

白皮書第八十號（三十七年一月）

中荷關於放棄在華治外法權及處理有關問題條約

（中華民國三十四年五月二十九日簽字
中華民國三十四年十二月五日互換批准書
中華民國三十四年十二月五日生效）

中華民國國民政府外交部編印

中荷關於放棄在華治外法權及處理有關問題條約

譯文

中華民國國民政府主席閣下
荷蘭國君后陛下願以友好精神使兩國間之一般關係更爲顯明並藉以解決若干與在中國之管轄權有關事件起見訂

立本約爲此各派全權代表如左

中華民國國民政府主席閣下特派

中華民國駐荷蘭國全權大使金問泗

荷蘭國君后陛下特派

荷蘭國代理外交部部長魏爾杜南

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

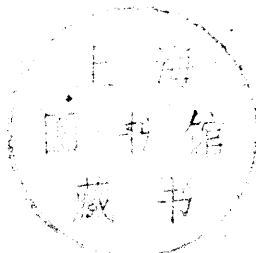
本約所適用之締約雙方領土在中華民國方面爲中華民國之一切領土在荷蘭王國方面爲荷蘭王國之一切領土

本約所稱「締約此方（或彼方）人民」字樣在中華民國方面係指依照中國國籍法爲中國人民者在荷蘭王國方面係指依

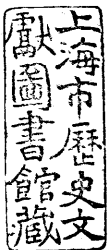
上海图书馆藏書



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照荷蘭國籍法爲荷蘭臣民者

第二條

現行中華民國與荷蘭王國間之條約或協定凡授權荷蘭政府或其代表實行管轄在中華民國領土內荷蘭人民或公司之一切條款茲特撤銷作廢荷蘭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

荷蘭政府認爲一九〇一年九月七日中國政府與他國政府包括荷蘭政府在北京簽訂之議定書應行取消並同意該議定書及其附件所給予荷蘭政府之一切權利應予終止

荷蘭政府願協助中華民國政府與其他有關政府成立必要之協定將北平使館界之行政與管理連同使館界之一切官有資產與官有義務移交於中華民國政府並相互了解中華民國政府於接收使館界行政與管理時應釐訂辦法担任並履行使館界之官有義務及債務並承認及保護該界內之一切合法權利

在北平使館界內已劃與荷蘭政府之土地其上建有屬於荷蘭王國之房屋中華民國政府茲允許荷蘭政府爲公務上之目的有繼續使用之權

第四條

荷蘭政府認爲上海及廈門公共租界之行政與管理應歸還中華民國政府並同意凡關於上述租界給予荷蘭政府之權利應予終止

荷蘭政府願協助中華民國政府與其他有關政府成立必要之協定將上海及廈門公共租界之行政與管理連同上述租界之一切官有資產與官有義務移交於中華民國政府並相互了解中華民國政府於接收上述租界行政與管理時應釐訂辦法担任並履行上述租界之官有義務及債務並承認及保護該界內之一切合法權利

第五條

爲免除荷蘭人民或公司或荷蘭王國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或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消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人民或公司

雙方並同意中華民國政府對於荷蘭人民或公司或荷蘭王國持有之不動產永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態應充分保障上述租契或其他證據之持有人與其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

雙方並同意中國官廳不得向荷蘭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

第六條

締約一方應給予締約他方人民以進出其領土之權利暨在該領土全境內旅行居住及經商之權利

關於各項法律手續司法事件之處理及無論何種租稅之徵收締約雙方政府各在其領土內盡力給予對方之人民及公司不低於本國人民及公司所享受之待遇

第七條

締約雙方相互同意此方之領事官經彼方給予執行職務證書後得在雙方所同意之彼方口岸地方與城市駐紮

締約此方之領事官在其領事區內應有與其本國人民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

雙方並同意締約此方之人民在彼方領土內者有隨時與其領事官通訊之權締約此方之人民在彼方領土內被拘留逮捕監禁

或聽候審判者其與領事官之通訊地方官廳應予轉遞

第八條

締約雙方經一方之請求或於現在抵抗共同敵國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

前項所稱條約未經訂立以前締約此方同意締約彼方之領事官得在締約此方現已或將來對任何外國領事官開放之一切口岸城市與地方依照國際公法普通原則執行職務

第一項所稱條約未經訂立以前倘日後遇有涉及中華民國領土內荷蘭人民或公司或荷蘭王國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或協定之範圍內者應由兩國政府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

本約用英文分繕兩份

中華民國三十四年五月二十九日即西曆一九四五年五月二十九日訂於倫敦

金 問 泗

(簽 字)

魏爾杜南

(簽 字)

換文

(一)

關於中華民國國民政府主席閣下與荷蘭國君后陛下本日訂立之條約本大使茲特聲明雙方了解如下

一 (甲) 荷蘭政府放棄關於中國通商口岸制度之一切現行權利

(乙) 荷蘭政府放棄關於上海及廈門公共租界特別法院之一切現行權利

(丙) 荷蘭政府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

(丁) 荷蘭政府放棄關於在中華民國領水內沿海貿易及內河航行之一切現行權利

(戊) 荷蘭政府放棄關於其軍艦未經中華民國國民政府事先同意而駛入中華民國領水之一切現行權利。

二、雙方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

三、雙方相互了解在中華民國之荷蘭領事法庭之命令宣告判決決定及其他處分應認為確定案件並為達到此等命令宣告判決決定及其他處分之目的所必要時中國官廳應予以執行

四、雙方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

五、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國民政府與荷蘭政府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

六、雙方了解此種同意與諒解如荷

貴國政府證實即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

本大使應請

貴部長證實上述之了解爲荷

本大使順向

貴部長重表敬意

此致

荷蘭國代理外交部部長魏爾杜南閣下

一九四五年五月二十九日

金問泗 (簽字)

(三)

頃准

貴大使本日照會內開

「關於中華民國國民政府主席閣下與荷蘭國君后陛下本日訂立之條約本大使茲特聲明雙方了解如下

一、(甲)荷蘭政府放棄關於中國通商口岸制度之一切現行權利

(乙)荷蘭政府放棄關於上海及廈門公共租界特別法院之一切現行權利

(丙)荷蘭政府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

(丁)荷蘭政府放棄關於在中華民國領水內沿海貿易及內河航行之一切現行權利

(戊)荷蘭政府放棄關於其軍艦未經中華民國國民政府事先同意而駛入中華民國領水之一切現行權利

二、雙方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

三、雙方相互了解在中華民國之荷蘭領事法庭之命令宣告判決決定及其他處分應認為確定案件並為達到此種命令宣告

判決決定及其他處分之目的所必要時中國官廳應予以執行

四、雙方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

五、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國民政府與荷蘭政府代表會商依

照普通承認之國際公法原則及國際慣例解決之

六、雙方了解此種同意與諒解如荷

貴國政府證實即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

本大使應請

「貴部長證實上述之了解爲荷」

等由本部長茲特證實此項同意與諒解正如

貴大使來照所紀錄者該項同意與諒解即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

本部長願向

貴大使重表敬意

此致

中華民國駐荷蘭國特命全權大使金問泗閣下

一九四五年五月二十九日

魏爾杜南

(簽字)

雙方同意之會議紀錄 一九四五年五月二十九日於倫敦

關於作爲本日所簽訂條約內容一部分之換文第二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

金 問 泗 (簽 字)

魏爾杜南 (簽 字)

TREATY BETWEEN THE REPUBLIC OF CHINA
AND THE KINGDOM OF THE NETHERLANDS 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 Her Majesty the Queen of the Netherlands;

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 Monsieur Wunsz King, Ambassador Extraordinary and Plenipotentiary of the Republic of China to Her Majesty the Queen of the Netherlands;

Her Majesty the Queen of the Netherlands:

His Excellency Jonkheer E.F.M.J. Michiels van Verduynen,

Her Acting Minister for Foreign Affairs;

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

ARTICLE I

The territories of the High Contracting Parties to which the present Treaty applies are, on the part of the Republic of China, all the territories of the Republic of China; and on the part of the Kingdom of the Netherlands, all the territories of the Kingdom of the Netherlands.

In the present Treaty, the term "nationals of the one (or of the other) High Contracting Party" shall,

in relation to the Republic of China, mean all persons who are Chinese citizens by virtue of the Chinese nationality laws; and in relation to the Kingdom of the Netherlands, mean all persons being Netherlands subjects by virtue of the Netherlands nationality laws.

ARTICLE II

All those provisions of treaties or agreements in force between the Republic of China and the Kingdom of the Netherlands which authorize the Netherlands Government or its representatives to exercise jurisdiction over Netherlands nationals or companies in the territory of the Republic of China are hereby abrogated. Netherlands nationals and companies in the territory of the Republic of China shall be subject to the jurisdiction of the Government of the Republic of China in accordance with the principles of international law and practice.

ARTICLE III

The Netherlands Government considers that the Final Protocol concluded at Peking on September 7, 1901, between the Chinese Government and other Governments, including the Netherlands Government, should be terminated and agrees that the rights accorded to the Netherlands Government under that Protocol and under the agreements supplementary thereto shall cease.

The Netherlands Government will co-operate with the Government of the Republic of China for the reaching of any necessary agreements with other Governments concerned for the transfer to the Government of the Republic of China of the administration and control of the Diplomatic Quarter at Peiping, including the official assets and the official obligations of the Diplomatic Quarter, it being mutually understood that the Government of the Republic of China in taking over administration and control of the Diplomatic Quarter will make provision for the assumption and discharge of the official obligations and liabilities of the Diplomatic Quarter and for the recognition and

protection of all legitimate rights therein.

The Government of the Republic of China hereby accords to the Netherlands Government a continued right to use for official purposes the land which has been allocated to the Netherlands Government in the Diplomatic Quarter in Peiping, on parts of which are located buildings belonging to the Kingdom of the Netherlands.

ARTICLE IV

The Netherlands Government considers that the International Settlements at Shanghai and Amoy should revert to the administration and control of the Government of the Republic of China and agrees that the rights accorded to the Netherlands Government in relation to those Settlements shall cease.

The Netherlands Government will co-operate with the Government of the Republic of China for the reaching of any necessary agreements with other Governments concerned for the transfer to the Government of the Republic of China of the administration and control of the International Settlements at Shanghai and Amoy, including the official assets and the official obligations of those Settlements, it being mutually understood that the Government of the Republic of China in taking over administration and control of those Settlements will make provision for the assumption and discharge of the official obligations and liabilities of those Settlements and for the recognition and protection of all legitimate rights therein.

ARTICLE V

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 Netherlands nationals or companies or by the Kingdom of the Netherlands, particularly questions which might arise from the abrogation of the provisions of treaties or agreements as stipulated

in Article II, it is agreed 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 other 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 official procedure through which it was acquired.

It is also agreed that 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 or companies of any third country without the express consent of the Government of the Republic of China.

It is also agreed 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 Netherlands nationals or companies or by the Kingdom of the Netherlands, 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.

It is further agreed that Netherlands nationals or companies 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 VI

Each of the High Contracting Parties shall accord to the nationals of the other the right to enter or to leave its territory and the right to travel, reside and carry on commerce throughout the whole extent of

that territory.

With regard to all legal proceedings and all matters relating to the administration of justice and the levying of taxes of whatever description, each of the two Governments will endeavour to accord to nationals and companies of the other treatment not less favourable than that enjoyed by its own nationals and companies in its own territory.

ARTICLE VII

The High Contracting Parties mutually agree that the consular officers of one of the High Contracting Parties, duly provided with 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 one High Contracting Party shall have the right to interview, to communicate with and to advise the nationals of their country within their consular districts; they shall be informed immediately whenever the nationals of their country are under detention or arrest or in prison or are awaiting trial in their consular districts and shall, upon notification to the appropriate authorities, be permitted to visit any such nationals; and in general, the 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.

It is likewise agreed that the nationals of one High Contracting Party in the territory of the other High Contracting Party shall have the right at all times to communicate with the consular officers of their country. Communications to their consular officers from the nationals of one High Contracting Party 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 their consular officers by the local authorities.

ARTICLE VIII

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 hostilities in the war against the common enemies in which they are both now engaged. The treaty or treaties to be thus negotiated should 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 has respectively concluded with other Powers in recent years.

Pending the conclusion of the treaty or treaties referred to in the preceding paragraph, each of the High Contracting Parties agrees that the consular officers of the other will be permitted to exercise their functions as such in accordance with general principles of international law in all ports, cities and places of the former which are or may be open to consular officers of any foreign country.

Pending the conclusion of the treaty or treaties referred to in the first paragraph, if any questions affecting the rights in the territory of the Republic of China of Netherlands nationals or companies or of the Kingdom of the Netherlands, should arise in future and if these questions are not covered by the present Treaty and the Exchange of Notes or by the provisions of existing treaties, conventions or agreements between the High Contracting Parties, not abrogated by or inconsistent with this Treaty and the Exchange of Notes, such questions shall be discussed by the 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 IX

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 their seals thereto.

Done at London this twenty-ninth day of the fifth month of the thirty-fourth year of the Republic of China, corresponding to the twenty-ninth day of May 1945, in duplicate in English.

(L. S.) Wunsz King

(L. S.) E. Michiels van Verduynen

EXCHANGE OF NOTES

(C)

LONDON, 29th May 1945.

Your Excellency,

In connection with the Treaty concluded to-day between His Excellency the President of the National Government of the Republic of China and Her Majesty the Queen of the Netherlands, I have the honour to state that it is understood that:

1. a) The Netherlands Government
relinquishes all existing rights in connection with the system of treaty ports in China;
 - b) The Netherlands Government
relinquishes all existing rights relating to the special courts in the International Settlements at Shanghai and Amoy;
 - c) The Netherlands Government
relinquishes all existing rights with regard to the employment of foreign pilots in the ports of the territories of the Republic of China;
 - d) The Netherlands Government
relinquishes all existing rights in relation to coasting trade and inland navigation in the waters of the Republic of China;
 - e) The Netherlands Government
relinquishes all existing rights relating to the entry of its naval vessels into the waters of the Republic of China without previous consent of the National Government of the Republic of China.
2. It is mutually agreed that the merchant vessels of the one High Contracting Party shall be permitted freely to come to the ports, places and waters in the territories of the other High Contracting Party which are or may be opened to overseas merchant shipping and that the treatment accorded to such vessels in such ports, places and waters shall be not less favourable than that accorded to national vessels and shall be as favourable as that accorded to vessels of any third

country.

3. It is mutually understood that the orders, decrees, judgments, decisions and other acts of the Netherlands consular tribunals in the Republic of China shall be considered as res judicata, and shall, when necessary for reaching the purposes of such orders, decrees, judgments, decisions and other acts, be given effect by the Chinese authorities.

4. It is also understood that the nationals of each High Contracting Party will enjoy the right to acquire and hold real property throughout the territories of the other High Contracting Party in accordance with the conditions and requirements prescribed in the laws and regulations of that High Contracting Party.

5. It is further agreed that questions which may affect the sovereignty of the Republic of China and which are not covered by the present Treaty or Note shall be discussed by the representatives of the National Government of the Republic of China and the Netherlands Government and decided in accordance with the generally accepted principles of international law and modern international practice.

6. It is understood that these agreements and understandings, if confirmed by Your Excellency's Government, shall be considered as forming an integral part of the Treaty signed to-day and shall be considered as effective upon the date of the entrance into force of that Treaty.

I shall be much obliged if Your Excellency will confirm the foregoing.

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

(Signed) Wunsz King

His Excellency
Jonkheer E.F.M.J. Michiels van Verduynen,
Acting Minister for Foreign Affairs of the Netherlands.

(II)

LONDON, 29th May 1945.

Your Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note of to-day's date reading as follows:

"In connection with the Treaty concluded to-day between His Excellency the President of the National Government of the Republic of China and Her Majesty the Queen of the Netherlands, I have the honour to state that it is understood that:

1. a) The Netherlands Government relinquishes all existing rights in connection with the system of treaty ports in China;
 - b) The Netherlands Government relinquishes all existing rights relating to the special courts in the International Settlements at Shanghai and Amoy;
 - c) The Netherlands Government relinquishes all existing rights with regard to the employment of foreign pilots in the ports of the territories of the Republic of China;
 - d) The Netherlands Government relinquishes all existing rights in relation to coasting trade and inland navigation in the waters of the Republic of China;
 - e) The Netherlands Government relinquishes all existing rights relating to the entry of its naval vessels into the waters of the Republic of China without previous consent of the National Government of the Republic of China.
2. It is mutually agreed that the merchant vessels of the one High Contracting Party shall be permitted freely to come to the ports, places and waters in the territories of the other High Contracting Party which are or may be opened to overseas merchant shipping

and that the treatment accorded to such vessels in such ports, places and waters shall be not less favourable than that accorded to national vessels and shall be as favourable as that accorded to vessels of any third country.

3. It is mutually understood that the orders, decrees, judgments, decisions and other acts of the Netherlands consular tribunals in the Republic of China shall be considered as res judicata, and shall, when necessary for reaching the purposes of such orders, decrees, judgments, decisions and other acts, be given effect by the Chinese authorities.

4. It is also understood that the nationals of each High Contracting Party will enjoy the right to acquire and hold real property throughout the territories of the other High Contracting Party in accordance with the conditions and requirements prescribed in the laws and regulations of that High Contracting Party.

5. It is further agreed that questions which may affect the sovereignty of the Republic of China and which are not covered by the present Treaty or Note shall be discussed by the representatives of the National Government of the Republic of China and the Netherlands Government and decided in accordance with the generally accepted principles of international law and modern international practice.

6. It is understood that these agreements and understandings, if confirmed by Your Excellency's Government, shall be considered as forming an integral part of the Treaty signed to-day and shall be considered as effective upon the date of the entrance into force of that Treaty.

I shall be much obliged if Your Excellency will confirm the foregoing."

I have the honour to confirm the agreements and understandings as recorded in Your Excellency's Note,

which shall be considered as an integral part of the Treaty signed to-day and shall be considered as effective upon the date of the entrance into force of that Treaty.

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

(Signed) E. Michiels van Verduynen

His Excellency
Monsieur Wunsz King,
Ambassador Extraordinary and Plenipotentiary of the
Republic of China near the Royal Netherlands
Government,
21, Cleveland Square,
Flat 2, Lancaster Gate,
Hyde Park, W. 2.

AGREED MINUTE

With reference to Paragraph 2 of the Exchange of Notes which form an integral part of the Treaty signed to-day, it is understood that both High Contracting Parties reserve the right to close any port to all overseas merchant shipping for reasons of national security.

London, 29th May 1945.

(L. S.) Wunsz King

(L. S.) E. Michiels van Verduynen

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TREATY
BETWEEN THE REPUBLIC OF CHINA AND
THE KINGDOM OF THE NETHERLANDS
FOR
THE RELINQUISHMENT OF
EXTRATERRITORIAL RIGHTS IN CHINA
AND THE REGULATION OF
RELATED MATTERS