中國官廳當秉公辦理如中國政府對於所提出之轉讓拒絕同意而被拒絕轉讓之那威國人民或公司請求收購時中國政府本公平之精神及爲避免使那威國君主陛下之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

(三)雙方了解通商口岸制度之廢止不得影響現有之財產權並了解締約一方之人民在締約彼方之領土全境得依照締約彼方之法令所規定之條件享受取得並置有不動產之權利

(四)雙方並同意凡本約及本照會未涉及之問題如有影響中華民國主權時應由中華民國政府與那威國政府之代表會商依照

(乙) 那威國大使復中國外交部長照會

頃准

貴部長本日照會內開

「中華民國國民政府主席閣下與那威國君主陛下本日所簽訂之條約於其談判時曾討論若干問題雙方均已同意茲將關於各點所獲之諒解記錄於本照會之附件該項附件作爲本日所簽訂條約內容之一部分並自該約生效之日起發生效力如荷閣下以那威王國政府之名義證實此等諒解本部長至深感幸」

等由本大使茲特代表那威國政府證實

貴我雙方成立之諒解正如

貴部長照會之附件所記錄者該項附件作爲本日所簽訂條約內容之一部分並自該約生效之日起發生效力

本大使順向

貴部長重表敬意

此致

中華民國外交部長宋閣下

西曆一九四三年十一月十日

赫塞爾
(簽字)

10

雙方同意之會議紀錄 中華民國三十二年十一月十日於重慶

關於本日簽訂之條約中國外交部長致那威國大使照會中附件第一節甲項彼此了解締約雙方爲國防計有權封閉任何口岸
禁止其一切海外商運

宋子文 (簽字)
赫塞爾 (簽字)

TREATY BETWEEN THE REPUBLIC OF CHINA
AND THE KINGDOM OF NORWAY FOR THE
RELINQUISHMENT 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 Norway;

Being desirous of defining more clearly in a spirit of friendship the general relations between them, and for this purpose to settle certain matters relating to jurisdiction in China;

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. Tse-Vung Soong, Minister
for Foreign Affairs of the Republic of
China;

His Majesty the King of Norway:

His Excellency Monsieur Alf Hassel, His
Majesty's Ambassador Extraordinary and
Plenipotentiary to the Republic of China;

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

ARTICLE 1

The expression "companies of the one (or of the other) High Contracting Party" shall for the purpose of the present Treaty be interpreted as meaning limited liability and other companies, partnerships and associations constituted under the law of that High Contracting Party.

ARTICLE 2

All those provisions of treaties or agreements in force between His Excellency the President of the

National Government of the Republic of China and His Majesty the King of Norway which authorise His Majesty the King of Norway or His representatives to exercise jurisdiction over Norwegian nationals or companies in the territory of the Republic of China are hereby abrogated. The nationals and companies of His Majesty the King of Norway shall be subject in the territory of the Republic of China to the jurisdiction of the Government of the Republic of China, in accordance with the principles of international law and practice.

ARTICLE 3

(i) In order to obviate any questions as to existing rights in respect of or as to existing titles to real property in the territory of the Republic of China possessed by nationals and companies of His Majesty the King of Norway, or by the Norwegian Government, and in particular questions which might arise from the abrogation of the provisions of treaties and agreements provided for in Article 2 of the present Treaty, the High Contracting Parties agree that such existing rights or titles shall be indefeasible and shall not be questioned upon any ground except upon proof, established through due process of law, of fraud or of fraudulent or dishonest practices in the acquisition of such rights or titles, it being understood that no right or title shall be rendered invalid by virtue of any subsequent change in the original procedure through which it was acquired. It is also 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.

(ii) The High Contracting Parties also agree that if it should be the desire of the Government of the Republic of China to replace by new deeds of ownership existing leases in perpetuity or other documentary

evidence relating to real property held by nationals or companies of His Majesty the King of Norway or by the Norwegian Government, the replacement shall be made by the Chinese authorities without charges of any sort and the new deeds of ownership shall fully protect the holders of such leases or other documentary evidence, and their legal heirs and assigns without diminution of their prior rights and interests, including the right of alienation.

(iii) The High Contracting Parties agree further that nationals or companies of His Majesty the King of Norway or the Norwegian Government shall not be required or asked 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 effective date of this Treaty.

ARTICLE 4

His Majesty the King of Norway having long accorded rights to nationals of the Republic of China within the territory of Norway to travel, reside and carry on commerce throughout the whole extent of that territory, the Government of the Republic of China agree to accord similar rights to nationals of His Majesty the King of Norway within the territory of the Republic of China. Each High Contracting Party will endeavour to accord in his territory to nationals and companies of the other High Contracting Party in regard to all legal proceedings and in matters relating to the administration of justice, the levying of taxes and requirements in connection therewith treatment not less favourable than that accorded to his own nationals and companies.

ARTICLE 5

The consular officers of one High Contracting Party, duly provided with exequaturs, shall be permitted to reside in such ports, places and cities of the territory of the other High Contracting Party as may be agreed upon. The consular officers of one High Contracting Party shall have the right within their

districts in the territory of the other High Contracting Party to interview, communicate with and to advise the nationals and companies of the former High Contracting Party, and the nationals and companies of one High Contracting Party within the territory of the other High Contracting Party shall have the right at all times to communicate with the consular officers of the former High Contracting Party. The consular officers of one High Contracting Party in the territory of the other shall be informed immediately by the appropriate local authorities when any of their nationals are arrested or detained in their consular districts by the local authorities. They shall have the right to visit within the limits of their districts any of their nationals who are under arrest or awaiting trial in prison. Communications from the nationals of one High Contracting Party in prison in the territory of the other High Contracting Party addressed to the consular officers of the former High Contracting Party will be forwarded to the appropriate consular officer by the local authorities. Consular officers of one High Contracting Party shall be accorded in the territory of the other High Contracting Party the rights, privileges and immunities enjoyed by consular officers under modern international usage.

ARTICLE 6

(i) The High Contracting Parties 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 present hostilities. 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 High Contracting Parties have respectively concluded with other Powers in recent years.

(ii) 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 nationals or companies of His Majesty the King of Norway, or of the Norwegian Government, should arise in future and if these questions are not covered by the present Treaty and Exchange of Notes or by the provisions of the existing treaties, conventions and agreements between the High Contracting Parties which are not abrogated by or inconsistent with the present Treaty and Exchange of Notes, such questions shall be discussed by representatives of the High Contracting Parties and shall be decided in accordance with the generally accepted principles of international law and with modern international practice.

ARTICLE 7

The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Chungking as soon as possible. The Treaty shall come into force 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 Chungking this Tenth day of the Eleventh month of the Thirty-second year of the Republic of China, corresponding to the Tenth day of November, 1943, in Chinese, Norwegian, and English each in duplicate, the English text being authentic.

(Signed) Tse-Vung Soong

(Signed) Alf Hassel