

外交部致英美法和駐華公使照會
那威巴西代辦

大中華民國外交部長王

爲

照會事關於前在上海公共租界設立之會審公廨迭經前北京外交部向關係各國公使提出抗議並要求交還在案迨民國十五年雙方派員會商迄未得正當圓滿之結果現在該租界內審判機關雖經變更終以性質不明系統紊亂與全國制度歧異人民因其不便交相詬病此事實上無可諱言者也方今中外邦交日益親善亟應本此意旨力圖改革以應現代之需要本部長爲此特向

1 貴公使提議應請對於上述審判機關開誠商議迅速妥訂正當圓滿之辦法俾謀最後之解決以維法權而重邦交除照會有關係各

國公使外相應照請

貴公使查照見復爲荷須至照會者
代辦

右 照 會

英美法和國駐華公使
大那威巴西代辦

大中華民國十八年五月八日

王正廷印

呈國民政府
行政院 呈報向各關係國提議商訂收回上海公共租界會審公廨事

呈爲呈報事竊查前在上海公共租界設立之會審公廨迭經前北京外交部向關係各國公使提出抗議並要求交還民國十五年前北京外交部與各使開議未及解決適前江蘇省政府與上海領事團簽訂收回上海會審公廨暫行章程因是有臨時法院之產生此項臨時法院於民國十六年一月一日成立按照該章程第七條之規定以三年爲期滿期滿前六個月得提議修改現在三年期限將屆本部以該章程內容甚欠妥善而法院組織復與我國司法系統不合兩年以來發生輻輳不一而足欲圖根本之改革自非設法收回此種審判機關不爲功節經會同各關係機關集議數次決向各關係國公使提出要求對於該審判機關開誠商訂正當圓滿之辦法俾謀最後之解決此項照會業於本月八日分別送致在案一俟各該國照復到部即可開始協商所有提議商訂收回上海會審公廨各緣由除呈報行政院外理合鈔錄該項照會原文呈請

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鈞府
院鑒核備案謹呈
國民政府
行政院

國民政府
行政院

計呈鈔錄照會原稿一件

中華民國十八年五月九日

外交部長王正廷呈

國民政府指令

國民政府指令第九八五號

令外交部

呈一件 呈報提議商訂收回上海
會審公廨請鑒核備案由

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呈件均悉准予備案附件存此令

中華民國十八年五月十八日

主 席 蔣中正 司法院院長 王寵惠

行政院院長 譚延闓 政試院院長 戴傳賢

立法院院長 胡漢民 監察院院長 蔡元培

和歐使致王部長照會

大和國欽命駐華全權公使歐

爲

照會事查關於討論改組上海公共租界臨時法院問題一節本公使曾於九月十九日照請

貴部長以各關係國同僚公使正在研究中並願於適當時間再行照達等情在案茲據各關係國同僚公使意見僉謂對此問題已有

初步審查結果並決定派遣代表預備前來開議至時期及地點則由中國政府定之相應照請

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查照爲荷須至照會者

右 照 會

大中華民國外交部長王

西歷一九二九年十月三十一日

歐登科印

LEGATION DES PAYS-BAS.

Decanat No. 15.

Peping, October 31st, 1929.

Monsieur le Ministre,

I have the honour to refer Your Excellency to my Note of September 19th on the subject of the proposed negotiations regarding the reform of the Provisional Court in the International Settlement at Shanghai, in which I informed Your Excellency that the interested Heads of Legation were examining the position and that they expected to make a further communication on the subject in due course.

I am desired by my Colleagues, the interested Heads of Legation, to inform Your Excellency that, having completed their preliminary study of the subject, they are now ready to open the negotiations in question, through their representatives to be appointed for the purpose, at such time and place as may be convenient to the Chinese Government.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) W. Y. Oudendijk.

Minister for the Netherlands and Senior Minister.

His Excellency

Dr. C. T. Wang,

Minister of Foreign Affairs,

Nanking.

外交部致英法美和駐華公使照會
那威巴西

大中華民國外交部長王

爲

照會事關於商訂上海公共租界審判機關辦法一事准十月卅一日和貴公使照稱各關係國公使已決定派遣代表準備前來開議時

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期地點請中國政府定之等因讀悉之餘深爲感荷茲定於本年十一月十九日在南京舉行會議除照會各關係國公使外相應照請
查照派員屆時代表出席並將銜名先行電洽爲荷須至照會者

右 照 會

大英法美和國駐華公使
那威巴西代辦

大中華民國十八年十一月八日

王正廷印

AGREEMENT RELATING TO THE CHINESE COURTS
IN THE INTERNATIONAL SETTLEMENT
AT SHANGHAI

ARTICLE I

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

ARTICLE II

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

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

ARTICLE III

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

ARTICLE IV

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

ARTICLE V

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

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

ARTICLE VI

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

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

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

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

ARTICLE VII

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

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

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

ARTICLE VIII

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

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

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

ARTICLE IX

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

ARTICLE X

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

NANKING,

February 17, 19th year R. C. (1930).

Hsu Mo	J. de Pinto Dias
on behalf of the	on behalf of
Minister for Foreign Affairs.	The Brazilian Chargé d'Affaires.

In the name of the American Minister,
Joseph E. Jacobs.

W. Meyrick Hewlett
on behalf of
His Britannic Majesty's Minister.

L. Grønvoid
on behalf of
The Norwegian Chargé d'Affaires.

F.E.H. Groenman
on behalf of
The Netherlands Chargé d'Affaires.

In the name of the French Minister,
E. Koechlin

NOTES FROM HEADS OF LEGATIONS CONCERNED
TO MINISTER FOR FOREIGN AFFAIRS

Nanking,

February 17th, 1930.

Sir,

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

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

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

3. It is understood that as far as practicable, Chinese shall be recommended by the Municipal Council to serve as officers and members of the judicial police of the Courts established under the present Agreement. It is further understood that among the officers of the judicial police appointed by the President of the Branch High Court under Article VI of the present Agreement, there will be one to be designated by the Municipal Council, to whom will be allotted by the

President an office on the Court premises and who will make an entry of all judicial processes of the Courts, such as summonses, warrants, orders and judgments, for the purpose of service or execution in accordance with the provisions of the above-mentioned Article.

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

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

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

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

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

We avail ourselves of this opportunity to renew to Your Excellency the assurance of our highest consideration.

J. de Pinto Dias

on behalf of

The Brazilian Chargé d'Affaires.

In the name of the American Minister,

Joseph E. Jacobs.

W. Meyrick Hewlett

on behalf of

His Britannic Majesty's Minister.

L. Grönvold

on behalf of

The Norwegian Chargé d'Affaires.

F.E.H. Groenman

on behalf of

The Netherlands Chargé d'Affaires.

In the name of the French Minister,

E. Koechlin

His Excellency,
Dr. Chengting T. Wang,
Minister for Foreign Affairs
Nanking.

NOTES FROM MINISTER FOR FOREIGN AFFAIRS TO
HEADS OF LEGATIONS CONCERNED

Nanking,

February 17th, 1930.

Sir,

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

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

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

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

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

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

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

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

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

In reply I have the honour to confirm the understanding of the points as quoted above.

(Signed)

HSU MOO

on behalf of

the Minister for Foreign Affairs.

Sir Miles W. Lampson (Great Britain)

Mr. Nelson T. Johnson (U. S. A.)

Count D. de Martel (France)

Mr. N. Aall (Norway)

Mr. Le Baron G. W. de Vos van Steenwijk (Netherlands)

Mr. Pedro Eugenio Soares (Brazil)

關於上海公共租界內中國法院之協定

第一條 自本協定發生效力之日起所有以前關於在上海公共租界內設置中國審判機關之一切章程協定換文及其他文件概行廢止

第二條 中國政府依照關於司法制度之中國法律章程及本協定之規定在上海公共租界內設置地方法院及高等法院分院各一所所有中國現行有效及將來依法制定公佈之法律章程無論其爲實體法或程序法一律適用於各該法院至現時沿用之洋涇派章程及附則在中國政府自行制定公布此項章程及附則以前須顧及之並須顧及本協定之規定

高等法院分院之民刑判決及裁決均得依中國法律上訴於中國最高法院

第三條 領事委員或領事官員出庭觀審或會同出庭於公共租界內現有中國審判機關之舊習慣在依本協定設置之各該法院內不得再行繼續適用

第四條 無論何人經工部局捕房或司法警察逮捕者除休息日不計外應於二十四小時內送交依本協定設置之各該法院處理之逾時不送交者應即釋放

第五條 依本協定設置之各該法院應各置檢察官若干員由中國政府任命之辦理各該法院管轄區域內之檢驗事務及所有關

第六條

於適用中華民國刑法第一百零三條至第一百八十六條之案件依照中國法律執行檢察官職務但已經工部局捕房或關係人起訴者檢察官無庸再行起訴至檢察官一切偵查程序應公開之被告律師並得到庭陳述意見
其他案件在各該法院管轄區域內發生者應由工部局捕房起訴或由關係人提起自訴檢察官對於工部局捕房或關係人起訴之一切刑事案件均得蒞庭陳述意見

一切訴訟文件如傳票拘票命令及其他訴訟文件等經依本協定設置之各該法院推事一人簽署後發生效力即由司法警察或由承發吏依照下列規定分別送達或執行

在公共租界內發見之人犯經各該法院之法庭調查後方得移送於租界外之官署被告律師得到庭陳述意見但由其他中國新式法院之囑託者經法庭證明確係本人後即得移送

各該法院依照在各該法院適用之訴訟程序所爲之一切民刑判決及裁決一經確定應即執行工部局捕房於必要時遇有委託應盡力予以協助

承發吏由各該法院院長分別派充辦理送達一切傳票及送達關於民事案件之一切文件但執行民事判決時承發吏應由司法警察會同協助各該法院之司法警察員警由高等法院分院院長于工部局推薦後委派之高等法院分院院長有

指明理由將其免職之權或因工部局指明理由之請求亦得終止其職務司法警察員警應服中國司法主管機關所規定之制服應受各該法院之命令及指揮並盡忠於其職務

第七條

附屬於上海公共租界內現有中國審判機關之民事管收所及女監應移歸依本協定設置之各該法院由中國主管機關監督並管理之

除依違警罰法洋涇浜章程及附則處罰之人犯暨逮捕候訊之人應在公共租界內禁押外凡在公共租界現有中國審判機關附屬監獄內執行中之一切人犯及依本協定設置之各該法院判處罪刑之一切人犯或在租界內監獄執行或在租界外中國監獄執行均由各該法院自行酌定租界內監獄之管理方法儘其可行之程度應遵照中國監獄法令辦理中國司法主管機關有隨時派員視察之權

依本協定設置之各該法院判處死刑人犯應送交租界外中國主管機關執行

第八條

關於一造為外國人之訴訟案件其有相當資格之外國律師在依本協定設置之各該法院許其執行職務但以代表該外國當事人為限關於工部局為刑事告訴人或民事原告及工部局捕房起訴之案件工部局亦得由有相當資格之中國或外國律師同樣代表出庭

其他案件工部局認為有關公共租界利益時亦得由其延請有相當資格之中國或外國律師一人於訴訟進行中代表出庭以書面向法庭陳述意見如該律師認為必要時得依民事訴訟法之規定具狀參加

依本條規定許可在上述各該法院出庭之外國律師應向司法行政部呈領律師證書並應遵守關於律師之中國法令其懲戒法令亦包括在內

第九條

中國政府派常川代表二人其他簽字於本協定之各國政府共派常川代表二人高等法院分院院長或簽字於本協定之外國主管官員對於本協定之解釋與其適用如發生意見不同時得將其不同之意見送交該常川代表等共同設法調解但該代表等之報告書除經簽字國雙方同意外對於任何一方均無拘束力又各該法院之民刑判決裁決及命令之本體均不得送交該代表等研究

第十條

本協定及其附屬換文定於中華民國十九年四月一日即西歷一九三〇年四月一日起發生效力並自是日起繼續有效三年屆期經雙方同意得延長其期間

中國 徐 謨 (代表外交部長)

巴西 第安斯 (代表巴西代辦)

中華民國十九年二月十七日
西歷一九三〇年二月十七日
在南京簽字

美國	雅克博	(代表美國公使)
英國	許立德	(代表英國公使)
那威	葛隆福	(代表那威代辦)
和蘭	赫龍門	(代表和蘭代辦)
法國	甘格霖	(代表法國公使)

附件

爲照會事查本日簽訂關於在上海公共租界內設置地方法院高等法院分院之協定茲將雙方委員所了解各點開列如下請
貴部長照覆證實

- (一) 茲經雙方了解依本協定設置之各該法院對於上海公共租界內之民刑及違警案件並檢驗事務均有管轄權其屬人管轄與其他中國法院相同其土地管轄與上海公共租界現有中國審判機關相同但(甲)租界外外人私有地產上發生之華洋刑事案件及(乙)租界外四周之華洋民事案件不在上述土地管轄之內

(二) 茲經雙方了解公共租界內現有中國審判機關與法租界現有審判機關劃分管轄之現行習慣在中國政府與關係國確定辦法以前仍照舊辦理

(三) 茲經雙方了解工部局儘其可行之程度應推薦中國人於本協定設置之各該法院備充司法警察員警又經雙方了解高等法院分院院長依照本協定第六條之規定所派充之司法警員就其中工部局指定之一員在院址內配給一辦公室凡一切訴訟文件如傳票拘票命令判決書依上述本協定條款之規定應送達執行者爲送達執行起見由該員錄載其事由

(四) 茲經雙方了解公共租界內現有中國審判機關及其從前審判機關之判決不因依本協定各該法院之設置而影響其效力上述各判決除曾經合法上訴或保留上訴者外均認爲有效及確定之判決茲又經雙方了解經依本協定設置之各該法院判決應與其他中國法院之判決有同等地位之效力

(五) 茲經雙方了解將來關於租界外道路之法律上地位之談判不因本協定而受任何影響或妨礙

(六) 茲經雙方了解公共租界內現有中國審判機關存放中國銀行之六萬元中國政府應予維持作爲依本協定設置之各該法院之存款

(七) 茲經雙方同意依本協定設置之各該法院應依中國法律設置贓物庫凡法院沒收之贓物均爲中國政府之所有又經雙方

相應照請

方了解沒收之鴉片及供吸食或製造鴉片之器具均於每三個月在公共租界內公開焚燬至沒收之槍枝工部局得建議處分辦法經由各該法院院長轉呈於司法行政部

(八)茲經雙方了解自本協定發生效力之日起所有公共租界內現有中國審判機關之一切案件均由依本協定設置之各該法院依各該法院適用之訴訟手續辦理但華洋訴訟案件儘其可行之程度須依接收時審判程度繼續進行並於十二個月內辦結之此項期間依各案情形之需要各該法院之法庭得酌量延長之

查照見復爲荷須至照會者

右 照 會

大中華民國外交部長王

巴 西 第 安 斯 (代表巴西代辦)

美 國 雅 克 博 (代表美國公使)

英 國 許 立 德 (代表英國公使)

那威	葛隆福	(代表那威代辦)
和蘭	赫龍門	(代表和蘭代辦)
法國	甘格霖	(代表法國公使)

西曆一九三〇年二月十七日

爲照復事接准

25

來照內開本日簽訂關於在上海公共租界內設置高等法院分院地方法院之協定

貴公使代辦請本部長將下列各點予以證實

- (一) 茲經雙方了解依本協定設置之各該法院對於上海公共租界內之民刑及違警案件並檢驗事務均有管轄權其屬人管轄與其他中國法院相同其土地管轄與上海公共租界現有中國審判機關相同但(甲)租界外外人私有地產上發生之華洋刑事案件及(乙)租界外四周之華洋民事案件不在上述土地管轄之內

(二) 茲經雙方了解公共租界內現有中國審判機關與法租界現有審判機關劃分管轄之現行習慣在中國政府與關係國確

定辦法以前仍照舊辦理

- (三) 茲經雙方了解工部局儘其可行之程度應推薦中國人於本協定設置之各該法院備充司法警察員警又經雙方了解高等法院分院院長依照本協定第六條之規定所派充之司法警員就其中工部局指定之一員在院址內配給一辦公室凡一切訴訟文件如傳票拘票命令判決書依上述本協定條款之規定應送達執行者爲送達執行起見由該員錄載其事由
- (四) 茲經雙方了解公共租界內現有中國審判機關及其從前審判機關之判決不因依本協定各該法院之設置而影響其效力上述各判決除曾經合法上訴或保留上訴者外均認爲有效及確定之判決茲又經雙方了解經依本協定設置之各該法院判決應與其他中國法院之判決有同等地位之效力

(五) 茲經雙方了解將來關於租界外道路之法律上地位之談判不因本協定而受任何影響或妨礙

(六) 茲經雙方了解公共租界內現有中國審判機關存放中國銀行之六萬元中國政府應予維持作爲依本協定設置之各該法院之存款

(七) 茲經雙方同意依本協定設置之各該法院應依中國法律設置贓物庫凡法院沒收之贓物均爲中國政府之所有又經雙方了解沒收之鴉片及供吸食或製造鴉片之器具均於每三個月在公共租界內公開焚燬至沒收之槍枝工部局得建議處分辦法經由各該法院院長轉呈於司法行政部

查照爲荷須至照會者
右 照 會
本部長對於上開各點之了解照予證實相應覆請
月內辨結之此項期間依各案情形之需要各該法院之法庭得酌量延長之

- 大英國欽命駐華全權公使藍
- 大美國特命駐華全權公使詹
- 大法國特命駐華全權公使瑪
- 大和國駐華代辦傅
- 大巴西國駐華代辦蘇
- 大那威國駐華代辦歐

中國 徐 謨 (代表外交部長)

中華民國十九年二月十七日

呈行政院 呈報上海公共租界法院協定簽字情形

爲呈復事奉

鈞院第六五七號令開奉

國民政府令開准

28

中央政治會議函開第二一六次會議准王委員寵惠王委員正廷報告上海公共租界法院交涉經過情形繕具報告書並連同協定草案及換文等件懇予鑒核准外交部所派人員代表簽字等由經即決議可由外交部所派人員簽字錄案函達查照密飭外交部遵辦等由經提出第六十三次國務會議決議飭部遵辦仰該院密令遵辦等因經提出本院第五十八次會議決議密令遵辦抄發原附件令仰遵照辦理等因奉此查關於上海公共租界法院交涉前經將辦理情形呈報在案奉令開前因遵經由職部派定歐美司司長徐謨爲代表與英美和那威巴西五國公使所派代表於二月十七日同時在南京簽字法國代表則於二月二十二日補簽完畢除咨送司法院及司法行政部外理合將簽訂上海公共租界法院協定經過緣由並繕同新協定及附件中英文各二份備文呈請鈞院鑒核轉呈備案謹呈

行政院

計呈鈔協定及附件中英文各一件

中華民國十九年二月二十二日

外交部長王正廷

註：抄件見第七頁至第二十七頁

行政院訓令

行政院訓令第九一九號

令外交部

29

爲令知事案查前據該部呈報簽訂上海公共租界法院協定經過緣由一案經轉呈并指令知照各在案茲奉國民政府指令開呈件均悉准予備案仰即轉飭知照附件存此令等因奉此合行令仰該部知照此令

中華民國十九年三月六日

院長譚延闓

英藍使電致王部長照會

大英國欽命駐華全權公使藍

爲

照會事本年二月十七日簽訂上海特區法院協定之各關係國
公使茲依照該協定第九條之規定指派璧約翰雅克博二君爲
常川代表特此通知並請

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貴部長將中國代表銜名賜示俾該代表委員會得即日（四月

一日即協定施行之日）成立相應照請

查照須至照會者

右 照 會

大中華民國外交部長王

西歷一九三〇年四月一日

藍普森印

Telegram from Sir Miles Lampson to His Excellency Dr. C. T. Wang,
dated April 1st., 1930.

The Heads of Legation parties to the Shanghai Courts Agreement concluded on February 17th. last have the honour to inform Your Excellency that they have appointed Mr. Brennan and Mr. Jacobs as their Representatives on the permanent joint Committee provided for under Article 9 of the said Agreement, and they request that Your Excellency will be good enough to notify them of the names of the Chinese Representatives on the said Committee in order that it may be brought into existence as from today, April 1st., the date of the coming into force of the Agreement.

(sd) Sir Miles Lampson.

王部長電致英藍使照會

大中華民國外交部長王

爲

照會事准

來照以「本年二月十七日簽訂上海特區法院協定之各關係國公使依照該協定第九條之規定指派璧約翰雅克博二君爲常川代表」等因本國政府亦依照該條規定指派徐謨錢秦二君爲中國方面常川代表相應照覆

查照並轉知有關各公使爲荷須至照會者

右 照 會

大英國欽命駐華全權公使藍

大中華民國十九年四月三日

王正廷印

Telegram from Minister for Foreign Affairs to Sir Miles Lampson.

Dated April 3rd., 1930.

I have the honour to acknowledge the receipt of Your Excellency's telegram stating that the Heads of Legation parties to the Shanghai Courts Agreement concluded on February seventeenth last have appointed Mr. Brennan and Mr. Jacobs as their permanent Representatives provided for under article nine of the said Agreement. In reply I have the honour to inform you that the Chinese Government in pursuance of provisions of the same article has appointed Mr. Hsu Mo and Mr. Chien Tai as Chinese permanent Representatives. I request Your Excellency to be good enough to forward the above information to the other legations concerned.

(sd) Chengting T. Wang

