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CHINA'S STRUGGLE FOR TARIFF AUTONOMY: 1843-1938

CHINA'S STRUGGLE FOR TARIFF AUTONOMY: 1843 - 1938

By
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To my colleagues, past and present
of the Chinese Customs Service;
a Tribute of Esteem

ABBREVIATIONS

Am.	=	American.
Art.	=	Article.
B.P.P.	=	British Parliamentary Paper.
Br.	=	British.
C.A.	=	Customs archives.
C.P.	=	Customs publication.
Ch. Rep.	=	Chinese Repository.
Circ.	=	Circular.
F.O.	=	British Foreign Office archives.
Fr.	=	French.
I.G.	=	Inspector General.
N.C.D.N.	=	North-China Daily News.
N.C.H.	=	North China Herald.
S/O	=	Semi-Official.
Tr.	=	Treaty.

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PREFACE

Should anyone open this book expecting to find in it an attempt to tell the story of that unique institution—the Chinese Customs Service—he will be disappointed. He will find nothing here, except in passing references, about the building up, through the agency of the Service, of the Chinese Postal Administration with its far-flung activities in the public weal, or of the Marine Department with its model system of aids to navigation,—light-houses, wireless signal stations, buoys, and beacons—located at almost every danger spot on China's coast line and on her navigable rivers, or of the Statistical Department for the compiling and publishing of China's trade statistics, which today in efficiency and equipment outrivals similar institutions in most other countries. Nor will he find any account of those numerous other activities in which the Service has taken a leading part, such as the fostering of higher education through the T'ung Wên Kuan, the helping to set going and to sustain China's diplomatic and consular service, the promoting of harbour and conservancy works, the supervising of quarantine and port sanitary measures in the days when there was no local or national organization for the purpose, the collecting and organizing of the exhibits of China's arts and industries for many international exhibitions, and in later days the watching over the service of foreign and domestic obligations secured on the Customs revenue. On the other hand, he will find a detailed account of the origin of the Service, such an account being essential to an understanding of China's tariff history, as the Service was called into being for the express purpose of enforcing the impartial administration of China's treaty tariff at a moment when civil strife, lawlessness on land and sea, mercantile defiance of authority, and corrupt practices of both traders and officials had made that tariff, and the Customs procedure enjoined by the treaties, "more honoured in the breach than the observance."

The story of China's struggle for tariff autonomy is one that touches many aspects of China's relations with foreign Powers. That autonomy was lost—unwittingly one might say—through a treaty imposed by a victor, and was regained after almost ninety years not by one but by a series of treaties, born of the spirit of China's national renascence and the slow-moving spirit of restitution of her foretime exploiters. Those ninety years were fraught with greater changes, political, economic, and social, than any that had taken place in any previous century of China's age-long history, and in those changes this rigid treaty tariff, the revenue derived from it, and especially the conditions which maintained that tariff played no insignificant role. The treaty tariff, devised as a measure of relief from what were felt to be intolerable trade conditions, became as time went on the symbolic expression of a policy. Foreigners had come to China in quest of trade; their chief requirement was an outlet for their manufactured products, and in ignorance of actual conditions they believed that in China they had found an illimitable market. Having forced the gate, and having become acquainted with the conditions obtaining within, they decided that the interests of their trade demanded not only firm adherence to a low standard tariff, but also insistence on the concomitants of privileged taxation of transit trade, and of privileged protection of the foreign trader from the law of the land in which he traded. To be fully understood, therefore, the story of China's struggle for tariff autonomy from the Treaty of Nanking to the treaties of yesterday must embrace not simply the dry as dust facts concerning the origin and composition of the treaty tariff, but also some account of how under pressure of internal disorder that tariff came to be administered under a foreign Inspectorate, how by the stress of unsettled political conditions it was made applicable to the coastwise conveyance of native goods in foreign bottoms, how the collecting of half its rates as transit dues on goods to and from the interior clashed with the trade-taxing interests of the provincial governments and became the source of endless bickering between foreign ministers and Consuls on the one hand and Chinese authorities, provincial and central, on the other, how Hongkong as a foreign free-trade port on China's coast grew into a hotbed of smuggling and a constant menace to China's revenue rights, how some projected revisions of the tariff failed, while others were carried out but always in such a manner as to give China the barest minimum of revenue and the foreign negotiators the maximum of trade advantage, how the Great

War and the subsequent conferences at Versailles and Washington prepared the way for China's release from foreign dictatorship of what her tariff should be, and how at last that release came through the Peking Conference with its aftermath of surtaxes, and through the reborn spirit of national independence. The story is but an episode in China's history, but, slight as that episode may be, it is one which in the interests of peace and goodwill men would do well not to forget.

No apology is offered for devoting a whole chapter to the Peking Tariff Conference of 1925-1926, it will, no doubt, be found heavy going, a Sahara of facts, figures, and opinions where the hapless reader may well founder and perish. But the following of the battle of wits as it developed from day to day at that conference helps materially to a clear and full understanding of both the Chinese and the foreign points of view. In fact, that conference is an outstanding landmark in China's tariff history, and a knowledge of what was discussed and of what happened there is essential to a correct appreciation of the tariff developments that have taken place since then. For over eighty years prior to the holding of that conference China had been in a state of tariff bondage. The resolution to break those fetters was sealed at that conference, and within two years from the closing of the conference she had regained her freedom, but freedom in a world gone mad on economic nationalism.

What of the future? It is no part of the purpose of this book to prophesy; but China's tariff freedom is once more at stake. Is she fated to lose it again, and, if so, will that not inevitably result in fresh states of increasing economic conflict? Or, is it possible that the present phase may be but a stage in that evolutionary process which some day may ultimately lead to economic internationalism? "Il n'est point de secrets que le temps ne révèle."

Grateful acknowledgments are due to the late Sir Francis Aglen, K.B.E., C.M.G. and to his successor Sir Frederick Maze, K.B.E. for their permission to make use of the voluminous archives at the Inspectorate of Customs; to His Excellency Dr. H. H. Kung, Minister of Finance, for writing the Chinese title which adorns the front cover; and to the authorities of the British Foreign Office for so graciously and readily permitting me to consult their invaluable collection of documents and State papers.

S. F. W.

Shanghai, 26th April, 1938.

CHAPTER I.

THE GENESIS OF THE FIVE PER CENT *AD VALOREM* TREATY TARIFF.

§ 1. China's tariff in pre-treaty days administered by provincial authorities. Tariff and trading conditions at Canton prior to Treaty of Nanking. § 2. Effect of Treaty of Nanking. Negotiations for drawing up of a tariff and fixing of rates. Pottinger's difficulties. § 3. Preparation of the tariff. Rates adopted based on old Imperial tariff, not on fixed five per cent *ad valorem* basis. Analysis of tariff rates. § 4. Treaty clause on transit dues further proof that tariff rates were not on inflexible five per cent *ad valorem* basis. § 5. Opium trade not dealt with by Nanking treaty. Rapid growth of this contraband trade. Successive British Plenipotentiaries urge legalization. § 6. Tariff currency rate. Origin and value of Haikwan Tael. Duty-paying currencies. Canton assay (July 1843) of foreign dollars. Premium on sycee and on Carolus dollars. § 7. Cession of Hongkong to Great Britain and its status as a free port raises question of protection of Chinese revenue. Measures adopted to this end. Failure of these measures. § 8. Differences between the British, the American, and the French treaty tariff schedules. § 9. Nanking treaty provides for British Consular intervention in prevention of smuggling. § 10. Preventive stipulations in early treaties. Chinese preventive laws in force at time of signing of treaties. § 11. Treaty tariff of Nanking and China's tariff autonomy. § 12. Abolition of ship's measurement fees. Substitution of tonnage dues. Passing of Co-hong. § 13. Trade depression of eighteen forties not due to Customs duties in China. § 14. Growth of opium trade. Effect of Taiping Rebellion on trade. Origin and development of *likin*. § 15. Capture of Shanghai by rebels. Origin of the foreign Inspectorate of Customs. Prevalence of smuggling at Shanghai and other treaty ports. § 16. Tariff and trade clauses of Treaty of Tientsin. § 17. Tariff reduction, and other, proposals of Shanghai Chamber of Commerce. § 18. Reduction, and other, proposals made by foreign merchants of Canton. § 19. Views of British Consul at Ningpo. § 20. Constitution and activities of tariff revision commission. Birth of the five per cent *ad valorem* tariff. § 21. Failure of early efforts to legalize opium trade. Growth of, and disorders caused by the trade. Legalization of opium trade. § 22. Settlement of rate and procedure of levy of transit dues. § 23. Extension of foreign inspectorship system of Customs. § 24. Tariff accepted by American and French Plenipotentiaries.

China's tariffs in pre-treaty days administered by provincial authorities. Tariff and trading conditions at Canton prior to Treaty of Nanking.

§ 1. In the days prior to the Treaty of Nanking (1842) China enjoyed complete tariff autonomy. From the very beginning of her trade intercourse with other nations, reaching back into the dim and misty age of the Chou dynasty, when we first hear of the taxation of foreign trade (*circa* 990 B.C.) China's sovereign right to decide what taxes she should levy on her imports and exports, as well as on her internal trade, had never been

questioned or interfered with by the governments of the foreign traders concerned. Definite details of the very oldest of these tariffs have long since perished but there are still to be found in the provincial annals full particulars of former tariffs, some of them centuries old, which have been, and which in some places in modified form were, up till recently, in use at various parts of the country at what were known as the Native Custom Houses, establishments which it should be remembered formed in pre-treaty days—and indeed up till 1854—the only Customs organization then functioning in China with jurisdiction over foreign as well as domestic trade. During the Sung dynasty, for instance, collectors of Customs were to be found at Ningpo and Canton. Duty was levied at one-tenth of the value of the goods, but if they were of a coarse quality only one-fifteenth was levied. Towards the end of the thirteenth century Custom Houses were in operation not only at Canton and Ningpo but also at Shanghai, Hangchow, Wenchow, and Amoy. Messer Marco Polo has some interesting things to recount of the Custom Houses then functioning in the domain of the Great Khan. Writing of the Custom House on the bridge at Sindafu, the modern Chengtu, he tells us that the daily dues collected there were a thousand pieces of fine gold, and that every year duties were levied on 200,000 vessels plying upstream on the Yangtze. He claims that the revenue from salt at that time yielded yearly eighty tonans of gold, an amount which Cordier estimates to be equal in value to £2,633,333. "All spicery pays three and a third per cent on the value; and all merchandise pays likewise three and a third per cent; but sea-borne goods from India and other distant countries pay ten per cent. The rice wine also makes a great return, and coals of which there is a great quantity; and so do the twelve guilds of craftsmen that I told you of, with their 12,000 stations apiece; for every article they make pays duty. And the silk, which is produced in such abundance makes an immense return. The silk, you must know, pays ten per cent, and many other articles also pay ten per cent. And you must know that Messer Marco Polo, who relates all this, was several times sent by the Great Khan to inspect the amount of his customs and revenue from this ninth part of Manzi, and he found it to be, exclusive of the salt revenue which we have mentioned already, 210 tonans of gold, equivalent to 14,700,000 saggi of gold; one of the most enormous revenues that ever was heard of." Speaking of Zayton, which was probably the modern Ch'uanchow, he remarks—"The Great Khan

derives a very large revenue from the duties paid in this city and haven; for you must know that on all the merchandise imported, including precious stones and pearls, he levies a duty of ten per cent, or in other words takes tithe of everything."[1] By the beginning of the fourteenth century fine grade goods were paying duty on a twenty per cent *ad valorem* basis, and coarse grade goods on a basis of approximately thirteen per cent of their value. Towards the close of the Ming dynasty when civil and political affairs were much in disorder, and when there was widespread lawlessness among merchants in their dealings with the Customs, especially as regards the declaration and the examination of cargoes, an experiment was tried of collecting duty on a scale graduated according to the capacity of the vessel,—a tax evidently not unlike the *palmeo* of Spanish colonial days. In the reign of K'ang Hsi, towards the end of the seventeenth century a uniform tariff in which goods were classified under the four headings, clothing, food-stuffs, utensils, and miscellaneous, was put into force at the four Custom Houses of Canton, Foochow, Ningpo, and Shanghai. In sharp contrast to modern ideas, tariff policy then was shaped to encourage imports and discourage exports, for the average rate on the former was four per cent, while on the latter it was sixteen per cent. A heavy measurement fee, based on the capacity of the vessel was also charged. During the reign of the Emperor Yung Cheng (雍正), the periods in each year during which foreign vessels might enter and clear were specifically laid down, as were also the cargoes permitted to be carried. In this reign too Customs officials instituted a ten per cent levy on the treasure imported by foreign merchants for the purchase of Chinese goods,—another discouragement to the export trade. In the first year of the Emperor Ch'ien Lung (乾隆) instructions were issued to the Customs Superintendents to report to the Government for approval the names of those articles of import, not enumerated in the tariff, for which the superintendents had fixed rates on the basis of comparison with similar but enumerated articles. The Book of the Hoppo, published in the 18th year of Ch'ien Lung (1753) contained (*a*) the import tariff promulgated in 1687, (*b*) a supplementary import tariff for goods not enumerated in (*a*) but for which rates had been fixed

[1] Cordier, H. *The Book of Ser Marco Polo, the Venetian, concerning the Kingdoms and Marvels of the East*: translated and edited with notes by Colonel Sir Henry Yule, R.E.; C.B.; K.C.S.I.: Third edition; Revised by Henri Cordier. 2 Vols.; London; 1903: Vol. 2; pp. 37; 170; 215-218; & 235.

on the comparison basis, and (*c*) the export and re-export duty rates. Four years later when certain foreign vessels had penetrated to Tinghai (定海) near Ningpo, the Viceroys of Fukien and Chekiang proposed to the Government that the rates of the existing tariff should be doubled in order to deter these unbidden traders from further intrusion. In the same Emperor's reign an attempt was made to divert into the Government treasury the various fees and irregular charges levied at every Customs establishment by the staff to supplement their uncertain and inadequate pay, but the would-be reform proved premature. It was with these tariffs, then, sanctioned by the Imperial Government, but interpreted and applied by the local and provincial Customs authorities nominally functioning under that Government that the European traders in China in the seventeenth and the eighteenth centuries first made acquaintance. Speaking generally, and judging from what is known of these and similar tariffs[1] we are safe in saying that the rates sanctioned by the Imperial Government were in themselves not oppressive, and that had these rates been strictly and impartially adhered to, the history of China's relations with foreign Powers in the all-important issues of tariff and Customs administration would most probably have followed a widely different course. It was the interpretation and application of the tariffs by the local Customs authorities that gave rise to one of the chief causes of complaint of the foreign merchants against the conditions under which they were compelled to trade. These Customs authorities knowing that the sun of prosperity would shine for them for but a brief time—as every few years there was a change of chief which brought with it a change of staff—had to make the most of the opportunities afforded them by their short term of office; firstly, to enable them to recoup the outlay necessitated in the securing of that office; secondly, to provide sufficient funds to keep graciously disposed to them the higher authorities whose influence was and would be worth retaining; thirdly, to meet the fixed contributions due to the Imperial exchequer; and, lastly, to make for themselves provision against the chilly days of adversity which might come upon them in the future. This

[1] For modern versions, in Chinese, of some of these old tariffs, which were in force at the Native Customs establishments at the treaty ports in 1901, when they were placed under the control of the Inspector General *vide* Part VI of Customs Paper No. 73 (V. Office Series) Parts I—VI: Shanghai, 1902—1903.

was true of all ports on the China coast to which foreign trading ships had made their way, such as Amoy, Foochow, Ningpo, Chusan, etc., but it was especially true of Canton, to which port by the middle of the eighteenth century foreign trade with China had become restricted, and where that trade was further fettered and confined as it could be carried on only through the so-called co-hong,[1] a group of Chinese merchants, never exceeding fourteen, but usually numbering thirteen, licensed by the Government for the purpose of guaranteeing the payment by foreign traders of all dues and duties and of acting as sole intermediaries between these traders and the local officials. Small wonder then that lack of fixity of tariff charges and malpractices on the part of Customs officers was a frequent subject of complaint from foreign traders. A few quotations from contemporary witnesses will make this clear. In the Petition of British Subjects in China of 24th December, 1830, presented to the House of Commons on 28th June, 1831, the petitioners state:[2] "From the moment a foreign vessel arrives, her business is liable to be delayed by underlings of the Custom House on frivolous pretexts, for the sake of extorting unauthorized charges; the duty on her import cargo is levied in an arbitrary manner by low, unprincipled men, who openly demand bribes; it is consequently of uncertain amount and by the addition of local exactions, exceeds by many times the rate prescribed by the Imperial tariff, which appears to be in general moderate, although so little attended to in practice, that it is scarcely possible to name any fixed charge, except on a few articles." Again, in the Petition of British Subjects at Canton to the King's Most Excellent Majesty in Council,[3] drawn up on 9th December, 1834 the signatories complain that—"the benefits that might be reaped under a well regulated system of commercial intercourse are curtailed or lost in consequence of the restrictions to which the trade is at present subjected, and the arbitrary and irregular exactions to which it is exposed either directly, or not less severely because indirectly, through the medium of the very limited number of

[1] This system existed, with varying fortunes, only from about 1720 to the signing of the Treaty of Nanking, when it was abolished. *Vide* B.P.P. *Correspondence and Papers relating to China* 1840: pp. 279-285.

[2] B.P.P. *A Petition of British Subjects in China praying for the permanent residence at Peking of a Representative of His Majesty, to protect the interests of His countrymen.* 1833. p. 3.

[3] B.P.P. *Correspondence and Papers relating to China.* 1840: p. 89. Quoted also in *The Chinese Repository* 1835, Vol. III, p. 358.

merchants licensed to deal with foreigners." Even more explicit is the statement of Mr. J. R. Morrison, the Chinese Secretary and Interpreter to Captain Charles Elliot, the Chief Superintendent of the trade of British subjects in China. Writing in 1834 he declares: "The impossibility of obtaining from the Government any fixed tariff of duties has been for many years one of the most prominent evils in the commercial system of Canton,—it being the policy of all parties, governments, hong merchants, and linguists to keep foreigners in a state of perfect *ignorance* of the mode and rate of duties levied on foreign trade" In most instances "the illegal and irregular charges more than quadruple the real imperial duties, and on one very important article (cotton) are apparently increased tenfold."[1] That the Chinese higher authorities were not blind to the existence of these evils is proved by an Imperial Edict issued in 1834, after Lord Napier's unsuccessful attempt to get into direct official communication with the Government,[2] but it may well be that the warning given in that decree to the officials and the members of the co-hong against debt to foreigners, and against extortionate private taxes was prompted less by the desire that it should be taken literally, than by anxiety to avoid a rupture, which would mean an unwelcome diminution of income, and by the official necessity of demonstrating to all the world that the highest in authority was not unmindful of his moral obligations as ruler of the people.

Effect of Treaty of Nanking. Negotiations for drawing up of a tariff and fixing of rates Pottinger's difficulties.

§ 2. The Treaty of Nanking, which concluded the war of 1839-1842 between Great Britain and China, was the first attempt to set commercial relations between China and foreign traders[3] on a more workable basis than that of monopoly, restriction, and irregular levies. It opened to British subjects for residence and

[1] J R Morrison *A Chinese Commercial Guide consisting of a collection of details respecting foreign trade in China* Canton 1834 Quoted in Vol III of *The Chinese Repository*; Canton 1835, p. 424

[2] B P P *Correspondence and Papers relating to China.* 1840 p 77

[3] In July 1843, many months before the first treaties with the United States and with France were negotiated, the Chinese authorities recognized by official proclamation that the privileges of the British treaty would be extended to all traders, irrespective of nationality. *Ch Rep*, Vol XII; 1843; p 443 There is no satisfactory evidence that the British authorities, when negotiating the Nanking treaty, tried, or hoped, to secure a monopoly of trading privileges in China for British subjects For centuries the Chinese had treated all foreigners alike in matters of trade and it is unreasonable to suppose that they had altered their attitude to other nations

simply because they were now signing a treaty with Great Britain In the Nanking treaty there is nothing to indicate that the advantages gained were to be exclusively for the British, while Article VIII of the Supplementary Treaty signed at Hoomunchai in October 1843—nine months before the signing of the American treaty—is not compatible with the idea of monopoly Dennett, however, points out (Tyler Dennett, *Americans in Eastern Asia* New York, 1922, pp 108-109 *vide* also John W Foster, *American Diplomacy in the Orient* Boston & New York, 1903, pp 75-96) that this "open door" declaration of the Chinese authorities was due to representations made by Commodore Lawrence Kearny of the U S A East India squadron This contention, if it is meant to imply that the British were seeking monopolistic privileges, is negatived by Elliot's declaration in 1840 to Keshen when he was negotiating for the opening of Canton, Amoy and Chusan —"It should be explained that the privileges of trade at the respective ports above spoken of are not demanded exclusively for the ships and merchants of the English nation But English merchants and ships shall be allowed to trade, upon an equal footing, at any port or ports of the Empire, which the Government of China may now or hereafter open to the ships and merchants of any foreign nation" (F O 17/47 Elliot to Keshen, 12th December 1840, enclo in desp No 1 Elliot to Palmerston, 5th January 1841) It is also not borne out by official instructions and pronouncements made by British authorities in the years immediately preceding the Treaty of Nanking The following quotations will make this clear "Her Majesty's Government do not desire to obtain for British subjects any exclusive privileges of trade, which should not be equally extended to the subjects of any other Power" (Lord Palmerston to Rear-Admiral Elliot and Captain Elliot, 20th February 1840 H B Morse, *International Relations of the Chinese Empire* 3 vols London, 1910-1918, vol 1, p 630) "The Plenipotentiary seizes the earliest occasion to declare that Her Majesty's Government has sought for no privilege in China exclusively for the advantage of British ships and merchants, and he is only performing his duty in offering the protection of the British flag to the subjects, citizens, and ships of foreign Powers that may resort to Her Majesty's possessions" (Proclamation by Captain Charles Elliot, 20th January 1841 *Ch Rep*, Vol X, 1841, p 63) "A secure and well-regulated trade is all we desire, and you will constantly bear in mind that we seek for no exclusive advantages, and demand nothing that we shall not willingly see enjoyed by the subjects of all other states" (F O 17/51 Aberdeen to Pottinger, desp No 30 4th November 1841) "Her Majesty desires no acquisition of territory, nor any advantages for her own subjects which should not equally be shared by other nations, and to the attainment of these objects, and these alone, the efforts of Her Majesty's forces are to be directed" (Lord Stanley to the President of the Board of Control, 31st December, 1841 B P P *Correspondence relative to Military Operations in China*, 1843, p 23) When negotiations on the Nanking treaty and tariff were under way the Chinese Plenipotentiaries suggested that the privileges to be granted should be confined to the British, to which Pottinger replied —"The Government of England has asked for no privileges or advantages with regard to trade and future intercourse with China that she will not be glad to see granted to other nations" (F O 17/57, Pottinger to Chinese Plenipotentiaries, 3rd September 1842, enclo No 31 in desp No 38 Pottinger to Aberdeen, 3rd September 1842) On the question to whom should be ascribed the credit for the first enunciation of the "open door" policy in China, the Chinese claim that the "chief credit for putting at the base of all Chinese foreign policy the grant of most favoured nation treatment to all 'foreign nations" must be assigned to the two Imperial Commissioners Keying and Elipoo, *vide* *The Chinese Social and Political*

trade the five ports of Canton, Amoy, Foochow, Ningpo and Shanghai (Article II) It abolished the co-hong, leaving merchants to trade with whomsoever they pleased (Article V), arranged for the appointment of superintendents or Consular officers to reside at the opened ports 'to be the medium of communication between the Chinese authorities and the said merchants, and to see that the just duties and other dues of the Chinese Government, as hereafter provided for, are duly discharged by Her Britannic Majesty's subjects" (Article II),[1] specified the terms which the officials of each country were to use when corresponding with each other (Article XI) and, above all, stipulated for the promulgation at all the ports opened by the treaty of 'a fair and regular tariff of export and import Customs and other dues' (Article X) This tariff, which was proclaimed at Hongkong on 22nd July, 1843[2] was in two schedules, one for exports and the other for imports, the former containing sixty-one items and the latter forty eight The preparation of these schedules meant the fixing of the rates to be levied and to this end Sir Henry Pottinger, the British Plenipotentiary, not only carried out negotiations with the two Chinese Imperial Commissioners appointed to settle the terms of the treaty but also requested the assistance of the British merchants trading in China To the two Imperial Commissioners the British Penipotentiary suggested that "the authorized tariff and duties of the five ports should be called for and compared and an average struck for the whole" He assured the Commissioners that "on the questions of import and export duties, as well as transit dues, his sole and anxious object [was]

Science Review Vol XV No 3 pp 422 444 and Vol XVI No 1, pp 75 109 For English text of the open door proclamation issued by the Chinese authorities *infra* Appendix A

[1] This article was resented by British merchants as no corresponding article was inserted in the American and the French treaties It was unilaterally abrogated by the British Government in May 1851, on the ground that it was no longer the duty of Her Majesty's Consuls to prevent the Emperor of China from being defrauded of his just dues as the Emperor's own servants did not deem it necessary to do this for him The sixth of the Custom House regulations issued by the Shanghai Taotai in August 1851 provides that in future the receipts issued by the Customs banker for dues and duties are to be handed in directly at the Custom House and not through the Consul N C H No 56, 23rd August 1851 *Vide postea* Chap II § 2 The capture of Shanghai in September 1853 by the Triad Society led once more to Consular intervention as did also the imposition of certain of the so called Washington Surtaxes in 1928

[2] *Ch Rep* Vol XII 1843 p 391 B P P *Orders Ordinances Rules and Regulations concerning the Trade in China* 1847, pp 5 6

to fulfil the duties of an impartial umpire between the two countries", and that he did not wish "to see the duties so high as to encourage or foster smuggling, nor yet so low as not to form a fair and legitimate source of Imperial revenue, after paying the expenses of establishments, etc."[1] The Imperial Commissioners agreed that the tariffs in force at the five ports were different;[2] but were of opinion that the tariff of regular duties, as originally authorized by the Emperor for use at Canton, should be re-examined by the Board of Revenue at Peking and be taken as the standard on the lines of which the new tariff should be constructed. They also pointed out that any irregular levies and exactions would not be countenanced by the Board, but that as the revenue accruing from the regular duties was for remittance to the Imperial treasury, separate provision would have to be made for the funds necessary to maintain the Customs establishments. To this the Plenipotentiary replied that "whatever the amount of duties and charges, whether import, export, or transit may be, it should be specifically defined, and not in the smallest degree left to the arbitrary pleasure or option of the local officers." He pointed out that this had been the great evil at Canton, out of which so much discussion and discontent had sprung, and urged that "the necessary salaries to clerks, writers, and other functionaries, high or low, be included into the scale of duties, so that merchants shall know precisely what they are to pay on their merchandise, whether on importation or exportation."[3] In order then to safeguard all the various interests up till then dependent on the Canton Customs, the Imperial Commissioners ordered the Hoppo, or Superintendent of Customs at Canton "to direct the hong merchants engaged in foreign trade to make a complete return of all charges and fees" and requested the Plenipotentiary "to direct some officers well experienced in, and acquainted with commercial matters to learn what amount of charges is actually paid on each article of their imported and exported goods by the British merchants",[4] so that the necessary data from both sides might be submitted to the Board of

[1] Sir Henry Pottinger to Imperial Commissioners, 5th September, 1842; *Ch. Rep.* Vol. XII; 1843; p. 37.

[2] F.O. 228/18 Pottinger to Aberdeen, Enclo. No 21 in desp. No. 38; 3rd September, 1842.

[3] Sir Henry Pottinger to Imperial Commissioners, 17th September, 1842; *Ch. Rep.* Vol. XII; 1843; p. 39.

[4] Imperial Commissioners to Sir Henry Pottinger, 23rd January, 1843; *Ch. Rep.* Vol. XII; 1843; p. 96.

Revenue for the drawing up of an equitable tariff. In the meantime Pottinger issued on 14th November 1842 a proclamation forbidding British merchant vessels to go to any of the ports, Canton excepted, about to be opened by treaty until the tariff and scale of duties should be fixed.[1] On 28th December the Plenipotentiary went in person to Macao intending to have there a conference with the British merchants on this tariff issue; but on second thoughts decided to get their views in writing. In doing this, he requested them to "bear in mind that the benefits of a commercial treaty beyond all others, must be so far as possible reciprocal if we hope and wish that they shall be permanent, and that you will also remember that the nearer the points now to be fixed can be made to approach to, and assimilate with, what is at present in force in China, and the more simple the whole system, the better hope may be indulged in that it will work well".[2] The British merchants on being thus appealed to were at first not sanguine about being able to supply the desired information, and were inclined to wait for the production of the Imperial tariff and other documents by the Chinese authorities. However, at a meeting held on the last day of the year 1842 they appointed a committee of five "to draw up such recommendations in regard to the alteration of the tariff, and other commercial matters as might appear to be beneficial to British interests," and to act as the channel of communication with the Plenipotentiary.[3] The latter urged them to submit a report, based on their long experience of the trade of China, showing what alterations in the system then prevailing they would wish to see effected and what tariff duties and other charges they would recommend for the future. The Plenipotentiary also pointed out that in case the recommendations of the merchants' report and the findings of the Peking Board of Revenue were in substantial accord, the tariff could be settled without delay or trouble, but that if there were important discrepancies he would be in a position to urge a reconsideration of the Chinese proposals.[4] To this the merchants replied that as the new tariff was to be based on the regular Imperial duties, which they had no means

[1] F.O. 17/59 F.O. 228/20; Pottinger to Aberdeen; desp. No. 70; 10th December, 1842.

[2] F.O. 17/59 F.O. 228/20; Pottinger to Aberdeen; desp. No. 76; 31st December, 1842.

[3] *Ch. Rep.* Vol. XII; 1843; p. 41.

[4] F.O.17/66 F.O. 228/23: Pottinger to Aberdeen; enclo. No. 6 in desp. No. 3, 12th January, 1843. *Ch. Rep.* Vol. XII; 1843; p. 42.

of ascertaining, they were of opinion that nothing could be gained by preparing the suggested report, requested the Plenipotentiary to procure for them from the Canton authorities a copy of the Imperial tariff, and desired to be informed what arrangements were to be made for the carrying on of the trade at Canton after the co-hong had been formally abolished.[1] Thereupon Sir Henry Pottinger administered a tart and well-deserved rebuke, and the merchants thinking better of their uncomplying attitude, carried out a partial investigation of the rates levied on some of the principal articles of trade, pointed out especially that, although the regular Imperial export duty on tea was less than two taels per picul yet the total charges actually collected amounted to six taels per picul, and put forward the suggestion that "if the Chinese authorities would prefer stating the amount which at the present estimate of the trade they consider should be collected as Imperial duty", the merchants "might without difficulty prepare a tariff dividing each duty on the several articles of trade."[2] As an additional reason for their inability to provide further details they pointed out "that the invariable custom in Canton has been for the foreign merchants to purchase exports at prices including all duties and charges, and to sell imports at rates excluding such items."

Preparation of the tariff. Rates adopted based on old Imperial tariff, not on fixed five per cent *ad valorem* basis. Analysis of tariff rates.

§ 3. But the business of preparing "a fair and regular tariff of export and import Customs and other dues" called for something more reliable and more thoroughgoing than scrappy information and naive suggestions. That the merchants whose interests were those most at stake should have proved unable, after several generations of trading, to supply such information is an indication that so long as profits were good there was no compelling necessity for them to acquire by hook or by crook full and clear details of the exorbitant Customs levies of which they complained. Pottinger had no doubts on this point. Writing to Lord Aberdeen on the unhelpful attitude of the British merchants he states;—"I now think there are some whose conduct proceeds more from downright ignorance of the questions under discussion, and a consequent dread of exposing

[1] *Ch. Rep.* Vol. XII; 1843; p. 42.

[2] *Ibid.* Vol. XII; 1843; pp. 98-99. Merchants' Committee to Sir Henry Pottinger, 8th February, 1843: F.O. 17/66; enclo. No. 2 in desp. No. 12. Pottinger to Aberdeen, 21st February, 1843.

themselves than from any positive design to thwart me. Others, however, seem to me to be influenced by the latter motive alone, and all have carried on their traffic of late years under a system which I am quite certain is unparalleled in any other country, and for adopting which the only excuse that can be made is that it was universal, and that any individual shrinking from it must have been outdone and ruined by his less scrupulous mercantile competitors. The fact is every individual has been used to make the best bargain he could for himself and his employers through hong merchants, linguists, and other such persons, all open to corruption and ready to evade payment of the just dues of the Chinese Government by the most baneful and wholesale smuggling, which was moreover winked at and its unlawful gains shared in by the whole of the local authorities from the highest to the lowest grade. The consequence is that no merchant can tell (even supposing he wished it) what he has actually paid in the shape of duties."[1] In spite of the co-hong and their natural desire to keep foreign traders in ignorance of what actually were the officially recognized taxes on trade, that information by a little ingenuity and patience could have been obtained by the foreign merchants if they had made up their minds to get it. For the British Plenipotentiary it was all-important that it should be obtained, and so to make sure that he would have as much reliable data as possible he deputed in January 1843 Messrs. J. R. Morrison and R. Thom to proceed to Canton to carry out the necessary investigations, and to make preparations for putting into operation the new Customs procedure called for by the Nanking treaty.[2] The co-hong wished these deputies, who were assisted by Captain

[1] F.O. 228/23; Pottinger to Aberdeen, desp. No. 7; 6th February 1843. Pottinger's opinion of the British merchants then trading in China was not a flattering one. Writing on 19th January, 1843 to Lord Aberdeen he states:—"I am unwillingly forced to confess that I believe there are others who from selfish and interested motives, regard with regret and dissatisfaction the peace that has been concluded, and the prospect of things being placed on a permanent footing alike beneficial to all the subjects of both Empires, who are engaged in trade." F.O. 228/23 desp. No. 6. Again on the 6th February of the same year he writes: "From some [British merchants] I have experienced nothing but querulous cavilling and indirect opposition to my anxious measures to place the trade on a permanent and liberal footing." F.O. 228/23, desp. No. 7; while on 19th July when negotiations for the tariff were practically completed, he puts it on record that—"as a body I can only repeat that the merchants have rendered me no kind of assistance." F.O. 228/24, desp. No. 85.

[2] F.O. 17/66 F.O. 228/23; Pottinger to Aberdeen; desp. No. 7. 6th February 1843, enclo. No. 14, Pottinger to Elipoo, 21st January, 1843.

G. Balfour, afterwards Consul at Shanghai, to take up their residence in the consoo house and to deal there with the co-hong merchants and the Chinese officials, but Morrison, alive to the interpretation that would be placed on the acceptance of such an invitation, wisely declined it.[1] At an early stage in the discussions, the Chinese delegates, who were supplied with copies of the Imperial tariff and with details of all the local charges, and who were under pressure from those whose interests were threatened, handed to Mr. Thom a memorandum proposing that all articles of import and of export be listed, and that opposite each entry there be inserted in three columns—(*a*) the Imperial duty, (*b*) the officially recognized charges, and (*c*) all other fees and charges. The proposers suggested that the two former be left untouched, and that the third be divided into ten parts of which so many parts should be retained to cover all costs of Custom House maintenance, the remaining number of tenths to be done away with. The completed tariff would thus show (1) the regular duties, that is the combined totals of (*a*) and (*b*) above, and (2) the recognized official levy to be used for the upkeep of Customs offices and staff.[2] The proposal was not acceptable to the British delegates, but the data tabled were. The final result of these tariff negotiations was embodied in a set of tables, prepared by Mr. Thom, giving for all the articles enumerated in the import and export schedules of the tariff (*a*) the duties and charges authorized by the old Imperial tariff, (*b*) the duties and charges actually levied by the Canton Customs authorities, (*c*) the duties proposed, (*d*) the average quantities annually exported or imported, (*e*) the average price, (*f*) the values of the total annual export or import, (*g*) the percentage of the proposed duties on these valuations, and (*h*) the estimated annual amounts of duty to be realized by the rates proposed.[3] In addition to these carefully elaborated tables there were also statements showing (*a*) a comparative estimate of the charges on shipping according to the old and the new systems, (*b*) how the apparent loss to the Imperial Treasury on cotton manufactures, woollen manfactures, and shipping under the new system is provided for, (*c*) a rough estimate of *the gross sum collected on the foreign trade with China under*

[1] *Ch. Rep.* Vol. XII; 1843. p. 94. F.O. 17/66; Pottinger to Aberdeen, desp. No. 6, 6th February 1843.

[2] F.O. 228/23; Pottinger to Aberdeen; enclo. No. 24 in desp. No. 24, 25th March, 1843.

[3] B.P.P. *Statement of the Foreign Trade with China, etc.* 1844.

the old system and its manner of distribution, and (*d*) a rough estimate of the gross sums to be collected on the foreign trade with China according to the new system and the probable manner of its distribution. By the middle of June the import and the export schedules of the new tariff, showing the rates proposed were ready for submission to Sir Henry Pottinger. He considered them very satisfactory, but, judging from other information at his disposal, thought that as regarded the import schedule—"the scale proposed . . . is more advantageous for the importer than even the merchants themselves have ventured to bring forward." His only apprehension was that the Chinese Government might object to it as being too favourable to foreign importers. The same held true of the export schedule, and if the Chinese Government were to raise objections to either schedule on the ground of the rates quoted being too low, he authorized the British delegates to sanction reasonable increases.[1] By the 10th July the Chinese negotiators had signified their approval of the proposed rates, but at the same time insisted that the tariff must be submitted to the Throne for approval, on the two-fold ground that the treaty stipulated that the tariff should be made known by the Board of Revenue and that if the tariff were not clearly defined by Imperial decree it was to be feared that the various Customs Superintendents at the new treaty ports would refuse to act in obedience to notifications issued only by the Chinese negotiators.[2] In view, however, of the fact that no fewer than thirty British vessels were waiting to discharge their cargoes, but were unwilling to enter because the tariff and the new trade regulations had not been promulgated, Keying yielded to Pottinger's urgent representations and declared the port of Canton open under the new system from 27th July 1843. Pending receipt of final instructions from Peking the other four ports were, however, still to remain unopened.[3] The rates, then, of the new tariff agreed upon by the Chinese and the British negotiators were based on those of the old Imperial tariff of regular duties, exclusive of local charges and fees. These new rates were in the great majority of cases for both exports and imports much lower than those formerly prevailing.

[1] F.O. 228/24; enclos. Nos. 21 and 22 in desp. No. 85, Pottinger to Aberdeen; 19th July, 1843.

[2] *Ibid.* enclos. Nos. 6; 8 and 13

[3] F.O. 17/68; F.O. 228/24; Pottinger to Aberdeen; enclo. No. 15 in desp. No. 85, 19th July, 1843.

For instance, among the exports, the rates for aniseed star, camphor, gamboge, rhubarb, raw silk, and vermilion were reduced by approximately fifty per cent; those for capoor cutchery, glass beads, grasscloth and sugar candy by approximately sixty-six per cent; those for mats, nankeens, and sugar by approximately seventy-five per cent; and those for china root, brass ware, and turmeric by approximately eighty per cent. The only two exports of importance which it was thought should contribute a larger revenue were silk piece goods and silver and gold ware, the rate for the former being increased almost fifty per cent while the rate for silverware and goldware was more than trebled. The rate for tea, the most important export of all, was fixed at two and a half taels a picul, a rate about twenty-five per cent higher than the old rate of combined imperial and local charges. Among the imports the duty on ginseng 1st quality was reduced by sixteen per cent; the rates for asafoetida, birds' nests 2nd quality, long cloths, cow bezoar, lead, steel, tin and smalts were reduced by approximately fifty per cent; grey twilled cotton, cutch, iron, nutmegs, pepper, putchuk, rattans, and long ells by approximately sixty-six per cent; raw cotton cambrics and muslins, gambier and sandalwood by approximately seventy-five per cent; birds' nests 1st quality, cloves, broadcloth and Spanish stripes by approximately eighty per cent; the rate on sapan wood by approximately eighty-seven per cent; and that on Dutch camlets by approximately ninety per cent. On three articles of import the duty was increased, namely, cochineal, linen, and quicksilver. In the case of the first article it was more than doubled, and for the latter two almost doubled.[1] There is nothing to indicate that these new rates were worked out on a five per cent *ad valorem* basis, in spite of the note appended to the tariff that articles not enumerated, whether exports or imports, would be liable to duty at that rate. On the contrary, in the import schedule of the tariff it is expressly stipulated that gums, metals, and woods not enumerated are to pay duty at the rate of ten per cent *ad valorem*, a fact which clearly shows that a fixed inflexible five per cent *ad valorem* rate applicable in all cases was not then the fetich that it afterwards became. A further proof, however, of this will be found in the returns of trade for Canton during the year ending 31st December, 1844, as submitted by the British Consul at

[1] *Ch. Rep.* Vol. XII; 1843; pp. 393-397.

that port.[1] Taking the values there given for the total quantity of each article imported or exported, and assuming that these values did not differ radically from those obtaining in the year previous, we can, by applying the new treaty tariff to the total quantity of each article, contrast what would have been the outturn from a fixed five per cent levy and the total amount actually levied under the tariff rates. Such a contrast enables the calculation, with approximate accuracy, of the percentage of the new tariff rates on the values then prevailing. Applying this test we find conclusive evidence that the first treaty tariff was not constructed on the basis of an inflexible five per cent *ad valorem* rate. Among the imports the only article which adhered to the five per cent rate was camlets, while that for broad woollens was actually as low as four per cent, perhaps purposely so in order to encourage trade in these goods. On the other hand, the rate on narrow woollens and Spanish stripes was as high as seven and a half per cent. On cochineal, grey cotton long cloths, twilled cottons, and saltpetre the rate was approximately five and a half per cent; on betel nuts, white cotton long cloths, and on cotton yarn it was six per cent; on raw cotton six and a half per cent; on cotton handkerchiefs a little over seven per cent; on sharks' fins eight per cent; on sandalwood and tin a little over eight per cent; on rattans nine per cent; on ginseng, taking the whole import as second quality, almost ten per cent; on cotton chintzes and prints ten per cent; on pepper and wrought iron eleven and a half per cent; and on lead, the highest rate of all, namely, thirteen per cent. The rates for exports were fixed mostly below the five per cent level, the object probably being to stimulate the export trade and thus help to check the unwelcome outflow of silver then necessary to pay for the heavy import of smuggled opium. For fans the rate was as low as one and a half per cent; for grasscloth one and three quarters per cent; for lacquered ware and silk piece goods two and a half per cent; for silk ribbons two and three quarters per cent; for nankeens and chinaware a little less than three per cent; for rhubarb a little over three per cent; for silk refuse three and a half per cent; for mats and raw silk less than four per cent; for cassia lignea and cassia oil less than five per cent; though for cassia buds the rate worked out at ten and a half per cent; for aniseed oil

[1] B.P.P. *Returns of Trade at the Ports of Canton, Amoy and Shanghai, for the year 1844 received from Her Majesty's Plenipotentiary in China.* London 1845; pp. 24-25.

and paper the rate was five and a half per cent; for sugar six per cent; for sugar candy six and a half per cent; for alum and aniseed star eight per cent; for China root eight and a half per cent, and for tea, the most important export of all, ten and three quarters per cent,—a rate which illustrates the monopoly then enjoyed by China in this article, and contrasts with the present duty-free treatment brought about by China's loss of leadership in this trade through failure or inability to meet competition from other producing countries.[1] The above *ad valorem* percentages, it should be noted, differ, in some cases widely, from those worked out by Mr. Thom at the time the drafting of the tariff was in progress. According to the values taken for the compilation of his tables the lowest duty percentage on such values for imports was a quarter of one per cent for birds' nests, and the highest was eighty per cent for first quality ginseng. Between these two rates there were all varieties of percentages;—two-thirds of one per cent for real gold or silver thread, three-quarters of one per cent for imitation gold or silver thread, one and a third per cent for mace, two per cent for bicho-de mar, four per cent for fish maws, copper, quicksilver, nutmegs and sharks' fins, four and a half to four and three-quarters per cent for imitation camlets and flannel, five per cent for beeswax, and for a number of *ad valorem* goods such as clocks, watches, optical goods, dressing cases, cutlery, perfumery, ginghams, dyed cottons, velveteens, silk and cotton mixtures, woollen and cotton mixtures, fancy goods, glass and crystal ware, manufactured copper, wines, beer, and spirits, broadcloth, Spanish stripes, bunting and woollen yarn, five and a third per cent on cotton, grey cotton manufactures, twilled cotton cloth, cotton yarn, cotton thread, skins and furs, and woollen blankets of all kinds, six per cent on linen, mother-of-pearl shells, tinplate, saltpetre, and English camlets, six and a half to six and three-quarters per cent on cochineal, white cotton longcloths, cow and ox hides, and Dutch camlets, seven per cent on camphor, eight per cent on canvas, unicorn and rhinoceros horns and long ells, nine per cent on betelnuts, gum benjamin, buffalo and bullocks' horns, spelter, rattans, rose maloes, soy, stockfish, seahorse teeth, and sapan wood, nine and a half per cent on second quality cloves, and tin, ten per cent on first quality cloves, cornelian beads, handkerchiefs, gum

[1] On the other hand it should be remembered that at the time of the signing of the Treaty of Nanking the import duty on tea into the United Kingdom stood at rates varying from 200 to 350 per cent *ad valorem*.

myrrh, manufactured iron, unmanufactured steel, putchuck, and ebony wood, ten and a half per cent on elephants' teeth, smalts, and sandal wood, eleven per cent on pepper, thirteen per cent on asafoetida, cow bezoar, cutch, and unmanufactured iron, fourteen per cent on flints, sixteen per cent on gum olibanum, and fifty per cent on inferior ginseng. For exports the tariff rates, based on Mr. Thom's valuations, worked out at one per cent for bone and horn ware, shoes, boots, and sandalwood ware, one and a half per cent for copperware, tinware, pewterware, fans, furniture of all kinds, musk, silverware and goldware, one to two per cent for tinfoil, and leather trunks, one to three per cent for lacquered ware, paper fans, and rattan ware, one to five per cent for chinaware, and readymade clothing, two per cent for bambooware, mother-of-pearl ware, and pictures, two and a half per cent for brass leaf, and tortoiseshell ware, two to three per cent for grasscloth and ivoryware, three per cent for glass and glassware, lead white and red, nankeens, cotton cloth, rhubarb, and tobacco, three and a half per cent for silk organzie, silk thread, and silk ribbons, four per cent for bamboo mats, straw mats, Nanking raw silk, and silk piece goods, four and a half per cent for cassia oil, corals, and glass beads, five per cent for crackers and fireworks, false pearls, preserves, Canton coarse raw silk, and vermilion, five and a half per cent for gamboge, and aniseed oil, six and a half per cent for bangles, canes, capoor cutchery, fish glue, orpiment, paper of all kinds, Canton raw silk fine, and sugar candy, seven per cent for kittysols, eight per cent for camphor, eight and a half per cent for aniseed star, arsenic, and raw sugar white and brown, nine per cent for alum, galangal, soy, and turmeric, ten per cent for cubebs, ten and a half per cent for marble slabs, eleven per cent for cassia buds, and twelve per cent for cassia and for tea of all descriptions.[1] No matter which valuations are taken, whether those of the Consular reports —which are probably the more accurate—or those of Mr. Thom, the conclusion that the rates of the Nanking treaty tariff were not based on a rigid five per cent *ad valorem* standard remains unaffected. Even the rates then fixed were not regarded as unalterable, for in 1845 Sir John Davis, the British Superintendent of Trade at Hongkong, negotiated with Keying a reduction of duty on earthenware, and in 1847 the lowering of the duty on rough timber from ten to five

[1] B.P.P. *Statement of the Foreign Trade with China, etc.* 1844.

per cent *ad valorem*.[1] In 1845 Parkes, when Consul at Amoy, secured a reduction of the export duty on camphor from Tls. 1.5.0.0 to Tls. 1.0.0.0 per picul. Petitions for reduction of duty rates, however, were not always successful. Early in 1855 the merchants at Shanghai complained to the Taotai through their Consuls that Chinese dealers were weighting their silk piece goods by soaking them in a congee mixture, thus increasing their weight by from ten to forty per cent. The request of the complainants that the duty rate on these goods be reduced proportionately[2] was at first refused, but subsequently, in February 1856, granted to the extent of a ten per cent allowance off the duty. At the same time the Taotai consented to reduce the duty on the coarser descriptions of refuse silk to five per cent *ad valorem*,[3] and a month later, in view of their diminished value to treat similarly chintzes and prints.[4] Taotai Chaou in his time at Shanghai had reduced the duty on dyed cotton handkerchiefs from Tls. 0.0.1.0 per piece to five per cent *ad valorem*. These decisions, affecting treaty tariff rates, it should be noted were as a rule given by the local Chinese Customs officials, and were not therefore regarded as being valid at other ports without the consent of the authorities there concerned. This, of course, while in keeping with old-time Chinese procedure, was at variance with the purpose of the treaty tariff which was to secure the application of the same rates at all the open ports. As free and easy arrangements, however, between the merchants and the Custom House officials were in vogue at all the ports, it may safely be assumed that no merchant suffered injustice because of a reduced rate of duty in force at a port other than that in which he traded. Even after the negotiating of the Treaties of Tientsin with the consequent introduction of the new uniform Customs system and the establishing of the Tsungli Yamên as the supreme centralizing Customs authority, the tendency still persisted for local Customs authorities to make changes in tariff rates without first obtaining the approval of the Tsungli Yamên. It was not until 1866 that this pernicious practice was finally abolished.[5]

[1] J. F. Davis: *China during the War and since the Peace*; London 2 vols. 1852; Vol. 1, pp. 88, 89. B.P.P. *Returns of the trade of the various Ports of China for the years 1847 and 1848*; p. 19; p. 57.

[2] N.C.H. No. 244; 31st March, 1855.

[3] Shanghai Customs Notification of 26th February, 1856.

[4] Shanghai Customs Notification of 26th March, 1856

[5] C.A.: I.G. Circ. No. 12 of 1866.

Treaty clause on transit dues further proof that tariff rates were not on inflexible five per cent *ad valorem* basis.

§4. That the Nanking treaty tariff rates were not based on a strict five per cent *ad valorem* basis is further indicated by the treaty clause regarding transit dues (Article X) which leaves unspecified the percentage rate to be levied on British goods when conveyed into the interior by Chinese merchants. The necessity of fixing these transit dues was pointed out by Sir Henry Pottinger to the Imperial Commissioners early in 1843 when he requested to be supplied with a "concise memorandum explanatory of the present system, showing the authorized amount in each province," pointing out at the same time "that whatever facilities may be outwardly introduced for the export or import trade of the seaports, the whole of those facilities may be rendered absolutely nugatory, so far as the greater part of the empire is concerned, by such onerous transit duties being demanded on goods passing through the country as should amount to a positive prohibition of their transit.[1] *Likin*, that fiscal clog on China's internal trade, offspring of the Taiping Rebellion, was as yet non-existent; but inland Customs offices at large commercial centres and at strategic points on the great internal trade routes had been functioning for centuries, and at these offices or their barriers all goods in transit had to pay toll. It was to avoid the possibility, then, of the strangulation of foreign trade at these inland Custom Houses that necessitated the introduction of the transit dues clause in the treaty. Ignorance, however, of the rates actually in force at these inland Custom Houses presented a serious difficulty in deciding what duties should be authorized as leviable on British merchandise as transit dues, and practically the only detailed and authoritative information Sir Henry Pottinger could obtain on the rates then levied was a translation of the official tariffs issued by the Hu Pu (戶部) or Board of Revenue[2], giving the rates authorized by the three inland Custom Houses of Kanchow (贛州), at the head of the Meiling pass in Kiangsi; Taiping (太平), in the province of Kwangtung; and Peihsing (北星), near Hangchow. Comparing the rates fixed by the new treaty tariff with the authorized rates of these three inland Custom Houses we find that out of seventy-two specific rates quoted in the export lists

[1] *Ch. Rep.* Vol. XII; 1843; p. 46. F.O. 17/66; Pottinger to Aberdeen, desp. No. 7, 6th February, 1843.

[2] B.P.P. *Statement of the Foreign Trade with China, etc.* 1844; p. 13.

of these three establishments only five are above half of the rates in the treaty tariff for the same articles, while four are actually higher than the corresponding full rates of the treaty tariff. In the import lists of these three establishments out of eighty-nine specific rates quoted thirteen are above half of the rates in the treaty tariff, while twenty-four are higher than the corresponding full rates of the treaty tariff. All the remaining rates—sixty-three for exports and fifty-two for imports—are below the half of the treaty tariff rates. As the declaration of 26th June, 1843[1] respecting transit dues, complementing the treaty clause on this subject, definitely stipulates that the "transit duty shall *not* exceed the present rates, which are upon a moderate scale," it is clear that the idea of fixing transit dues on a two and a half per cent *ad valorem* basis, or even on the basis of half the accepted treaty tariff rates, was not then the guiding principle for such levies.

Opium trade not dealt with by Nanking treaty. Rapid growth of this contraband trade. Successive British Plenipotentiaries urge legalization.

§5. Opium and opium smuggling had been the immediate occasion of the war of 1839-1842, and one would have thought that the problem would have been dealt with in the treaties restoring peace and establishing new trade relations. On the contrary, all mention of this opium smuggling problem was carefully avoided in these documents although Article IV of the Treaty of Nanking stipulated that six million dollars were to be paid to Great Britain as the value of the opium delivered up at Canton. For the British two constructive courses were open, one was the root and branch suppression of the trade in British India, a course not welcome to the Government of India which was fearful of losing the rich revenue involved, and solicitous that the trade should be controlled rather than left to untrammelled development by the Indian Native States. To have suppressed the trade in British India would have been in the eyes of the Government a quixotic piece of idealism, which instead of benefiting China would probably have worked still greater harm by throwing the trade into less scrupulous hands. The alternative course was to have the trade in China legalized, and to the British authorities then in power this seemed the only practical course. Such legalization, however, was to be induced not imposed, and both Elliot and Pottinger were given explicit instructions on this

[1] Date of the exchange at Hongkong of the ratification of the Nanking treaty of 1842.

point. Writing to the former on 26th February, 1841 Lord Palmerston remarks;—"In bringing this matter before the Chinese Plenipotentiaries, you will state that the admission of opium into China as an article of legal trade, is not one of the demands which you have been instructed to make upon the Chinese Government; and you will not enter upon the subject of it in such a way as to lead the Chinese Plenipotentiaries to think that it is the intention of Her Majesty's Government to use any compulsion in regard to this matter . . . It is evident that no exertion of the Chinese authorities can put down the trade on the Chinese coast, because the temptation both to the buyers and to the sellers is stronger than can be counteracted by any fear of detection and punishment. It is equally clear that it is wholly out of the power of the British Government to prevent opium from being carried to China, because even if none were grown in any part of British territories, plenty of it would be produced in other countries, and would thence be sent to China by adventurous men either British or of other nations."[1] Three months later, equally explicit instructions were given to Pottinger;—"Her Majesty's Government make no demands in regard to this matter, for they have no right to do so. The Chinese Government is fully entitled to prohibit the importation of opium if it pleases; and Britsh subjects who engage in a contraband trade must take the consequences of doing so. But it is desirable that you should avail yourself of every favourable opportunity strongly to impress upon the Chinese Plenipotentiary, and through him upon the Chinese Government, by all the arguments which will naturally suggest themselves to your mind how much it would be for the interest of the Chinese Government itself to alter the law of China on this matter, and to legalize by a regular duty a trade which they cannot prevent."[2] This point of view Pottinger impressed upon Messrs. Morrison and Thom in case the Chinese negotiators should raise the question; adding—"If the Chinese Government demand that opium shall not be introduced into the inner waters of the Empire, I am prepared to issue a proclamation to this effect, calling on all British subjects to conform to the demand of the Chinese Government, and warning them of the risk of disregarding it, which will lead to the confiscation of vessel and cargo. This, however, it is clear, depends on the power of the Chinese to enforce the procla-

[1] B.P.P. *Papers relating to the Opium Trade in China, 1842-1856;* 1857, p. 1.
[2] *Ibid.*, p. 2.

mation. *We* cannot do so in *Chinese* waters or harbours, and *at sea* every vessel carries what cargo she likes."[1] While the negotiations were proceeding Sir William Parker, admiral in command of the British fleet in China, reported to Pottinger a marked increase in the opium trade at Chusan, and in his reply the Plenipotentiary defined the attitude of the British Government, and stated that in accordance with instructions he had endeavoured to persuade the Chinese High Commissioners to secure the control of the trade by legalizing it as the British Government desired "to authorize any legal steps to aid the Chinese Government in restricting the trade, or at least putting it on some less dangerous and disreputable footing than it is at present."[2] In this he had so far been unsuccessful, the High Commissioners holding "that so long as it pleased the Emperor to disallow the traffic, they could not do more than promise that the Chinese authorities should not trouble themselves to inquire what vessels brought opium, or what did not, and that their business would be to see that the soldiers and people of China did not purchase or use the drug."[2] The Plenipotentiary pointed out that vessels under other flags were also engaged in the trade, and that the exclusion of one country from the trade would simply react in favour of all the others so engaged. Suppression, he maintained, was for the Chinese to effect. The British were not at liberty to assist in the seizure and confiscation of opium in Chinese waters, and it was "this fact, and the connivance of the Chinese authorities of all ranks in the opium trade" which were "the great and *insurmountable* obstacles to any plan that can be devised."[3] The Chinese negotiators, however, had a plan. Morrison had suggested that the opium trade should be legalized, but that the import of the drug should be confined to the two places where it then flourished most, namely Namoa and Chinchew. He estimated that the average import amounted to 30,000 chests, which at a duty of $50 a chest would yield for the Imperial Exchequer the desirable revenue of $1,500,000 a year. In reply, Keying declared that he was willing to risk making the following proposal to the Emperor, namely, that the British Plenipotentiary should become security for the whole body of merchants,

[1] F.O. 228/23; Pottinger to Aberdeen; enclo. No. 25 in desp. No. 7, 6th February, 1843. B.P.P. *Papers relating to the Opium Trade in China, 1842-1856*, p. 3.

[2] F.O. 228/23; Pottinger to Aberdeen; desp. No. 33; 12th April, 1843.

[3] F.O. 17/67; F.O. 228/23; Pottinger to Aberdeen, desp. No. 33; 12th April, 1843.

should guarantee that imports of opium would yield an annual revenue of $3,000,000 and arrange to pay this amount in advance for five years; he was furthermore to guarantee this method of payment for a period of ten years to date from the day of the new system of trade coming into operation, payment to be made no matter whether the opium was imported or not. If the Plenipotentiary were willing to agree to this proposal Keying would memorialize the Emperor; but if not, he would drop the scheme.[1] Pottinger naturally characterized the proposal as "utterly impracticable." At the same time he informed Keying that the British Government was willing to forbid opium to be brought into Hongkong, or even into Hongkong waters; but that, in his opinion, "such a prohibition would only add to the evil of the present state of things by forcing those vessels that bring opium from India and other distant countries to go at once with their full cargoes to the harbours and inner waters of China." If the Chinese authorities would expel such vessels, whether English or not, from the harbours and inner waters, a prohibition against bringing opium to Hongkong might do good, but as the Chinese authorities did not prevent their subjects from buying and consuming opium, shutting the port of Hongkong against opium would do more harm than good.[2] The argument is specious but unconvincing. Had the experiment been tried Hongkong would have been poorer, but its reputation would have been cleaner. Contraband, therefore, the trade remained; but in order that there should be no doubt on the matter, Sir Henry Pottinger on 1st August 1843 issued a proclamation warning British merchants that opium was not to be regarded as an unenumerated tariff article which could be imported on a five per cent *ad valorem* basis, and that any merchant acting on that assumption did so at his own risk, and would meet with no support or protection from Her Majesty's Consuls or other officers.[3] That, of course, did not end the matter. The trade took on a new lease of life, founding fortunes for the unscrupulous at the cost of poverty, disease and sorrow to countless thousands of victims. Opium schooners, cutters, and lorchas, with their headquarters at Hongkong which speedily became the opium depot par excellence, continued to run their cargoes,

[1] F.O. 228/24; Pottinger to Aberdeen, enclo. No. 2, in desp. No. 85, 19th July, 1843. B.P.P. *Papers relating to the Opium Trade in China, 1842-1856*, p. 6.

[2] F.O. 17/63; Pottinger to Aberdeen, desp. No. 87; 25th July, 1843. B.P.P. *Papers relating to the Opium Trade in China, 1842-1856*, p. 9.

[3] *Ch. Rep.* Vol. XII; August 1843, p. 446. *vide* Appendix B.

not only to the old stations such as Namoa, Cumsingmoon, Chinchew, and Chinmoo, but also to the outskirts of the treaty ports. Here the foreign opium dealers established receiving ships,[1] well armed in order to protect their precious freight against piratical attacks. From these ships the drug was sold to the Chinese dealers, who conveyed it by swift boats to its treaty port destination where it came under the cognizance of the Taotai, but not of the Consul. On one occasion the owners of the receiving ships at Amoy and Foochow, in dread of piracy, had the effrontery to request that their ships be allowed to anchor inside the harbour, a request which was promptly refused.[2] In season and out of season Davis, like Pottinger, urged the legalization of the trade, as failing strict suppression which the officials were unwilling or unable to enforce, it could only be by legalization that the evils inseparable from this smuggling trade could be got under control.[3] It was more, however, the need of funds to suppress rebellion than the desire to eradicate abuses that led finally to the inclusion of opium in the tariff attached to the Treaty of Tientsin, and to the legalization of the trade by Rule 5 of the Rules of Trade appended to that treaty.[4]

Tariff currency rate. Origin and value of Haikwan Tael. Duty-paying currencies. Canton assay (July 1843) of foreign dollars. Premium on sycee and on Carolus dollars.

§6. The consideration of tariff rates of necessity entailed a decision on the currency in which these rates should be expressed, and how duties should be paid. At that time China could not be said to have a standard national currency. There were, it is true, copper cash—supposed to contain sixty per cent copper and forty per cent alloy of zinc, lead and tin—circulating all over the Empire, but these cash varied in quality and had no uniform exchange value either with the foreign silver dollars, which had come in the train of overseas trade, or with the various Chinese silver tael weights, in which all major business transactions were carried out. Each large trading centre had its own recognized silver tael, no two of which corresponded exactly in weight or fineness. There was then, at each of the five ports to be opened a local tael, used in financing

[1] F.O. 228/65: Davis to Palmerston, desp. No. 23, 20th February, 1847; desp. No. 52, 1st April, 1847.

[2] F.O. 228/67: Davis to Palmerston; desp. No. 70, 1st May, 1847.

[3] F.O. 228/66: Davis to Palmerston; desp. No. 70, 1st May, 1847.

[4] *vide* J. K. Fairbank; *The Legalization of the Opium Trade before the Treaties of 1858.* Vol. XVII, July, 1933 of *The Chinese Social and Political Science Review.*

wholesale transactions and circulating as ingots usually in the shape of "shoes" of about fifty taels weight apiece. As these "shoes" were not only of varying weight but also varying fineness, it was necessary after they had come from the founder's mould, and before they could pass current, that they should be tested by the Public Assay Office or Kung Ku Chu (公 估 局) in order that the exact weight and fineness of each "shoe" might be inscribed on it. At Canton at this time Customs duties were assessed in taels, and were actually paid either in silver ingots or in foreign silver dollars by weight, such ingots or dollars being accepted according to their actual silver content. The tael in use for such payments was that which had been agreed upon in the seventies of the eighteenth century between the East India Company's supercargoes and the co-hong. It was a weight said to be equivalent to 579.84[1] grains of pure silver, and was therefore four grains heavier than the K'uping (庫 平), or Treasury, tael, a money of account supposed to be 1,000 fine with the theoretic weight of 575.8 grains. Before a revenue remittance could be made to Peking of the four-tenths of the collection hypothecated for the Central Government these taels and dollars had to be melted down and the alloy removed so as to produce theoretically pure silver or sycee, which was then remoulded into bars or shoes of specified weight for transmission to Peking. The remaining six-tenths, allowed by the Central Government to be retained for provincial purposes were also nominally melted down. In any case the duty payer was invariably charged a fee to cover the cost of meltage, and as this fee appeared to be one of those undesirable accretions with which the Imperial tariff was burdened, its retention as a recognized fee was objected to.[2] The Imperial Commissioners, however, pointed out that this fee was charged to enable the Government to receive simply what it was entitled to receive, namely so and so many taels of pure silver,

[1] *Sycee: Weight, Value, Touch* Customs Papers No 47 Shanghai 1896, pp. 2, 30, 35.

[2] No clause calling for its abolition was inserted in any of the treaties or regulations drawn up in the eighteen forties. The stipulation for its abolition appears first in the British and French trade regulations (No. 9) annexed to the Treaties of Tientsin That Sir Henry Pottinger acquiesced in the levy of this meltage fee is proved by his letter of 3rd December, 1843 to Consul Henry Gribble at Amoy This letter reads.—

"Sir,

"I have the honour to acknowledge the receipt of your letter No. 3 "of the 13th of last month submitting the result of an investigation "into the currency at Amoy, and stating that the outturn of the "different coins which had been assayed there averaged one tael and "seven mace less than at Canton; but that being anxious to assimilate

and as there was no coin or tael ingot in actual currency which could satisfy this requirement it was essential that a standard should be established, adherence to which would yield the Government its rightful due.[1] The upshot was the creating of a new standard, a tael of account in which at all five ports Customs duties should be assessed, and the pure silver value of which should be clearly established in comparison with local taels and foreign dollar coins. Now, according to general usage in commercial transactions 100 Chinese catties had been for long taken as equivalent to 133⅓ pounds avoirdupois,[2] and as there are 16 taels, or Chinese ounces, to a catty and 16 ounces avoirdupois to a pound, it follows that a tael is equal in weight to one and a third ounce avoirdupois, which is the equivalent of 583·20 grains troy. This was the weight assigned to the new money

"the Amoy standard with that already laid down at Canton, you had "arranged with the local Mandarins for the adoption of the latter at "Amoy, on condition that one tael five mace should be allowed on every "100 taels of sycee silver for refining expenses under the following

	Mace
Charcoal	6
Wages of two men	5
Saltpetre etc	3
House expenses	1
	15

By this arrangement	T	m	c	c
Rupees weighing	109	7	9	0
"Peruvian dollars weighing	111	4	5	5
Mexican	111	9	0	0
Bolivian	112	1	5	0
Chilian	112	5	2	0
Chopped	113	2	0	7

"are to be considered respectively equal to 100 taels weight of sycee "silver in all cases where the Imperial duties may be paid in any of "the above named coins

"The charge for refining at Canton is one tael two mace on every "100 taels of sycee and the difference is so trifling that I readily "sanction your arrangement

"A copy of this letter will be published for general information.

I have, etc,

HENRY POTTINGER."

BPP *Orders, Ordinances, Rules and Regulations concerning the Trade in China*, 1847, p 23 FO 228/31 Gribble to Pottinger, desp No 25 9th March, 1844, reports arrangements completed with authorities for payment of duties

[1] General Regulation VIII, forming part of the Treaty of Hoomunchai stipulated—"In the paying of these duties different kinds of foreign money may be made use of, but as foreign money is not of equal purity with sycee silver, the English Consuls appointed to the different ports will according to time, place and circumstances, arrange with the Superintendent of Customs at each port what coins may be taken in payment and what percentage may be necessary to make them equal to standard or pure silver" Article XVIII of the French Treaty of Whampoa was to the same effect

[2] This practice was not confirmed by treaty till the promulgation of the Rules of Trade appended to the Treaty of Tientsin, 1858; *vide* Rule 4.

of account, the *kuan p'ing liang* (關平兩) or Customs tael and as duties were payable to the Government in pure silver, the Customs banker in receiving such duties was technically bound to demand for every tael due 583.20 grains of silver 1,000 fine. That was the theory, but in actual practice there were divergencies. Article IX of the general regulations forming part of the supplementary Treaty of Hoomunchai stipulated that "sets of money weights prepared in exact conformity to those hitherto in use at the Custom House of Canton and duly stamped and sealed in proof thereof" were to be kept by the Superintendent of Customs as well as by the British Consul at each of the five ports, and that "these shall be the standards by which all duties shall be charged, and all sums paid to the Government". In accordance with this stipulation sets of carefully cast and tested brass weights were sent to each of the ports, and the comparing of these with the troy weights belonging to foreign banking establishments showed that the troy equivalence of the Haikwan tael varied from grains 581.47 to grains 589.[1] But whatever the actual weight may have been, each port was required to accept the Haikwan tael weight sent from Canton as the standard weight by which payments of duty were to be tested. Having reached a conclusion—sufficiently definite to be applicable—on the matter of the weight and fineness of the tael in which Customs duties were to be paid, thereby establishing a standard by which the various local taels when used for duty payments could be tested, the Imperial Commissioners and the British negotiators turned their attention to deciding what foreign dollar coins might be accepted in settlement of Customs duties, and to drawing up a scale showing the relationship of each variety of these dollars to pure silver. At that time Indian rupees, and Peruvian, Mexican, Bolivian, and Chilean whole or clean dollars, as well as broken, or chopped dollars of these varieties, were received by weight by the Customs bank in settlement of duties with the addition of a premium to make them up to sycee or pure silver standard *tsu sê wen yin* (足色紋銀). In practice this

[1] *Sycee: Weight, Value, Touch.* Customs Papers No. 47. Shanghai, 1896; pp. 22–23.

Reports on the Haikwan Banking System, and Local Currency at the Treaty Ports; Customs Papers No. 12, Shanghai; 1879; p. 100.

Currency, Weights, and Measures in China, Customs Papers No. 84; 1906; p. 49.

Actual weighing tests of the Haikwan tael weights carried out at various times and at various ports yielded the following as the troy equivalent of the Haikwan tael—grs. 581.47, 581.55, 581.83, 582.93, 586.13, 587.66 and 589.

premium varied according to the supply of dollars in the market, and that supply was influenced not only by commercial demands but also by the requirements of the provincial treasury. Spanish Carolus and Ferdinand dollars were also in circulation, but as these enjoyed a privileged standing, based on popular prejudice and not on their intrinsic silver value, they would appear, at any rate at Canton, to have been reserved for other purposes than the payment of Customs duties. To establish authoritatively the relation between these various kinds of dollars and the Customs tael it was necessary that an assay should be held in the presence of the British representatives. This was carried out on 13th July 1843 at the Spanish factory by the Kwang Hêng Bank, when rupees, Peruvian, Mexican, Bolivian, Chilean, and chopped dollars in fixed quantities for each coinage were first weighed, then melted down separately, the alloy removed, and the resultant fine silver cast into sycee ingots, each ingot thus representing the pure silver content of the specified quantity of the coinage concerned. The weight of each fine silver ingot was then ascertained, and from this was calculated (*a*) the value of 100 taels weight of each coin (*b*) the difference between 100 taels weight of coin and sycee, and (*c*) the amount in weight of each coinage to be paid to equal 100 taels of pure sycee.[1]

[1] Assay of Foreign Coins by the Shroff or Native Banking House, Kwang Hêng, which took place at the Spanish Factory (Messrs Turner & Co's Hong) Canton on the day, and in the presence of the persons hereinafter specified

Process of the Assay	Assay of 20 new Rupees	Assay of 5 new Peruvian Dollars	Assay of 5 new Mexican Dollars	Assay of 5 new Bolivian Dollars	Assay of 5 new Chilean Dollars	Assay of 5 Dollars cut money
Weighed before melting	Tls. m. c. d. 6 2 0 5	Tls. m. c. d. 3 6 0 0	Tls. m. c. d. 3 5 9 5	Tls. m. c. d. 3 6 0 0	Tls. m. c. d. 3 5 9 5	Tls. m. c. d. 3 6 0 0
Weighed after melting, remelting and cast into a shoe of Sycee	5 6 5 0	3 2 3 0	3 1 9 5	3 2 1 0	3 1 9 5	3 1 8 0
Loss of weight	0 5 5 5	0 3 7 0	0 3 6 0	0 3 9 0	0 4 0 0	0 4 2 0
Value of 100 taels weight of each coin	91 0 8 5	89 7 2 2½	89 8 7 1	89 1 6 7	88 5 7 0	88 3 3 4
Difference between 100 taels weight of coin and Sycee	8 9 1 5	10 2 7 7½	10 1 2 9	10 8 3 3	11 1 3 0	11 1 6 6
Amount of coin to be paid to equal 100 taels of pure Sycee	109 7 9 9	111 4 5 5	111 3 8 0	112 1 5 0	112 5 2 0	113 2 0 7

N B—1 These monies were weighed by the Shroff's weights and the Hoppo's weights are 4 mace 5 candareens per Tls 100 or ½ per cent *heavier very nearly*

2 In addition to the above which merely shows the difference between the money and pure silver will be the expense of melting, re melting etc etc 1 tael 2 mace per Tls 100 or 1½ per cent

Taoukwang, 23rd year 6th moon 16th day (13 h July 1843)

In the presence of Iseen Yenee an officer of the 5th Rank, attached to the Imperial Commissioners Keying, and He Wanhway, Treasurer to the Grand Hoppo of Canton Wan Fang

ROBERT THOM,
Asst Trans and Interpreter to H M's Comm. in China.

CAPT G BALFOUR

With the results of this assay, and with the tested sets of weights sent out by Canton the Customs banks at the ports had sufficient to enable them, if they so desired, to maintain an approximate standard of uniformity for the receipt of duties. Whether these standard weights were consistently employed at each of the Customs banks, and how far the dollar/tael equivalences established by the Canton assay were observed by these banks is another matter. The British Consuls, however, at the various ports made it quite clear to the local merchants that the rates established by the Canton assay were binding. At Foochow the fourth of the local regulations of trade, issued on 26th April 1845 by Consul Rutherford Alcock stipulated that "Payment of duties may be made either in sycee or coined money at the rates already established at Canton".[1] The eighth of the Amoy regulations, published in October 1844, likewise stipulated that the Canton assay was to be enforced,[2] while Consuls Robert Thom and Captain George Balfour at Ningpo[3] and Shanghai[4] respectively, both of whom had taken part in the making of the assay, saw to it that British merchants and Customs banks alike were expected to observe the findings of that assay. As a matter of historical fact we know that they were not observed, so that by 1858, when the Treaty of Tientsin came to be negotiated, Lord Elgin and his advisers—among whom were some who had intimate personal knowledge of Customs banks and their ways—saw fit to insert a clause, Article XXXIII, to the effect that "duties shall be paid to the banker authorized by the Chinese Government to receive the same in its behalf either in sycee or in foreign money, according to the assay made at Canton on the thirteenth of July one thousand eight hundred and forty

[1] B P P *Orders, Ordinances, Rules and Regulations concerning the Trade in China*, 1847, p 43

[2] *Ibid*, p. 35

[3] Ningpo British Consular Circular No 8, dated 13th January, 1844 reads as follows —"Duties will be received in pure sycee silver 98 to 100 touch Custom House weight, with the addition of one tael two mace per hundred taels, expenses for remelting as at Canton, or if the duties be paid in foreign money, the said foreign money will be put through the crucible—for just so much pure silver as it yields, with the addition of T 1 m 2 per 100 Taels for remelting as above

[4] F.O 228/13 Shanghai, desp No 87, 26th December, 1844, encloses British Consular Circular No. 35, dated 25th December, 1844, to the effect—"The regulations in force at Canton and Amoy of paying 1 tael and 2 mace for melting expenses on every 100 taels of duties and dues, leviable by the Chinese Government, are now established at this Port"

three" [1] Questions of weight and fineness, however, had no connection with problems of supply, nor with the speculations of bankers and assayers, and merchants soon found that the purchase of sycee wherewith to liquidate duties called for the payment of a premium At Canton, for instance, in 1845 this premium stood at from 3 to 6 per cent, in 1846 from 8 to 9 per cent, and in 1848 from 7 to 10 per cent, while in Shanghai during 1874 the average premium was 3½ per cent [2] Dollars too were subject to premium or discount due not simply to local market conditions, but also at times to popular fancy for or against a particular coinage The Carolus dollar, for instance in Canton stood at times during the forties at a premium of 12 per cent[3] above the Mexican although weight and fineness of silver content was in favour of the latter.[4] In the early fifties a strong agitation was set on foot to relieve the monetary stringency by forcing the acceptance of Republican dollars at par with Spanish, and on 12th October 1853, in reply to urgent representations from the silk merchants and others, Viceroy Yeh decreed that it was "permitted to use New Dollars at par with the Old in payment of Customs duties, salt taxes and every description of state revenue" [5] In the same year at Shanghai British merchants certified that during the year the Mexican dollar had been at a discount of from 18 to 25 per cent,[6] while in 1857, when Shanghai's trading currency was changed from dollars to taels, the premium on the Carolus dollar stood as high as forty per cent above the Mexican [7] In the same year at

[1] Other assays were made from time to time One carried out at Shanghai in 1855 yielded the following result for the amount of coin to be paid in weight to equal 100 taels sycee—Mexican Dollars Tls 112 1 1 0, Peruvian Tls 111 9 5 7, Bolivian Tls 111 2 5 5, Carolus Tls 110 6 2 2 Rupees Tls 110 7 2 0 and French 5 franc pieces Tls 113 1 5 0 *The Chinese Commercial Guide* 5th ed p 176 A second carried out in Canton on 13th March 1872 of new Mexican Dollars declared to be 90 fine showed that $153 6366 were required to furnish 100 taels of sycee C A I G Circ No 48 of 1875, (Chinese Enclosure No 3)

[2] B P P *Returns of the Trade of the various Ports of China for the Years 1847 and 1848* 1849 pp 18, 39 81

[3] S Wells Williams *The Chinese Commercial Guide*, 5th ed 1863 p 268

[4] F O 228/23 Pottinger to Aberdeen desp No 45 6th May, 1843 Enclo No 2 to this desp gives the result of an essay carried out at Bombay on 17th November 1842 showing that 100 new Mexican (or Republican) dollars yielded in pure silver Tolas 207 3970 as compared with Tolas 206 3571 for 100 Spanish, and that the net return in Company's rupees was 221 727 for the former, and 220 604 for the latter

[5] *Public Documents relating to the Admission into Circulation of Republican Dollars at par with Spanish as decreed by the High Chinese Authorities at Canton* Canton 1853, p 17

[6] F O 228/162 Alcock to Bonham desp No 102 28th December, 1853

[7] S Wells Williams *The Chinese Commercial Guide* 5th ed 1863, p 198

Foochow the Taotai refused to receive duties in Mexican dollars, and in consequence the American Consul permitted American vessels to clear without the Customs grand chop. The Taotai finally agreed to accept duties in Mexican dollars at two per cent discount, and the withheld duties, both on American and British owned consignments by these vessels were paid up.[1] The Governors General of Fukien and Chekiang submitted a memorial to the Emperor suggesting that Mexican dollars should be accepted when tendered in payment of Customs duties, and the Emperor signified his approval.[2] Meltage fees and premia on sycee and dollars were not, however, the only drawbacks that duty-payers, after the signing of the early treaties, had to contend with. At some ports no official assayer was available, so that sycee tendered in payment of duty could be declared to be not up to standard, and make-up claimed accordingly. At other places the weights used by the Customs bankers were not in exact accordance with treaty requirements, or the balances were of a nature that would have been described by a Hebrew prophet as an abomination to the Lord. Then, too, there was the difference between receiving and paying rates, enforced at all Government treasuries and all banks, and varying from a quarter to a half of one per cent. Obviously the dice continued to be loaded against the duty-payer.

Cession of Hongkong to Great Britain and its status as a free port raises question of protection of Chinese revenue. Measures adopted to this end. Failure of these measures.

§ 7. Although Sir Henry had "no predilection for raising a British colony at Hongkong or at any other place in China," military necessity compelled him to change his mind, and to declare that "we must retain at least one such position under our flag and sole authority."[3] The cession of Hongkong, however, to the British as a place where they might "careen and refit their ships when required, and keep stores for that purpose"[4] raised the question which after events have proved to be of vital importance to China, namely what arrangements should be made for the protection of China's revenue, in view of the fact that the island, by notification of 7th June 1841[5] had already been declared by the British authorities as a free port. Captain Charles Elliot, at that time Chief Superin-

[1] F.O. 228/245: Bowring to Clarendon, desp. No. 18, 20th January, 1858, and desp. No. 38, 12th February, 1858. F.O. 17/277: Elgin to Clarendon: desp. No. 101, 26th December, 1857.

[2] F.O. 228/245: Bowring to Clarendon, desp. No. 29, 8th February, 1858.

[3] F.O. 228/18: Pottinger to Palmerston; desp. No. 8, 20th May, 1842.

[4] Treaty of Nanking; Article III.

[5] Ch. Rep. Vol. X. 1841, p. 350.

tendent of trade and Plenipotentiary for Great Britain, had foreseen this difficulty, and in the unratified Treaty of Chuenpi of January, 1841[1] with Keshen (琦善), the Imperial Commissioner, had agreed that "All just charges and duties to the [Chinese] Empire upon the commerce carried on there [*i.e.*, the ceded island of Hongkong, are] to be paid as if the trade were conducted at Whampoa." In order also to reassure Chinese merchants that they would not be subjected, on behalf of the British Crown, to trade charges Elliot had further announced by proclamation on 1st February, 1841[2] that "Chinese ships and merchants resorting to the port of Hongkong for purposes of trade are hereby exempted, in the name of the Queen of England, from charge or duty of any kind to the British Government." This convention, however, was disavowed by the Emperor, and the Imperial Commissioner re-called in disgrace for having consented by it to the cession of Chinese territory.[3] Before it could be known, however, that ratification would be withheld, the British had already, on 29th January, 1841,[4] taken formal possession of the island of Hongkong, and had begun immediately to develop it as a place of residence and of future trade as well as a base for further military operations. The renewal of hostilities in February that year served to emphasise the value of the place, and as the British home authorities on hearing of the acquisition and occupation of the island did not repudiate, although they censured,[5] Elliot's action in this respect, it follows that they tacitly for the time being confirmed that action, even though the cession had not been ratified by the Emperor.[6]

[1] F.O. 17/47: Elliot to Palmerston, desp. No. 5, 21st January, 1841. *Ch. Rep.* Vol. X; 1841, p. 63, p. 119.

[2] F.O. 17/47: Elliot to Palmerston, desp. No. 7, 13th February, 1841. *Ch. Rep.* Vol. X; 1841, p. 64.

[3] *Vide* Memorial of Iliang, Governor of Kwangtung, and Imperial Edict to the Grand Secretariat in 道光朝籌辦夷務始末, Vol. 23, pp. 2-5; also B.P.P. *Correspondence relative to Military Operations in China.* 1843, p. 14.

[4] F.O. 17/47: Elliot to Palmerston, desp. No. 5, 21st January, 1841. Sir Edward Belcher, R.N., C.B.: *Narrative of a Voyage round the World performed in H.M.S. Sulphur during the years 1836-1842, including details of the Naval Operations in China from December 1840 to November 1842*; 2 vols. London. 1843. Vol. II, pp. 147-148.

[5] F.O. 228/18: Palmerston to Elliot, desp. No. 9, 14th May. 1841.

[6] "It appears to Her Majesty's Government that the island of Hongkong ought to be retained." Lord Palmerston to Sir Henry Pottinger; 5th June, 1841. Morse *op. cit.*, Vol. 1, p. 661. When giving instructions to the Elliots in February 1840 Lord Palmerston had pointed out the desirability of taking possession of an island or islands on the China coast, and had stated that instead of the cession of such an island the British Government would be prepared to accept a treaty guaranteeing security and freedom of commerce. Morse *op. cit.*, Vol. 1, p. 628; p. 638.

Free trade principles, however, as well as distrust of Chinese Customs methods and levies were too deeply ingrained in the British trading community to permit of the establishment on the island of an agency for the collecting of Chinese Customs dues and duties. The clause, therefore, of the unratified Treaty of Chuenpi, which points to some such arrangement, speedily became a dead letter. Then followed Elliot's official notification of 7th June, 1841 declaring Hongkong to be a free port, at which there would be no charges on imports and exports payable to the British Government, nothing being said about the "just charges and duties" payable to China. That such a declaration placed China in a most disadvantageous position was recognized even by Lord Palmerston, whose strong pro-British attitude no one can question. It amounted almost to an open challenge of China's revenue rights, for in those days of mercantile buccaneering everyone knew that, while the British Government could not and would not support clandestine trading, yet the arbitrary opening of the free port on China's own coast in close proximity to large trading centres could not but lend facilities to those who were bent on evasion of China's dues and duties. Palmerston clearly understood the situation, for although he censured Elliot severely for not carrying out orders,[1] yet when giving instructions to Sir Henry Pottinger, who had been chosen to replace Elliot, he drew the attention of the departing Envoy to specific instances in Europe where the practice obtained of one Power allowing Customs duties to be collected in its territory by the agents of another Power on behalf of the Government of the latter, and admitted that in the case of Hongkong "British commerce might be much encouraged, if goods which had once been landed at Hongkong could be carried from thence to any Chinese port without being liable to any further payment on account of duty; and the Chinese Custom House officers in Hongkong would be less likely than the Chinese authorities at other ports to attempt to levy exorbitant and illegal duties."[2] The final settlement of this issue was left in the hands of the Plenipotentiary, with the proviso that whatever arrangement should finally be made it was to be embodied in a treaty properly ratified by the Emperor of

[1] F.O. 228/18; Palmerston to Elliot; desp. No. 7, 3rd May, 1841; desp. No. 9, 14th May, 1841.

[2] F.O. 17/51; Palmerston to Pottinger, desp. No. 16, 31st May, 1841; quoted in Morse, *op. cit.*, Vol. 1; p. 658.

China. In the meantime the Plenipotentiary issued a notification on the 16th February 1842 that, pending Her Majesty's pleasure, Hongkong and Chusan were to be considered as free ports.[1] Sir Henry Pottinger, however, soon found that local feeling and opinion among the British traders were against any arrangement by which Chinese Customs officials should be permitted to function on the ceded island of Hongkong for the collecting on China's behalf of dues and duties from foreign vessels trading with the newly opened treaty ports.[2] It was thought that enough had been done to aid China in the suppression of smuggling by British vessels (1) by the British Government's placing of a Consul at each of these ports "to strictly watch over and carefully scrutinize the conduct of all persons being British subjects trading under his superintendence," with strict instructions to apprise instantly the Chinese authorities of any smuggling transactions coming to his knowledge, and (2) by the issue of a proclamation to all British merchants peremptorily informing them that as a fair and regular tariff was now in force all smuggling transactions must cease.[3] As, however, British Consular and other authorities had no jurisdiction over Chinese subjects and Chinese vessels, and as the presence of the free port of Hongkong, a huge depot of duty-free goods, would afford Chinese merchants unlimited opportunities of illicit trade, especially in opium, it was recognized that in all fairness some arrangement would have to be made which would enable China to protect her revenue rights, and remove the reproach that the British by retaining Hongkong as a free port were deliberately providing facilities for Chinese merchants and shipowners to flout their own Government and to carry on clandestine trade. Accordingly, in the Supplementary Treaty of Hoomunchai it was stipulated (1) that Chinese vessels trading between the treaty ports and Hongkong must be provided with a special pass, valid for one trip only, to be issued by the Customs authorities at the port from which the vessel cleared for Hongkong; (2) that a British official would be appointed at Hongkong to examine the registers and passes of all Chinese vessels; (3) that any Chinese vessel found without a pass or register would be considered as an unauthorized or

[1] F.O. 228/18; Pottinger to Palmerston; desp. No. 38, 3rd September, 1842. *Hongkong Gazette*, Vol. 1, No. 10, 26th February, 1842.

[2] B.P.P. *Papers relating to the Colony of Hongkong*; 1857; p. 36.

[3] Supplementary Treaty of Hoomunchai (1843); Article XII. *Ch. Rep.* Vol. XII; 1843; p. 224.

smuggling vessel, would not be allowed to trade, and would be reported to the Chinese authorities; (4) that the Customs authorities at each port should render to Canton a monthly return of the passes granted to Chinese vessels proceeding to Hongkong, with details of the cargoes carried, that these separate port returns should every month be embodied in one return sent to the proper British official in Hongkong, and that similarly the British official in Hongkong should render similar returns to the Chinese authorities at Canton of all Chinese vessels arriving at and departing from Hongkong with details of their cargoes. such returns to be transmitted by the Canton authorities to the Customs officials at the ports concerned.[1] It is significant that in the Chinese, but not the English, text of Article XIII of this Hoomunchai treaty there is a final clause which rules that Chinese merchants residing at non-treaty ports in the provinces of Canton, Fukien, Kiangsu, and Chekiang are not to be permitted to ask for passes for vessels to trade between such non-treaty ports and Hongkong, and if any vessel should violate this ruling the British official and the Kowloon magistrate are jointly to investigate the case and report. The fact that this clause does not appear in the English text indicates clearly the desire of the Chinese authorities at that time to exclude even Chinese vessels from the privilege of trading between Hongkong and ports not opened to foreign trade.[2] These treaty stipulations, which with good will and effective organization on each side could have been made a success, soon

[1] Supplementary Treaty of Hoomunchai (1843); Articles XIII, XIV, and XVI "The only articles of the Treaty that seem to me to require the smallest explanation are XIII, XIV and XVI The former is obviously introduced by the Imperial Commissioner with the object of checking smuggling, and I was very glad to accede to any plan for doing so I thought it better to consent to the provisions of the other two articles (XIV and XVI) than to have any officer on the part of the Chinese Government *stationed at Hongkong—at least for a time—in the light of a Consul, which* was the only other alternative that occurred to me besides the one I have adopted to meet the Imperial Commissioner's wishes The duty provided for by these articles will I should imagine, be easily hereafter discharged without difficulty or any great degree of trouble, by a single Chinese linguist in our service under the guidance and supervision of the future Reporter of External and Internal Commerce and Collector of Sea Duties, and until such an Officer shall be appointed to the Colony, I intend to entrust it to the Harbour Master's Department" F O. 17/70. Pottinger to Aberdeen, desp No 143; 3rd November, 1843

[2] Sir John Davis considered this clause in the Chinese text as "little better than an act of fraud on the part of the Chinese negotiators" F.O 228/67· Davis to Palmerston, desp. No. 142, 11th August, 1847. Davis however, brings forward no proof for this sweeping assertion

became a dead letter. The foreign inspectorate of Customs had not yet been established, and there was no centralizing and coordinating Customs organization to see that the Customs officials at the treaty ports should try to make the arrangement work. It was natural too that the Chinese authorities should not actively encourage trade in native bottoms between the new treaty ports, opened at the point of the bayonet, and this foreign free port on their own coast, which had been torn from them by force. There is good evidence that they discouraged it by charging heavy fees for the passes required by the treaty. But the Hongkong officials and trading community were equally shortsighted. In spite of the lack of encouragement from the Chinese authorities, trade in Chinese vessels between the treaty ports and Hongkong did spring up, and probably, if it had been given a fair chance, would have grown and prospered with the development of the colony. It was killed for the time being, however, partly by the attitude of the Chinese authorities, partly by the determined opposition of the British traders who strongly objected to the using of the Hongkong harbour police as agents for the protection of China's revenue, partly by the exactions of these police, and of the agents of the opium farmer, and partly by the cramping fiscal policy of the second governor of the colony, Sir John F. Davis, who believed in raising revenue by all manner of restrictive fees, auction duties, and farming monopolies, a policy which during the early years of the colony effectively strangled trade in native vessels.[1] By the spring of 1847 when the Select Committee of the British House of Commons was in session, this system of passes for Chinese vessels had already fallen into disuse.

Differences between the British, the American, and the French treaty tariff schedules.

§ 8. There are important differences[2] between the British Treaty of Nanking of 1842 and the American Treaty of Wanghea of 1844, such as the insertion in the latter of more clearly defined extraterritoriality clauses (Articles XXI and XXV), and of clauses stipulating that vessels departing within 48 hours without having broken bulk are not liable to tonnage dues (Article X), that vessels under 150 tons

[1] B.P.P. *Report from the Select Committee on Commercial Relations with China.* 1847; pp. 159, 161, 203, 250-252, 385, and 451.

[2] For an examination of these differences, drawn up by the American negotiator himself, *vide* Mr. Cushing's despatch transmitting the treaty to the U.S.A. Secretary of State, cited in *Ch. Rep.* Vol. XIV, 1845, pp. 555-557.

are to pay only one mace per ton in tonnage dues (Article VI), that vessels may proceed with the residue of their import cargo from one treaty port to another without second payment of tonnage dues (Article VI), that imports having paid duty at one port may be sent duty-free to another (Article XX), and that citizens of the United States trading in opium or any other contraband should be dealt with by the Chinese Government without the protection of the Government of the United States (Article XXXIII). None of these differences, however, relate to the tariff rates. In fact, the tariff of the American treaty, so far as the rates are concerned, is, with the single exception of the import rate for lead,[1] which is reduced from Tls. 0.40 per picul of the British to Tls. 0.280 per picul, an exact reproduction of the British one, although it differs from the latter (*a*) in following the Chinese arrangement of grouping the articles of trade into appropriate classes, (*b*) in specifying that every picul of foreign ginseng imported should be considered composed of one-fifth superior quality and four-fifths inferior quality, and (*c*) in the definite mention of opium as being contraband. The rates for transit dues were also to be the same as those agreed upon by the British treaty, the article on this subject stipulating that "imported goods on their re-sale or transit in any part of the Empire shall be subject to the imposition of no other duty than they are accustomed to pay at the date of this treaty."[2] The tariff appended to the French Treaty of Whampoa, 1844, also, so far as export rates are concerned, followed faithfully the British treaty tariff, but arranges the articles specified as in the American tariff. There are however, a few characteristic differences in the import rates. Cloves are divided into three qualities instead of two, the rate of the first being the same as in the British and the American tariffs, while the rate for the second is one tael per picul, and for the third quality two mace five candareens per picul. Canvas is rated at one mace per piece instead of five mace, and the rates on wines are reduced to exactly one-fifth of those

[1] The import of this article, used for lining tea chests, was practically a monopoly in the hands of American traders. Mr. Cushing, the American Plenipotentiary, was of opinion that four mace a picul was an exorbitant rate. R. Montgomery Martin; *China, Political, Commercial, and Social, in an Official Report to Her Majesty's Government.* 2 Vols. London, 1847. Vol. 1, p. 427.

[2] Art. XIII. American Treaty of Wanghea, 1844. *Treaties, Conventions, etc., between China and Foreign States*, p. 682. Customs publications. 2nd Edition, Shanghai, 1917.

fixed by the British and the American tariffs. By virtue of the most favoured nation clause these reduced rates of both the American and the French tariffs were applicable also to British importations of the articles concerned.[1] The rates for transit dues, according to the French treaty, were to be the same as those accepted by both the British and the American treaties, but the French negotiators thought it wise to add the saving clause, which does not appear in the other two treaties, that such dues shall not be liable to any future increase.[2] It is thus abundantly clear that the tariffs sanctioned by China's three early treaties with Great Britain, America and France were not constructed on a strict five per cent *ad valorem* basis, but were evolved from the officially authorized tariffs which had originally been drawn up by the Chinese authorities themselves, and which were actually in force when the new tariff came to be worked out.

Nanking treaty provides for British Consular intervention in prevention of smuggling.

§ 9. As already indicated there was one striking omission from the early treaties with Great Britain. All the world knows it was the contraband trade in opium which played so large a part in bringing on the war of 1839-1842 by which the first five treaty ports were opened to foreign trade. In spite of Imperial edicts absolutely forbidding the importation of the drug, and in spite of the fact that since the middle of the eighteenth century up to the signing of the Treaty of Nanking foreign trade was permitted at Canton alone, lawless traders, who in many cases were more buccaneers than merchants, had pushed right up the coast of China—even as far as the Liaotung peninsula[3]—carrying on wherever the conditions were favourable an active smuggling trade, mostly in opium, but also in foreign piece goods and sundries as well as native produce. Apart from the imposing of an indemnity for the destruction of the opium now ordered this contraband trade in opium—to the surprise of many Chinese who thought that the victors would have insisted on legalizing it—was not dealt with by the Treaties of Nanking and Hoomunchai. Sir

[1] Art. XIII of Supplementary Treaty of Hoomunchai 1843; *Treaties and Conventions*, *op. cit.*, Vol. I, p. 393.

[2] "Lesquels droits ne seront susceptibles d'aucune augmentation future" Art. VII, French Treaty of Whampoa, 1844. *Treaties and Conventions*, *op. cit.*, Vol. I, p. 774.

[3] Auber; *op. cit.*, pp. 359-361. Davis; *op. cit.* Vol. 1, pp. 116-117. Ch. *Rep.* Vol. 3; February, 1834; p. 474.

Henry Pottinger, however, as we have seen, made it unmistakeably clear by proclamation that the trade remained illegal according to the laws of China, and that any British merchant engaging in that trade in China would receive no protection in that respect from the British Government.[1] On the smuggling of legitimate articles of trade he was no less explicit. On this subject he issued two proclamations, one on 15th April 1843[2] and the other on 22nd July of the same year, when announcing the conclusion of the Treaty of Hoomunchai. In the former he deprecates "the shameless and disreputable system of wholesale smuggling—a system which were it overlooked and permitted, would not only speedily sap and destroy the existing foundation of all legal traffic, but would render absolutely nugatory every exertion and arrangement that may be made, or may be attempted to be made, to put such legal traffic on a firm, regular and respectable footing." He then adds that the Chinese authorities can count on his assistance, within the terms of the treaty, in stamping out this illegal trade, and that smugglers and their vessels would not receive protection in the harbour of Hongkong,—a statement which reads strangely in the light of after developments. In the second proclamation, after announcing the conclusion of the treaty and appealing to all British merchants to abide by its provisions, he proceeds to announce "that he is determined by every means at his disposal to see the provisions of the commercial treaty fulfilled by all those who chose to engage in future in commerce with China; and that in any case where he may receive well-grounded representations from Her Majesty's Consuls, or from the Chinese authorities, that such provisions of the Commercial treaty have been evaded (or have been attempted to be so) he will adopt most stringent and decided measures against the offending parties, and where his present powers may not fully authorize and sanction such measures as may seem to him fitting, he will respectfully trust that the legislature of Great Britain will hold him indemnified for adopting them in an emer-

[1] *Ch. Rep.* Vol. XII; 1843; p. 446. Article XXXIII of the American Treaty of Wanghea (1844) stipulates that Americans trading in opium shall be subject to be dealt with by the Chinese Government without being entitled to any countenance or protection from that of the United States of America. The import tariffs annexed to both the American and the French treaties specifically cite opium as contraband, while the tariff schedule attached to the British treaty makes no mention of it whatsoever.

[2] F.O. 228/23: Pottinger to Aberdeen; enclo. No. 2 in desp. No. 34, 17th April, 1843. *Ch. Rep.* Vol. XII, 1843, p. 224.

gency directly compromising the national honour, dignity, and good faith in the estimation of the Government of China, and in the eyes of all other nations."[1] The Treaties of Nanking and of Hoomunchai bring out very clearly the existence of this smuggling trade, and lay down some of the preventive measures that were to be put into force for its suppression. Much to the disgust of some of the British merchants these preventive measures were not to be taken by the Chinese authorities alone. By Article II of the Treaty of Nanking—an article which, as we have seen, has no parallel in either the American Treaty of Wanghea or the French Treaty of Whampoa—and by regulation 15 of the General Regulations of Trade forming part of the Supplementary Treaty of Hoomunchai, British Consuls had placed upon them the duty of seeing "that the just duties and other dues of the Chinese Government—are duly discharged by Her Britannic Majesty's subjects," and of acting as "security for all British merchant ships entering any of the aforesaid five ports." But it was Article XII of the Treaty of Hoomunchai that crossed the "t"s and dotted the "i"s. That article expressed the hope that the smuggling which had flourished in the past—often with the connivance and collusion of the Custom House officers—would cease. It intimated that "the British Plenipotentiary will instruct the different Consuls to strictly watch over and carefully scrutinize the conduct of all persons being British subjects trading under his superintendence. In any positive instance of smuggling transactions coming to the Consul's knowledge he will instantly apprise the Chinese authorities of the fact, and they will proceed to seize and confiscate all goods—whatever their value or nature—that may have been so smuggled, and will also be at liberty, if they see fit, to prohibit the ship, from which the smuggled goods were landed, from trading further, and to send her away as soon as her accounts are adjusted and paid." That this article was meant to be taken seriously is evident from the instructions given by the British Plenipotentiary in July 1843 to Mr. G. Tradescant Lay, when appointing him as Consul at Canton. On that occasion Sir Henry Pottinger wrote:—"Should you obtain positive and incontrovertible proof that any British merchant ship on the river has been, or is, engaged in smuggling, or evading the payment of the just dues of the Chinese Government as laid

[1] B.P.P. *Orders, Ordinances, Rules and Regulations concerning the Trade in China* 1847; p. 6: also quoted in *Ch. Rep.* Vol. XII; 1843; p. 391.

down in the tariff and regulations of trade, you will take immediate measures for intimating the same to the Chinese high officers of Customs, in order that they may, if they think proper, put a stop to such vessel either landing or shipping further cargo, as the case may be; and you will likewise apprise the master, owner or consignee of such ship of the steps you have taken, and will acquaint them that any attempt to carry on their smuggling practices, or to trade in any shape, by force, in opposition to the wishes and directions of the Chinese authorities, will oblige me to have such ship removed from the river.[1] Similar instructions *mutatis mutandis* were issued to the Consuls appointed to the other four treaty ports. As we shall see, adherence to these instructions brought some of the British Consuls into sharp conflict with their nationals, and ended at last, after a decade of trial, in a complete breakdown of this Consular system of trade control, and the devising of another *modus operandi*, which in turn developed naturally into the Maritime Customs Service.

Preventive stipulations in early treaties. Chinese preventive laws in force at time of signing of treaties.

§ 10. Aside from the direct Consular intervention of the British Consuls to see that their nationals paid their just dues and duties, and did not engage in smuggling practices, and apart from the special stipulations in the Treaty of Hoomunchai to control the trade carried by Chinese junks between Hongkong and the five open ports, the preventive measures sanctioned by the early treaties may be summarized as follows:—

(1) China to depute one or two trusty Customs officers to every vessel on entry at a port to watch against frauds on the revenue. (Br. Gen. Reg. 2; Am. Wg. 9.)

(2) Captain of vessel within 24 hours of arrival to deposit ship's papers with his Consul. Penalty for non-observance imposable by Consul on China's behalf, $200. (Br. Gen. Reg. 3; Br. Hoomun. 3; Am. Wg. 10, [48 hours: no fine]. Fr. Whp. 13, [48 hours: fine of $50 for each day's delay up to a maximum of $200.])

[1] F.O. 228/24: Enclo. No. 5 in desp. No. 88: Pottinger to Aberdeen; 26th July, 1843; B.P.P. *Orders, Ordinances, Rules and Regulations concerning the Trade in China* 1847; p. 8: also quoted in *Ch. Rep.* Vol. XIII; 1843; p. 393.

(3) Captain to present manifest. Penalty for false manifest, imposable by Consul on China's behalf, $500. (Br. Gen. Reg. 3; Br. Hoomun. 3; Am. Wg. 10, [no fine.])[1]

(4) Captain or consignee of vessel to obtain from Customs general permit to discharge. Penalty for breaking bulk before obtaining permission, imposable by Consul on China's behalf; $500 and confiscation of goods so discharged. (Br. Gen. Reg. 3; Br. Hoomun. 3; Am. Wg. 10; Fr. Whp. 13.)

(5) No transhipment of goods without permission. Penalty for illicit transhipment of goods; confiscation. (Br. Gen. Reg. 11; Am. Wg. 14; Fr. Whp. 20.)

(6) Vessels not permitted to trade at places not opened by treaty. Penalty for violation of this rule; confiscation of both vessel and cargo. (Br. Hoomun. 4; Am. Wg. 3; Fr. Whp. 2, [Cargo alone confiscable.]; [American offender also liable to be dealt with by law of China; Wg. 33.])

(7) Smuggling at treaty ports. Penalty, confiscation of goods; prohibition of vessels implicated from further trading. (Br. Hoomun. 12; Fr. Whp. 8.)

(8) Fraud in connection with duty-paid imports re-exported from one treaty port to another. Penalty, confiscation of goods. (Am. Wg. 20; Fr. Whp. 17.)

(9) Trading in contraband. Penalty; offender to be dealt with according to law of China. (Am. Wg. 33.)

It must not be supposed that this treaty preventive law, if it may be dignified with such a title, was called into existence because there was a lack of such law in China at the time. There was in fact no such lack. In the first place, at every Custom House on the coast and on the interior waterways, which had been functioning for centuries before the coming of the modern foreign trader, there had gradually grown up a body of regulations, prohibitions, penalties, etc. to meet local conditions and requirements, some of them based on Imperial Edicts,

[1] It was not till 1863, several years after the signing of the Treaties of Tientsin, that the American Government agreed to the imposition of a fine for the presentation of a false manifest. On 22nd October that year the U.S. Consuls were notified by despatch from their Legation that, pending reference to Washington, American Consuls were to follow the terms of the British treaty in the case of false manifests. Seward, then Secretary of State, ratified this arrangement by a despatch dated 29th February, 1864 C.A.: I.G. Circs. No. 10 of 1867 and No. 24 of 1868.

or instructions from the Hu Pu (戶部) or the Kung Pu (工部), or orders from the higher provincial authorities, but most of them embodying the decisions given by the local Taotai or Superintendent of Customs. This was, and claimed to be nothing more than, case law applicable as a rule only within the jurisdictional area of the authority issuing the proclamation. But in the second place, in addition to this local Customs law, there was the law of the land, promulgated by the Central Government and applicable throughout the length and breadth of the Empire. At the time of the signing of the early treaties the national law in force was the revised and enlarged version of that originally issued by the Emperor Shun Chih (順治) in the third year of his reign, 1647, and known as the Ta Ch'ing Lü Li (大清律例), or Penal Code of the Ching dynasty. In this code the whole of book V in the third division of the work, which deals with fiscal laws, is devoted to the subject of duties and Customs. Of the eight sections composing book V three deal with the subject of salt, the measures to be taken for the prevention of clandestine trading in that article, and the punishments to be meted out to those who violate the law by unauthorized manufacture, transport, or sale of salt. Another section deals with the clandestine sale of tea, and yet another with the illicit manufacture and sale of alum. Then follows a section on the evasion of Customs duties or smuggling in general, and here we find that offenders could be punished with fifty blows of the bamboo and forfeiture of half the value of the goods smuggled, three-tenths of such forfeiture being given as a reward to the informer, but no reward being issuable to the Customs officer if the seizure were effected by him when on regular duty. As a comment on this it may be noted that punishment for offences against the revenue were often in reality much heavier than those actually cited in the Code. Fines of one hundred times the duty were not unknown, while confiscation and destruction of a confirmed smuggler's vessel was not an infrequent punishment. The next section enjoins upon owners and masters of merchant vessels the necessity of presenting at the Customs a full and true manifest of all the goods on board, so that the duties payable thereon may be assessed. Should a merchant fail to send in a manifest, or should he send in a false or defective one, he was to be punished with a hundred blows of the bamboo and the forfeiture of all the goods not reported. The receiver of non-reported goods was likewise to be punished, presumably by the bastinado. The

reward to an informer in the case of a false manifest was Tls. 20. The final section of book V deals with arrears of duties, all of which had to be made good within the year in which they were due. Defaulters were to be punished with blows of the bamboo, from a minimum of forty to a maximum of eighty according to the extent of the default. The Superintendents of defaulting Custom Houses were also to be punished, but in their case the number of blows ran from fifty to one hundred. Customs clerks found guilty of rendering false accounts were to be punished according to the law governing the embezzlement of public funds.[1] It was the inclusion of the extraterritoriality clauses in the early treaties which ruled out the applicability to foreign vessels and foreign traders, enjoying this extraterritorial status, of the provisions of China's preventive law as found in the Ta Ch'ing Lü Li and in the regulations and procedure in force at the various Custom Houses. It was the existence too of these extraterritoriality clauses which made it necessary to include in the treaties those provisions which we have designated as the treaty preventive law. If foreign traders and their vessels were to be removed from Chinese jurisdiction, common sense and justice demanded that, unless the trade they carried on was to become utterly lawless, special arrangements were necessary by which that trade should be controlled. The truth of this soon became evident. The signing of the treaties did not put an end to smuggling. On the contrary, as we shall see, during the period 1843 to 1854, that is from the signing of the treaties to the establishing of the system of foreign Inspectors of Customs at Shanghai, clandestine trading generally and the running of opium in particular flourished like a green bay tree.

Treaty tariff of Nanking and China's tariff autonomy.

§ 11. It is probably no exaggeration to say that when the Chinese Plenipotentiaries signed the British Treaty of Nanking, they were not fully cognizant of its implications. They did not in all likelihood realize that they were signing away China's tariff autonomy, and thereby laying up much trouble in store for their country. Nor, for the matter of that, was there any deep-laid plot on the part of the British negotiators to infringe on China's sovereign rights beyond the arrangements

[1] For an English translation of this Penal Code, *vide* Sir. G. T. Staunton: *Ta Tsing Leu Lee, being the Fundamental Laws and a Selection from the Supplementary Statutes of the Penal Code of China; etc.* London; 1810.

called for by the circumstances of the time. The tariff and trade arrangements embodied in the treaty were "not adopted as a sinister means of controlling the fiscal policies of the Chinese Government, but merely as a *modus operandi* devised to meet and remedy a condition which had become a fertile source of friction in the relations of China and the Powers, due to the uncertainties connected with the rates and the methods of collecting duties under the then existing tariffs."[1] Tariff autonomy in those days, even in Europe, was not a doctrine embodying the same significance as it has in these days of pronounced nationalism. In China such a doctrine was then little thought of, if at all. Tariffs, of course, were for the Government to decide, usually on the recommendation of the provincial authorities, and for these latter authorities to interpret and apply. Their *raison d'être* was to provide funds both for the Imperial and the provincial treasuries. They were not an expression of any definite international trade policy, or of any scheme, vague or defined, for the protection of China's domestic industries. These industries throve in providing goods for the home markets, and whatever surplus of their products went abroad was on the whole advantageous both to the traders and to the Government. China's traditional isolation was still at that time not only geographical and intellectual, but also commercial, and in consequence foreign trade played an insignificant role in the business life of the country generally. Such foreign trade as did exist was very small compared with the country's domestic production, while what China actually did sell to foreigners she did not herself export, but passively waited for the outsiders to come and buy. The same held true for imports; they had to be energetically pushed.[2] In the eyes of Chinese statesmen, such foreign trade was not vital to their country's interests, whatever it might be to the foreign countries whose traders persisted in the face of every discouragement in carrying it on. In

[1] Mr. Kellogg, Secretary of State to the U.S.A. Government, in a speech of 2nd September, 1925 at Detroit before American Bar Association. Quoted in *The Times* (London), 3rd September, 1925.

[2] "They will not advance towards foreigners to seek their trade, until foreigners have pressed it on them. Foreigners must provide the means of bringing different parts of the Empire into close communication. and they must also to a certain extent create the wants which they wish to supply by offering their goods and "introducing" them to their customers. Commerce everywhere requires to be energetically pushed to be successful, and this is peculiarly true of the trade in foreign manufactures in China." *Report of the Delegates of the Shanghai General Chamber of Commerce on the Trade of the Upper Yangtse*; Shanghai, 1869. p. 50.

such circumstances tariff reciprocity in the modern sense was not thought of. On the one side stood the victors dictating terms, claiming in tariff duties fixed and moderate rates, and in other matters equality, while on the other side were the vanquished, who indeed recognized reciprocity as a philosophical ideal commended by the greatest of their sages, but who as yet not being anxious to foster foreign trade saw no necessity of invoking the aid of reciprocity to drive a tariff bargain. When, therefore, these importunate foreign traders at the point of the bayonet demanded that in future there should be for foreign trade an up-to-date tariff with clearly stipulated rates, it probably seemed to the Chinese Plenipotentiaries to be a matter of relatively little importance, and that in acceding to this demand they were not sacrificing their country's interests, either as regards tariff autonomy or reciprocal tariff treatment, provided the rates of that tariff were such as to ensure a satisfactory revenue, and provided the application of the tariff with the collecting of the revenue remained in China's hands. The imposition on China of this treaty tariff may have been unjust, but its enforcement from the point of view of revenue, at any rate up to the days of the Taiping Rebellion, was a success. We have the evidence of the *Peking Gazette* that the actual amount of revenue collected at the five ports, even under a lax administration, came as a surprise to the higher authorities at Peking. In 1847 that journal reported that the receipts at the five Custom Houses had increased so much that not only were the arrears liquidated, but there was a surplus of from 1,200,000 to 1,400,000 taels. The writer goes on to point out that it is very evident the State had not paid sufficient attention to this branch of revenue. "The laws are lax or not apposite; smuggling and other evils greatly diminish the proceeds, and hence a reform is indispensably necessary."[1] Half a century, however, was to pass before the desperate need for funds caused by the China-Japan war of 1894-95 at last fully awakened the Chinese authorities to a realization of the fiscal fetters that had first been forged on them by the conventional tariff of the Treaty of Nanking. It required a further period of thirty-five years, during which China and the whole civilized world were subjected to cataclysmic experiences radically altering all international relations

[1] F.O. 228/67: Davis to Palmerston, desp. No. 140, 7th August, 1847: enclo. translation from the *Peking Gazettes*.

and men's ideas of such relations, before China could regain the fiscal freedom her Plenipotentiaries had so unwittingly signed away in 1842.

Abolition of ship's measurement fees. Substitution of tonnage dues. Passing of Co-hong.

§ 12. Besides doing away with the unauthorized levies on goods the new treaty tariffs made a clean sweep also of the notorious measurement fees[1] levied on each ship, which varied from $650 for the smaller ships to $3,000 for a vessel of about 1,300 tons, and of all the other numerous and burdensome exactions which had accreted under the heading of ship dues, such as entrance fee, clearance fee, grain commissioner's fee, tide-waiter's fee, gratuity to Hoppo, collector's fee, and at least nine other charges of like nature. By the thirties of the nineteenth century these irregular charges, apart from the regular measurement fees, had become consolidated into a fixed levy of Taels 1950 exacted from practically every ship, and was the subject of repeated but unavailing protests from its victims.[2] The oppressiveness of these combined regular and irregular ships fees may be gauged from the fact that for many years prior to the ratification of the Nanking treaty they amounted on the average to over six taels per registered ton, an exorbitant levy when it is remembered that nothing was provided in return in the form of aids to navigation or harbour and docking facilities. Writing in January 1843 to the Chinese Imperial Commissioner Sir Henry Pottinger drew attention to this, pointing out that "after the tariff and import and export duties, the anchorage or harbour charges are to be settled, and the most simple mode that occurs to me of doing this is to name a certain sum per ton on the registered burden of every vessel (above a certain size) that may enter the ports. In considering the anchorage and harbour charges, it is to be borne in mind that the government of China has hitherto done nothing towards facilitating commercial intercourse by building lighthouses, laying down buoys or moorings, and erecting beacons, and therefore it necessarily follows that these charges should be exceedingly light and equally well defined as the duties."[3] Thorough reform in

[1] *Ch. Rep.* Vol. II, November 1833, pp. 302-303: Wm. C. Hunter, *The Fan Kwae at Canton*, 2nd edition, Shanghai, 1911, pp. 99-100.

[2] P. Auber; *China: An Outline of its Government, Laws and Policy; etc.* London, 1834; pp. 148, 162, 163, 166-168, 174, 202, and 319.

[3] F.O. 17/66, Pottinger to Aberdeen, desp. No. 7, 6th February, 1843. Memorandum of 21st January, 1843 from Sir Henry Pottinger to Imperial Commissioners; *Ch. Rep.* Vol. XII; 1843; p. 45.

the matter of these shipping dues was clearly indicated, and that reform, it was finally agreed, should take the shape of abolition of all measurement, entrance, clearance, and other fees then in force, and of substituting for them a uniform levy of five mace per registered ton, the ton being regarded as equal to the cubic content of one hundred and twenty two tou (斗), which was taken as equivalent to the English standard ton.[1] Accordingly in July 1843 a proclamation was issued by four of the highest Chinese authorities then at Canton—the High Commissioner, the Viceroy of the Liang Kwang, the Governor of Canton, and the Superintendent of Customs abolishing for foreign shipping the old system of measurement by which a vessel's capacity was gauged according to its number of chang (丈), the number of chang being calculated by taking the vessel's length between the fore and the mizzen masts, multiplying this by its breadth amidships and dividing the product by ten.[2] In the Supplementary Treaty a modification was introduced (Article XVII) by which smaller vessels under 150 tons register plying between Hongkong, Canton and Macao, if not carrying dutiable articles should be exempt from tonnage dues, but if carrying dutiable articles should be liable to a levy of one mace per ton every trip, the minimum charge being fixed at seven and a half taels, and the maximum at fifteen taels. Any vessel over a hundred and fifty tons was to pay at the five mace rate. Similar stipulations were embodied in the American Treaty of Wanghea (Articles VI and VII) with the additional provision that a vessel having paid tonnage dues at any one of the five treaty ports and having occasion to proceed to any other of the said ports to complete the disposal of her cargo should not be called upon to pay such dues a second time. The French Treaty of Whampoa repeats these stipulations (Article XV), but states explicitly, what is clear only by inference from the clauses in the British and the American treaties, that a vessel shall be liable to tonnage dues only once for each trip from a foreign country to China.[3] Elipoo, who died on the 4th March 1843,[4] during the negotiations put in a plea for the retention of the Chinese hong merchants, to which Pottinger

[1] C.A.: I.G. Circs. Nos. 16 of 1870 and 18 of 1870.

[2] This system of ship measurement was up to recently still in force at certain Native Customs establishments for the calculation of junk dues.

[3] Tout navire français ne devant en être passible qu'une seule fois à chacun de ses voyages d'un pays étranger en Chine". Article XV. French Treaties 1844. *Treaties & Conventions; op. cit;* Vol. I, p. 778.

[4] F.O. 17/66 Pottinger to Aberdeen, desp. No. 14, 10th March, 1843.

replied that he had no objection provided it was recognized that they had no official status, that they should not be fixed in number so as to create a monopoly, that the goods of any country or vessel should not in future come in rotation under the management of this or that hong merchant, and that British merchants should be left absolutely free to choose to whom they would give their business.[1] The co-hong as an official body disappeared, its constituent members remained as private brokers.

Trade depression of eighteen forties not due to Customs duties in China.

§ 13. These trade liberating treaties and their annexed tariffs, however, did not at once prove what their framers and the foreign merchants expected them to prove, the "Open Sesame" to a wonderland of unlimited trading possibilities. Expectation, as so often in China, over-reached itself, and the new era of prosperity, so eagerly envisaged by both diplomats and traders failed to materialize. Sir Henry Pottinger, in what it is charitable to suppose was a moment of unthinking enthusiasm had told the merchants of Manchester that he had opened up a new world to their trade so vast "that all the mills in Lancashire could not make stocking stuff sufficient for one of its provinces."[2] It was a tantalizing dream to be followed by a rude awakening. The enthusiasts seemingly forgot the intense conservatism of the Chinese people, forgot their very limited purchasing powers, and forgot that for centuries China as a market had been self-sufficing and that foreign imports—some of which were ill-adapted to local requirements— would have to compete with the home products of the country's vast and long-established domestic industries. In the three years immediately following the signing of the treaty an extravagant boom in the export trade from Great Britain led to the glutting of the China market with foreign imports, and as China's powers of absorption were severely limited, the results for British traders, when the reaction came, were disastrous. Conclusive proof of this will be found in the voluminous evidence[3] given to the House of Commons Select Committee, which sat from March to July 1847, evidence which brought out very clearly the

[1] F.O. 17/66 Pottinger to Aberdeen, desp. No. 7, 6th February, 1843.

[2] B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859* p. 244. F.O. 17/286: Elgin to Clarendon, enclo. in desp. No. 69, 31st March, 1858.

[3] B.P.P. *Report from the Select Committee on Commercial Relations with China*, 1847.

salient facts of the situation. The trade with China at that time was essentially a barter one, and her purchasing power was represented by the two products mostly in demand among foreigners, namely tea and silk, which were exchanged principally against cotton and woollen manufactures from England and America and opium from India, while any balance due on account of the large and growing import of opium had to be made good in actual export of silver. It was in fact the unauthorized but thriving opium trade which was the principal factor at that time tending to curtail the market in China for other foreign goods. The remedy as it presented itself to the Committee was that steps should be taken to encourage a larger export of tea from China, and this depended on a reduction of the British import duty which stood at 200% on the average qualities and at over 350% on the worst qualities.[1] This was also the remedy indicated by the British officials on the spot. Writing in February 1847 the Consul at Canton remarks: "How long the Chinese will be able to sustain this continual drain [*i.e.*, of £2,000,000] of the precious metals is impossible to determine, but the fact being now well established that the export of tea to England cannot be increased under the present system of duties it is not difficult to foresee that, unless a new opening be found for a larger consumption of China's exports in our markets, a gradual reduction must take place, either in the quantity or the prices of our imports in China, until they come to a proper level."[2] The Committee was also of the opinion that the opening of Shanghai in the immediate neighbourhood of the silk producing districts would tend to the development of the trade in silk, the export of which article was steadily on the increase. All witnesses, however, to whom the question was referred were unanimous in testifying to the lightness of the duties levied in China under the treaty tariff, and the Committee, in declaring that a substantial reduction in the British import duty on tea was essential to a healthy and an extended trade, states "that it would be no more than is due to the Chinese, who tax our products so lightly, while we burthen theirs so heavily."[3] From which it is clear that whatever other causes may have been to

[1] B.P.P. *Report from the Select Committee* 1847; p. V. In 1846 the average price of tea ex bond in England was 1s. 4d. per lb., while the import duty was 2s. 2¼d. per lb.

[2] B.P.P. *Returns of the Trade of the various Ports of China for the year 1846*; p. 36.

[3] B.P.P. *Report from the Select Committee*, 1847; p. V.

blame at that time for the decline in China's foreign trade, heavy import and export taxation was not one of them.

Growth of opium trade. Effect of Taiping Rebellion on trade. Origin and development of *likin*.

§ 14. The trade depression, which had reached its lowest point at the time the Committee was prosecuting its enquiries, passed, and by the early fifties the tide had turned. In the quinquennium 1843-1847 the average export of tea from China to all countries was about sixty-six million pounds per annum; in the following quinquennium 1848-1852 it had risen to approximately eighty-six million pounds per annum, while during the next five years 1853-1857 it rose to one hundred and nine million pounds per annum. Similarly, the export of silk for the two ports of Canton and Shanghai rose from an average of eleven thousand seven hundred and fifty bales per annum for the years 1848-1852, to an average of sixty-one thousand five hundred and ninety bales per annum for Shanghai alone for the years 1833-1837. Other articles of which the export now began to show signs of expansion were cassia lignea, grasscloth, sugar and sugar candy, although the growth in the sugar trade was largely an inter-port one cultivated mainly as a means of placing funds in Shanghai. All the same, this development was not such as to bring about a large increase in the import of cotton and woollen goods, but it benefited the opium trade, the average annual import of which during the quinquennium 1853-57 practically doubled what it had been during the period 1843-47, and this too, in spite of the fact that at this time the drug was being produced on a large scale in China by the Chinese themselves. In fact, while China's purchasing power increased rapidly during the fifties through the growth of its export trade in tea and silk, the advantage went not to British manufacturers, but mainly to the opium dealers of India, so that the former found themselves in the position of having to make good the balance against them by shipments of treasure, which was a complete reversal of the position that had obtained a few years earlier. Other factors, however, besides that of trade penetration were now making their influence felt, factors which in the long run affected vitally not only the rates of the tariffs, but also the administration of that tariff. As so often in history, the cessation of war was followed by an aftermath of disorder, of piracy at sea, and banditry and rebellion on land. Piracy made trading unsafe for native shipping and, by driving Chinese merchants to employ foreign vessels,

helped materially to develop the coasting trade of foreign vessels in native produce. Banditry, and more especially the Taiping Rebellion (1850-1864)—which originated in the province of Kwangsi and spread with devastating fury through Hunan and down the Yangtze Valley—not only prevented trade from reaching the development it would otherwise have attained, but also penalized what did exist by forcing it out of its natural channels. The rebellion did more. The suppressing of it caused such a drain upon the Imperial exchequer, or rather upon the provincial treasuries feeding that exchequer, that special measures had to be devised for the raising of the necessary funds to maintain the Imperial troops. In such circumstances, the taxation of trade has always commended itself to Chinese rulers as being the easiest, quickest and most productive way of raising money. The treaty tariff stood in the way of raising the duty rates on foreign imports and on native goods when actually exported abroad, while the treaty declaration fixing the inland Customs rates then prevailing as the rates leviable on foreign merchandise when conveyed inland presented, or was intended to present, a similar barrier against increasing taxation on such inland transit goods, but there was the vast domestic inter-provincial trade with which foreigners were in no way concerned and there was also the trade in native produce while *en route* to a treaty port and destined for eventual export abroad, both of which were then free from treaty restrictions and both of which could be made to bear a fair share of the state's financial burden. Out of these circumstances arose *likin*, which, although originally meant to be a sales tax, became, shortly after its origin in 1851, simply a transit tax on native produce passing from one province to another or even from one town to another within the same province.[1] Gradually the levy was extended

[1] According to the historical work *Yung Hsien Chai* (庸閒齋) of Ch'en Ch'i-yüan (陳其元) the *likin* tax was first devised by Lei I-ch'eng (雷以誠), then in charge of the districts of Huaian (淮安) and Yangchow (揚州) in Kiangpei (江北), who is said to have got the idea from a form of taxation that was in force during the Sung dynasty. Lei memorialized the Throne and obtained permission to establish stations and collect a tax of what was originally meant to be one per mille, but speedily became one per cent on the value of all goods passing through his district. This was about 1850 or 1851, and the purpose of the tax was to provide funds for the suppression of the Nien-fei (捻匪) insurrection. In 1852 Hu Lin-i (胡林翼), an Imperial Commissioner in charge of train-bands in Hunan and subsequently Governor of Hupeh, followed the example of Lei I-ch'eng, and petitioned for, and received Imperial authority to levy *likin* in the two Hu provinces. By this time the Taiping Rebellion was in full swing, and the demands in consequence on the military exchequers of the provinces

to foreign duty-paid imports going inland, in defiance of the clause in the French treaty that the transit taxes on such goods were not to be increased. The rate of the levy was nominally one per mille on the value of the goods, but this rate was a polite fiction, the actual rates levied being settled on the principle of extracting as much as the trade could stand. The tax had the Imperial sanction, but all details as to rates and methods of collection were left to the provincial authorities. The new tax spread like an epidemic, and by the time of the signing of the Treaty of Tientsin in June 1858 it was firmly established all along the Yangtze River and in practically every province south of it. So wide-spread and deeply-rooted a system of internal trade taxation, with practically no limits to its exactions and operations, made actual the very danger which Sir Henry Pottinger had hoped to guard against by the transit dues clause in the Treaty of Nanking,[1] and became the reason for the insertion of much more comprehensive provisions in the Treaty of Tientsin and its supplementary Rules of Trade.[2]

Capture of Shanghai by rebels. Origin of the foreign Inspectorate of Customs. Prevalence of smuggling at Shanghai and other treaty ports

§ 15. A second development of the Taiping Rebellion, affecting not, like *likin*, the treaty tariff treatment of goods native and foreign but the administration of that tariff, was the capture on 7th September, 1853 of the Shanghai native city by the Triad Society (三合會), the looting of the Custom House, the flight of the Taotai, or Customs Superintendent, and the consequent action of the British and the American Consuls to ensure the payment of the dues and duties rightly payable to China, action which eventually led to the establishment of the

affected were incessant and increasingly heavy. The new tax became popular with harrassed officials and not only spread rapidly to every province on the lower and middle Yangtze but also rose in some places to as high a rate as five per cent. It was not till 1857 or 1858 that the tax was introduced into Kwangtung, also to provide for military expenditure. Generally speaking, *likin* was divided into hsing-li (行釐) and tso-li (坐釐) the former levied on goods in transit, and the latter on goods at place of production and/or of consumption. Theoretically, hsing-li and tso-li were each divided into two levies of two per cent each, the one known as ch'i-li (起釐) and the other as yen-li (驗釐). Wherever these four levies were exacted it meant that the goods in question were called on to pay eight per cent on their value. In practice, however, there was wide diversity both in the number of levies and in the rates levied, each province being in fact a law to itself in this respect.

[1] *Vide ante* §4.

[2] *Treaties and Conventions*; *op. cit.* Vol. I; pp. 412-413; 426-427.

foreign Inspectorate of Customs. The story of that event will be told in a subsequent chapter; but here it should be noted that it was the establishment of the foreign Inspectorate with its "element of probity and vigilance," which undoubtedly saved the treaty tariff, and as that Inspectorate was created for the express purpose of seeing to it that the dues and duties sanctioned by that tariff were to be impartially applied to all foreign shipping and trade, it naturally came about that the treaty tariff and the Service built up by the foreign Inspectorate under the jurisdiction of the Chinese Government became from the very outset inseparably bound together as component parts of a whole, the *raison d'être* of that Service, in the eyes of Chinese and foreigners alike, being the honest and efficient administration of the treaty tariff, of treaty provisions governing foreign trade, and of Customs regulations framed in accordance with and on account of the trade articles in the treaties. Subsequent events enlarged considerably the activities of that Service, but throughout all developments its primary and most important function has remained unchanged, namely "to give the most complete execution to the treaty provisions for the equal collection of duties, and in all cases of fraud or irregularity rigorously to enforce the penalties."[1] That such an institution for such a purpose should be necessary throws a sidelight on the conditions under which foreign trade was then conducted at Shanghai, and illustrates the truth of the statement just made that the establishment of this institution saved the treaty tariff. Shanghai in the decade since its opening to foreign trade had forged quickly ahead, and by this time (1853) occupied the proud position of being the premier port. Unfortunately, with that distinction she stood preeminent also in smuggling and in all manner of Customs malpractices. In spite of the fact that the tariff rates were now known to all, and in spite of the fact that those rates were admittedly most moderate in character, evasion of payment of those rates at every possible opportunity was widespread among both Chinese and foreign merchants. The Customs officials, too, from the Taotai downwards, connived at these malpractices and benefited by them by acting in collusion with dishonest traders to defraud the revenue.[2] At that time

[1] Official notification issued on 6th July, 1854 at Shanghai by the British, the American, and the French Consuls in consequence of the agreement entered into on 29th June, 1854 with the Taotai. *Vide* N.C.H. No. 206; 8th July, 1854; p. 194.

[2] B.P.P. *Further Papers relating to the Rebellion in China* 1863; p. 174, §9.

Shanghai was crowded with "a most ungovernable collection of abandoned adventurers"[1] of all nations, many of them the backwash from the California gold rush, drawn to China by the hope of gain, which they intended to make out of the disturbed political and lawless trade conditions then prevailing.[2] Rutherford Alcock, at that time British Consul at Shanghai, drew attention to this danger. "The worthless character of a numerous gathering of foreigners of all nations, under no effective control, is a national reproach as well as a public calamity. They dispute the field of commerce with honest men, and convert privileges of access and trade into means of fraud and violence. In this career of license, unchecked by any fear of their own Governments, and protected, in a great degree, by treaties from the action of the native authorities, the Chinese are the first and greatest, but by no means the only sufferers. There is no Government or nation of the great European family that does not suffer in character, and insofar as they have any interests at stake in China, in these also, both immediately and prospectively."[3] Successful smuggling on so extensive a scale as then prevailed not only robbed the revenue, but inevitably brought down market prices for goods of the same nature as those smuggled in and tended to raise the price of goods of the class smuggled out, thus penalizing honest traders who found themselves obliged either to practise dishonesty themselves or go out of business. Small wonder, then, that "foreign merchants in direct Custom House relations with Chinese authorities, all more or less venal and corrupt, launched into a wholesale system of smuggling and fraudulent devices for the evasion of duties. Chinese laws and treaty stipulations were alike disregarded, sometimes by one party with forcible infractions of port regulations, oftener by bribery and collusion between the native authorities and the foreigners. The Imperial revenue was defrauded by both; and foreign trade was demoralized and converted into a game of hazard and overreaching."[4] This state of affairs was by no means confined to Shanghai. Writing of the conditions

[1] B.P.P. *Memorials—to the British Minister on—Revision of the Treaty of Tientsin* 1868; p. 31.

[2] Tyler Dennett: *Americans in Eastern Asia*, New York, 1922: pp. 188-189.

[3] B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan 1857-1859*, p. 55.

[4] B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan 1857-1859*, p. 56.

at Amoy at this time the British Consul there states that—"smuggling has now so greatly increased, and has been so actively carried on, particularly by foreign ships" that he found a "difficulty in assigning a reasonable limit to the value of the goods smuggled." He deplores that much of this clandestine trade goes on under the British flag, but the chief person to be blamed for the prevalence of these corrupt practices is, in his opinion, the Tartar Brigadier General in charge of the Amoy Custom House.[1] Parkes, writing in 1853, reported that "At Amoy it is well known that scarcely one half of the imports are reported, and that the Custom House accounts of exports are little more than nominal."[2] Canton with its long tradition of illicit trading had the same tale to tell of lawless evasion of treaty tariff duties and of defiance of treaty stipulations, while the extent of smuggling at Foochow and Ningpo was restricted only by the opportunities offered. At Ningpo the doings of the coasting trade lorchas, and their convoying activities had become an open scandal. In checking this lawlessness the foreign-controlled Custom House at Shanghai, sponsored at its inception by the Consular authorities of the three leading Powers, but functioning subsequently under the control of the Taotai and confining its activities solely to the enforcement of the treaty tariff and rules of trade, was from the first a marked success, in spite of the strong opposition of those who had profited by the slack methods of the past. It swept away the accommodating bargain method of settling duties payable, insisted upon complete and accurate declaration of all cargo shipped or landed against pain of fine or confiscation for false declaration, saw to it by proper examination that the goods tallied with the declaration, took care that all duties leviable were assessed and paid in full, and rendered to the authorities concerned full and detailed accounts of all duties levied. In all this it was simply making effective the terms of the treaty and of the treaty tariff, and in so doing it saved both from becoming a dead letter. The outburst of angry protest and of vilification which greeted its inception gradually died down, so that by the time Lord Elgin came to conduct the negotiations for the Treaty of Tientsin all honest merchants were in favour of the new institution, although some of them.—forgetful, so far as the British were concerned,

[1] B.P.P. *Returns of the Trade of the Various Ports of China for the years 1847 and 1848.* p. 30 and pp. 92-93.

[2] F.O. 226/151: Bonham to Clarendon, desp No, 84, 9th August, 1853.

of the clear implications of Article II of the Treaty of Nanking, of Article XII of the Treaty of Hoomunchai and of Article XV of the General Regulations of Trade of 1843, all of which articles, although unilaterally renounced by the British Government in May 1851[1] were yet not formally abrogated, objected to the prominent part taken by the Consular authorities in promoting and supporting the new establishment, an objection shared also by some of the officials both in China and in the home countries. Another and more reasonable objection was that as long as the foreign inspectorate system was confined to Shanghai and not made operative also in the other open ports where free and easy Customs methods still prevailed, so long would Shanghai merchants and Shanghai trade be at an unfair disadvantage. This objection, as we shall see, was effectively dealt with in the Treaty of Tientsin.

Tariff and trade clauses of Treaty of Tientsin.

§ 16. With the political events which directly or indirectly occasioned the Treaty of Tientsin (1858) with its appended Rules of Trade, made in pursuance of Article XXXI of that treaty, and the supplementary Convention of Peking (1860) we are not here concerned, but the changes in the tariff and in the treaty articles concerning trade and the conditions which necessitated these changes demand consideration in detail. Chief among these changes were the definite acceptance of five per cent *ad valorem* as a uniform basis for the calculation of all specific rates; the enlargement of both the import and export schedules of the tariff so as to include a much greater number of articles of trade; the legalization of the opium trade (Rule V); the opening of Tientsin, Newchwang, Tengchow,[2] Swatow, Kiungchow, Taiwan in Formosa, and Chinkiang with right of access to three other ports on the Yangtze as soon as conditions would warrant it (X, XI and IV of Peking Convention); agreement that duties on goods should be payable on the landing for imports and on shipment for exports (XXV), the fixing of a ten year limit for revision of tariff and commercial articles (XXVII); the fixing of transit dues both inwards and outwards at half the tariff rates or two and a half per cent *ad valorem* (XXVIII and Rule 7); lowering of tonnage dues from five mace to four mace per ton for vessels of more than one hundred and

[1] *Vide supra* §2, p. 8 footnote, and Chap. II, §2, pp. 86-91.

[2] Chefoo, having a better harbour, was subsequently substituted for this port.

fifty tons, granting to coasting vessels the privilege of paying these tonnage dues only once every four months, and providing for the maintenance of lights, buoys, and beacons out of tonnage dues receipts (XXIX and Rule 10); the stipulating that duties shall be paid to bankers authorized by the Chinese Government and shall be either in sycee or in foreign money according to the assay made at Canton on 13th July 1843 (XXXIII), the making of the master of a ship liable to a fine of five hundred taels for presentation of a false manifest, and the ordering of the deposit, within twenty-four hours of a ship's arrival, of her papers with the Consul, who in his turn, also within twenty-four hours, is to report details of the ship and the nature of her cargo to the Superintendent of Customs (XXXVII); the right of re-export of duty-paid imports entitling the merchant to a duty exemption certificate if the goods were re-exported to another treaty port, and to a drawback if re-exported abroad (XLV); and the enforcement at all ports of one uniform system for the protection of the revenue, which in practice meant the extension to all the open ports of the organization created under the foreign Inspectorate at Shanghai (Rule 10). To make clear, however, the Chinese nature and control of this organization, this rule stipulates that the High Officer appointed by the Chinese Government to superintend foreign trade shall be "at liberty of his own choice and independently of the suggestion or nomination of any British authority, to select any British subject he may see fit to aid him in the administration of the Customs revenue; in the prevention of smuggling; in the definition of port boundaries; or in discharging the duties of harbour master; also in the distribution of lights, buoys, beacons and the like; the maintenance of which shall be provided for out of tonnage dues."

Tariff reduction, and other proposals of Shanghai Chamber of Commerce.

§ 17. As the tariff was to be one of the main issues for discussion and settlement the Earl of Elgin, even before his arrival in China, addressed a circular to all the British Consuls then in China requesting them to put themselves in touch with the Chambers of Commerce and leading merchants so as to obtain from them reliable information on the effect of the existing tariff rates on British import trade.[1] This

[1] F.O. 17/275: Elgin to Clarendon, desp. No. 33, 9th August, 1857. B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-59*; p. 32.

called forth replies from the Chamber of Commerce at Shanghai,[1] the British mercantile community at Canton[2] and the British Consuls at Shanghai, Canton and Ningpo.[3] These replies cover the whole field of commercial relations with China, and discuss in considerable detail the tariff rates then in force with suggestions for revision. The Shanghai Chamber of Commerce, after pointing out that trade generally has not showed satisfactory progress, states that some of the existing tariff rates bear heavily upon certain imports,[4] and that this is due to the fall in value in the case of certain goods, and to the lower quality and therefore cheaper varieties in the case of other goods. Taking current average prices the Chamber accordingly recommends that the duty rates on twelve specified articles of import be reduced in each case by about fifty per cent. These articles include cotton and woollen manufactures, black pepper, sandalwood, iron in rods and bars, and pig lead. It also gives a lengthy list of imports which it recommends for duty-free treatment, prominent among which are all articles for the use of foreigners such as household stores, wines, beer and spirits, and clothing as well as articles which it was desired Chinese should be encouraged to buy, such as cutlery, perfumery, soap, canvas, cambrics and muslins, linen, glassware, gums, copper, blankets, flannels, iron, wood and building materials. The Chamber was of opinion that all rates of imports chargeable with duty should be based on five per cent of the average value, and that in the case of goods "the values and descriptions of which are too varied to admit of specific classification, an *ad valorem* rate of five per cent should be levied, calculated on the invoice value, with ten per cent added for charges at the exchange of the day." As regards exports, the Chamber proposed that cotton from Shanghai and wool should be free; that export of treasure and grain should no longer be prohibited, and that all the other rates in the export schedule should remain unchanged, even

[1] *Ibid* pp. 61-76. Also *Further Papers relating to the Rebellion in China* 1863; pp. 184-191. F.O. 17/277: Elgin to Clarendon desp. No. 94; 22nd December, 1857: F.O. 17/276, Elgin to Clarendon, desp. No. 64, 23rd November, 1857.

[2] B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan 1857-59*; pp. 70-76.

[3] *Ibid* pp. 104-121; 168-175, 194-205 and 205-212.

[4] In August 1853 Shanghai merchants stated in a letter to Sir George Bonham, the British Plenipotentiary,—"that upon all staple imports from Great Britain the duties at present amount to 12 to 28 per cent. *ad valorem*". N.C.H., Vol. No. 162; 3rd September, 1853.

though the average rate on tea—worked out on the values prevailing over a period of twelve years—was as high as twelve and a half per cent. The average rates on silk, on the other hand, calculated on the values prevailing over a period of eight years, worked out to 4.82 for raw silk and to 4.20 for thrown silk. The Chamber also advocated that the trade in opium should be legalized and a moderate duty levied on the drug; that the existing rate for tonnage dues should be retained provided it be arranged by treaty stipulation that the cost of lighting and marking the entrance to ports etc. be paid from these dues, but that tonnage dues on coasting vessels should be levied only once every six months; that to check extortion the exact amount of transit dues leviable should be clearly laid down, and that a revision of the tariff should take place every five years. The Chamber also declared that not only should more ports be opened, but that steps should also be taken to secure liberty of travel and of residence in the interior of the country, and that the Customs foreign inspectorate system should be extended to all ports. Commenting on this communication the British Consul at Shanghai[1] endorsed the Chamber's statement that the import trade did not show satisfactory progress, and ascribed this to a variety of causes, such as (*a*) the fact that, as China had manufactures for her own requirements, imports have to compete with the native products; (*b*) the heavy charges levied upon imports when sent inland, and (*c*) the power of the Chinese merchants by their guilds to regulate supplies in accordance with their interests. In support of the Chamber's contention that the staple articles of import on account of the fall in value were paying a heavier duty than formerly he submitted a table showing that on prevailing average values white shirtings were paying a duty of more than ten per cent and grey shirtings, camlets, and long ells of more than seven per cent. The Consul's remedy, however, was not a reduction in duty, but a total remission of all duties on foreign manufactured goods, while to cover the loss that would thereby be sustained by the Chinese exchequer he proposed that the export duty on raw and thrown silk should be raised from ten to fourteen taels a picul, and that on silk piece goods from twelve to sixteen taels a picul. He likewise recommended a reduction of tonnage dues from five to one mace per registered ton, a revision of the

[1] F.O. 17/286: Elgin to Clarendon: desp. No. 23, 1st February, 1858: F.O. 17/277: Elgin to Clarendon, desp. No. 94, 22nd December, 1857.

transit dues which he thought should be paid on both exports and imports at the same time with the tariff duties. He concurred in the proposal that new ports should be opened and that foreign traders should be allowed, under restrictions, the right of travelling and carrying on business in the interior. He was strongly of opinion that all the ports open to foreign trade should be on precisely the same footing as regards the collection of duties, but he was not satisfied with the foreign Inspectorate as then in operation at Shanghai, and suggested that instead of it the British Government—in the spirit of Article II of the Treaty of Nanking, Article XII of the Supplementary Treaty, and Article XV of the General Regulations—should appoint an officer to superintend at the Custom House the collection of dues and duties from British subjects, "and as the Chinese Government will benefit by this arrangement, it should pay for these services a percentage on the duties collected, not to exceed the present salaries given." In other words, the Chinese Government was to have the privilege of paying for an employee appointed by an alien Government, without any concomitant right of controlling that employee's actions or of dismissing him if unsuitable! Luckily for all parties, wiser counsels prevailed.

Reduction, and other proposals made by foreign merchants of Canton.

§ 18. The British merchants at Canton,[1] while asserting that the existing tariff "affords little ground for complaint, as we are not aware that a much more liberal one exists in any country in the world," nevertheless took the view that on account of the fall in values a large number of the rates in the import list of the Nanking treaty tariff should be reduced. Out of eighty-eight specific rates cited in this list they recommended definite reductions in twenty-nine, the average reduction being such as to yield a rate about one-third lower than the existing one. The rate on first quality ginseng, they suggested, should be lowered from thirty-eight to ten taels a picul, and the former ten per cent *ad valorem* levy on all unenumerated gums, metal, and woods should be reduced to five per cent. Glassware, copper, wines, beer, and spirits, when imported for the use of foreigners, should in their opinion be duty free. The export list was not so drastically revised, but they recommended fifty per cent reduction of the rate on camphor, forty per cent

[1] F O. 17/276: Elgin to Clarendon, desp. No. 64, 23rd November, 1857.

reduction on tea, aniseed oil and cassia oil; thirty-three per cent on cassia lignea and cassia buds; twenty per cent on raw silk and on sugar; seventeen per cent on silk piece goods and on vermillion, and fourteen per cent on sugar candy. They also suggested that as the Chinese Government had done little or nothing in providing aids to navigation the tonnage dues rate should be reduced by one half, while vessels engaged in the coasting trade should not be required to pay tonnage dues oftener than once in six months. They also drew special attention to the question of inland transit dues and recommended that "if permitted to continue at all, they should be well defined, of moderate application throughout the Empire, never leviable more than once, and incapable of modification except through a revision of the treaty." Liberty to travel and trade in any part of the Empire, and the adoption of a uniform currency in which Customs duties and trading accounts could be settled would also be blessings to be much deired. In a lengthy memorandum on these suggestions the Consul at Canton endorses the proposed reductions in the tariff rates, and suggests at the same time a wider employment of the *ad valorem* principle on the ground that with a barter trade and in a country where there is no regulated and uniform currency the *ad valorem* principle is easier of application than specific rates. In order to encourage coastwise shipping in foreign bottoms, as well as to afford much-needed facilities to the Chinese, he advocates the lifting of the embargo on the export of grain and of copper cash at least so far as inter-port traffic is concerned. As regards the coast trade generally, he points out—in opposition to the Canton merchants—"the desirability of applying the same scale of duties to merchandise conveyed in foreign as in native vessels." This "fundamental principle," as the Consul calls it, contains, as we shall see later, the germ of the Coast Trade Duty as collected by the foreign-controlled Maritime Customs on native produce conveyed coastwise in foreign vessels. Only two changes in the levy of tonnage dues are, he considers, necessary. The one is that vessels either arriving or departing in ballast should pay only half the tonnage dues, and the other is that as tonnage dues on the small vessels engaged in the coasting trade have been very irregularly levied, the dues should either be reduced or made payable at fixed intervals of six months. As a solution of the transit dues problem, he suggests that for goods going inwards "the original duty paid at entry in the port of import might be held to cover such charges, but for

outward transit dues he has nothing more helpful to suggest than the right to protest "to the Central Power against the exclusive selection, by the decree of any needy Provincial Governor, of the great articles of foreign export for increased or disproportionate taxation, when articles confined to native use are unsubjected to the same." He supports the proposal that the whole country should be thrown open to foreign trade, but, for practical Customs administration in such case, suggests that "the levying of duties on articles of foreign growth should be restricted to ports where Consuls possessed of the necessary jurisdiction should be appointed to reside, it being provided that such duty-paid articles shall not be subject to any further impost as the ultimate place of discharge to which it will have been probably carried in a small foreign coasting vessel." In the light of subsequent developments such a suggestion to-day involuntarily raises a smile.

Views of British Consul at Ningpo.

§ 19. At Ningpo there was no Chamber of Commerce to express views on the tariff and its allied subject, but the Consul there, Mr. T. T. Meadows, submitted a dissertation on the theme:—"attend less to Chinese Custom Houses and more to Consular Courthouses."[1] To the discussion on the tariff, however, he contributed in a semi-philosophical discourse the suggestion "that all goods, whether foreign or Chinese, brought into a port by foreigners should be delivered to the Chinese buyer, duty payable by the Chinese buyer; and that all goods exported by foreigners should be received by the foreign buyer as having already paid duty"—a suggestion which if acted on would in practice have turned all the treaty ports into free areas so far as foreign imports were concerned. Of the foreign Inspectorate then operating only in Shanghai, he has nothing good to say and is strongly opposed to any extension of the system on the ground that such a system is "an usurpation of an essential function of every healthy administration." In spite of this, however, he sees no inconsistency in warmly advocating that the Treaty Power Consuls should be entrusted by the Chinese Government with the collection of port dues, instead of tonnage dues, and that these port dues should be at the disposal of the Consuls for the provision and maintenance of aids to navigation! His reason for this, to modern ears extraordinary, proposal was that in the

[1] F.O. 17/286: Elgin to Clarendon: desp. No. 44, 27th February, 1858.

coasting trade—which was the only foreign shipping trade with which Ningpo was concerned—British vessels were at a great disadvantage through being compelled by Consular action to pay tonnage dues each trip, while large numbers of vessels under Dutch, German and other continental flags, not being under Consular restraint, went scot free.[1] The Consul was in favour of opening at least four coast ports to the north of Shanghai, and thought that more attention should be paid to the sites for foreign settlements. As an enclosure the Consul forwarded a letter from the senior British merchant of the port in which the latter remarks that the foreign merchants at Ningpo have nothing to complain of in the way the duties are collected, and recounts the interesting fact that ten years previously when he first established his business the Customs' officers begged him to keep his vessels outside for a year "as they wished to return to their superiors no foreign trade, and said they would allow me to import and export all cargo free of duties for that period, as the average of the three first years of trade at all the ports was taken as the amount of the Imperial duties from that source henceforth to be paid!" This merchant had no complaint to make of the tariff rates, and submitted a table of the principal imports and exports comparing the rates paid by native merchants with those paid by foreigners. Of eleven import rates quoted seven were in favour of the Chinese merchant, three in favour of the foreigner, while one was alike for both. Of the five export rates quoted all were in favour of the Chinese merchant. Against this, however, had to be set the fact that to the foreign merchants re-exporting duty-paid imports was given a certificate exempting the goods from import duty at any other port, while a Chinese merchant was obliged to pay not only on the import and export of all goods but also on re-importing them into any other port.

Constitution and activities of tariff revision commission.

§ 20. Article XXVI of the Treaty of Tientsin provided that the two contracting Powers should appoint officers to hold a conference at Shanghai for the purpose of revising the tariff rates on a five per cent *ad valorem* basis, and of settling the rates of transit dues. The treaty was signed on the 26th June (1858) and was the only one of the four concluded at that time which called for a present revision of the tariff.

[1] In 1856 thirty British and forty-eight non-Treaty Power vessels cleared from Ningpo; in 1857 the numbers were eighteen and thirty respectively.

By the middle of July an Imperial Edict had been issued ordering the Imperial Commissioners who had negotiated the treaty along with the Nanking viceroy and two other high Peking officials to proceed to Shanghai and there arrange all matters relating to trade and tariff[1] With these were associated the provincial treasurer of Kiangsu and the provincial judge, the latter being also the officiating Superintendent of Customs, and to these two the Chinese authorities were content to leave the actual work of attending the conference and taking part in its deliberations As British delegates Lord Elgin appointed Mr Laurence Oliphant, Acting Secretary of Legation, and Mr Thomas Wade, Chinese Secretary, and at the same time notified the Chinese Imperial Commissioners that, although he could not attach Mr Horatio N Lay officially to the commission owing to his tenure of the post of Inspector of Customs in the service of the Chinese, yet he desired Mr Lay—on whom much of the burden of negotiating the treaty itself had fallen—to attend the meetings of the commission in order to give it the benefit of his wide knowledge and experience[2] Neither the French nor the American Minister appointed official representatives to sit on this—the first—tariff revision commission, the latter declining to do so on the ground that, as the American Treaty of Tientsin, which had been signed eight days before the British one, did not call for tariff revision, it would be in form irregular for him to appoint a delegate[3] American interests, however, were duly consulted and protected by informal discussions between the British delegates and Mr Williams, the Secretary of the American Legation, and the result of their consultations was the draft of a revised tariff to be submitted to the Imperial Commissioners[4] Monsieur Edan, the French Consul at Shanghai, acted similarly on behalf of French interests,[5] so that when the

[1] B P P *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan 1857-59*, p 364 F O 17/290 Elgin to Malmesbury, desp No 162, 29th July, 1858

[2] B P P *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan 1857-59*, p 392, p 488 *Vide* also B P P *Correspondence with Mr Bruce, etc* 1860 p 31 L Oliphant *Narrative of the Earl of Elgin's Mission to China and Japan in the Years 1857-58-'59*, 2 vols Edinburgh and London 1859 Vol 2, p 272 F O 17/291 Elgin to Malmesbury, desps No 188 & 189, 19th October, 1858

[3] B P P *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan 1857-59* p 400

[4] B P P *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-59*, p 393

[5] *Ibid* p 437

draft of the revised tariff came to be presented to the Imperial Commission it had, as a draft, not only received the blessing of the three leading Powers interested but was also the result of a full consideration of all the facts and opinions previously put forward by the merchants and Consuls at Canton and Shanghai.[1] This draft was submitted to the Commissioners on the 12th October, 1858, and on that and the three following days it, and the allied questions of transit dues, tonnage dues, aids to navigation, legalization of opium, coast carriage of grain and copper cash, and uniformity of Customs system were threshed out in detail.[2] Thanks to Mr. H. N. Lay, who was able to place not only his own knowledge but also the very full records for the previous three years of the Shanghai Custom House at the disposal of the commission, and to Mr. Wells Williams, who had acquired an extensive knowledge of Chinese goods and their values, the draft submitted by the British members of the commission to the Chinese Imperial Commissioners was a thoroughly reliable and comprehensive document, containing 165 specific rates in the import list and 179 such rates in the export list, and detailing against each article its average value, the duties proposed by the Shanghai and the Canton Chambers of Commerce, the duty then in force, and the proposed duty, calculated in the case of the imports strictly on a five per cent *ad valorem* basis, and in the case of exports also on the same basis, with the notable exceptions of the rates on tea and silk which were left unchanged. To have lowered the duty on tea to the five per cent standard would have reduced the rate between forty to sixty per cent according to the variety, and would have resulted in depriving the Chinese Government, on the basis of the export then prevailing, of some Tls. 800,000 a year. On the other hand, to have raised the duty on silk to the five per cent standard would have increased the rate some twenty per cent and, providing the trade remained unaffected, would have enriched the revenue only by some Tls. 150,000 a year. Added to this ultimate loss would be the opposition of the French, whose trade at that time was confined almost entirely to silk. Obviously, the wise policy was to let well alone.[3]

[1] F.O. 1'/291: Elgin to Malmesbury, desp. No. 190, 21st October 1858. "I am endeavouring to construct an amended Tariff, which all the Treaty Powers will accept as otherwise great confusion and much injustice to China must be the result."

[2] B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-59*; pp. 400-403.

[3] Oliphant. *op. cit.* Vol. 2; p. 275.

Comparing these suggested rates with those of the Nanking treaty tariff it is interesting to note that for the imports 38 are lower than the old rates, 18 higher, and 32 remain unchanged, while for the exports 22 are lower than the old rates, 16 higher and 24 remain unchanged. The deliberations of the full commission resulted in some minor changes in this draft, such as slight changes in some of the rates for both imports and exports, the deletion of bees-wax, cinnamon, gamboge, glue, gold thread, isinglass, oil cake, olives, dried prawns, quicksilver, salt fish, sinews and doe and rabbit skins from the export list, the deletion of straw and rattan mats, and sugar, brown and white, from the import list, and the addition of coal, lucraban seed, copper, yellow metal, teak, watches, Japan wax and camagon wood to it Far-reaching changes in the export table were the inclusion of beans, peas and beancake, which except from the ports of Tengchow (Chefoo) and Newchwang[1] were permitted on payment of tariff duty to be exported in British vessels either coastwise or abroad, and the insertion of rice and other grains as a permissible export coastwise under bond,—a privilege which was also extended to the coastwise movement of copper cash In the import table saltpetre, sulphur, brimstone, and spelter, being munitions of war, make their appearance as permissible imports only when under requisition of the Chinese Government, or for sale to Chinese duly authorized to purchase them

[1] *Ibid* p 276

This partial prohibition, was made in deference to powerful Newchwang and Chefoo junk interests Writing in 1860 the British Minister Mr Bruce, stated that the number of junks at that time engaged in the Shanghai—Chefoo—Newchwang trade was estimated at 3,000 and the capital invested at £7 500 000 B P P *Correspondence respecting Affairs in China, 1859 1860* Chairman, Shanghai Chamber of Commerce to Mr Bruce 13th April 1860, p 45 Thanks to Bruce's efforts this partial ban was removed in 1861 by Imperial Edict During that year he had a long correspondence with Prince Kung, which "led to the repeal of the prohibition of the export of pulse and beancake in foreign bottoms from the ports of Newchwang and Yentai I have arranged that the trade in these articles of produce shall stand on the same footing as the general coasting trade, namely, payment of tariff duty at the port of shipment, and of half duty at the port of discharge and I have agreed to an alteration in the trade regulations, appended to the tariff, which had placed this trade at other than the northern ports on a different footing in this respect" F O 17/370 Bruce to Russell, desp No 11, 24th February, 1862 In 1865 Chinese merchants were forbidden by the local authorities to employ foreign vessels in this coastwise trade The ban on this trade, however, was completely removed by instructions from the Tsungli Yamên in 1869, from which date peas, beans, and beancake were permitted to be exported directly abroad as well as coastwise from any port C A I G Circs Nos 18 and 22 of 1869 F O 17/477 Alcock to Stanley, desp No 157, 1st October, 1867

Failure of early efforts to legalize opium trade. Growth of and disorders caused by the trade. Legalization of opium trade.

§ 21. The most far-reaching change, however, in the import tariff was beyond question the introduction of opium as a legalized article of import at a duty of thirty taels a picul.[1] As we have seen, Sir Henry Pottinger on several occasions, when negotiating the Treaties of Nanking and of Hoomunchai, had suggested to the Chinese Plenipotentiaries the advisability in the interests of China of legalizing the opium trade, and in memoranda on the subject had pointed out that legalization meant not only the sweeping away of the abuses that then characterized the trade, but also the directing of the trade into channels where it could easily be controlled, and thus bring in revenue to the Imperial exchequer.[2] The suggestions fell on barren soil. The Chinese negotiators, whatever their private opinions may have been, knew full well that they could not place themselves in the impossible position of requesting their Imperial Master to eat his own words. The trade, therefore, had remained on the unsatisfactory basis of being legally contraband, but actually tolerated and even encouraged. Sir Henry Pottinger's proclamation of 1st August, 1843 warning British merchants that those engaged in this traffic could not expect to meet with any support or protection from Her Majesty's Consuls or other officers had fallen unheeded or was regarded as an official face-saving device. The trade went on and flourished; in fact, the destruction of the accumulated stocks by Commissioner Lin gave it a distinct fillip. To many Chinese to whom the war of 1839-1842 had been primarily a war waged on behalf of the opium trade, it was a surprising thing that the victors had not insisted as a condition of peace that it should be legalized. Nevertheless the Imperial Government had lost prestige, and it was this loss of prestige together with the chaotic conditions which preceded and accompanied the Taiping Rebellion that emboldened smugglers to push the trade, not only at the treaty ports, but at every point on the coast where a demand for the drug could be found. At Namoa and

[1] Oliphant; *op. cit.* vol. 2; pp. 278-282.

[2] Pottinger's memorandum of 27th August, 1842 to Imperial Commissioners, Pottinger's memorandum of 22nd January, 1843, Morrison's memorandum of 29th June, 1843, Pottinger's memorandum of 30th June, 1843, Pottinger's memorandum of 8th July, 1843, Pottinger's despatch to Keying of 30th October, 1843, B.P.P. *Papers relating to the Opium Trade in China, 1842-1856*, pp. 1, 3, 5, 6, 8, and 13. For the latest and most authoritative discussion of British opium policy, *vide* Owen, D. E., *British Opium Policy in China and India;* New Haven, 1934.

Cumsingmoon, places interdicted by treaty, these drug purveyors built houses, constructed roads, and enjoyed the most perfect security, a striking contrast to Canton, where at that time (1846) no British subject could move about without molestation.[1] At Shanghai the opium receiving ships, the number of which in the early days of the port varied from three to six, were anchored outside the harbour limits at Woosung, and the opium sold from them was conveyed by the Chinese purchasers in swift boats up the Whangpoo to Shanghai. Balfour pointed out to the Superintendent the facility that this practice offered to the smuggling of general merchandise as well as opium, and the Superintendent decided that any vessel anchoring outside to sell opium should not be permitted afterwards to enter Shanghai as a regular trader.[2] Like so many other good resolutions, this decision lacked fulfilment. In spite of Pottinger's warning proclamation, early in February 1844, the master of the brig "Amelia" on entering Shanghai presented a manifest stating that there was one chest of opium on board. On the Consul's advice this entry was erased, and the master afterwards claimed that, also on the Consul's advice, he had thrown the chest in question overboard. Actually, the "Amelia" carried at the time twenty-seven chests, which were transhipped without permission to the barque "William the Fourth", which had already received its grand chop and was ready to clear. At the same time the master of the barque "Maingay" presented defective papers for his ship, accompanied by no bills of lading. Consular enquiry revealed that he had brought in one hundred and one chests of opium, which on hearing of the trouble in which the "Amelia" was involved, he had surreptitiously transhipped also to the "William the Fourth". Balfour, the Consul, acted promptly. He fined each of the three vessels $500 for transhipping cargo without permission, the "Amelia" and the "Maingay" each another $500 for false manifest, the "Maingay" a further $500 for breaking bulk without permission and $200 for having irregular papers. The transhipped goods he ordered to be confiscated, the seizure and confiscation to be carried out by the Chinese authorities. In defending this latter action he stated: "I do not consider it to be the duty of the Consular Officers to carry out the excise laws of China as regards prohibited articles." Commenting on the opium trade at Shanghai he

[1] Davis to Aberdeen, 24th February, 1846, B.P.P. *Correspondence respecting Insults in China;* 1857; p. 37, p. 40.

[2] F.O. 228/31: Balfour to Pottinger, desp. No. 33, 9th April, 1844.

states: "At present the trade is carried on publicly at this port. . . . All boats laden with opium daily and unhesitatingly pass the Custom House boats, unchecked and unexamined, and in the cases now reported to Your Excellency I have ascertained that the highest Chinese officers of this place were acquainted with the transhipment of the opium before I obtained information, and yet no notice was taken and no measures were adopted by them." The Consul in fact found that he was "placed between the cupidity of the dealers in opium and the apathy and indifference of the authorities." [1] Pottinger supported the Consul's action, but directed that the fines for transhipping without permission should be remitted.[2] The view of the Shanghai Superintendent of Customs on this and similar cases was that so long as opium was kept on board foreign vessels it must be dealt with according to the laws of the country concerned "and that it necessarily falls under the laws of China when landed or purchased by natives of the country." [3] In other words, China did not then claim the right, common to every sovereign state, of searching for and seizing contraband carried in foreign vessels, even when such vessels were admittedly within the territorial waters of the prohibiting country. Had the Superintendent been alive to the legal implications involved he would have claimed that sovereign rights not definitely yielded by treaty are just as definitely retained. Legalization of the opium trade for control and for revenue was the obvious remedy, but legalization the Chinese Government would not have. Successive British Plenipotentiaries urged this course, but in vain. Following the example of his predecessors Sir John Davis in February 1846 besought the Imperial Commissioner Keying to use his influence to bring the trade under control by having it placed on a legal footing. "I have often reported to Your Excellency that the illicit trade in opium, under the connivance of the mandarins, is the source of innumerable evils. Were the trade legalized the whole of the foreign ships would be collected within the five ports, under the control of the Consuls. They would all pay tonnage dues, and about 2,000,000 dollars would easily be collected on the opium. At present this profit is obtained by corrupt officers of government; the ships wander to all parts of the coast, and the smugglers form settlements on shore. While this is openly connived at, I cannot interfere; but were the trade legalized, I could

[1] F.O. 228/31: Balfour to Pottinger, desp. No. 8; 12th February, 1844.
[2] F.O. 228/31: Balfour to Pottinger, desp. No. 38, 9th April, 1844.
[3] F.O. 228/31: Balfour to Pottinger, desp. No. 13, 20th February, 1844.

secure due control of all the vessels. Since commodities could then be given in exchange for opium, sycee silver would no longer flow out of the country and a mutual good understanding would be for ever preserved."[1] A year later he returned to the theme: "I have before drawn Your Excellency's attention to the evils of the smuggling stations at Namoa and Cumsingmoon, and also shown that the piracies on the coast are all produced by opium being entirely prohibited. In this manner the pirates become every day more numerous, while silver alone is exchanged for opium. If it is wished to put a stop to piracy, and likewise to check the exportation of silver, let a duty be levied upon opium. All the present smuggling ships will then repair to the five ports, and the Consuls will be answerable for the collection of the duties. When Chinese products can be exchanged for opium, silver will not be so largely exported."[2] Occasionally a Customs officer, either conscientiously carrying out his duty, or bringing pressure to bear to secure recognition of his claim to consideration, would make a seizure, and then, unless a compromise were reached, complications were bound to ensure. As a typical instance of this may be taken a case which occurred in March 1845 in the Ningpo district. A British schooner, rejoicing in the name of "Owner's Delight", on the way up river from Chinhai to Ningpo, landed clandestinely two Chinese pigskin trunks, which were seized by a watchful Chinhai Customs official. The master, who was evidently not a believer in diplomacy, stormed and threatened demanding the return of the trunks on the ground that they contained nothing but clothes. The British Consul at Ningpo was appealed to, and the trunks were opened in the presence of representatives from the Consulate. The contents proved to be fifty-seven balls of Patna opium. The Chinese authorities asked the Consul how they ought to deal with the case, and his reply was that they should enforce their own fiscal regulations. The Consul, however, punished the master by depriving him of his sailing letter—a document issued by the Hongkong authorities certifying that the holder's vessel was registered at Hongkong as engaged in the coasting trade between the treaty ports. While correspondence was proceeding on the case between the Consul and the Superintendent, twenty-seven balls of the opium disappeared in a mysterious way. The Chinese wished to destroy

[1] Davis to Keying, 25th February, 1846, B.P.P. *Papers relating to the Opium Trade in China, 1842-1856;* 1857; p. 24.

[2] F.O. 228/66; Davis to Palmerston desp. No. 70, 1st May, 1847, enclosing correspondence with Keying.

the consignment, or what was left of it, but could not do so without the consent of the Governor of Chekiang and of the Viceroy of Fukien.[1] Piracy and manslaughter were the natural concomitants of the trade. Early in 1847, for example, two opium schooners the "Caroline" and the "Omega" were anchored at Chinmoo bay—a notorious opium smuggling centre—fifty miles north of Amoy. There they were attacked by pirates on board Macao lorchas. A bloody affray followed, resulting in the drowning or killing of sixteen men of the "Caroline's" crew, and in the killing of fifteen or twenty from the "Omega" The former ship was robbed of sixty chests of opium and $35,000 in treasure, and the latter of fifty-eight chests of opium and $30,000.[2] Amoy, with its neighbouring receiving depots at Chinchew, Gosoo and Chinmoo, was probably the most opium-sodden spot in all China. The Taotai prayed that the British opium receiving ships should be removed from these places, and the Consul pointed out that Chinchew and Chinmoo were "smuggling stations for camphor, crockeryware and other articles of the legal trade, which is thus diminished at Amoy."[3] So aggressive were these opium runners, so responsive the demand for their wares, and so apathetic the officials whose business it was to enforce prohibition, that within the short space of fifteen years, from the signing of the Treaty of Hoomunchai to the signing of the Treaty of Tientsin the quantity of the drug imported increased fully a hundredfold. The higher Chinese officials at the court of Peking were well aware of the threatening growth of this trade, of the lawlessness and violence it engendered, and of the connivance of the provincial authorities who benefited by it. Some of these higher officials saw clearly that the only wise course to adopt would be to cancel the prohibition, to control the trade by strict regulations, and to levy on the legalized drug a tax for the benefit of the Imperial exchequer, which was in sore need of funds to cope with the growing disorders in the Empire.[4] Representations to this effect were made on various occasions to the Emperor, but the most His Majesty would do was to refer the question to his Council of State for deliberation and report. Peking's negative

[1] Davis to Aberdeen, 5th May, 1845, B.P.P. *Papers relating to the Opium Trade in China, 1842-1856*, pp. 22-23.

[2] F.O. 288/65: Davis to Palmerston, desp. No. 28, 20th February, 1847.

[3] F.O. 228/65: Davis to Palmerston, desp. No. 52, 1st April, 1847, enclo. desp. No. 30 from Consul Layton to Davis, 9th March, 1847.

[4] F.O. 228/142: Bonham to Malmesbury, desp. No. 24, 10th February, 1853, encloses translation of Memorial sent in by Censor Woo Ting Poo recommending legalization of opium to raise funds for the suppression of rebels. The Hu Pu opposed the suggestion.

attitude, however, was of no help to the provincial authorities, who had to find funds to suppress the rebellion. At Shanghai—and the same held true at other ports—the Taotai was wont to receive a regular payment for each chest of opium brought from the receiving hulks at Woosung up to the foreign settlements. This payment varied with the port and also from time to time at each port, but in 1865 the Shanghai Taotai was receiving $20, which at that time owing to the abnormally high premium on the Carolus dollar was equal to Tls. 20, for every chest admitted into the port.[1] This rate, which was agreed upon by the Taotai and the opium dealers, was the final outcome of a situation created by the capture of Shanghai in 1853 by the Triad rebels. Prior to that event, ever since the opening of the port ten years previously, merchants had stored their opium in receiving hulks at Woosung, then well outside harbour limits, and had sold it there to the Chinese dealers who, before conveying it by swift boats either to the native city or the foreign settlements, were obliged to pay to the Taotai's tax-collectors, also stationed in ships at Woosung, whatever charges were then leviable. The capture of Shanghai, by the rebels, however, obliged merchants to bring their stock of opium from the receiving hulks to the safety of warehouses in the settlements. This put the Taotai's tax-collecting ships out of commission, and meant for him a serious loss of revenue. He therefore notified the British and the American Consuls that after 11th August, 1855 he would seize all opium in course of being landed at the settlements.[2] He then attempted, but without success, to levy a tax of $25 a chest on all opium so landed. Foiled in this, he gave orders to the foreign Inspectors of Customs to seize all opium on entrance as being contraband. They proceeded to execute these orders, and seized a consignment of 25 chests, which they placed in the Taotai's yamên. The results were illuminating. The Chinese dealers and others concerned in the opium trade stirred up a riot, while the British Consul requested his French and American colleagues to join him in bringing Mr. H. M. Lay, the chief of the foreign Inspectors of Customs, before a mixed court on the charge of exceeding his duties. The case was settled by the Taotai restoring the seized opium and the dealers agreeing to pay a tax of $20 a chest. Three years later the tax was Tls. 24 a chest.[3] At Ningpo the

[1] N.C.H. No. 327; 25th October, 1856.

[2] N.C.H. No. 264; 18th August; and No. 266, 1st September, 1855.

[3] Reed to Elgin, 13th September, 1858; B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan; 1857-1859*. p. 397.

ax levied was the same as at Shanghai, but was collected by a ranch office of the Custom House specially established in May .858 by the Taotai for the purpose of collecting a duty on what ıe euphemistically described as "certain foreign produce not enumerated in the tariff". For this purpose he engaged, without the assistance or intervention of the Consulate, a British subject, Mr. I. S. Hudson, to assist in the work of this opium duty-collecting office.[1] At Foochow and Amoy the authorities demanded $48 a chest.[2] At the latter port this tax was made the subject of a Consular notification,[3] which informed the public that the levy was collected on the authority of the Taotai, and that in future any opium imported must be declared on the manifest of the ship concerned. The Taotai, in fact, had gone so far as to inform the Consul that the duty on opium had received the Imperial sanction.[4] It was at this point that the opium trade stood when Lord Elgin came to negotiate the Treaty of Tientsin. To the Central Government it continued officially to be anathema, although there was a growing recognition that legalization and taxation would be a sure means of relieving the financial stress of the times, while to the provincial authorities the trade, if not welcomed, was at any rate tolerated for the sake of the revenue it yielded. Lord Elgin was not at liberty to force a solution of this dilemma; his instructions were to pursue the old-time policy of non-interference qualified only by suggestion.[5] In the task of making suggestions, howeve.. he

[1] F.O. 17/286: Elgin to Clarendon, desp. No. 86; 9th April, 1858. F.O. 228/247: Meadows to Bowring, desp. No. 46, 10th May, 1858, enclo. in Bowring to Malmesbury, desp. No. 140, 25th May, 1858.

[2] F.O. 228/245: Gingell to Bowring, desp. No. 9, 13th March, 1858, enclo. in Bowring to Clarendon, desp. No. 71, 23rd March, 1858.

[3] N.C.H. No. 407, 15th May, 1858.

[4] F.O. 228/246: Gingell to Bowring, 23rd March, 1858, enclo. in Bowring to Clarendon, desp. No. 85, 5th April, 1858; Bowring to Clarendon, desp. No. 110, 23rd April, 1858; Amoy Consular Notification No. 7, 10th April 1858; Hongkong Govt. Notification No. 17, 14th April, 1858.

[5] It will be for Your Excellency when discussing commercial arrangements with any Chinese Plenipotentiaries to ascertain whether the Government of China would revoke its prohibition of the opium trade, which the High Officers of the Chinese Government never practically enforce. Whether the legalization of the trade would tend to augment that trade may be doubtful; as it seems now to be carried on to the full extent of the demand in China, with the sanction and connivance of the local authorities. But there would be obvious advantages in placing the trade upon a legal footing by the imposition of a duty, instead of its being carried on in the present irregular manner." Clarendon to Elgin, 20th April, 1857; B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan; 1857-1859*, p. 5.

found an unexpected ally in Mr. William B. Reed, the United States Plenipotentiary, who had been instructed "to inform the Chinese authorities, if the opportunity offered, that the United States did not seek for its citizens the legal establishment of the opium trade, and would not uphold them in any attempt to violate the laws of China by the introduction of the article into the country."[1] This commission Mr. Reed faithfully executed. He went further. He assured the Chinese Plenipotentiaries that "the United States Government would sustain any lawful attempt their Government made to suppress this traffic." His representations met with indifference, so that he was reluctantly obliged to conclude that unless the trade could be legalized and regulated it must go on as it was with all its attendant mischief and disgrace.[2] At the instance, therefore, of Lord Elgin, Mr. Reed felt no difficulty in omitting from the American Treaty of Tientsin the article expressly forbidding American citizens to engage in the opium trade to be found in the Treaty of Whanghea; but, as American citizens had engaged in the trade and had made fortunes by it that clause had, in fact, all along been a dead letter, and its retention without any adequate steps being taken to enforce it was felt to be unworthy and insincere. Failing effective prohibition Mr. Reed, therefore, strongly urged Lord Elgin "to persuade the Chinese to put such high duties on the drug as will restrain the supply, regulate the import, and yet not stimulate some other form of smuggling with, or without, the connivance of the Chinese."[3] The outcome of these and similar representations made by the British negotiators was, as we have seen, the inclusion of opium in the tariff schedule at the rate of Tls. 30 a picul. The British delegates had asked for a duty of Tls. 24 a picul, which was the actual amount of the rate then levied *sub rosa* by the Chinese authorities at Shanghai.[4]

[1] F.O. 17/291: Elgin to Malmesbury, desp. No. 190, 21st October, 1858, enclo. Reed to Elgin, 13th September, 1858. B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859*; p. 394.

[2] "I was unable to gain for the subject any consideration, and my deliberate judgement was and is that the trade must go on as it is with all the mischief and disgrace, unless Your Excellency will undertake to adjust and regulate it." Reed to Elgin, 13th September, 1858. F.O. 17/291: Elgin to Malmesbury, desp. No. 190, 21st October, 1858.

[3] Reed to Elgin, 13th September, 1858, *Ibid.*

[4] F.O. 17/291: Elgin to Malmesbury, desp. No. 190, 21st October, 1858. N.C.H. Supplement to No. 493, 7th January, 1860. In 1857 an import duty of Tls. 12 per chest was levied on opium at Shanghai; N.C.H. No. 347, 21st March, 1857. Cooke, G.W. *op cit.* p. 180.

The Chinese delegates at first proposed Tls. 60 a picul, and finally, as a compromise, agreed to Tls. 30, which at that time was about eight per cent on the average market value of the drug. That pressure was not brought to bear upon the Chinese Plenipotentiaries to include opium in the import tariff schedule is clear from the witness borne by both Lay and Oliphant. The former states: "The preparation of the tariff devolved upon me, at the desire of the Chinese no less than that of Lord Elgin. When I came to 'opium' I inquired what course they proposed to take in respect to it. The answer was—'we have resolved to put it into the tariff as *yang yoh* (foreign medicine).' I urged a moderate duty in view of the cost of collection, which was agreed to. This represents with strict accuracy the amount of 'extortion' resorted to. . . . The Chinese Government admitted opium as a legal article of import, not under constraint, but of their own free will deliberately."[1] Oliphant's testimony is no less emphatic—"When we came to the article 'opium' I informed the Commissioner that I had received instructions from Lord Elgin not to insist on the insertion of the drug in the tariff, should the Chinese Government wish to omit it. This he declined to do."[2] It was stipulated at the same time by Article V of the Rules of Trade, appended to the treaty, that the drug should be sold by the importer only at the treaty port of entry, that it could be conveyed into the interior solely by Chinese, that the transit dues leviable on it should be at the discretion of the Chinese authorities,[3] and that neither then nor in the future should the ordinary transit dues regulations be applicable to it. Such was the first attempt to put an end by restrictive legislation to the scandals and irregularities of a trade, which, although unsupported by the British Government and condemned and forbidden but tolerated by the Chinese,[4] had yet struck wide and

[1] Letter to *"The Times"*, London, 22nd October, 1880.

[2] Letter to *"The Times"*, London, 25th October, 1880. Elgin, while at Tientsin did not urge the legalization of opium "because I could not reconcile it to my sense of right to urge the Imperial government to abandon its traditional policy in this respect under the kind of pressure which we were bringing to bear upon it at Tientsin." Elgin to Reed 19th October, 1858. F.O. 17/291: Elgin to Malmesbury, desp. No. 190, 19th October, 1858.

[3] "It may not be out of place here to observe that but a few months after the negotiation of the Tariff, orders were sent down from Peking to levy a *likin* duty of 80 taels per picul on opium. The order was the result of an unpublished Memorial from the Governor Ho, then resident at Soochow." Report by Sir Thomas Wade, B.P.P. China No. 3 (1882); p. 44.

[4] For translations of early Memorials and Edicts regarding the opium trade, *vide* appendix to *Narrative of the late Proceedings and Events in China*, by John Slade, Canton, 1839.

deep root, and which, thanks to the unprincipled enterprise of foreign traders and to the equally unprincipled connivance of Chinese officials and merchants flourished exceedingly.

Settlement of rate and procedure of levy of transit dues.

§ 22. Two other burning questions of the day vitally connected with the tariff and discussed by the commission were the settlement of the rate and procedure of levy of transit dues and the extension of the foreign Inspectorate system of the Customs, which had proved so great a success in Shanghai. As we have already seen, the transit provisions made by virtue of the Treaty of Nanking, which had been restricted to transit inwards, had turned out a dead letter, due to the arbitrary exactions of the provincial authorities and to the imposition of the newly-devised *likin*. Transit outwards had not been specifically provided for, but in the case of tea, complaint was made that the transit dues levied amounted in many cases to the actual cost of the goods,[1] while in the case both of foreign imports going inland and of native produce being brought down for export abroad, in spite of the fact that the Hongkong Government had published by official notification[2] the tariffs of the inland customs of Kanchow, Taiping, and Peihsing, there was no certainty as to the amounts that would be levied at the various inland customs stations or the *likin* barriers, and no guarantee that goods having paid inland duty at one station or barrier would be exempt from further levy even within the same province. To obviate these difficulties the British delegates on the commission proposed, in accordance with Article XXVIII of the treaty, that the rate for transit dues both outwards and inwards should be definitely fixed at one-half of the tariff duties, that duty-free goods should also be liable to these dues on the basis of two and a half per cent *ad valorem*, that in the case of foreign goods going inland the dues should be paid at the port from which they were being sent inland and a certificate given to the importer exempting the goods from further duty "no matter how distant the place of their destination",—a phrase which, according to the Chinese interpretation, did not preclude the levy of octroi after the goods had reached their destination, nor the levy of *likin* in case the goods were subsequently transported elsewhere after they had once reached the destination

[1] Oliphant. *op. cit.* Vol. 2; p. 276.

[2] B.P.P. *Statement of the Foreign Trade with China, and an Account of the Inland or Transit Dues of the Chinese Empire*; 1844; p. 13.

specified on the transit pass.[1] For the conveyance from the interior of native produce destined for export abroad, the commission, mindful of the complete absence in this connection of any provision in the Nanking and the Hoomunchai treaties, and desirous to encourage the export trade, suggested that the merchant should have his goods examined at the first taxing station passed, and should deposit there a memorandum declaring the nature and amount of the produce and the port from which it was to be shipped. The station authorities should then issue a certificate, which on presentation for visé at every other station *en route* should be accepted as exempting the goods so protected from any taxation until they reached the station nearest to the destined port of shipment, where the goods should be detained until the transit dues had been paid. Any attempted malpractice was to render the goods liable to confiscation. Thus was laid the foundation of a system which by its interference with internal taxation was bitterly resented by the Chinese provincial authorities, as it meant the enriching of the Imperial exchequer at the expense of the provincial treasuries, and which later on was denounced by politicians and patriots as conferring upon foreigners an unfair advantage over Chinese traders.

Extension of foreign Inspectorship system of Customs.

§ 23. The final issue, and in the light of after events probably the most important of all, to come before the commission was that of the extension of the foreign Inspectorship system of the Customs. This system had lived down much opposition and by the time the commission met, although still bitterly assailed by some, was admitted by the unprejudiced to be a decided success. The two main objections to it, however, had to be met, namely, that the restriction of its operations to Shanghai resulted in a discrimination in favour of the merchants

[1] "Lord Elgin's new tariff was framed as imposing duty at the rate of 5 per cent upon value as shown by inspection of the only papers then worthy of trust, the returns of the Shanghai Customs prepared during the previous three years by Mr. Horatio Lay. The accordance of the half-duty, that is of an additional 2½ per cent, by payment of which the charges described as transit dues were to be commuted, was declared by the Chinese authority, with whom the tariff was negotiated, liberal. Lord Elgin doubtless hoped that this paid, our imports would be free of all other charges. I remember his observing as the tariff was about to be signed, that he thought if the Chinese Government got 7½ per cent on our trade it ought be satisfied. He at the same time admitted that once our goods had passed into Chinese hands, he did not see how to secure them against further taxation". Report by Sir Thomas Wade. B.P.P. *China No. 8 (1882)* p. 45.

at the other treaty ports—an objection which had loomed so large in Clarendon's eyes that he had declared the abolition of the system at Shanghai unless it could be extended to the other treaty ports—and that for a Chinese organization it was too much under the ægis of foreign Consuls.[1] The tenth trade rule, appended to the treaty tariff, settled both these difficulties. It recognizes that the Chinese Government is at liberty to adopt what measures appear to it best suited to protect its revenue, and records the agreement between the two contracting Powers that one uniform system shall be enforced at every port.[2] As already indicated, this rule further confers upon the high Chinese official appointed by the Chinese Government to superintend foreign trade the right of selecting, independently of the suggestion or nomination of any British authority, any British subject he may see fit to aid him in the execution of the varied duties entrusted to the Customs administration.

Tariff accepted by American and French Plenipotentiaries.

§ 24. On the 6th of November 1858, the commission having agreed upon the final draft of the tariff and its accompanying rules, the Earl of Elgin sent a copy of the tariff and the rules thus agreed upon to the French and the American Plenipotentiaries, expressing the hope that it would be within their power to accept, on behalf of their respective Governments, this document which was in point of fact, through the unofficial co-operation of Messrs. Edan and Williams, the fruit of the joint labours of the three Treaty Power missions. As an additional argument for the acceptance of the tariff and the rules as they stood, it is interesting to note that the British Plenipotentiary was of opinion that "it would obviously be a hardship to the Chinese

[1] "When I negotiated the Treaty of Tientsin, I omitted the clause of the Nanking treaty which required Her Majesty's Consuls to aid in the collection of the Chinese revenue, leaving it to the Chinese Government to adopt, within the limits traced by their treaty engagements, such measures as they might deem necessary to that end, and to select such agents, British or other, as they may see fit to employ: and further with a view of meeting the objections raised on the plea of hardship of Shanghae, I added the proviso that whatever system of collection was adopted it should in so far as practicable be made uniform at all the other open ports." Lord Elgin to Mr. Layard. B.P.P. *Further Papers relating to the Rebellion in China;* 1863. p. 193.

[2] Oliphant. *op. cit.* Vol. 2; p. 277. By October 1859 Canton was included in this system, and Swatow by February 1860. In the following year it was extended to Chinkiang, Ningpo, Tientsin, Foochow, Hankow and Kiukiang. In 1862 Amoy was brought into line, in 1863 Chefoo, Taiwan (Formosa), Takow (Formosa), and in 1864 Newchwang.

authorities if there were an absence of uniformity in the tariff recognized by our respective treaties, and I know too well your Excellency's high sense of equity to doubt of your desire to avert from them this source of embarrassment and misunderstanding." The American Plenipotentiary, on the part of the United States, accepted the tariff and rules unreservedly, stating that they would be adopted finally by a supplementary convention.[1] The French Plenipotentiary likewise accepted the tariff, but pointed out that for France slight verbal modification would be necessary in the tariff rules, as some of them referred to clauses which did not appear in the French Treaty of Tientsin.[2] One important addition, however, appears in the French version of the rules in the shape of an additional rule which stipulated that the time limit after which the tariff might be revised should be ten years, instead of seven years as stipulated in the twenty-seventh article of the French treaty. The American supplementary convention was duly signed at Shanghai on the 8th of November 1858, and ratifications were exchanged at Peking on August 15th of the year following.[3] The tariff and the rules, as modified by the French Plenipotentiary, were signed by the French and the Chinese authorities on the 24th of November of the same year; but were not made the subject of a separate convention. The five per cent *ad valorem* treaty tariff was now a *fait accompli*.

[1] Reed to Elgin, 6th November, 1858. F.O. 17/291: Elgin to Malmesbury, desp. No. 204, 8th November, 1858.

[2] B.P.P. *Correspondence relative to the Earl of Elgin's special Missions to China and Japan; 1857-1859*; pp. 437-439.

[3] Hertslet, G. E. P. *Treaties between Great Britain and China, and between China and Foreign Powers; etc.* Third edition. Two vols. London. 1908. Vol. I.; pp. 552-558.

CHAPTER II.

THE ADMINISTRATION OF THE TARIFF: THE ORIGIN OF THE INSPECTORATE OF CUSTOMS

§ 1 From opening of Port of Shanghai till September 1853 administration of Customs entirely in hands of the Chinese § 2 Shanghai in early fifties full of lawless element Difficulties of honest merchants Breakdown of treaty system of Customs procedure Cases of "Lady Mary Wood" and "John Dugdale" Palmerston's decision that Consular interference for protection of Chinese revenue was to cease § 3 Taotai's appeal to American and British Consuls re manifests and control of cargo-boats Taotai issues new Customs regulations to meet situation created by cessation of Consular interference French Consul refuses to admit validity of new regulations § 4 In spite of change smuggling continues unabated Abuses in connection with drawbacks, damaged imports, and use of duty receipts Alcock's action in support of Taotai § 5 Significance of Taiping Rebellion Capture of Nanking by rebels and subsequent stagnation of trade Alcock's proposal to stand security for dues and duties in view of lack of currency Action not approved by Plenipotentiary Appeal of British merchants to Plenipotentiary for establishing of bonding system His reply § 6 Capture of Shanghai by San Ho Hui Looting of Custom House Declaration of neutrality of International Settlement Steps taken by British and American Consuls to ensure payment by their nationals of Customs duties due to Chinese Government The Provisional System Establishment by Taotai of floating Custom House Entry and clearance of Austrian vessel "Robert" without payment of duties §7 American Consul notifies free entrance and clearance open also to American vessels Taotai opens Custom House on Soochow Creek just outside Settlement Bremen vessel "Aristides" cleared by Taotai on part payment of export duty Taotai establishes two collecting stations in interior on main routes leading to Shanghai Consuls protest against such stations § 8 Alcock's memorandum suggesting improved administration of the Customs Promise of Governor General to U S A Commissioner that collecting stations would be abolished and Custom House reformed § 9 Official account of meeting between Taotai and Consuls to discuss reorganization of the Custom House Necessity of introducing a foreign element Taotai to appoint and pay out of Revenue foreigners nominated by three Treaty Power Consuls Inspectors to be subject to trial for dereliction of duty, etc, by Consuls and Taotai Duties of Inspectors to enforce Customs regulations and provisions of treaties in regard to shipping and duties, to report frauds and irregularities to Superintendent and Consuls, and to prosecute offenders if necessary, the Taotai undertaking on his part to enforce the full penalties imposable, to keep registers for recording details of shipping and duties, both in Chinese and in English, and to check these registers with those kept by the Chinese department Taotai undertakes that Chinese department shall issue no document without the counter-signature and seal of the Inspector or Inspectors Every foreign vessel to be reported through a duly recognized Consul Armed Revenue cutter to be employed Custom House regulations of 1851 to be revised § 10 Result of this arrangement, the placing of the Custom House and its staff under the control of the Treaty Power Consuls § 11 Closing of two inland collecting stations, and opening on 12th July, 1854, of reformed Custom House under Messrs Smith, Carr, and Wade § 12 British and

American decisions regarding duties provisionally liquidated in bonds and promissory notes. § 13. Success of new establishment as revenue producer: Resignation of T. F. Wade: Appointment of H. N. Lay: Opposition to new regime: Cases of "Wynand" and "Paoushun": Status of foreign Inspectors defined. § 14. Clarendon orders Inspectorate system not to be maintained unless extended to other ports. Treaty of Tientsin extends foreign Inspectorate system to all open ports, but as an essentially Chinese establishment. § 15. Appointment of Mr. H. N. Lay as first Inspector General. § 16. Customs situation at Canton in 1854: Abuses under system of linguists and revenue farmers: Occupation of Canton by allied British and French forces: Temporary closure of Custom House, and cessation of trade: Restoration of friendly relations with Canton officials through Hart's agency: Smuggling by river steamers, and *via* Fatshan: Hoppo's efforts to stop smuggling: Hart joins Customs Service: Visit of Lay, and opening of Custom House on new model: Attitude of American authorities to new institution. § 17. Extension of system to Swatow: War indemnities of 1860 payable to Great Britain and to France made a charge on Customs revenue: As this necessitated centralizing arrangements the Inspector General received his appointment from the newly created Tsungli Yamên: Lay proceeds on leave. § 18. During Lay's absence on leave Messrs. Fitzroy and Hart acted as Officiating Inspectors General: Hart's first visit to Peking. § 19. Discussion with Prince Kung and Wen Hsiang on Customs problems: Extension of foreign Inspectorate system to Chekiang, Ningpo, Tientsin, Foochow, Hankow, Kiukiang, Amoy, Chefoo, Tamsui, Takow, and Newchwang. § 20. Hart's memorandum on smuggling and frauds on revenue: Attitude of Consuls towards punitive powers of Customs: § 21. Increase in revenue under new Custom House administration. § 22. The Sherard Osborn fleet: Dismissal of Lay: Appointment of Hart as Inspector General.

From opening of Port of Shanghai till September 1853 administration of Customs entirely in hands of the Chinese.

§1. For the first few years from the opening of the port of Shanghai on 17th November 1843,[1] foreign merchants conducted their Customs business at the Chinese Custom House located on its original site in the Native City close to the river between the East Gate and the North East Gate. The control of this Custom House was, of course, entirely in the hands of the Chinese, and its head, or superintendent, was an official of Taotai's rank. Several Taotais held office during the opening decade, the incumbent at the time of the opening of the port being Kung Moo Chiu (宮慕久); but in order that there should be someone well accustomed to dealing with foreign merchants and foreign Consuls, the Chinese Government early in 1848[2] decided to appoint as *acting Taotai* Woo Chien Chang (吳健彰), who in his co-hong days at Canton, when he was known as Samqua, had for years been in close touch with all types of foreigners, and who had already acquired a good know-

[1] F.O. 228/31: Balfour to Pottinger, desp. No. 6; 12th November, 1843.

[2] Woo was made Acting Intendant of the Su-Sung-Tai district on 1st April, 1848. Alcock to Bonham, 10th April, 1848; B.P.P. *Correspondence respecting Insults in China*, 1857. p. 159.

ledge of the situation at Shanghai as he had been living there in official and other capacities for some years, previous to his elevation as Acting Taotai. Alcock was of opinion that his appointment boded no good but would tend to embroil foreigners with both people and authorities.[1] Easy-going Customs methods, both before and after his appointment, were the order of the day, and accommodation could generally be arranged for when treaty stipulations and treaty tariff rates stood in the way. Captain George Balfour, the first British Consul, bears witness to this:—"On my arrival at Shanghai, I was at once aware of a number of Canton people having come on to this port, who had introduced many of the worst habits and ideas prevalent at Canton, and . . . I regret to say that I found the notion introduced . . . as very general in favour of combinations to carry on the trade with foreigners."[2] Monopolistic combinations for trade and taxing purposes were favourite devices. In May 1847 Rutherford Alcock, who was then Consul at Shanghai, reported an attempt made by certain Chinese merchants to start what they designated as Chambers of Commerce to control the trade in silk, green tea, and black tea. Such chambers were to have the powers to levy on all dealers in these articles a 2½ per cent tax on the value of their stocks. As the proposal was merely a device to raise funds to cover the obligations of a defaulting fellow merchant, the Taotai was induced to quash the scheme.[3] In the early years of the port foreigners wishing to do business with the Custom House in the Native City found that the greatest drawback was the distance of several miles at which it was removed from the foreign business quarter, which was scattered along the bank of the Whangpoo (黃 浦) River, to the north-east of the Chinese City, between the City and the Yangkingpang (洋 涇 浜) for the French Concession, and between the Yangkingpang and the Soochow Creek (吳 淞 江)[4] for the British, afterwards the International Settlement. Captain Balfour took up this question with the Taotai and induced him in 1845 to establish a Custom

[1] Alcock to Davis, 17th March, 1848; B.P.P. *Correspondence respecting Insults in China*, 1857: p. 101.

[2] F.O. 228/31: Balfour to Pottinger, desp. No. 12, 21st December, 1843.

[3] F.O. 228/66: Davis to Palmerston, desp. No. 92, 28th May, 1847. enclo. desp. No. 42, Alcock to Davis, 6th May, 1847.

[4] The Chinese name for this creek is Upper Woosung River, the stretch from the present Garden Bridge to Woosung being known as the Lower Woosung River. The name Whangpoo, historically speaking, was originally confined to the river flowing past the Shanghai Native City and the foreign settlements to its junction with the Soochow creek. Today the reach between the Garden Bridge and its confluence with the Yangtze is also invariably spoken of as part of the Whangpoo.

House at a large temple located at the centre of the bund of the British Settlement, on the very site where the present building stands, and where the merchants had a jetty for the loading and unloading of cargo. Captain Balfour's object in this was not simply to provide a much appreciated facility for merchants, but also to enable the Chinese authorities and himself, as responsible Consul, to exercise supervision and to "check those abuses and that corruption so certainly injurious, not only to our general interests, but also to the honest and fair dealing merchant, and to secure to the Chinese Government the full payment of their just dues to which I attach great importance."[1] The Consul's desire to see that British merchants paid their just dues to the Chinese Customs authorities was but an expression of the solemn duty laid upon him by the Treaty of Nanking (1842), Article II of which expressly states that Her Majesty will appoint Consular Officers to reside at the five ports opened by treaty "to be the medium of communication between the Chinese authorities and the said merchants, and to see that the just duties and other dues of the Chinese Government, as hereafter provided for, are duly discharged by Her Britannic Majesty's Subjects." Much to the chagrin of the British merchants, this latter clause did not appear either in the American or the French treaties concluded at the same time. To make effective the general trade regulations of the early treaties, the Consuls instituted the practice of making every Master of a vessel deposit at his Consulate on entrance at a port all the ship's papers, bills of lading, manifest, etc., after which the Consul notified the Customs that the goods specified on the ship's manifest might be discharged and the duties levied on them as provided by tariff. As proof that all Customs formalities had been complied with and all Customs dues and duties discharged, the Master of a vessel had to produce to his Consul a document bearing the Taotai's seal known as a "Grand Chop" issued by the Chinese Taotai or Superintendent of Customs, after which the Consul returned the ship's papers and issued the clearance permitting the vessel to leave. Examination and valuation of the goods imported and exported, checking of manifests, assessment of duties, and collecting of all such were, of course, matters left entirely in the hands of the Taotai's staff. With the evil traditions of Canton behind them, lack of adequate pay and the still more serious lack of civil service ideals, it is small wonder that

[1] B.P.P. *Report from the Select Committee on Commercial Relations with China, etc.* 1847; Captain Balfour's evidence. p. 325.

abuses abounded, and that foreigners many of whom were in the widest sense of the term—merchant adventurers, were as willing to profit by these abuses as the Chinese themselves.

Shanghai in early fifties full of lawless element. Difficulties of honest merchants. Breakdown of treaty system of Customs procedure. Cases of "Lady Mary Wood" and "John Dugdale". Palmerston's decision that Consular interference for protection of Chinese revenue was to cease.

§2. Those were halcyon days for the unscrupulous; days when an easy-going trader and an obliging Customs official could always reach an amicable understanding with advantage to both sides. It seemed, indeed, as if the stars in their courses were fighting against the law-abiding. Shanghai, as we have already seen,[1] became during the late forties and the early fifties of last century a veritable El Dorado for lawless foreigners drawn thither by the hope of adventure or of quick fortune in a newly-opened country fabled to be rich in possibilities for the acquisition of wealth. Many of these men were of a type that would stop at nothing—not even murder—to carry through a profitable smuggling undertaking. In enterprises of this sort they could easily enlist coadjutors from the bandit and pirate elements among the Chinese, and could always, when need be, purchase by bribery the help of the underpaid and venal Custom House employees. In the Custom House, indeed, rascality was rampant. Every device of revenue fraud known to the ingenuity of man was openly and daily practised, both by merchant and official, and as long as there were no scandals so great as to demand the attention of the Central Government, and as long as the stipulated quotas were duly remitted to Peking the Central Government was not officially aware that anything was amiss. Settled merchants who by training and instinct were on the side of law and order, and who had a stake in the country, saw themselves faced if not with ruin at least with incalculable and unjustifiable losses through the dishonesty not only of the above-mentioned reckless adventurers but also of a corrupt Custom House and of certain merchants who considered themselves at liberty, with the connivance of those concerned, to trade, unfettered by restrictions, where and how they pleased, trusting when trouble arose either to bluff it out or to settle it by a cash compromise. Some of these merchants could shelter themselves behind the plea that their governments were not in treaty relations with China, but many offenders had no such defence.

[1] *Antea* Chapter 1, § 15, p. 56.

To add to his worries the honest trader, during the early fifties, was faced with a shortage of trading currency The Carolus dollar by its unvarying fineness and weight had acquired a high reputation among Chinese merchants, and had long been the daily medium of exchange both at the ports and at many inland marts, but as Spain had given up minting these coins the import of them had ceased The new Mexican dollar, although a slightly finer coin than the Carolus[1] was not popular, and as soon as it was realised that no more Carolus dollars could be expected, the supplies that were in the country tended to become immobilized and to be driven out of circulation by hoarders So strong did this tendency become that in a few years these coins could be procured only at a high premium[2], and at times in Shanghai they could hardly be procured at all Amid all these adverse conditions the British merchant felt himself to be worse off than anyone else True, his American or his French competitor was also bound by treaty stipulations, but those stipulations in their case did not include the one by which the Consul was obliged to see that every merchant under his jurisdiction paid to the Chinese Government his just dues and duties according to the treaty tariff, and by which too the Consul was bound to bring to the attention of the Chinese Customs officials any case of smuggling or attempted fraud on revenue by any of his nationals that might come to his knowledge In Pottinger's opinion it was only by such constant surveillance and intervention if necessary that abuses could be guarded against When giving instructions to Morrison, he had written —"It is only by the constant presence and interference of the Consuls in this way in all matters affecting Customs dues that the Imperial Revenue can be protected, whilst an effectual check will thus be exercised on the introduction on any pretence of new or unauthorized exactions"[3] It was fortunate for the American and the French Consuls that there was no such clause in their treaties, seeing that unlike the Consuls of Great Britain, who were state officials *de carriere*, they were only merchant Consuls devoting most of

[1] An assay made at the Mint in London of silver coins circulating in China in 1856 proved that the Mexican dollar contained 371 57 grs of pure silver and was worth 50 21 pence sterling, while the Spanish Carolus dollar contained 370 9 grs of pure silver and was worth 50 12 pence sterling *vide* Shanghai Almanac for the Year 1857

[2] B P P *Correspondence upon the subject of the Supply of Silver in the Markets of China* 1858 passim *vide* especially Proclamation issued by the Superintendent of Customs of 1st September 1855 pp 43 44

[3] F O 228/23 Pottinger to Morrison, enclo No 19 in desp No 7 of 6th February, 1843 to Aberdeen

their time and energy to trade on their own account. Had there been such a clause in their treaties, they would have been placed in a most invidious position, and could hardly have escaped the charge of being spies on rival firms of their own nationality, or of misusing their official status for the advancement of their private interests. Those British merchants, however, who wished to trade fairly, felt aggrieved that the enforcement of this article by their Consuls placed them in the conditions then prevailing at a very serious disadvantage. As we have seen, neither Imperial Decrees nor treaty stipulations, nor proclamations by Plenipotentiaries had brought about any change of heart, much less change of behaviour, in those whose gospel was the gospel of gain, and gain by any means fair or foul. Too often, unfortunately, the means used were more foul than fair. Apart from the unauthorized opium trade, defended by some of the foreign merchants as if it were a philanthropic enterprise, there was a steadily growing tendency to downright and vaunted rascality, and to open violation of law. In defiance of treaty stipulations, foreign traders pushed their way into many ports not yet opened,[1] landing and shipping cargoes, and if need be using, or making a show of, force to back their commercial arguments. At the treaty ports those foreign merchants who were not hampered by Consular representatives, had a free hand in bargaining with the Customs, and the evidence shows that they made full use of their freedom. Even of those whose trading transactions were supposed to come under Consular supervision, there were not a few who had no scruple in seizing every opportunitunity either of evading payment of duty altogether, or of securing, by false declaration or by amicable arrangement, payment of less than what the treaty tariff called for. The treaty tariff and the treaty system of Customs procedure were obviously breaking down, and in the latter half of 1850 and the opening months of 1851 the structure practically collapsed. Two notable cases which occurred then proved beyond the shadow of a doubt that unless the Chinese Custom House were reformed, and the same rules enforced impartially on merchants of all nationalities it was idle to expect the development of honest trade. The first case was that of the P. & O. steamer "Lady Mary Wood", which arrived at Shanghai early in June 1850 from Hongkong with a cargo of opium. This, in

[1] Elgin found an unauthorized foreign settlement at Swatow. In 1857 one hundred and twenty foreign vessels had loaded and discharged cargo there. F.O. 17/286: Elgin to Clarendon, desp. No. 58, 6th March, 1858.

accordance with the practice tolerated by the local authorities, was discharged into the receiving hulk at Woosung; after which the steamer proceeded up river to Shanghai in ballast. She entered Shanghai in ballast and cleared on 12th June, also in ballast, claiming and obtaining on this ground exemption from tonnage dues. On return to Woosung, she shipped 699 bales of silk, the property of the then senior partner in Messrs Jardine, Matheson & Co. Alcock, on being apprised of the facts, acted promptly. He ignored the opium trading aspect of the case, as he considered that was not his affair, but fined the offending merchant $200—the maximum fine then imposable—for evasion of duties, and clandestine shipment of goods at a place (Woosung) not opened by treaty, making the offender at the same time pay the duties evaded, namely $8,107. In addition, he fined the master of the vessel $200 for false manifest and for trading at a non-opened place, and compelled him to pay the tonnage dues evaded. In defence of their action the culprits urged that the "Lady Mary Wood" had to compete with sailing vessels, which regularly landed and shipped cargo at Woosung, where they were "exempt from port charges, and having to deal only with the Chinese authorities, merchants and others shipping goods obtain certain privileges and exemptions—in respect of duties which they cannot obtain at Shanghai."[1] The second case was that of the British ship "John Dugdale", which on 4th January, 1851 cleared from Shanghai with a cargo of 458,651 lbs. of tea. After clearance the ship's agent noticed that the ship had cleared with less than one half of the cargo she had taken on her previous trip. He reported the discovery to the Consul, who forthwith recalled the clearance, the actual fact being that there was a full cargo on board but that the duty documents were not in order. Duty in fact had been paid on only 201,400 lbs., and the remaining 257,251 lbs., with the connivance of the Customs officials, had been shipped—so far as the Imperial treasury was concerned—free of duty. The Taotai wished to confiscate the cargo, but Alcock, satisfied that there had been collusion, fined the four offending shippers $100 each, and made them pay double duty on the cargo short declared.[2] Alcock's action was supported by his home authorities;[3] but the British

[1] F.O. 228/123; Palmerston to Bonham, desp. No. 48, 20th May, 1851, enclosing statement from P. & O. S. N. Co.; and Palmerston to Bonham, desp. No. 66, 1st August, 1851. N. C. H. No. 31; 1st March, 1851.

[2] N.C.H. No. 24; 11th January, 1851.

[3] F.O. 228/123; Palmerston to Bonham; desp. No. 30, 24th April, 1851; and desp. No. 82, 2nd October, 1851.

merchants at Shanghai, and especially at Hongkong, were dissatisfied. Messrs. Jardine, Matheson & Co. appealed to the Supreme Court at Hongkong, and although the Court upheld the Consul's jurisdiction in the case, his verdict was reversed on the technical ground that a case involving a heavier fine than $100 should have been heard before assessors. At Shanghai, the General Chamber of Commerce came to the conclusion that it was desirable to suppress all smuggling, but pointed out that this end could not be attained by Consular action, which was legal only against British merchants while merchants of all other nationalities were exempt.[1] British merchants, as a rule, like to inherit what they consider their share of the earth, but equally as a rule they do not purchase that inheritance with meekness. They protested against the injustice of the situation in which they were placed, and demanded redress.[2] Redress came. Viscount Palmerston, writing under date of 24th May, 1851, to Sir George Bonham, the British Plenipotentiary, summed up their case thus;— "The same mercantile houses represent that as the prevalence of smuggling at Shanghai is owing to the remissness or corruption of the Chinese authorities, it is unreasonable that the British Consular authorities should be required to perform the duty which properly belongs to these Chinese authorities; and that the interference of the British Consular authorities for the protection of the Chinese revenue, while the Consular authorities of other Powers do not interfere in the same manner to control the dealings of their fellow-subjects and fellow citizens, has a tendency to throw into the hands of the subjects and citizens of other states the greater part of the trade at the port of Shanghai, inasmuch as British merchants cannot compete with parties over whose dealings no Consular control is exerted, and who are, therefore, enabled by collusion with the Chinese authorities to defraud the Chinese revenue to a very large extent." Having stated the case he proceeded to deal with it in characteristically Palmerstonian fashion. He maintained that the most favoured nation clause freed Great Britain from the obligation imposed by Article II of the Treaty of Nanking, as the American and the French treaties did not have such an article. He contended that—"as it is now evident that the Chinese authorities are not disposed to take effectual

[1] N.C.H. No. 36; 5th April, 1851.

[2] F.O. 228/123: Palmerston to Bonham, desp. No. 39, 21st April, 1851, enclosing letter of protest from the Shanghai firms Magniac, Dent, Lindsay, and Rathbone.

measures to protect the Chinese revenue, it cannot be expected that the British Government should alone undertake to do that duty. The engagement of the treaties must be considered as founded on the assumption that both parties would endeavour to secure the payment of the duties justly due to the Chinese Government, and as the Chinese Government by the negligence of its authorities omits to perform its part of that common endeavour, the British Government may fairly claim to be relieved from any obligation in regard to this matter. On the twofold ground, therefore, of the clause of the Treaty of Hoomunchai to which I have referred [Article VIII], and of the omission of the Chinese Government itself to act up to the manifest intention of the treaties between Great Britain and China, the British Government feels itself entitled to withhold for the future all interference on the part of the British Consular authorities for the protection of the Chinese revenue."[1] Sir George Bonham duly communicated Palmerston's statement of the case and decision to the Imperial Commissioner Seu, and elicited the reply that the Commissioner could not understand what the British merchants were complaining about. If smuggling is going on, he inquired, how is it that the revenue collection from Customs duties is increasing?

Taotai's appeal to American and British Consuls *re* manifests and control of cargo-boats. Taotai issues new Customs regulations to meet situation created by cessation of Consular interference. French Consul refuses to admit validity of new regulations.

§3. Just before Palmerston's decision reached Shanghai both the American and the British Consuls had been appealed to by the Taotai for their assistance in securing the presentation of fuller and more accurate manifests to the Customs, and in bringing recalcitrant cargo-boat owners and their employees to understand that Customs officers on duty in the harbour had the right to ascertain the contents of the cargo-boats loading and unloading ships. The American Consul, Mr. J. L. Alsop Griswold, dealt first with the question of manifests, and in a notification to his nationals, dated 26th July, 1851, he announced that owing to "the inattention of consignees of vessels under the United States flag when making their entries and clearances, several complaints have of late been made by the Chinese authorities, which lead to frequent amendment of

[1] F.O. 228/123: Palmerston to Bonham, desp. No. 49; 24th May, 1851. B.P.P. *Correspondence respecting Consular Interference for the Prevention of Smuggling in China.* 1857, p. 2. *vide* also Palmerston's letter of 18th June, 1851 to Sir Thomas Birch, quoted in N.C.H. No. 62, 4th October, 1851.

manifests, and have been the cause of much trouble and loss of time to the undersigned in explaining to and convincing His Excellency the Taotai that the errors were rather from inadvertence than from an intention to smuggle. With the view therefore of correcting this inattention, the undersigned now gives notice that a fee of 25 dollars will be charged hereafter for all amendments to manifests, after the original papers have been sent in to the authorities". He then proceeded to point out that in cases when a complaint is first entered by the Chinese authorities, leading to the necessity of a formal investigation a fee of 150 dollars would be levied on the consignees "should the facts show that the charge has arisen from their carelessness or inadvertence". Finally, he urged merchants to make use of the form of manifest, circulated on 6th July, 1850, which provides for a clear indication of the number of packages of each lot of goods and the number of pieces in a bale.[1] A week later—on 1st August—appeared his notification regarding Customs control over laden cargo-boats. The Taotai had complained that lighters, carrying goods in the harbour, had refused to give information to Customs officers regarding the number of packages on board their boats and the names of the vessels to which they were going or from which they were coming. "The undersigned stated to him in reply that he did not object to such information being given by United States owned lighters, provided the same regulation was made obligatory upon all others. Any infringement of this regulation will subject the goods to being taken to the Custom House jetty for examination, and boats reporting falsely will be liable to seizure and being debarred from pursuing the business of lightering"[2] The British Consul issued his notification on 6th August,[3] and fully supported the attitude taken by his American colleague, without, however, going the length of charging a fee for the correcting of a manifest. He informed his nationals that "consignees will in future be required to state the number of bales or packages, and the contents of each, as well as the collective quantities". While reassuring them that he would see to it that British merchants are not harrassed or caused unnecessary annoyance by the Customs, he at the same time made it clear that it was his duty to co-operate with the Superintendent to see that no obstacles are thrown in his way by British merchants or their servants. "So long as the

[1] N.C.H. No. 53, 3rd August, 1851.
[2] *Ibid.* No. 54, 9th August, 1851.
[3] *Ibid.* No. 54, 9th August, 1851.

measures taken for the protection of the Chinese revenue, therefore, are not only necessary and just, but applied impartially to merchants and ships of all nations, every support will be afforded". The new fee-collecting activities of the American Consul came in for some good-humoured chaff; but the decision of the Consuls to support the Customs in their control of cargo-boat movements roused gloomy forebodings. Great was the jubilation, therefore, especially among the British merchants when it became known that by orders from the Secretary of State for Foreign Affairs Consular interference in Customs matters was to cease. Alcock's notification on this occasion, dated 19th August, 1851, was unusually lengthy, but the gist of it was contained in the sentence—"All business in which the Custom-house is concerned, after the first reporting of the ship through the Consulate, will be from this date transacted by the merchants and the Custom House authorities without any Consular intervention whatever, unless cause of complaint or dispute should arise on either side which cannot otherwise be arranged".[1] Then followed as part of the notification a copy of Alcock's letter to the Taotai, conveying Viscount Palmerston's instructions to the British Plenipotentiary, and of the Taotai's reply. Apart, then, from special cases which might call for joint investigation, or for the exercise of extra-territorial authority, the British Consul's routine action in Custom House matters would be (1) to report to the Superintendent the arrival of a ship, (2) to transmit a copy of the inward manifest, and (3) to hold the papers of the ship in question till the shipmaster, or agent of the vessel, should present to the Consul the Custom House "grand chop" a sealed document certifying that all dues and duties have been settled, on presentation of which the ship's papers would be returned and the ship be free to clear.[2] To meet the situation thus created the Taotai lost no time in issuing a set of Custom House regulations in ten articles.[3] The first dealt with the reporting of a ship's arrival, which was to be done through the Consul, after which the consignee was to apply to the Customs for a written permit authorizing the opening of the hatches and the discharge of cargo: discharge without permit would entail penalties according to treaty stipulations. The second regula-

[1] F.O. 228/151: Enclo. in desp. No. 68, Alcock to Bonham 14th September, 1853. N.C.H. No. 56; 23rd August, 1851.

[2] N.C.H. No. 56, 23rd August, 1851.

[3] F.O. 228/161: Bonham to Alcock, desp. No. 3, 8th January, 1853.

tion called for a separate report of imports, or application as it would now be called, from each consignee. This meant that each individual owner of goods had to hand in a written application specifying the number of packages, contents, etc. before a permit should be issued authorizing the landing of his goods. Landing of goods without such permit would entail confiscation. The third regulation dealt with the declaration of exports by consignees and followed *mutatis mutandis* the lines of the second. The fourth regulation dealt with reporting a vessel for clearance, and called for the production of an export manifest to be handed in on completion of the loading. The fifth warned foreign merchants when purchasing tea and silk to demand from their Chinese dealers "the Station-house Dockets of Registry" since if these are not produced the banker will not receive the export duties, instructing consignees that all import and export duties and tonnage dues are to be paid direct to the Customs banker, and that the usual banker's receipts are to be "delivered directly into the Custom House, and not as heretofore through the Consul". The seventh stipulated that after payment of all dues and duties, a "grand chop" would be issued in triplicate, one copy for the merchant, one to be sent to the Consul, and the third for the office archives; the Consul on receipt of his copy was to return the ship's papers and permit the vessel to clear. The eighth regulation fixed the working hours—namely sunrise to sunset—during which goods might be shipped or discharged; movement of goods at other times would be allowed only on special permit. The ninth reminded merchants that Customs officers had the right to ascertain the contents of cargo-boats plying to and from vessels in the harbour, and to order such boats to come alongside the Customs jetty for examination of the goods. The tenth, and final, regulation dealt with penalties for smuggling, stating *inter alia*—"It is therefore publicly notified that henceforth the Superintendent of Customs will lèvy the full penalty without any compromise, *whenever any case of smuggling is proved, and confiscate the* whole of the goods he is entitled by regulation to seize without distinction of persons or flags". As after events proved, the less scrupulous among the British merchants were not much perturbed by the issue of these regulations. The cessation of the Consul's interference was for them a decided gain, and they had had sufficient experience with the Chinese Customs officials and underlings of that time not to know that even the most rigid regulations could by judicious bargaining be made

to mean a great deal less than they portended. Honest men, however, welcomed the change. It removed inequalities, gave the Chinese authorities the chance of protecting their own revenue without external assistance, and provided a new opportunity for a fair field and no favour. Even the editor of the *North China Herald* expressed the opinion that as "a more satisfactory system is in operation, it is better to let bygones be bygones, and trust that the future will redeem the blot that has sometime dimmed the brightness of our merchants' scutcheons at this port".[1] The French Consul, however, would have nothing to do with these new regulations. He took four months to consider them and then wrote an indignant letter to the Taotai denouncing them root and branch.[2] He maintained that they were at variance with the Custom House procedure sanctioned by the French treaty, that they had been drawn up and promulgated without his knowledge and approval, and that as Article XXXV of the French treaty forbade such unilateral action he did not consider that these regulations were binding on French merchants. Even though it be admitted, as was then urged, that the regulations did not infringe the spirit of the treaty, and that in any case French trade was of small account, yet the incident was significant. It showed that there was a rift in the lute, presaging discord. If the experience of the past went for anything, lack of harmony among the Consuls meant for the merchants opportunities for friendly arrangements with the Taotai.

In spite of change smuggling continues unabated. Abuses in connection with drawbacks, damaged imports, and use of duty receipts. Alcock's action in support of Taotai.

§ 4. *Naturam expelles furca, tamen usque recurret.* The truth of the Horatian maxim was quickly exemplified. Within a couple of months complaint was lodged with Alcock by certain British cargo-boat owners against the action of Customs officials in flogging cargo-boat coolies for not bringing their boats, when ordered to do so, alongside the Customs jetty for verification of the cargo.[3] This was clearly a case of Chinese jurisdiction over the person which Alcock wisely declined to touch. The complaint was symptomatic. Custom House methods, and Custom House relations with foreign merchants had not been, and could not be, transformed

[1] N.C.H. No. 58; 6th September, 1851.
[2] *Ibid.* No. 73; 20th December, 1851.
[3] *Ibid.* No. 64; 18th October, 1851.

by the *ipse dixit* of a foreign Secretary of State, and even if there had been some outward show of adaptation of procedure to meet altered conditions, yet human nature remained unchanged. The spots were still on the leopard, the skin of the Ethiopian still remained black. The core of the evil had not been touched. On the one hand the dishonest "foreign merchant no longer circumscribed in his operations by fear of the intervention of Consular authority to compel the payment of duties" continued to arrange his business so that a large amount of cargo passed at reduced rates to the great detriment both of the revenue and of his honest neighbours; and on the other hand the throwing on the Chinese authorities of the whole onus of collecting the duties leviable on foreign commerce had not acted like a miracle of healing, the palsied limbs remained crippled and the hardened heart continued unregenerate. "The state of things", declares the *North China Herald* "in regard to smuggling gets worse and worse at this port, so far from the recent change in the system of paying duties . . . being of any benefit to the honest merchant, it has left him the victim of the unscrupulous and the designing. . . . It should not be allowed to compound the payment of legal dues by an instalment of twenty per cent from one hong, fifty per cent from another, and seventy per cent from a third, whilst the honourable man is all along paying the full duties agreed upon by treaty stipulations".[1] The old tricks of the trade had not been forgotten. Cargoes of silk could be passed on a fifty per cent basis by the simple expedient of having two bales fastened together as one and declared as one. White shirtings could be declared and passed as grey shirtings, thereby gaining the advantage of a lower tariff rate and of being able to be sold at a price undercutting that of the more scrupulous trader. In four months only 850 pieces of chintz had been declared for importation but in the same period some 25,000 pieces had been sold; they had come in as coloured and fancy cottons, paying 10 cents instead of 28 cents in duty. Claims for reduction of duty on account of damaged goods, and claims for drawbacks on foreign goods re-exported abroad provided opportunities for other abuses, and these became so prevalent that the Taotai felt himself obliged to draw the attention of Rutherford Alcock, the British Consul, to the misdoings of some of his nationals. The Consul

[1] N.C.H. No. 94; 12th May, 1852.

responded by issuing notifications, the one dealing with drawbacks and damaged goods, and the other with the proper use of duty receipts.[1] In the former the Consul pointed out that merchants had no right to claim exemption from payment of duty on the ground that the goods they were importing were declared to be for re-export. That practice was to cease. By treaty all imports were bound to pay full import duty. Merchants wishing to return to the country of origin imports found unsaleable "and not transported to one of the other four ports for sale" would in future have such re-exports reported to the Consul, who, after checking the details with the original import manifest, would transmit the claim to the Custom House, where after examination and verification of the goods a drawback certificate would be granted. This issuing of drawback certificates, which at that time could not be cashed, but be used solely for future duty payments, was an extra-treaty concession, and held good only for duty-paid imports re-exported abroad. Duty-paid imports to be re-exported to another treaty port, after verification, would be given by the Taotai a certificate exempting them from a second payment of duty. Damaged goods would have to be declared as such at time of discharge so that the extent of the damage might be ascertained. As soon as the goods had been sold the merchant was to submit, under oath, a statement to the Consulate showing the price he had obtained for the goods, after which the Taotai would sanction payment of a reduced duty. The other notification dealt with abuses in connection with duty receipts, and to obviate these in future the authorized Customs banks, when receiving duties for the Government, were "to make entries on the receipts specifying the nature of the payment, whether for Import or Export duties or for tonnage dues, and further describing the particular goods or produce for which such sums are paid, and these will only be received at the Custom House for the clearance *of the goods or ships so specified.*" The Consul pointed out that—"the right of the Custom House . . . to refuse *to receive these receipts in payment of any other claims or goods* does not appear to admit of any question." As, however, the procedure was a new one the Consul obtained deferrment of its enforcement till 8th November. Thus in less than six months from its pronouncement Palmerston's decision to suspend the operation

[1] N.C.H. No. 119. 6th November, 1852. British Consular Notifications No. 21, 30th October, 1852; and No. 22, 4th November, 1852.

of Article II of the Treaty of Nanking had proved itself a failure to effect the reform hoped for. In the circumstances, its failure was inevitable because any such suspension by itself alone left untouched the heart of the malady. The evil outside the Custom House was great, but it was only the evidence and the outcome of still greater evil within. To isolate the outside evil and deal with that alone was but applying a plaster to a cancer. The malady called for excision. The remedy was to be sought in the answer to the question—*quis custodiet ipsos custodes*. "The only effectual method to arrive at this desirable object [the prevention of smuggling], however, is to keep an efficient staff of active, intelligent, and honest men, to administrate the affairs of the Custom House, and to watch vigilantly the imports and exports daily as they arrive and depart; without this sedulous supervision of the every-day business of the port, all other means of preventing smuggling will prove abortive."[1] It was evident that reform must begin from within, and events were now shaping to make possible and to hasten that reform.

Significance of Taiping Rebellion.

Capture of Nanking by rebels and subsequent stagnation of trade. Alcock's proposal to stand security for dues and duties in view of lack of currency. Action not approved by Plenipotentiary.

Appeal of British merchants to Plenipotentiary for establishing of bonding system. His reply.

§ 5. Whatever may have been the religious and the political ideals that originally inspired the Taiping movement, it was economically a devastating blight. Had it been simply a new doctrine, a new way of life to be propagated not by intolerant force, but by example and precept, China would have been spared untold misery and incalculable loss. But the fanatical founder aspired to establish a dynasty, and made pretensions to divinity, both of which ambitions were not compatible with loyalty to the Son of Heaven. Such a movement called for suppression, and suppression turned sword and fire loose upon the land. The Taipings went forth to found their kingdom, and wherever they went they left behind them a trail of destruction and bloodshed. From their home in Kwangsi they overran the neighbouring province of Kwangtung, making even the redoubtable Viceroy Yeh Ming-shen (葉名琛)—though he slew them by the thousands—despair of ever stamping out these rebels against the established order. Then the movement turned northwards through Hunan gathering in its train the reckless and discontented elements of the population. They lived on the country

[1] N.C.H. No. 119, 6th November, 1852.

they traversed, leaving behind them thousands of devastated farms, looting and burning the cities, and slaughtering those who resisted them. Foiled at Changsha, they turned east and poured like a devastating flood down the rich Yangtze valley, creating more damage and destroying more life than any real flood had done before or has done since. Hanyang, Wuchang, and Kiukiang were laid waste, and finally on 8th March, 1853 they drove the Imperialist army out of Nanking and declared that city to be their capital. Their advance down the Yangtze towards Shanghai had naturally played havoc with the trade and economic life of that vast area; but when Nanking fell everything stood still. Trade at Shanghai became completely paralyzed. Silver, whether as sycee or in dollars, became unobtainable, and the native bankers rather than see their supplies disappear into the hands of hoarders, refused further accommodation. Merchants as a result found it impossible to obtain payment of import and export duties from their Chinese dealers, or to effect the sale of goods. Outward bound vessels, not having discharged their Customs obligations, were in consequence detained with great loss and inconvenience to all concerned.[1] To relieve the pressure, imports of bullion were imperative, but as such imports could not arrive till the close of the year merchants were obliged in the meantime to seek some other means of relief. On the 5th March that year—1853—the British merchants appealed to their Consul, Rutherford Alcock, maintaining that as it had become impossible to obtain payment from the Chinese dealers of sums owing for Customs duties, a system of deferrment of duties should be devised. Alcock laid the merchants' plea before the Taotai, and proposed as a provisional measure that the Taotai might issue Port Clearances against the Consul's guarantee that the dues and duties would be paid.[2] To this the Taotai replied that the laws of the Empire required that the duties collected on foreign trade should be duly remitted to Peking at the end of every two months; but that in view of the difficulties then obtaining he was willing to allow payment of duties to stand over from one month from date of departure of the vessel. Alcock then proceeded to set up what amounted

[1] "From other quarters come statements that our merchants are wholly unable to obtain silver to pay the duties on numerous ships, British and foreign, ready for sea, and that the Chinese bankers have declared their inability to enter into any monetary transactions whatever." F.O. 228/149: Bonham to Malmesbury; desp. No. 19, 11th March, 1853.

[2] N.C.H. No. 137, 12th March, 1853.

to an improvised bonding system, and notified his nationals that he was prepared to return the papers to any British ship and to authorize her departure, provided (1) that the consignee of the vessel should present at the Consulate the usual Customs document certifying the total amount of duties payable, (2) that the consignee should arrange to deliver to the Consul securities, such as Government bonds, titledeeds to houses or lands, warehouse warrants for foreign imports, etc. to an amount specified by the Consul, and (3) that the consignee should sign a special declaration acknowledging his responsibility to make due payment.[1] None of the other Consuls would lend support to such a system, which although releasing trade to some extent, could not relieve the financial stringency, and had the undesirable effect of making the Consul the depository of piles of securities, the redemption of which was doubtful. Sir G. Bonham, the British Plenipotentiary and Chief Superintendent of Trade—an easy-going man who desired above all that he should have peace in his time—visited Shanghai shortly after this system had been put into operation, and had no hesitation in instructing Alcock to put an end to it.[2] "It seems to me", he wrote, "that the system in force has had a fair trial, and unless it obtains a more formal sanction than the Taotai has already given, it would now be advisable if possible to ascertain whether the goods on hand on the 10th ultimo have all been shipped off, and this fact once ascertained the matter becomes an easy and simple one. For with *newly* purchased goods the system should not in my opinion be allowed to continue."[3] In his opinion no British Consul had the authority to permit goods to be landed without payment of duties in contravention of the treaty, and in opposition to the express desire of the Chinese authorities. Accordingly on 14th April, after having been in force for about five weeks, this makeshift bonding system came to an end, and the deferred dues and duties were paid to the Taotai. Trade conditions in Shanghai could not now have easily been worse. In despair, a large group of British merchants made a direct appeal to Sir George Bonham, summing up their grievance under seven headings. Firstly, since last February there had been

[1] N.C.H. No. 137, 12th March, 1853; British Consular Notification No. 5, 10th March, 1853.

[2] F.O. 228/150; Bonham to Clarendon, desp. No. 69, 20th July, 1853: N.C.H. No. 143; 23rd April, 1853: British Consular Notification No. 10, 14th April, 1853.

[3] F.O. 228/161: Bonham to Alcock, desp. No. 28. 13th April, 1853 (Written at Shanghai).

a complete stoppage of trade. Secondly, up to the present the signatories had paid all the duties due by them. Thirdly, nearly all Chinese capital had been withdrawn from trade thus making bills on England saleable only at exorbitant rates. Fourthly, merchants are thus driven to the importation of opium or bullion, and the latter might be unobtainable while the former—a contraband drug—was hardly a suitable article for piece goods merchants to deal in. Fifthly, this present disastrous state of trade had arisen entirely from the inability of the Chinese Government to control its subjects. Sixthly, this weakness of the Chinese Government might result in the destruction of stocks of goods then in Shanghai of a value of £1,000,000, on which duty had been paid, and in the next two months additional stocks worth another £1,000,000 were expected; seventhly and lastly, such a situation had not been envisaged at the time of the signing of the Treaty of Nanking, therefore it would be "only just to defer payment of duties in cash until some Government is formed with an Executive sufficiently powerful to restore confidence, and place trade in the position it was before the disturbances commenced".[1] In reply, the Plenipotentiary read his petitioners a lesson. He admitted the truth of what they had said about the stagnation of trade, but he could not admit that because of a contest, or whatever else it might be called, between a sovereign, in treaty with Great Britain, and his subjects by which British trade was suffering, British merchants had therefore any right to demand the abrogation of one of the most important of the stipulations of the treaty between the sovereign, in whose kingdom such dissensions existed, and the British Government. On the contrary, he was of opinion that the remedy for present difficulties lay in a great measure in the hands of the British merchants themselves, and this remedy consisted in abstaining from further importations of goods so long as the country continued in a disorganized state. He also thought that with a knowledge of the damage caused by the Taipings to trade at Canton, his petitioners might easily have foreseen what was likely to occur at Shanghai, and have made preparations accordingly.[2] The merchants replied that they had been misunderstood. They had not asked for exemption from duties, but had "merely requested that payments might

[1] F.O. 228/150: Bonham to Clarendon, desp. No. 69, 20th July, 1853. F.O. 228/151: Bonham to Clarendon, desp. No. 100, 4th September, 1853. N.C.H. No. 162, 3rd September, 1853.

[2] Memorial from Shanghai merchants to Sir G. Bonham; N.C.H. No. 159; 13th August, 1853.

be deferred until trade revived and the goods were required for consumption." The privilege they had asked for was, in short, bonding. This suggestion elicited even colder comfort. Sir George reminded his petitioners that the Chinese Government had the unquestionable right to collect its Customs dues and duties without deferrment of any kind, and that "he would be overstepping the limits of his powers, if by any act on his part he sanctioned such a measure unless the full consent of the Chinese Government were in the first instance obtained."[1] The political disorder which had created this situation at Shanghai was not confined to the Yangtze valley. On 18th May at Amoy local insurgents ousted completely the Imperial authorities from the city, and took possession of the Government offices. The question at once arose whether foreign vessels and merchants were bound to pay Customs dues and duties to the *de facto* rulers. On the matter being referred to the British Plenipotentiary, he ruled that the British Consul was not to take any steps to protect the Customs revenue, on the ground that the rightful authorities were not there themselves to receive it, and that the failure of these authorities to protect British trade absolved British merchants from their treaty obligation to pay duties on that trade. The treaty bound both parties, not one alone. As soon as the authorities returned to their posts they could resume the collection of Customs dues and duties on ships and cargoes then in port, but not on ships and cargoes that had come and gone during their absence.[2] Events, however, were pending which were to induce the Plenipotentiary to modify his views, not for Amoy with its trifling legitimate trade, but for the premier port of the Empire where millions of pounds were at stake.

Capture of Shanghai by San Ho Hui: Looting of Custom House: Declaration of neutrality of International Settlement.

§ 6. The 7th September 1853 happened to be the anniversary of the birthday of Confucius; but at Shanghai that year the usual solemn celebrations did not take place. Instead, the city was in confusion. A band of Canton and Fukien rowdies, members of the Small Sword Society (小刀會), a branch of the San Ho Hui (三合會),[3] an anti-

[1] F.O. 228/160: Bonham to Clarendon, desp. No. 69, 20th July, 1853.
[2] F.O. 228/151; Bonham to Clarendon; desp. No. 104, 21st Sept. 1853.
[3] N.C.H. Nos. 163, 164, and 166; 10th and 17th September, and 1st October, 1853. Alcock did not believe that the San Ho Hui was allied with the Taipings. F.O. 228/157; Alcock to Bonham, desp. No. 67, 7th September, 1853.

Steps taken by British and American Consuls to ensure payment by their nationals of Customs duties due to Chinese Government: The Provisional System: Establishment by Taotai of floating Custom House: Entry and clearance of Austrian vessel "Robert" without payment of duties.

dynastic gang of freebooters generally believed to have been in alliance with the Taipings,[1] seized the Chinese City, and on the following day taking advantage of the confusion a mob, not necessarily of rebels, came swarming into the British Settlement and thoroughly looted the Custom House carrying away even the doors and the windows. The Taotai, Woo Chien Chang (吳健彰), whose tortuous administration had done much to precipitate the crisis[2]—had gone into hiding, but was eventually rescued, and found an asylum with American friends in the British Settlement.[3] As in the case of Amoy the question at once arose of the Custom House, and what steps, if any, should be taken to rehabilitate that institution. Were the foreign vessels in port at that time, of which there were about twenty-six, to be allowed to depart without Customs clearance; and if duties were to be paid, who was to receive them. The two cases of Amoy and Shanghai, as Bowring afterwards pointed out, were not exactly alike, even though Bonham contended that they were "perfectly parallel".[4] The essential difference was that at Shanghai the situation was complicated with the question of neutrality. This matter of neutrality in the event of Shanghai being attacked had been discussed by Bonham with Alcock and the naval authorities, when he was at Shanghai in the spring of 1853, and the decision then come to was "not to interfere in any way, unless compelled to do so for the protection of British subjects at Shanghai,—not by any means a likely contingency."[5] This decision the Plenipotentiary had embodied in instructions to the British naval authorities, stating: "It is my desire that we should be completely neutral in the struggle for power at present carried on between the Chinese Government and these armed forces, and that the only decided part we should take is to prevent that the locality set apart for the settlement of foreigners at this port [Shanghai] be interfered

[1] *Vide* B. Favre, *Les Sociétés secrètes en Chine*; Paris, 1933, chaps. VI-XI.

[2] F.O. 228/176 Wade's memorandum, enclo, in desp. No. 45, Alcock to Bowring, 23rd May, 1854.

[3] The Triads held the native city of Shanghai till 17th February, 1855, when they were driven out by the Imperialist troops. N.C.H. No 238; 17th February, 1855.

[4] F.O. 228/176: Bonham to Alcock, desp. No. 22, 16th February, 1854.

[5] F.O. 228/150: Bonham to Russell, desp. No. 21, 28th March, 1853.

with in any manner likely to endanger the lives and property of our countrymen."[1] The Taotai had made several attempts to secure British military assistance on behalf of the Imperial troops, but to such overtures Alcock, on Bonham's instructions, invariably turned a deaf ear.[2] The American Commissioner, Humphrey Marshall, who wished to support the Imperialists was also informed of this decision.[3] All this had been communicated to the Home Government and by the end of July Bonham was in the position to inform Alcock that—"It is the wish of Her Majesty's Government that the British authorities in this country should act a strictly neutral part in the contest now being carried on between the Emperor of China and a small rebellious portion of his subjects."[4] Alcock, therefore, had no hesitation in making it clear that the instructions he had received to preserve neutrality between the Government and the rebels gave him no option but to exclude both sides impartially from using the settlement for military operations, and from exercising any governmental function within that area. His view of the situation was that as the Imperial Government had failed to protect the British Settlement and thus prevent the looting of the Custom House, and that as the Government had likewise failed to prevent the capture of the Native City and the killing of the Magistrate, it must be recognized that for the time being the Imperial Government had ceased to function within this area, and that, therefore, it devolved upon the foreign settlers to defend their own interests until the Government could once more do so. The French Consul, Monsieur Edan, and the American Vice-Consul Mr. Cunningham, also fell in with these views. This being the declared policy of the three Treaty Power Consuls, they proceeded to put it into action. A strict neutrality was declared, and the Taotai was informed that until normal conditions were restored he could not exercise his functions as a Chinese official within the settlement, and that consequently the Custom House on the Bund, the ruins of which had been placed under the care of a British guard, could not be reopened. In practice, this meant that the Taotai was not at liberty to collect Chinese Customs duties on

[1] Bonham to Commander Fishbourne, 11th April, 1853, B.P.P. *Papers respecting the Civil War in China*, 1853, p. 8.

[2] F.O. 228/159: Bonham to Russell desp. No. 25, 18th April, 1853. British Consular Notification of 8th April, 1853: Alcock's letter to Taotai in N.C.H. No. 152, 25th June, 1853.

[3] F.O. 228/150: Bonham to Russell, desp. No. 25, 18th April, 1853.

[4] F.O. 228/161: Bonham to Alcock; desp. No. 58, 26th July, 1853.

foreign trade within the port of Shanghai, until he should have re-established his office and residence either within the City, or at some suitable site, outside the settlement, acceptable to the Consular authorities. The Taotai's attempts to solve this problem, as we shall see, only made confusion worse confounded. To have allowed such collection in the foreign settlement the British Consul argued would have been to violate neutrality by extending to the Taotai the protection of foreign soldiers and foreign gun-boats in order that he might collect Chinese Government revenue. As even the Chinese, who had flocked into the settlement in large numbers, had no faith in the Green Flag Imperialist troops, the attitude of the Consul can at least be understood. At the same time, it seemed to many, both Chinese and foreigners, like taking an unfair advantage of the distress of the Government, which was in dire need of all the funds it could lay hands on wherewith to suppress the rebels, while the settlement, although leased to the foreigner for his use, yet remained Chinese soil.[1] Alcock was fully aware of the strength of this argument, and no doubt, as the only non-merchant Consul at the port, felt it incumbent on him to take the lead. At the same time he knew both from his experiment in March of that year in the deferment of duties on Consular guarantee, and from what had happened at Amoy, that his immediate chief, the Plenipotentiary, was not sympathetic to the British Consular Service being used as a Customs collecting agency for a distressed Chinese Government. With that attitude Alcock was not in agreement; but this time he was determined that his action in implementing what he considered to be the correct interpretation of treaty obligations should not be lightly upset. He therefore decided (1) to secure the co-operation of his colleague the American Consul, (2) to stipulate that the merchants should not be compelled to pay duties in cash or in sycee, but should be given the option of handing to the Consul concerned a written guarantee undertaking to pay

[1] In October 1854, some months after the establishing of the foreign Inspectorship of Customs, Alcock had an interview with Keih when the latter in rebutting the charge of deficient protection stated "that if the City had not been taken, the blame lay not with the Chinese authorities but [with] the Representatives of Foreign Powers, who prevented him conducting his military operations in a manner to complete the investment of the place and allowed the insurgents without let or hindrance to draw supplies and munitions of war of every kind from the Foreign Settlement, and even furnishing within our limits a market for the sale of the pillaged goods." F.O. 228/166: Alcock to Bowring, desp. No. 81, 9th October, 1854 enclo. in desp. No. 181. Bowring to Clarendon, 22nd November, 1854.

eventually the dues and duties leviable, (3) to make the validity of this arrangement, so far as British subjects were concerned, depend on the sanction of Her Majesty's Government, and (4) to report this proposed arrangement direct to the Foreign Office. Accordingly on 9th September he issued a proclamation announcing *inter alia* that;—"The capture of an isolated seaport on the coast of a vast Empire can in no sense abrogate a solemn treaty entered into by the two sovereigns of Great Britain and China,—the inability of the one Government to enforce its rights owing to calamities which beset it, so far from being a reason why the other should take advantage of the circumstances to ignore its rights, forms in truth the strongest argument for their honest recognition."[1] The proclamation dealt also with the inequalities that might arise in case the vessels of other nationalities should not be bound by rules similar to those now proposed, and then gives a detailed explanation of the course the Consul intended to follow. This course, or as it came to be called Provisional System, he summarized in six "Provisional Rules for the Clearing of Ships in the Absence of a Custom-House Establishment." The first of these rules stipulated that the consignee of each British ship must hand in to the British Consulate a declaration in writing of all the parties to whom imports have been assigned and of all those who are shippers of outward cargo. The second rule was that each importer or shipper was to make a declaration in writing of the quantity and description of his goods, the number of packages, their weight and value when the two latter conditions affected the duties. The third rule laid down that in the event of doubt arising regarding the accuracy of the particulars submitted the Consul could call for any papers or other documentary evidence he considered necessary. The fourth rule called on the consignees of every vessel to present a collective schedule of the particulars of cargo and duties payable on goods and ship corresponding with the several declarations of importers and shippers, and a statement of the tonnage dues leviable. The fifth rule, which as the after event proved was the most important of all, stipulated that "the amounts thus shown to be due from importers, shippers, and consignees of vessels to be paid into this office, either in silver as they would have had to pay if the Custom House bankers had to receive the duties, or by

[1] N.C.H. No. 164, 17th September, 1853. F.O. 97/99: Bonham to Clarendon, desp. No. 109, 26th September, 1853.

the bill of several parties payable on demand at forty days' sight in Shanghai to the Chinese Superintendent of Customs, provided the sanction of H. B. M's Government to that effect be received." The sixth, and final, rule stated the consequences of a faithful observance of the preceding five, namely that on application the ship's consignees would receive from the Consul the ship's papers and a Port Clearance under the Consular Seal, after delivery of which the vessel would be at liberty to leave the port. The option given of paying by bills instead of in silver, as laid down by treaty, arose as on the occasion six months previously from the extreme scarcity of silver, due partly to the disruption of trade caused by the rebellion, partly to the refusal of the Chinese bankers to grant the usual facilities, and partly to the steady drain by the export of this metal to balance the trade in opium. Many people failed to grasp the inner significance of this scheme. To them it seemed to be merely a device having the protection of the Chinese revenue as its primary object. But what were the facts? "In the *interest of British merchants and their trade* the Consul was suddenly called upon to devise some means by which British ships might be cleared and trade continue uninterrupted without any payment of Duties or legal acquittance, contrary to the express provisions of national treaties, and yet without any breach of national good faith, or *entailing upon himself or his Government pecuniary responsibilities for the unliquidated Duties.* By treaty he was bound to refuse delivery of a ship's papers until a Grand Chop or Port Clearance was issued by the competent Chinese authority—the ship and cargo remaining security for the satisfaction of all claims on behalf of the Custom House."[1] The Consul obviously could not violate this without the consent of his Government. On the same day as the British Consul issued his notification and provisional rules, the American Vice-Consul, Mr. Edward Cunningham, on the authority of the American Commissioner, Mr. Humphrey Marshall,[2] also issued a notification, shorter than that of his colleague, but following in the main the same argument, allowing also payment by bills, but omitting any proviso to the effect that the sanction of the

[1] F.O. 17/309: Bowring to Clarendon, desp. No. 182, 19th May, 1855, enclo. memo. by Alcock.

[2] U.S. For. Rel., 1853: Marshall to Marcy, 26th November, 1853,—"I advised the regulation which required the shipper to deposit an obligation to pay the amount of the duty due to China according to the treaty, as a condition precedent to the delivery of the ship's register, that the vessel might depart on her voyage." N.C.H. No. 164; 17th September, 1853.

United States Government would be necessary to validate payment of duties by bills. At that time telegraphic communication between Shanghai and Hongkong was non-existent, so that Alcock's account of his proceedings did not reach Sir George Bonham before the latter had sent a despatch giving his view of the Shanghai Customs situation:—"I am still of opinion that no Customs duties nor port dues can be paid to the parties at present in possession of Shanghai, neither under present circumstances can payment of them be reasonably expected by the Taotai on whose behalf no one exists with powers to collect them; but to prevent future inconvenience and complication, should Her Majesty's Government consider the Chinese Government to have a claim for these charges, I think it would be desirable for you before giving consignees their ship's papers, to enable them to leave the port, to demand from such consignees an account of the import and export cargoes of such vessels.[1] In other words, the Plenipotentiary was still opposed to British Consular agents collecting Customs dues and duties on behalf of China, but was willing that they should call for details of cargoes landed and shipped to enable the subsequent calculation of such dues and duties, in case the Home Government should take a strictly moral view of their treaty obligations. A few days later, however, on learning that Alcock, before instituting his provisional system, had obtained the cooperation of his American colleague, was not insisting on the payment of duties in silver[2] nor calling for the deposit of collateral to cover the merchants' bonds, and had submitted his scheme for the approval of the Home authorities, the Plenipotentiary, although still in favour of non-intervention, veered to the extent of stating that he was willing that the provisional system should remain in force until the pleasure of Her Majesty's Government could be known. He was also afraid that any interference on his part might only tend to lessen Alcock's authority, and lead the rebels to believe that foreign interests were divided.[3] Bonham duly

[1] F.O. 228/161: Bonham to Alcock, desp. No. 81, 23rd September, 1853.

[2] Alcock took good care to make his position perfectly clear to Bonham: "I have not called upon [the merchants] to *pay*, but to declare as honest men what amount of duties, according to Tariff, are due on each ship, and to engage to pay the same if called upon by Her Majesty's Government, who in the meantime affords them that security for property and trade which the Chinese for the moment are precluded from giving. The only hardship they can complain of is that they shall be held liable to pay what their own Government may decide is justly and legally due." F.O. 228/162: Alcock to Bonham, desp. No. 72, 27th September, 1853.

[3] F.O. 228/161: Bonham to Alcock, desp. No. 83, 26th September, 1853.

informed Clarendon that he intended to support Alcock's provisional system pending receipt of instructions, and at the same time drew attention to the difference between the British and the American rules.[1] The Lords of the Committee of the Privy Council for Trade, to whom the matter was referred, took the view that the course adopted by Alcock in the circumstances was "judicious and proper", and that Bonham's action in the case of Amoy was "in the main correct." They held that in case the Imperial authorities should be restored, the duties should be handed over to such authorities "as soon as they are in a position to receive them." Should the country, however, remain unsettled and the Consuls no longer be able to collect the duties, those already collected should be returned to the depositors. These views were approved by the Foreign Office, and were duly communicated to the Plenipotentiary.[2] In the meantime the action of the two Consuls in setting up this provisional system was being severely criticized and resented by both British and American merchants, who naturally claimed that as vessels of other nationalities—witness the case of the "Preussischer Adler"—came and went without payment of any duties, it was manifestly unfair to penalize them. American merchants had the additional hypothetical grievance that, as their Vice-Consul was a merchant, a partner in the American firm of Messrs. Russell & Co., if duties were paid to him in silver it would place him in a position of unfair advantage. In spite of such criticism Alcock and Cunningham, for the last three weeks in September and the first three in October, enforced without change the provisional rules on British and American trade. During these weeks, however, changes big with meaning took place in other directions. To maintain their neutrality *vis-à-vis* the combatants, and to protect their lives and property against non-combatant freebooters, the foreign residents were obliged to put their settlements under armed defence, using for this purpose not only the men from the American and the British gunboats stationed in the river, but also the recently organized volunteer force. After fruitless efforts on the part of Taotai Woo to borrow foreign warships to be employed against the rebels, the Imperial authorities on the 29th September had brought up their fleet of armed lorchas along with the two foreign vessels, which the Taotai had purchased in April that year, and had begun from the river a heavy bom-

[1] F.O. 228/151: Bonham to Clarendon, desp. No. 109, 26th Sept. 1853.
[2] F.O. 97/99: Clarendon to Bonham, desp. No. 94, 24th November, 1853. N.C.H. No. 175; 3rd December, 1853.

bardment of the insurgents in the Native City. A few days later investment by land was made more strict by the Imperial authorities bringing into play battalions of irregulars—many of them lawless riff-raff—and later by reinforcing this militia with regiments of regulars who were somewhat more amenable to discipline. Taotai Woo, who was an official mainly in order that thereby he might be better placed to drive keen commercial bargains, secretly added to the confusion by showing, as the after event proved, that he was not above making gain out of his country's distress by selling arms to both parties, a game in which he was ably seconded by some unprincipled foreigners.[1] The whole countryside seethed with disorder, and the result was a thoroughly disorganized trade, and in men's minds a growing sense of insecurity. Amid all this turmoil Alcock kept on his way without wavering, determined to carry on with the provisional system until he should receive definite instructions to abandon it. The American Commissioner, however, who in reality was averse from whole-hearted cooperation, as he was frankly suspicious that the British cherished political designs, had in the meantime become impressed by the equity of the argument that the collecting of Chinese Customs duties by the Treaty Power Consuls penalized the merchants of these Powers as compared with the merchants of non-Treaty Powers. He was also impressed by the argument of the Taotai that he had been instructed by Iliang (怡良), then Viceroy of the Liang Kiang, to carry on Customs business as usual as Superintendent of Customs, and to employ for this purpose the official seal of the Grain Commissioner of Chang Chow (常州). Accordingly Marshall declared that as it was the business of the Chinese authorities to establish a *bona fide* Custom House of their own at which Customs formalities could be carried out according to treaty he must modify his previously recorded approval of the Vice-Consul's support of the provisional system. In consequence, the American Vice-Consul was obliged to issue a notification on the 24th October 1853, that as the Taotai had announced the mooring of two Chinese gunboats off Pootung (浦東) point, to serve from the 28th of that month as a floating Custom House, American merchants would from that date be obliged to

[1] After the incident of 14th November, 1853 when armed Imperial troops penetrated into the foreign settlement to prevent the delivery of three large guns by a British firm to the insurgents in the City, Alcock issued on the 17th of that month a sternly worded notification warning merchants against traffic in arms: F.O. 228/162: Alcock to Bonham, desp. No. 91, 19th November, 1853. N.C.H. No. 173; 19th November, 1853.

declare their cargoes at this floating Custom House, and pay there all Customs dues and duties chargeable.[1] This action, or projected action, of the Taotai perturbed Alcock not a little, and it may be supposed that the Taotai was not unaware of the humour of the situation. He had been badgering Alcock for immediate payment of duties and dues, and threatening that if steps were not taken to this end, the Imperial Commissioner, the Governor, and the Viceroy "will doubtless recover from the Native merchants the whole amount due without the least defalcation." Alcock in his reply (dated 18th October, 1853) pointed out that life and property had been secured, and trade preserved from destruction by British Government forces, that he had taken what steps he could to protect the Imperial Government's duties, and that he failed to see why British merchants should be called on to pay cash, when the merchants of other nations were completely exempt from all dues and duties. "Upon what plea of equal justice or treaty right," he asked, "can the Emperor of China claim the payment of duties by British merchants, from which those of other nations have found means to exempt themselves in the absence of all controlling power in the shape of an authorized Custom House?" As to the Taotai's threat, Alcock retorted that "such an expedient would be instantly regarded as an act of hostility and aggression directed against our commerce by the Imperial authority, and one . . . that could hardly fail to be disastrous to the Imperial interests."[2] The vessels the Taotai intended to use for his floating office were the two old foreign ships, which after purchase by the Chinese authorities, had been converted into gunboats, and used as such against the rebels. One of them, it was known, was none too safe a craft for the storing of war materials, and the mooring of her with a supply of powder and shot on board within a few yards of the recognized anchorage for foreign shipping was not likely to set the hearts of ship-masters rejoicing. Furthermore, the rebels in the city upstream, just beyond the French concession, knew that these two vessels were Imperial gunboats, and as such would be from their point of view a legitimate target for gun practice. He reported the situation to Bonham, telling him of the Taotai's intention to establish this floating Custom House, and at the same time

[1] N.C.H. No. 171, 5th November, 1853. U.S. Consular Notification of 24th October, 1853.

[2] F.O. 228/162: Alcock to Bonham, desp. No. 75, 22nd October, 1853, enclosing Taotai Woo's desp. of 14th October and Alcock's reply of 18th October.

requesting Bonham to give him instructions to discontinue the provisional system, seeing that the system was disapproved, though not actually disavowed, by the Plenipotentiary, and seeing that the Attorney General of Hongkong was of opinion that Alcock's action could be held to be illegal.[1] Bonham, however, was in no yielding mood. He replied that he looked upon "the establishment of two boats as a specious and futile attempt to secure what would have been due by the merchants under ordinary circumstances, and as utterly inadequate to afford that protection to the trade" which he considered "must be antecedent and correlative to their collection of any duties whatever." Until reply, however, should be received from the Home authorities, it was his "wish under the altered circumstances of the case that the Provisional Rules—which are under present circumstances well adapted to meet the emergency—should remain in operation, and that the Taotai should be informed that until a *bona fide* Custom House be formed with a proper establishment for carrying on the business of the port, as well as for the protection of goods in process of being landed and shipped" the Plenipotentiary did not consider the Taotai "entitled to demand any duties, but that as the question is a most important one, it has been forwarded for the consideration and orders of Her Majesty's Government."[2] Alcock, who was as much concerned for the safety and the neutrality of the foreign settlement as he was for the preservation of the treaty, and who saw in these gunboats a menace to the safety of the settlement, accordingly announced that he did not consider this floating Custom House to be a *bona fide* establishment, and until he was convinced that it was able to carry out its duties effectively the provisional rules for British shipping and trade were to remain in force.[3] The test of the new arrangement soon came. On the 29th October, the day after the floating Custom House was supposed to have come into operation, the Austrian vessel "Robert", which had entered the port over three weeks previously and had discharged her import and shipped her export cargo, sailed away without paying, or promising to pay a single cent of dues or duties, as if there were no such

[1] F.O. 228/162: Alcock to Bonham, desps. Nos. 83 & 85, 1st November, 1853.

[2] F.O. 228/161: Bonham to Alcock, desp. No. 90, 7th November, 1853. On receiving the Government's reply Bonham preferred "to postpone coming to any decision as regards the abrogation of the Rules", F.O. 228/176: Bonham to Alcock, desp. No. 13, 14th January, 1854.

[3] N.C.H. Nos. 171 & 175; 5th November & 3rd December, 1853.

establishment as a Custom House in existence. It was this incident that convinced all three Consuls, British, American and French, that the floating Custom House was not in a position to enforce Customs regulations, and it was this incident that led the French Consul, Monsieur Edan, to inform the Taotai that until the Imperial authorities had recaptured Shanghai and re-established a proper Custom House, French vessels would be allowed to enter and depart "free from the payment of all Customs and duties".[1] On the very day in fact on which the "Robert" made its historic duty-free demonstration, the French Consul, in reply to a letter from four merchant firms enquiring whether in his opinion a Chinese Custom House now existed at Shanghai, had stated that the only Chinese Custom House he knew of had been destroyed by the Chinese themselves, and that until it was re-established and until there was an authority capable of collecting the duties, in accordance with the treaties, he considered himself fully at liberty to enter and clear French vessels free of all duties.[2] He was not called on to make good his word for there were no French vessels in port, and none appeared while the provisional system was in force.

American Consul notifies free entrance and clearance open also to American vessels: Taotai opens Custom House on Soochow Creek just outside Settlement: Bremen vessel "Aristides" cleared by Taotai on part payment of export duty: Taotai establishes two collecting stations in interior on main routes leading to Shanghai: Consuls protest against such stations.

§7. This state of affairs obviously could not last. The British were held by their Consul to his interpretation of the spirit and the letter of their treaty, the Americans had been ordered by their officials to support in Customs matters the local representatives of the Chinese authorities, while the French and all other nationalities, particularly the latter, were free to make hay while the sun shone, and to enter and clear their vessels without Customs formalities and without payment of any Customs dues and duties.[3] Finally, the American Vice-Consul, on the authority of Commissioner Marshall, took the lead to bring order out of this chaos. This he did by issuing a notification on the 20th January 1854, making clear that on the principle of the most favoured nation clause, the privilege which had been taken by, or allowed to, vessels of other nationalities of free

[1] N.C.H. No. 172. 12th November, 1853.

[2] "Je me crois pleinement libre de laisser entrer et sortir les navires de ma nation en toute franchise de droits". Monsieur Edan in letter of 29th October, 1853. N.C.H. No. 171; 5th November, 1853.

[3] N.C.H. No. 189; 11th March, 1854; Protest from Shanghai British Chamber of Commerce to British Consul.

entrance and free clearance was open also to American vessels, and that in future he would deliver the papers of American vessels on their leaving port without calling on them for the production of the Custom House grand chop. Shanghai thus became a free port also to Americans.[1] This action led to a passage of arms between Alcock and Cunningham. The former charged the latter with unilateral action in recognizing the Taotai's floating Custom House, and in issuing his notification of the 20th January, both of which steps had been taken without securing the cooperation of his British colleague. Alcock then suggested to Cunningham that the only solution was the re-establishing of the Custom House on its old footing in its former locality in the foreign settlement, but without armed forces to protect it.[2] In a detailed reply Cunningham denied the charge, and characterized the British action in this Shanghai Customs question as "tying a man's hands and feet in the water, and upon the result denying that he can swim."[3] On the 30th January, 1854, Alcock, who had just recently heard from Bonham that he could regard his provisional system as having the Earl of Clarendon's approval, in a letter to the Taotai warned him that he could not go on indefinitely collecting duties for the Chinese Government under Provisional Rules, and asked him when the Custom House would be re-established in a fitting locality and on the treaty basis.[4] This afforded Bonham an opportunity of intervening. On hearing of the American Minister's intention he sent instructions to Alcock that he was to issue a notification placing British vessels and cargoes on the same footing as American;[5] but, on learning that Alcock had enjoined the Taotai to re-establish a proper Custom House, he requested Alcock to depart from his instructions only in case the Taotai did establish a *bona fide* Custom House, adding ungraciously—"Although I have not concurred in your views as regards the conduct of

[1] F.O. 228/176: Alcock to Bonham, desp. No. 7, 28th January, 1854; N.C.H. No. 188, 28th January, 1854.

[2] F.O. 228/176: Alcock to Cunningham, letter No. 23, 26th January, 1854.

[3] F.O. 228/176: Cunningham to Alcock, 30th January, 1854; enclo. in Alcock to Bonham, desp. No. 10; 2nd February, 1854.

[4] F.O. 228/176: Alcock to Bonham, desp. No. 10, 2nd February, 1854; "I am not authorised to continue the Provisional Rules for a period of indefinite length. They have now been in operation for nearly five months, and it is therefore my duty to request you to state how soon you will be enabled to establish the Custom House in a fitting locality, and on the footing provided by treaty." N.C.H. No. 184, 4th February, 1854.

[5] F.O. 228/176: Bonham to Alcock, desp. No. 16, 17th January, 1854.

affairs at Shanghai, having myself adopted a contrary policy in the perfectly parallel case of Amoy, yet I am not aware that I have disavowed any of your measures."[1] The Taotai had by now realized that his floating Custom House had outlived any usefulness it had ever exercised, and so resolved to open a Custom House ashore, on a site not leased as yet to any foreign Power. This establishment was to adhere to treaty stipulations in regard to the entering and clearing of foreign vessels, and to the receiving of duties in cash, import duties on the landing of the goods and export duties on shipment. The Taotai accordingly took a house on the north side of the Soochow Creek for this purpose, and informed the three Consuls that it would be open for business on the 9th February 1854, and they in turn duly issued notifications to the public, recognizing the establishment "upon the understanding that its surveillance is equally to affect every vessel of every nation, whether a Treaty Power or otherwise."[2] This Custom House on the Hongkew side, although opened by the Taotai on Chinese territory, free from foreign settlement entanglements, and although acknowledged by the three Treaty Powers, was at best a makeshift. Some foreign vessels and junks entered and cleared at it, and others did not. Instead of coming up to Shanghai the evading vessels put in at Woosung, where they had the well-manned well-armed opium receiving ships—fit partners in iniquity—to protect them. Here in open defiance both of the Taotai and of the Consular authorities cargoes were landed, and thousands of bales of silk and 4,000 tons of tea were shipped without payment of a single cash in duty.[3] At last, on the 17th March, a Bremen ship, the "Aristides" cleared at the Soochow Creek Custom House for America with a cargo of tea of which, by arrangement, only half was declared, under an export duty compromise, part of the duty being represented by a promissory note, and the balance being paid direct to the Taotai. The promissory note was of a most unusual character in that the drawer promised to pay Tls.6,250 provided that all the vessels then in port would pay, if not full duties, at least two taels per picul on tea and

[1] F.O. 228/176: Bonham to Alcock, desp. No. 22, 16th February, 1854.
[2] F.O. 228/176: Alcock to Bonham, desp. No. 16, 14th January, 1854. N.C.H. No. 185, 11th February, 1854.

[3] F.O. 228/164: Bowring to Clarendon, desp. No. 7, 19th April, 1854, enclosing desp. No. 22 from Alcock to Bonham, 10th April, 1854. F.O. 228/176: Wade's memorandum, enclo. in desp. No. 45, Alcock to Bowring, 23rd May, 1854.

nine taels per picul on silk. Alcock protested vigorously and expressed the opinion that this method of clearance would have a "fatal retrospective action upon the large amount of duties provisionally secured by bond under the system established by the United States authorities and myself."[1] The Taotai's defence of his action was that export duty was in reality payable by the Chinese exporters, and that he was in the position at any time to claim the difference.[2] This "Aristides" method of dealing with ships and their cargoes went on for some weeks, and as it only caused growing irritation to the Consuls, who naturally demanded that the same privileged treatment should be extended to their vessels, the Taotai finally decided, and on the 25th March informed Alcock, that while he was in favour of the foreign merchant paying the import duties through licensed linguists, as at Canton, he would move the collecting of export duties clean away from the foreign settlement, and establish two collecting barriers, one on the north and one on the south, on the main routes leading from the port to the interior. These two collecting barriers were accordingly established, one on the Soochow Creek at Pih Hok Kang, or Pai Huo Chiang (白鶴港) for goods coming from or going to the north, and the other at Minghong (閔行) on the Whangpoo for goods coming from or going to the south.[3] As a matter of fact as far back as November of the year previous the Taotai had warned the Consuls that it might be necessary for him to establish such stations in order to check "passes countersigned by him for the examination and the unobstructed passage of import and export produce to and from the interior." Alcock had not objected at that time to the Taotai countersigning such passes, as it had been Alcock himself who had introduced the system of issuing these passes for goods owned by British merchants, going to or coming from the interior, and in this his example had been followed by other Consuls. He perceived, however, that the Taotai's desire now to countersign such passes was "to put in the hands of the Chinese authorities the means of checking the foreign import and export trade of the port, so as ultimately to

[1] F.O. 228/164: Bowring to Clarendon, desp. No. 7, 19th April, 1854, enclosing desp. No. 22, Alcock to Bonham, 10th April, 1854.

[2] N.C.H. No. 192, 1st April, 1854.

[3] F.O. 228/176: Taotai Woo to Alcock, 25th March, 1854, enclo. in Alcock to Bonham, desp. No. 32, 10th April, 1854.

extract from the Chinese dealers and purchasers the whole amount, in the event of payment by foreign Powers being refused." But barriers for checking goods, Alcock foresaw, were potential tax-collecting stations. "The great danger," he wrote, "to be apprehended, since the first demolition of the Custom House here has been the levy of *at least* an equivalent to the maritime duties on all foreign imports and exports in their transit inland without check or control as to the manner of doing so, on the amount actually squeezed."[1] In raising the status of these barriers to tax-collecting stations the Taotai maintained he was fully within his powers, but his action only alarmed the Consuls, as the unchecked exactions of inland taxing stations was one of the dangers most dreaded both by merchants and by those who had negotiated the treaties. The American Commissioner, Mr. Robert M. McLane, took the lead in protesting against this stroke of policy, making it clear to the Taotai that the collecting of treaty duties at inland places, instead of at the recognized treaty ports was a violation of the treaty for the consequences of which the Chinese alone would be held responsible, and that as the representative of the United States, he intended to discuss the matter with the higher authorities. True to his declared line of action of frank cooperation with the representatives of the other Treaty Powers, the American Commissioner communicated his views to Alcock,[2] and sought his advice. Conversations then followed between the three Treaty Power Consuls, and on the 1st May the Consuls informed the Taotai that as the treaties expressly provided not only for the amount of tariff duties, but also for the place and the mode of their collection, they could not recognize the two inland collecting stations as legitimate.[3] Alcock, however, was still hopeful of success, "if the collection of duties can in any way be brought under the effective control of the three Treaty Powers as to the executive of the Custom House administration."[4] Eight days later—9th May—the Consuls issued a joint proclamation protesting against this inland barrier method as an infraction of the treaty stipulations. They requested the mer-

[1] F.O. 228/162: Alcock to Bonham, desp. No. 93, 29th November, 1853.

[2] F.O. 228/176: Alcock to Bowring, desp. No. 40, 1st May, 1854.

[3] F.O. 228/164: Bowring to Clarendon, desp. No. 31, 16th May, 1854, enclosing desp. No. 40, Alcock to Bowring, 1st May, 1854.

[4] F.O. 228/176: Alcock to Bowring, desps. Nos. 40 and 41, 1st and 6th May, 1854.

chants to assist them by producing any evidence they could procure of these inland barrier exactions, preferential duties, or other irregularities. Merchants were also informed that instead of the specific bond or note which they were in the habit of giving, a guarantee would be taken from the consignee and each shipper, undertaking to hold their respective Consuls and Governments blameless and free from any responsibilities that might arise from the departure of a ship without payment of such dues and duties as might be due to the Chinese Government. The Consuls claimed that this course of action would not impede trade, would preserve the integrity of the Treaty Powers, and would throw the onus of treaty violation upon the Chinese.[1]

Alcock's memorandum suggesting improved administration of the Customs: Promise of Governor General to U.S.A. Commissioner that collecting stations would be abolished and Custom House reformed.

§ 8. This joint notification from the Consuls was to all practical intents an admission that the Taotai had got the better of them. As the goods imported had some time or other to go up country, and as the teas and silks had likewise some time or other to come down from inland, the Taotai was in the position of charging what duties he liked and when he liked. In an interview with Sir John Bowring he admitted, after some pressure "that in consequence of the irregular and unauthorized manner in which the Bremen ship ["Aristides"] had left port, duties had been levied at those [inland] stations, but not [collected] before the goods reached Shanghai, [and] that it was of course a matter of indifference to his Government whether the duties were paid by the native or by the foreign merchant."[2] Smuggling, naturally, flourished apace. Those to whom it had been second nature needed no encouragement, while those whose instincts were to trade fairly and observe the treaty regulations were compelled to let original sin have its fling, and in sheer self-defence to follow the crooked paths of their less scrupulous guides. To this universal smuggling in ordinary merchandise was added the disgrace of the illegal traffic in opium which was

[1] N.C.H. No. 199, 20th May, 1854; Joint Notification of American, British, and French Consuls, dated 9th May, 1854.

[2] F.O. 17/223: Minutes of interview held on 16th June, 1854, between Sir John Bowring and Taotai Woo. Admiral Sir James Stirling was also present.

carried on all the time with brazen-faced effrontery. At last the Consuls realized that the situation, if not tackled seriously, would be in danger of getting completely beyond their control. The fact "that as regards the faithful collection of the Maritime Customs due to the Emperor of China on foreign trade, the treaty itself has become little better than waste paper," stared them in the face; indeed it had been staring them in the face for some time. The system of Customs procedure laid down by the treaties had proved altogether illusory and impracticable.[1] New wine had been poured into an old bottle, and the bottle had burst. On the 15th June, Alcock—elaborating an idea which he had expressed in one of his despatches as far back as October 1850—submitted to Sir John Bowring a memorandum containing suggestions for an improved administration of the Customs and for the equal levy of duties.[2] He proposed that the Taotai and the Treaty Power Consuls should unite in appointing a foreign Inspector of Customs, two first-class linguists, one, or more Chinese writers, and one or more foreigners to serve as Tidewaiters. The total cost of maintaining such an establishment Alcock estimated would be about $12,000 per annum. The foreign Inspector was to have his office in the Custom House, and all documents were to be inspected and checked by him. Duty receipts were to bear his endorsement, while all Chinese records and registers were to be subject not only to his inspection, but also to that of the Consuls and the Taotai. The matter was discussed in detail between the Consuls themselves and also with the Taotai. Alcock recognized that to put an effective stop to this universal smuggling, every facility must be given to the Taotai to enable him to execute his duty, and that in the Customs administration an element of probity and vigilance must be added to secure both that the office routine, the examination of goods, etc. should be carried out without deviation to the sidepath of personal interest. To attain this, he saw he would have to withdraw his opposition to the Chinese Custom House functioning in the British Settlement, and would also have to extend to it the protection of British arms. He was now not only prepared to do this,[3] but was also, along with

[1] F.O. 228/165: Alcock to Bonham, desp. No. 22, 10th April, 1854, enclo. in desp. No. 7, Bowring to Clarendon, 19th April, 1854.

[2] F.O. 228/176: Alcock to Bowring, desp. No. 56, 6th July, 1854.

[3] F.O. 228/176: Alcock to Bonham, desp No. 7, 23rd January, 1854; Alcock to Cunningham, letter No. 23, 26th January, 1854.

his American colleague, ready to do all in his power to secure payment to the Taotai of the back duties for which they held promissory notes,[1] provided the Chinese authorities would undertake to engage reliable foreigners to supervise Custom House operations. The Taotai, naturally, was not enthusiastic at the suggestion of foreign supervision in Customs affairs, but yielded to the glittering bait of the back duties, and to the fact that rejection of the proposal would only mean absolute anarchy in control of trade and shipping, and complete loss of revenue. On the 21st June, Mr. McLane, the American Commissioner, without whose initiative and active cooperation matters might not have taken so favourable a turn, succeeded in obtaining an interview with the Governor General Iliang (怡良) at K'un Shan (崑山). Treaty revision was in the air, and the Governor General knew that the Imperial authorities would prefer that all negotiations for such revision should be held as far from Peking as possible. He also knew how importunate and exacting these foreigners could be. His obvious policy, therefore, was to humour them, and thus avoid unpleasant consequences. Accordingly he gave the American Commissioner a cordial reception, and promised that the two inland collecting stations would be abolished, and that the Taotai would be instructed to conclude an arrangement with the Consuls for the administration of the Custom House. That interview gave the Taotai, who was present on his own suggestion, the requisite authority to proceed in his negotiations with the Treaty Power Consuls. Accordingly, a meeting to discuss, and draw up regulations for, this reorganization of the Custom House was held on 29th June 1854, at which were present the Taotai Woo Chien-chang, Rutherford Alcock, H.B.M.'s Consul; R. C. Murphy, Consul for the U.S.A.; and B. Edan, Consul for France *ad interim*. This was a fateful meeting, as to it is to be traced directly the injection of the foreign element into the Chinese Customs Service, an injection which, in spite of the great benefits it has undoubtedly brought with it, has also been at times a source of misunderstanding both within and without, and which, on account of the occasional interference of foreign Powers to maintain that element, has had the effect of causing many high-minded and patriotic Chinese to be at times less friendly to the Service than otherwise they would have been.

[1] F.O. 228/165: Bowring to Clarendon, desp. No. 74, 6th July, 1854.

Official account of meeting to discuss reorganization of the Custom House: Necessity of introducing a foreign element: Taotai to appoint and pay out of revenue foreigners nominated by three Treaty Power Consuls: Inspectors to be subject to trial for dereliction of duty, etc. by Consuls and Taotai: Duties of Inspectors to enforce Customs regulations and provisions of treaties in regard to shipping and duties, to report irregularities to Superintendent and Consuls, and to prosecute offenders if necessary, the Taotai undertaking to enforce the full penalties imposable, to keep registers for recording details of shipping and duties, both in Chinese and in English, and to check these registers with those kept by the Chinese department: Taotai undertakes that Chinese department shall issue no document without the countersignature and seal of the Inspector or Inspectors:

§ 9. The official account of this meeting of the 29th June is so important to a full understanding of the origin of the Customs Service that it is reproduced here in full:—

"The Consular representatives of Great Britain, France, and the United States of America have met together to receive His Excellency Woo Taotai, who has expressed a wish to consult with them as to the best mode of organizing the Chinese Custom House with a view to its greater efficiency in the collection of foreign maritime duties and a desire to receive from them any suggestions in their power to offer regarding the practical means of ensuring the better observance and execution of treaties in the levies of duties at the port.

"The undersigned Taotai and Consuls, having maturely considered and discussed the best means of giving efficiency to the administration of Customs and carrying out the treaty provisions for the collection of duties, are agreed upon and have adopted the following Articles as embracing all the most essential conditions of an improved organization and the ground-work of a more satisfactory system of administration than has heretofore been attainable. The Taotai on his part is prepared, in the interest of the Chinese revenue and for the protection of the honest merchant, at once to give effect to the principles so sanctioned and adopted.

"I.—The chief difficulty hitherto experienced by the Superintendent of Customs having consisted in the impossibility of obtaining Custom House officials with the necessary qualifications as to probity, vigilance, and knowledge of foreign languages required for the enforcement of a close observance of Treaty and Custom House Regulations, the only adequate remedy appears to be in the introduction of a foreign element into the Custom House establishment in the persons of foreigners, carefully selected and appointed by the Taotai, who shall supply the deficiency

complained of and give to His Excellency efficient and trustworthy instruments wherewith to work.

Every foreign vessel to be reported through a duly recognized Consul: Armed revenue cutter to be employed: Custom House regulations of 1851 to be revised.

"2.—The mode in which this may best be effected will be by the appointment on the part of the Taotai of one or more foreigners of undoubted probity to act under his orders as Inspectors of Customs, with a mixed establishment of Chinese and foreign subordinates, to consist of Linguists, Writers, and Tidewaiters, together with a revenue cutter well manned by foreign sailors and under the command of a trustworthy and intelligent master. The whole expense of such establishment to be paid by the Taotai out of the proceeds of the revenue, and at such liberal rate as shall suffice to secure the highest qualifications of character and capacity in the persons selected for the different offices. The said salaries to be paid monthly by the Chief Superintendent of Customs.

"3.—In the appointment of the Head Inspectors and the organization of the whole Auxiliary Department it has been agreed, as the best mode of guarding against future difficulties and sources of complaint and at the same time ensuring, by the better knowledge of persons, a proper selection, that the Consular representatives of each Treaty Power shall select and nominate, for appointment by the Taotai, one Inspector so soon as fit persons can be found, and these three to form a Board of Inspectors with a single and united action, to whom will be entrusted the further selection of the various subordinates, foreign and Chinese, receiving in such duty of selection all facility and assistance from His Excellency the Taotai in regard to the natives to be chosen, who will confer the several appointments on the presentation of the Inspectors, their rate of remuneration, in accordance with the principle established in Article II, having been previously fixed. It is not considered desirable to fetter the Board of Inspectors with any rules for the division of their labours and the discharge of their responsibility, but it is agreed as worthy of consideration by the Inspectors themselves whether the nominees of the Consuls of Great Britain and America may not with advantage direct their attention more especially to the ships of their respective nations, while the nominee of the French Consul would, in addition to his own, be in a position to keep a close surveillance on the ships of all

other nations, not including British and American. In the event, however, of three competent and proper persons for the office of Inspectors not being procurable in the first instance as the nominee of each Consul, it is agreed that either of the three Consular representatives may exercise his faculty of nomination at once, and the party selected upon receiving appointment from His Excellency the Taotai shall be recognized by the Consuls of the three Treaty Powers as representing the whole Board of Inspectors, and consequently charged with the collective functions of the office, without prejudice to the power distinctly reserved on the part of the other Consuls of nominating at any time the remaining two of the number required to complete the establishment on the footing now contemplated. The scale of remuneration, numbers, and office of the persons to be employed will, shortly after the signature of this Minute, be determined upon by His Excellency the Taotai and communicated to the Consuls collectively in an official note.

"4.—In reference to such Inspectors of Customs the Consuls will undertake to try and adjudicate upon any case of exaction, corruption, or neglect of duty made out against them, and charges for misconduct may be made by foreign residents direct to their respective Consuls, who will take action upon them after due notice to the Chinese authorities and the other treaty Consuls. And provided such charges are reasonably supported by the circumstances of the case, an investigation shall take place in the presence of the Taotai and Consuls of the three Treaty Powers, and the finding of such Mixed Court shall, by previous contract on the part of the said Inspectors on their nomination, be binding equally upon the party accused and the Chinese Superintendent of Customs from whom they will hold their appointments, the same to be taken by votes, the Taotai having two. The Inspectors not to be liable to dismissal or removal by any other process, unless a total change of system, with the concurrence of the Consuls, should render their services no longer needful or advantageous, in which case they will be held entitled to a three months' notice or equivalent salary. All subordinates under the Inspectors to hold office during good behaviour and subject only to dismissal on the recommendation of the Inspector, if single, or a majority of them if there be three, but upon such recommendation the Taotai will undertake to give effect to the dismissal without delay.

"5.—The functions and duties of the Auxiliary Department of Inspectors to be considered are those specially of surveillance

as to the due observation of the Custom House Regulations and provisions of treaties in regard to shipping and duties. There will be a single and united action among the heads, and full authority, with all necessary means, shall be given to enable them to scrutinize reports of shipping, manifests of cargo, landing and shipping-off chops, payment of duties, and port clearances for the detection of all errors, irregularities, or frauds whencesoever proceeding. They will each and severally on appointment be sworn truly and honestly to administer the duties of their office, to abstain from all personal interest in trade, and to hold themselves legally accountable for the faithful observance of their engagements to the Taotai appointing and to the Consuls of the three Treaty Powers, these authorities together constituting the members of a Mixed Court, to which they are by their own consent to be made legally accountable. It will be their duty to expose all frauds or irregularities whenever discovered to the Chief Superintendent of Customs and the Consuls of the three Powers collectively, to obtain the necessary evidence for conviction to be had in the event of legal proceedings being necessary, and to take all proper steps, under the authority of the said Superintendent of Customs, for the prosecution of the several parties engaged in any irregularity or attempt to defraud the revenue. And the Taotai on his part undertakes rigorously to enforce the full penalties, whether of fine or confiscation, in all cases without exception or distinction, whenever an act of fraud or irregularity can be brought home to the offending parties, and he will further make public declaration of his intention. The Superintendent of Customs in any case of confiscation upon information will make over to the party or parties instrumental in discovering the fraud or irregularity a percentage of the value of the goods confiscated, according to a scale hereafter to be communicated to the Consuls, as an additional motive for vigilance. The Inspector or Inspectors will have location for an office within the building occupied as a Custom House, with free access to the Chinese Custom House books and documents. They will be responsible for keeping a complete and perspicuous set of Custom House books in English and Chinese, showing in detail the whole course of administration in reference to the shipping and levy of duties. These books from time to time, or at set periods as may hereafter be determined, to be carefully compared with the books and records kept by the Chinese Department, under the eye of the Taotai

and Consuls of the three Treaty Powers, when, if any discrepancy be discovered, it shall be the subject of rigorous investigation. Such collective and official examination at any time to be obligatory on the requisition either of the Taotai or one of the Consuls. In order the better to regularize and give identity of action to the whole Custom House service, the Chief Superintendent of Customs undertakes that no landing or shipping-off chops, duty receipts, port clearances, or any other official document shall be issued from the more exclusively Chinese Department of the Custom House for any foreign vessel or shipper, or be permitted to take effect without the counter-signature and seal of the Inspector or Inspectors, and of all such documents a careful record shall be kept by them for reference. It is further agreed, as of essential importance, that no foreign ship under any circumstances shall be permitted to report except through a foreign Consul duly recognized, or to remain in port, or load, or discharge cargo without conformity with this regulation. The Inspectors will at all times be prepared to afford to the Chief Superintendent of Customs information and advice on every point connected with foreign customs and laws, and the administration of the same under treaties in China. They will equally afford to the said Superintendent and to each of the three Consuls of the Treaty Powers, upon official demand, all the information in their power as to the shipping and levy of duties, together with free access to their books and records, but the Inspectors will not be authorized to give access to these to any other parties.

"6.—An armed revenue cutter, well found and manned, under the command of a foreign master, small enough to work quickly in the river and overtake vessels leaving the port without due authority, and large enough to go with safety to Gutzlaff if required, is deemed indispensable.

"7.—A careful revision of the Custom House Regulations of August 1851 is considered necessary with a view to any modifications that may be found desirable and their conformity with Treaty Regulations, after which they should be reissued with greater publicity in Chinese and English.

"8.—Upon these bases, unanimously concurred in and adopted at this conference, His Excellency the Taotai desires and undertakes to recognize the Custom House establishment, and to forward within 10 days an official communication to the undersigned Consuls, (with) the details of such organization

and establishment, inviting their concurrence and active support, in so far as by treaty they can legitimately afford the same, and the Consuls on their part declare their desire to contribute by all the means in their power to the organization of an honest and efficient Custom House administration, and their readiness, on the receipt of such communication, to announce, at a day fixed, the resumption by the Chief Superintendent of Customs of all the duties of his office, and the obligation of all consignees and masters of ships under their respective flags scrupulously to observe the Custom House and Port Regulations, under penalty of fine and confiscation as by treaty provided.

(Seal.) Official seal of the Intendant of the Soo-Sung-Tae Circuit in Kiangsu.

(Signed) "Rutherford Alcock.
"R. C. Murphy.
"B. Edan."[1]

Result of this arrangement, the placing of the Custom House and its staff under the control of the Treaty Power Consuls.

§10. This arrangement, it will be noted, left very considerable powers of interference in the hands of the Consuls. In the first place, each Consul was entrusted with the selecting and nominating of an Inspector, and the Taotai was given no option but to confer the appointment on the nominee so presented. In the second place, although Alcock recognized that "to give legal action to foreigners in a Chinese Custom House, they must be the servants of the Superintendent"[2] yet it was arranged that the Inspectors, after their appointment, were not to be regarded as Chinese officials, subject to Chinese jurisdiction in respect of their official actions, but for misconduct, such as exaction or corruption and for neglect of duty they were to be legally accountable to a mixed court composed of the three Treaty Power Consuls and the Taotai. The fact that the Taotai was to be given two votes in any such trial deceived no one. The foreign Consuls enjoyed the privilege of being in a permanent majority. Dismissal of an Inspector could not take place by any other process than that of a majority vote. By controlling the appointment

[1] N.C.H. No. 206. 8th July, 1854. Joint notification of Treaty Power Consuls of 6th July, 1854. F.O. 228/176: Alcock to Bowring, desp. No. 56, 6th July, 1854.

[2] F.O. 228/165: Alcock to Bowring, desp. No. 56, 6th July, 1854, enclo. in Bowring to Clarendon, desp. No. 77 (from Shanghai), 7th July, 1854.

and dismissal of the Inspectors, the Consuls had practically made the new establishment, at any rate so far as foreign trade and shipping were concerned, a subsidiary office to the Consulates, and had injected direct foreign interference into a Chinese Government department. Such interference was naturally not welcome to the Chinese authorities, and they seized the first opportunity, which came a year later on Wade's resignation, to reassert China's rights by selecting a British candidate of their own—Horatio Nelson Lay—and, after due notification to the British authorities, appointing him to the vacant post. Again, just as the Inspectors were to be under the control of the Consuls, so all the subordinate members of the staff, Chinese and foreign, were to be under the sole control of the Inspectors, who were armed with powers of appointment and of dismissal. Furthermore, all the records, registers and documents of the Custom House were to be accessible to the Inspectors, who were also to keep a complete set of books of their own in Chinese and English for periodic submission to the Taotai and the Consuls. The Taotai was also called on to agree that none of his landing or shipping permits, duty receipts, port clearances, or other official documents should be issued to, or be valid for, any foreign vessel or shipper without the countersignature of the Inspector or Inspectors. The long-standing practice, too, that any foreign vessel entering a treaty port must report its entry through a Consul was reaffirmed. The motive of the deviser of this scheme was, no doubt, to put an end, if possible, to the rampant abuses that had characterized Customs activities ever since the signing of the treaties, and to foster and protect legitimate trade, but the effect of the scheme was to place the Custom House and its staff, firmly and indisputably, under the control of the Treaty Power Consuls. The authorities of the British Foreign Office, however, on hearing of the scheme, did not give it their unmixed blessing. The Earl of Clarendon, then Secretary of State for Foreign Affairs, thought that the experiment was worth trying, but that it would be wiser to await results before repeating the experiment at any of the other treaty ports. He raised no objection to the employment of British subjects as officials in the Chinese Customs, but his legal advisers held the view that a British Inspector of Customs in China's employ was not under the legal jurisdiction of the British Consul in respect to his actions as Inspector. It remained to be seen whether such a root and branch system, which dealt so cavalierly with Chinese feelings and Chinese rights would solve the problem.

Closing of two inland collecting stations, and opening on 12th July, 1854, of reformed Custom House under Messrs. Smith, Carr, and Wade.

§11. The intention at first had been to have only one Inspector, and to avoid any possible dissension on this point both the American and the British Consuls agreed that the Inspector should be of French nationality, but as the French Consul was unwilling to accept the responsibilities to which he would be liable were this post held by one of his nationals, it was finally decided that there should be a board of Inspectors, consisting of three members, one to be nominated by each of the Treaty Power Consuls. The first three to be thus nominated and to receive the Taotai's appointment as Inspectors of Customs at Shanghai were Arthur Smith, French, Lewis Carr, American, and Thomas Francis Wade, British.[1] The last named seemed to be outstandingly suitable, as he had an excellent knowledge of the Chinese language, both spoken and written, had taken a deep interest in this Chinese Customs question from the outset, and had written an illuminating memorandum on the provisional duties system.[2] Both Smith and Carr, who were later on replaced by Messrs. B. Edan and M. W. Fish, still retained their posts at their respective Consulates, and although they discharged their duties as Inspectors faithfully they had less time to devote to them than Wade. They were duly sworn in, each in the presence of his own Consul, and began their duties as Inspectors of Shanghai Customs on the 12th July, 1854, and their office, until the temple on the Bund was repaired, was the house on the Soochow Creek which had formerly been taken by the Taotai as a Custom House. The opening of this office was announced to the public by a joint Consular notification dated 6th July, 1854,[3] and at the same time

[1] N.C.H. No. 207. 15th July, 1854.

[2] F.O. 228/176: Alcock to Bowring, enclo. in desp. No. 45; 23rd May, 1854. F.O. 17/309: Bowring to Clarendon, desp. No. 182, 19th May, 1855.

[3] NOTIFICATION *

Shanghai, 6th July, 1854.

The undersigned Consuls of the three Powers possessed of Treaties with China, having reference to their Notification of the 9th May respecting the abandonment of the Custom House of this Port by His Excellency Woo Taoutae, and the establishment of two in the interior in lieu thereof as announced in a Circular to the Consuls do hereby publicly notify to all residing under their respective jurisdictions the withdrawal of the Inland Custom House stations, and the reorganization of the Custom House Administration with a board of Inspectors and upon a basis which it is hoped will assure thorough efficiency. Consignees of all vessels entering or departing on or after the 12th instant will be required to report the same to the Custom House on the Soochow Creek where the duties will for the present be collected in strict accordance with Treaty provisions.

all concerned were called on to note that the two inland Custom House stations, formerly opened by the Taotai, were now withdrawn. All vessels, therefore, were from the 12th July to enter and clear at this Custom House and there to discharge the dues and duties leviable in strict accordance with treaty provisions. The notification then proceeded to state that as the Taotai had officially declared his determination to adhere strictly to treaty provisions for the equal collection of duties, and rigorously to enforce penalties, it was in the interests of consignees and masters of vessels to observe carefully all Custom House regulations.

British and American decisions regarding duties provisionally liquidated in bonds and promissory notes.

§12. Among the many problems and questions that faced the American and the British Plenipotentiaries and the Consuls who had sponsored the Custom House triumvirate, was what should be done regarding the duties which had been provisionally liquidated in bonds and promissory notes. Wherever merchants foregathered it was hotly debated if the Taotai had any claim to the redemption in full of these bonds on account of the duty payment arrangements he had made not only with non-consularly represented vessels, but with British and American vessels as well. For the period 7th September 1853 to 9th February 1854 British merchants owed Tls. 478,300 on these bonds and promissory notes, and for the same period American merchants, counting in one vessel which had cleared under bond to the Custom House, owed Tls. 369,710. In addition, there were two American vessels which had gone scot free owing Tls. 9,455, and eleven other vessels under various

His Excellency the Taoutae and Superintendent of Customs having officially communicated to the undersigned his determination, with the assistance of a Foreign Establishment, to give the most complete execution of duties, and in all cases of fraud or irregularity, vigorously to enforce the penalties, it will behove all Masters and Consignees of vessels in their own interests to observe the greatest care in the observance of the Custom House regulations, a copy of which subject to such modifications as may from time to time be announced is annexed for general information.

Masters and Consignees of vessels already in harbour on the 12th instant will in like manner be required to put themselves in communication with the Custom House and conform to the regulations in such manner as the Inspector of Customs may require.

(*Signed*) RUTHERFORD ALCOCK, H.B.M.'s Consul.
ROBERT C. MURPHY, Consul, U.S.A.
B. EDAN, H.I.M.'s Consul *ad interim*.

* N.C.R. No. 206; 8th July, 1854.

foreign flags, which had cleared without giving any bonds, owing Tls. 29,536.[1] On this subject Sir John Bowring's opinion was diametrically opposed to that of his immediate predecessor, Sir George Bonham. Shortly after assuming his post as Plenipotentiary he wrote:— "The duty question at Shanghai is by no means analagous to that of Amoy where the Imperial Government was wholly overthrown. This is not the case, and has never been the case, at Shanghai, where the Imperial Custom House being *within* the foreign settlement, it was we who insisted on the withdrawal of that force which might have enabled the mandarins to collect the duties. True it is that the presence of such a force might have been dangerous to the peace of the foreign community, but as we compelled its removal it is doubtful to me if we have a right to make that removal a plea for refusing the payment of moderate duties on articles shipped or landed in a locality where but for our interference those duties might and would have been collected as usual."[2] Bowring, therefore, was strongly of opinion that payment should be enforced, and that opinion became a firm conviction when he found on personal investigation at Shanghai that the merchants during the provisional system period had already charged their clients for the amount of the duties, and would thus suffer no loss if called on to honour their bonds. Besides this, there was the promise given to the Chinese authorities that every effort would be made to have the back duties refunded if they would agree to the reorganization of the Custom House.[3] Opposed to Bowring and Alcock in this matter were Bonham and the merchants. The latter claimed that Alcock had acted illegally in taking bonds, and that such bonds were therefore invalid, that Bonham had disapproved of Alcock's action, that the British should not be called on to pay when the merchants of other nations were exempt, that the former American Commissioner had allowed United States vessels to clear free of duties and that what had thus been granted to another Treaty Power was also due to Great Britain, that the obligations of the treaty were reciprocal and that China had failed to grant protection. They accordingly

[1] F.O. 97/100: Bowring to Clarendon, desp. No. 55, 12th June, 1854.

[2] F.O. 228/164: Bowring to Clarendon, desp. No. 1, 15th April, 1854.

[3] "If the arrangements for the future collection of duties were placed upon a satisfactory basis, the Consul would be empowered to lend his best assistance towards recovering the back duties." F.O. 228/165: Bowring to Clarendon, desp. No. 74; 6th July, 1854, enclosed Memo. of interview with Keih and Woo.

requested a judicial decision.[1] Of Bonham's attitude there was no doubt. He had never been a warm supporter of the provisional system, and when he reached home in the spring of 1854, he lost no opportunity of impressing his views, sometimes without due regard to accuracy, on the Government. So sure was he of his ground that before leaving China he had assured a merchant "that there was not the least probability of the promissory notes being enforced, and that he had no doubt Lord Clarendon would take the same view of the subject as he himself did.[2] The law officers of the Crown, to whom the question was duly submitted, held that the obligation of British subjects to pay duties to the Chinese Government depended upon the fulfilment by that Government of its obligations to afford protection to British commerce, and upon the ability of the Chinese authorities to collect the duties accruing to their Government. Neither of these conditions had been fulfilled by the Chinese authorities at Shanghai. The promissory notes, therefore, taken by Alcock during the period of the provisional system should, in their opinion, be cancelled. The British official decision on this question was reached in July, 1854[3] and was given to the public by a Consular notification, dated 12th February 1855,[4] which announced that all promissory notes given between the date the Custom House closed, namely the 7th September 1853, and the date when the Taotai re-established the Custom House, namely the 9th February 1854, as guarantee for payment of duties were to be held as null and void, and would be returned to the drawers on application. This decision filled Bowring with "feelings of dejection and disappointment", as he believed that the national honour was at stake.[5] He felt too that Great Britain should not be behind the United States in this matter, and, before receiving the home decision, had reported that the American merchants were unanimously in favour of paying the back duties, and had left the decision to their Commissioner Mr. McLane.[6] A fortnight later he was able to inform Clarendon that the British merchants had placed him in a similar position as intermediary, in the hope that the United States Commis-

[1] F.O. 228/165: Bowring to Clarendon, desp. No. 81, 11th July, 1854.
[2] F.O. 228/165: Bowring to Clarendon, desp. No. 71, 4th July, 1854.
[3] F.O. 97/99; 228/165: Clarendon to Bowring, desp. No. 87, 3rd July, 1854.
[4] N.C.H. No. 238, 17th February, 1855.
[5] F.O. 228/165: Bowring to Clarendon, desp. No. 132, 5th September, 1854.
[6] F.O. 228/165: Bowring to Clarendon, desp. No. 81, 11th July, 1854.

sioner and he would agree in their judgment. At the same time the merchants stated that they did not consider the Consular Court competent to adjudicate in the matter.[1] By the middle of August, however, unofficial news had reached Shanghai that the home authorities were not in favour of enforcing the bonds,[2] with the result that the British merchants gradually withdrew from Bowring their powers of attorney. To keep faith with the Chinese and with McLane, Bowring delayed cancellation of the bonds, and although Alcock on the 11th September 1854 issued a notification stating "that the bonds received for arrears of duties between the capture of the City of Shanghai and the 9th February shall be cancelled", the Plenipotentiary at the same time reminded his nationals that the Chinese Government might enter claim for "arrears of duties justly due under treaty obligations."[3] This only resulted in a sharp reprimand from Clarendon ordering Bowring to see that all the promissory notes held by Alcock were cancelled and restored to the parties from whom he obtained them, and informing him that the Imperial authorities were not to be allowed access to the Consular Courts on this matter, adding in a later despatch that he was distinctly to understand "that there is no legal obligation on the merchants to pay these duties, nor any legal power to compel them to do so by judicial proceedings."[4] Replying to a question in the House of Commons, Palmerston stated that instructions had been sent to China to cancel not only the bonds taken between the 7th September 1853 and the 9th February 1854, but also all those taken between the latter date and the 12th July 1854, the day on which the foreign Inspectorship system was inaugurated. He added that in the interests of justice to traders, Sir John Bowring had been directed to urge the Chinese authorities to institute the Shanghai Inspectorship system at the other four treaty ports. Decision on the legality and enforcement of the promissory notes issued by American merchants during the same period was referred by both parties to the arbitration of the American Commissioner, Mr. R. McLane, who after an exhaustive examination gave his verdict on the 23rd November 1854 that one-third of the total sum should be paid as quittance

[1] F.O. 228/165: Bowring to Clarendon, desp. No. 98, 24th July, 1854.
[2] N.C.H. No. 211, 12th August, 1854.
[3] F.O. 228/166: Bowring to Clarendon, desp. No. 156, 26th September, 1854.
[4] F.O. 97/100: Clarendon to Bowring, desps. Nos. 122 and 157, 9th September 1854, and 25th October 1854; also F.O. 228/167: Bowring to Clarendon, desp. No. 229, 9th December, 1854.

in full, one-third being deducted for the losses inflicted on American trade through the failure of the Chinese Government to maintain order, and one-third for the expenses incurred by the American authorities in collecting the duties.[1] Meanwhile the American Secretary of State, Mr. W. L. Marcy, who had heard of the British decision and who was of opinion that the reasons given for it were conclusive, gave orders to the Consul that all the bonds filed by American merchants were forthwith to be cancelled.[2] A deadlock ensued, and it was not until the beginning of 1857 that the Consul could report that the final decision of the American Government had been carried into effect. On the ground that McLane's award had been given prior to the department's orders to cancel the bonds, the final decision was that his award must stand. In December 1856 the sum awarded, Tls. 118,049.94, had already been handed to the Chinese authorities.[3] The failure of the British to honour their bond not only entailed for them in the eyes of the Chinese a loss of prestige,[4] but also intensified the distrust with which the Chinese regarded British proposals for treaty revision and trade development.

Success of new establishment as revenue producer: Resignation of T. F. Wade: Appointment of H. N. Lay: Opposition to new régime: Cases of "Wynaud" and "Paoushun": Status of foreign Inspectors defined.

§13. The newly instituted foreign Inspectorship of Customs at Shanghai was from the outset a success, at least from the revenue producing point of view. In fact, its revenue producing capacity, or rather the strict accountancy of the revenue produced, began to be embarrassing to the Taotai. In accordance with long-standing usage, the precise amount of the annual quota to be remitted by the Shanghai Customs to Peking and the higher authorities had been assessed by those authorities from calculations based on the figures recorded by the Taotai in his official revenue

[1] N.C.H. No. 226, 25th November, 1854. F.O. 288/167: Bowring to Clarendon, desp. No. 211, 3rd December, 1854.

[2] N.C.H. No. 237, 10th February, 1855.

[3] N.C.H. No. 300, 19th April, 1856. For detailed account *vide* J. K. Fairbank; *The Creation of the Foreign Inspectorate of Customs at Shanghai* in *The Chinese Social and Political Science Review*, Vol. XX, April 1936, pp. 42-100.

[4] During the period 7th September 1853 to 9th February 1854, 13,000,000 lbs. of Tea and 27,000 bales of Silk, to a value of £2,000,000 had been exported to Great Britain without paying a single cent of duty. F.O. 228/176: Alcock to Bowring, desp. No. 16, 14th January, 1854.

registers of the first six years, 1843-1849, of the taotaiship at Shanghai. As the Taotai and his subordinates needed to make a livelihood with a margin over to placate superiors and to provide for a rainy day it was hardly to be expected that the figures in those official revenue registers would be in strict accord with the duties actually collected. When the duties, therefore, that were actually collected began to flow steadily into the treasury, it became very apparent to the higher authorities that this foreign Inspectorship system had at least one good point in its favour, namely that under it peculation was not regarded as good form. The new system, although it brought troubles of its own, was naturally a great relief to the Consuls, as it freed them from what had been a nightmare of uncertainty and worry. It was also welcomed by all fair-minded honest traders, as it placed their less conscientious rivals on the same basis as regards Customs rules and duties as themselves. Criticism and expressions of discontent were, however, inevitable, more especially from those who had flourished by the lax and lawless methods of the past. Invective and vilification in the press was the safety-valve for certain enraged traders, to whom the recognized Custom House seemed the ruin of Shanghai's trade. Wade, who was more of a sinologue[1] than a man of affairs, more at home in translating Imperial Edicts than in managing the practical routine of a Custom House, grew weary of this ceaseless bickering, and deliberate attempts by some to make the new system as unworkable as possible, and on the 31st May 1855 resigned his commission with the Taotai, and was permitted to resume his connection with the British Consular Service. In his place was appointed Mr. Horatio Nelson Lay, then Acting Vice-Consul on the British Consulate staff, who as interpreter had come into close connection with Keih Erh Hang Ah (吉爾杭阿), the Acting Provincial Judge, who was then in command of the Imperial forces surrounding Shanghai, and who shortly afterwards became Governor of Kiangsu. Lay seized the opportunity of ingratiating himself with the future Governor, and the latter, at Lay's own request, strongly urged Lay's appointment, both with Alcock and the Taotai, and also with Sir John Bowring, the British Plenipotentiary and Chief

[1] F.O. 228/166: Bowring to Clarendon, desp. No. 172, 9th October, 1854, encloses a memo from Wade in which he states that his object in accepting the Inspectorship of Customs was to study Chinese.

Superintendent of Trade.[1] Despite his youthfulness and despite competition from some of his Consular colleagues, notably Mr. Raymond Gingell, Vice-Consul at Foochow, the candidate most favoured by Bowring, Lay was appointed from the 1st June 1855 as the British Inspector of Customs, his American and French colleagues remaining unchanged. Thus it came about that Lay's personal ambition, as well as his qualifications for the post, chimed in with the desire of the Chinese authorities to help to nullify the restrictions regarding the nomination and the appointment of Customs Inspectors, imposed by the agreement of 29th June, 1854. In his memorandum of 11th January 1862 Lay makes the remark,—"upon my appointment the British Consul ceased to nominate" and he might have added that such cessation of interference had the full approval of Clarendon, then Secretary of State for Foreign Affairs, who while "not opposed to the employment of Englishmen to aid the Chinese in the collection of their Customs duties", yet "objected to any interference on the part of Her Majesty's Consuls in the appointment of such persons, on the ground that some responsibility for their acts and conduct might thereby be entailed on Her Majesty's Government".[2] By the United States Consular Bill of 1856 United States Ministers and Consuls were forbidden to recommend any citizen for employment in the service of any foreign government. This automatically put a stop to any further nominations on the part of the American authorities. Like Wade, Lay had an excellent knowledge of Chinese, but was much more assertive and inclined to be autocratic. Resentment among certain of the trading classes broke out stronger than ever, and merchants ready to defy authority soon found that if Wade had beaten them with rods, Lay was fully able to scourge them with scorpions. He put an end definitely to the easy-going methods of complying with Customs requirements, insisted upon full details being given on ships' manifests against pain of fine or confiscation for false declaration, saw to it that proper examination was made of the goods declared and that the goods tallied with the declaration, took care that all duties payable

[1] "The present British Vice-Consul Horatio Lay, is a diligent, painstaking and talented officer, and he is well conversant with the mercantile relations between Chinese and foreigners. It will be a benefit to the public if he can be appointed to succeed Mr. Wade". Keih to Bowring 15th February, 1855. F.O. 17/309: Bowring to Clarendon, enclo. in desp. No. 95, 22nd February, 1855.

[2] B.P.P. *Further Papers relating to the Rebellion in China* 1863; p. 174 and p. 193.

were assessed and paid in full, and rendered to the authorities concerned, with all necessary details, accounts of all the duties levied, accompanied by the duty receipts issued by the collecting bank in token of full quittance. In all this he was simply putting into effect the terms of the treaty and of the treaty tariff. But it was not only the commercial community which was displeased with Lay's zeal and strictness. The new British Consul, Mr. David Brooke Robertson, who succeeded Mr. Alcock in the spring of 1855, and who seems at times to have suffered from an undue sense of his own importance, was of the opinion that the Inspectors, especially Mr. Lay, took too much upon themselves. To him their actions seemed arbitrary, especially in cases of confiscation of goods and of vessels, matters which he considered came solely under Consular jurisdiction. What also offended him was the fact that the Inspectors were in closer relations with the Chinese authorities than the Consuls themselves. Again, the Customs Inspectors, with the Taotai's approval, issued regulations which Mr. Robertson maintained should not be binding on British subjects unless they were either issued or approved by himself. In these circumstances relations became strained even to the extent that letters from the Inspectors to the Consuls were returned unopened. The American Consul too, when he considered American treaty rights infringed, was not slow to assert himself so as to show that, in spite of the agreement of 29th June 1854, he held himself justified in overriding the authority of the foreign Inspectors. This was shown in the case of the American ship "Sparkling Wave" which occurred in July 1855 when silver was more than usually difficult to procure for the payment of duties. On the 18th of that month Mr. R. C. Murphy, the U. S. Consul, informed the Taotai "that in consequence of continued violation by the Chinese authorities of the 5th article of the Treaty of Wang Hiya as also of the 13th article relating to the currency receivable for duty, together with a refusal on their part to comply with the spirit of other portions of said treaty" he had determined to withhold the duties until he could "obtain from them indemnity for the past and security for the future". The Consul had accordingly on that day delivered the papers of the "Sparkling Wave" and announced that he would continue to clear American ships on the same lines until some arrangements could be concluded between the Chinese authorities and himself which would "better secure Americans—in the full enjoyment of those privileges so undeniably granted by treaty." Seven days later the dispute

was satisfactorily adjusted.[1] In the illuminating memorandum on Chinese Customs affairs which Lay wrote while on leave in England[2]—a memorandum which raised a storm of protest[3]—he cites certain notorious cases of smuggling which took place during the early years of the Inspectorship system, and as it was the settlement of these cases which did much to clarify the situation between the Customs under the foreign Inspectors and the Consulates they call for mention. Prominent among these cases was that of the "Wynand", a vessel belonging to Messrs. Dent, Beale & Co. Early in April 1855 she cleared from Shanghai for Hongkong in ballast, but a fortnight later was discovered by Captain Warden, the officer in command of the Customs preventive cutter, anchored outside Woosung loading rice, which, in spite of the Taotai's prohibition of the export of this article, was being brought to her from up-river by junks holding Ningpo Customs papers. The Taotai, on Wade's suggestion, ordered the "Wynand" to be brought into port, and shortly afterwards the Inspectors decided that the cargo should be confiscated and the vessel released. That decision, notwithstanding the fact that the "Wynand" was obviously in the wrong, roused the ire of the British Consul, who took the stand that the foreign Inspectors were not competent to act as judges, but could appear only as informants in his Consular Court. The Taotai reminded the Consul of Article IV of the Treaty of Hoomunchai which forbade loading and unloading of vessels at places other than the five treaty ports on penalty of confiscation of both vessel and cargo by the Chinese authorities. The Consul could not gainsay the treaty, but to try out the issue of the Inspectors' authority referred the question, through the Plenipotentiary, to the Home Government. The answer, conveying the Earl of Clarendon's verdict, came in a despatch to the Consul from Sir John Bowring, under date of 12th October 1855;— "It appears to His Lordship from the documents forwarded that the ship as well as the cargo might have been confiscated by the Chinese authorities under the fourth article of the Supplementary Treaty of 1843."[4] In this view the Law Officers of the Crown, to whom the matter was

[1] B.P.P. *Correspondence relative to the Supply of Silver in the Markets of China.* 1858. pp. 38-39.

[2] B.P.P. *Further Papers relating to the Rebellion in China.* 1863; pp. 171-179.

[3] B.P.P. *Correspondence respecting Statements in Mr. Lay's Memorandum.* 1864.

[4] N.C.H. No. 277; 17th November, 1855. F.O. 17/225: Clarendon to Bowring; desp. No. 185, 6th September, 1855.

referred, did not concur. They held, rather, that the second article of the French Treaty of Whampoa (1844) which, in such a case, calls for confiscation of the goods only, did in effect grant an additional privilege, or immunity, within the true intent and meaning of the eighth article of the British supplementary treaty —that is the article calling for most favoured nation treatment— and that consequently a British ship could not be confiscated for smuggling, or trading at an unauthorized place.[1] The "Wynand" case had been dealt with by Wade. The case of the "Paoushun" occurred in June 1855 and came under the cognisance of Lay. She was a steamer belonging to Messrs Dent, Beale & Co., which on her way up from Hongkong had stopped at Amoy and had taken on cargo valued at a little over $2,000. On reaching Shanghai she entered in ballast, and presented a "nil" manifest. Lay, who was determined to put an end to the laxity then obtaining among shipmasters and shipping agents in the matter of manifests, refused delivery of the Amoy cargo to the Chinese owner of the goods who applied for them at the Custom House in the regular way A warrant was obtained from the Consul authorizing Captain Warden to search the "Paoushun". The unmanifested, but applied for, cargo was discovered and seized. Lay now refused clearance of the steamer until the consignees should pay (1) a fine of $500 for presenting a false manifest, (2) a fine of $500 for discharging certain packages at Woosung without permit, (3) import duties on the unmanifested cargo, and (4) tonnage dues. Then ensued a Consular Court inquiry, which exonerated Messrs. Dent, Beale & Co. of all charges. To this the Taotai demurred; whereupon the Consul proposed as a compromise that the owners should deposit $2,000 with the Consul, pending decision of the case by Sir John Bowring. In the meantime the vessel should be given clearance on payment of tonnage dues and the cargo released on payment of duty. Lay made mincemeat of this compromise by pointing out that the payment of tonnage dues and the decision of the Consul that the vessel had not broken bulk were mutually at variance with treaty stipulations, and that the vessel could be liable to tonnage dues only because it had cargo on board,

[1] F O. 17/213. Clarendon to Bowring, desp No. 220, 8th December, 1865 It should be noted that as both the French (Article VII) and the British (Article XLVII) Treaties of Tientsin (1858) allow for confiscation of both ship and cargo in cases of trading to unauthorized places, the only immunity that a British offender can now claim, under the French article and by virtue of the most favoured nation clause, is that the matter shall be referred to the nearest British Consul.

although the manifest presented was a "nil" one. The Taotai repudiated the compromise, and the Consul advised Messrs. Dent, Beale & Co. to pay the fines under protest. The case was referred to the Plenipotentiary and by him to the Foreign Office. The result was not such as to soothe the offended dignity of the Consul. The Earl of Clarendon was of opinion that the Inspectors, although foreign subjects, were Chinese officers, and that the only control the Consuls could exercise over the official actions of such Inspectors was by complaint to the Chinese authorities.[1] In a despatch written towards the end of October 1855 Sir John Bowring conveyed this decision of the Foreign Office to the Consul, making it clear to him that the British Inspector of Chinese Customs was to be regarded not as a servant of the British Crown, but as a Chinese official acting on behalf of the Shanghai T'ai, to whom the Consul should complain if his proceedings as Inspector aggrieved any of Her Majesty's subjects. He added that British Consuls should regard the communication to them of Customs regulations not as a right but as a matter of courtesy. Gradually, the campaign of protest and of vilification died down. By the end of September 1855 the *North China Herald*, which at the beginning of the month had dubbed Lay "the Junior Autocrat"[2] stated in its leader for the day that—"a return to the old system would be a return to the mire.—We hold the institution of foreign inspection to be one of the greatest boons ever conferred upon this port.—In our own name, in the name of every honest man in Shanghai, of its present and future interests we would advocate an adherence to the present and denounce any return to the old system." Thus within less than fifteen months from the inception of the inspectorship system it had been decisively settled that the status of the foreign Inspectors was not that of subordinate agents of the Consuls, to enforce, under the Consuls' direction and jurisdiction, on foreign merchants and shipowners the treaty stipulations regarding trade, and to see that traders paid dues and duties according to the treaty tariff. On the contrary, it was definitely recognized by the home authorities, and impressed upon the British officials in China, that the Inspectors were to be regarded as Chinese officers, nominated and appointed by the

[1] F.O. 17/225; Clarendon to Bowring, desp. No. 180, 6th September, 1855; F.O. 17/310; Clarendon to Bowring, desp. No. 193, 8th September, 1855.

[2] N.C.H. No. 266, 1st September, 1855.

[3] *Ibid.* No. 270, 29th September, 1855.

Chinese authorities, and in no way subject to direct Consular jurisdiction in respect of their official actions as Inspectors. This was unwelcome doctrine to many merchants and to some of the Consuls, but it was sound sense and sound law. It became the foundation on which the negotiators of the Treaty of Tientsin based Rule X[1] of the Rules of Trade appended to that treaty, and on which Lay and his successor Hart were able to build up the imposing fabric of the Chinese Customs Service.

Clarendon orders Inspectorate system not to be maintained unless extended to other ports. Treaty of Tientsin extends foreign Inspectorate system to all open ports, but as an essentially Chinese establishment.

§ 14. But the troubles of the infant Inspectorate were not yet over. In fact, its very existence was now threatened. Clarendon and his Government were pleased that the new system was a success, but were apprehensive that if it operated at Shanghai alone its very success might end in extinguishing the trade of that port.[2] Repeatedly during 1855 and 1856 Clarendon kept urging Bowring to "induce the Chinese authorities to set up at the other ports a similar or equally efficacious system of levying duties."[3] Bowring was able to reassure his chief that not only were the respectable merchants at Shanghai satisfied with the new system, but that under it trade was actually increasing.[4] To

[1] Rule X—*Collection of Duties under one System at all Ports.*

"It being by treaty at the option of the Chinese Government to adopt what means appear to it best suited to protect its revenue, accruing on British trade, it is agreed that one uniform system shall be enforced at every port

The High Officer appointed by the Chinese Government to superintend foreign trade will accordingly, from time to time, either himself visit, or will send a deputy to visit, the different ports. The said High Officer will be at liberty, of his own choice, and independently of the suggestion or nomination of any British authority, to select any British subject he may see fit to aid him in the administration of the Customs revenue; in the prevention of smuggling, in the definition of port boundaries; or in discharging the duties of harbour-master, also in the distribution of Lights, Buoys, Beacons, and the like, the maintenance of which shall be provided for out of the Tonnage Dues

The Chinese Government shall adopt what measures it shall find requisite to prevent smuggling up the Yangtze Kiang, when that river shall be opened to trade"

[2] F O 17/224. Clarendon to Bowring, 29th January, 1855.

[3] F O 17/309 Clarendon to Bowring, desp. No. 34, 29th January, 1855; desp No 53, 28th February, 1855

[4] F O 17/230 Bowring to Clarendon, 15th May, 1855, F O. 17/231· 6th July, 1855

make sure of his ground, however, Clarendon, through the Board of Trade, called for the opinions of commercial associations and individual business firms. As a result of these enquiries he informed Bowring that "the system now in force at Shanghai cannot be persevered in permanently unless adopted at the other ports, and if you should be of opinion that any further effort to make it general would not be successful, or if you should make it to no purpose, you will at once enter into communication with your French and American colleagues and concert with them as to the best means of putting an end to it." At the same time it was to be understood that "although Her Majesty's Government can no longer uphold the Shanghai system, if confined to that port, they have no wish to obtain for British subjects immunity from the payment of duties justly leviable on their trade. At the same time they admit no obligation to supply the vigilance which the Chinese authorities ought themselves to exercise."[1] Such instructions filled Bowring with gloom and apprehension. He had done, and was doing, what he could to have the Inspectorate system extended to the other treaty ports, but his efforts were foiled partly by opposition from the high officials of Fukien and Kwangtung, under the leadership of the redoubtable Viceroy Yeh Ming-shen, and partly by the disturbed political conditions, especially at Canton, where the "Arrow" incident was now blowing up into another war. Bowring maintained that in the case of Shanghai he could easily prove from statistics "that the Inspectorate has conferred real and substantial advantages on that port, where trade both foreign and native, has been increased to an incredible extent, making it at this moment one of the greatest commercial marts of the world." He could also prove "beyond the means of contradiction that it has placed the opium trade especially in an exceptional and protected condition, which could have little been hoped for, that advantages have been obtained for commerce by the appropriation of public revenues (through the influence of the Inspectors) to the improvement and safety of navigation, to the reform of tariffs, and to the redress of grievances, and among other advantages that it has removed from the Superintendency and the Consuls numberless questions which have been equitably settled on the spot, while at the other ports the annoyances, vexations and embarrassments growing out of the habitual violation of the laws of China are a source of constant solicitude." Above all, he "could show that it has associated the British

[1] F.O. 17/243: Clarendon to Bowring, desp. No. 234, 9th December, 1856.

name with honour and honesty, and has given us a status in the north of great and growing importance, and more particularly so at the present critical moment."[1] Lay, to whom Bowring confided his troubles, easily controverted some of the arguments brought forward by the merchants, especially those relating to the tea trade, the decline in which was largely due to the lack of Carolus dollars. "Great stress", he pointed out, "is attached to obtaining the privilege for the foreign merchant to purchase produce from the native dealer duty paid. So far as the bulk of the trade in tea and silk is concerned this is done. There is a receiving office totally separate from the Custom House into which the duties are paid by the tea and silk dealer, to whom is issued a receipt bearing the dealer-s style or name. This is passed by him to the foreign merchant, and by the latter handed in to the Customs, when he comes to clear his shipment. The duty receipts tendered at the Custom House are in no case necessarily the receipts for the identical tea or silk shipped, but simply vouchers for a given number of bales or pounds of the article."[2] Messrs. Gilman & Co., who had been loudest in protest against the oppressiveness of the Inspectorate system, had, Lay declared, been fined recently for trying to pass four thousand Pounds' worth of printed cottons as coloured cottons in order to evade the higher duty. Yet another argument, adduced by Bowring, has a curiously modern ring about it:— "I should be unwilling at the present moment to be instrumental in creating additional difficulties by the destruction of a hold we now possess upon the revenues of China, which may not only assist negotiations but give substantial security for the payment of our claims. The existence of the Inspectorship is an important element for protecting the trade of Shanghai from molestation, and for encouraging the mandarins to direct China's produce to that important and progressive place.[3] Bowring was convinced that "abandonment of the Inspectorate at the present moment would create difficulties, and be pernicious to our general policy in China."[4] Everything he contended was in favour of delay, and no interests would be endangered by such delay; a view which was also shared by the French Minister. The outbreak of hostilities at Canton clinched the matter for the time being. The question of the collecting of Customs duties could

[1] F.O. 17/264: Bowring to Clarendon, desp. No. 63, 4th February, 1857.
[2] F.O. 17/264: Bowring to Clarendon, desp. No. 65, 6th February, 1857.
[3] F.O. 17/264: Bowring to Clarendon, desp. No. 92, 26th February, 1857.
[4] F.O. 17/264: Bowring to Clarendon, desp. No. 95, 27th February, 1857.

await settlement at the time of treaty revision.[1] The signing of the Treaty of Tientsin, 26th June, 1858, gave the *coup de grace* to the locally appointed triumvirate of Inspectors, and at the same time provided for the extension of the foreign Inspectorship system to all the other open ports in China. As we have seen the two main objections to this system had been (1) that the restriction of its operations to Shanghai had resulted in a discrimination in favour of the merchants at the other treaty ports, and (2) that for a Chinese organization the system had been too much under the aegis of the foreign Consuls. The tenth of the Rules of Trade appended to the tariff of the Tientsin treaty settled both these difficulties. This rule admits that the Chinese Government is at liberty to adopt what measures appear to it best suited to protect its revenue and records the agreement between the two contracting parties that one uniform system shall be enforced at every port. The rule further stipulates that the high Chinese official appointed by the Chinese Government to superintend foreign trade shall have the right of selecting independently of the suggestion or nomination of any British authority, any British subject "he may see fit to aid him in the administration of the Customs revenue; in the prevention of smuggling, in the definition of port boundaries, or in discharging the duties of harbour master; also in the distribution of lights, buoys, beacons, and the like, the maintenance of which shall be provided for out of the tonnage dues." In placing this stipulation thus on official record, Lord Elgin was not only giving expression to the opinion of the men on the spot, and therefore most directly interested, but was also adhering to the instructions of his chief, the Earl of Clarendon, who had warned him against making any arrangement which might savour of British interference in the protection of China's revenue.[2] As this rule, altered only to

[1] F.O. 17/264: Bowring to Clarendon, desp. No. 97, 27th February, 1857.

[2] "But whatever arrangements may be made in regard to the amount of duties leviable on foreign trade, whether of export or import, I cannot too strongly impress upon Your Excellency the necessity of abstaining from undertaking any obligation to protect the Chinese revenue. Your Excellency would only be laying the foundation of much future embarrassment if you were to engage that the British authorities in China should afford any greater degree of protection to the Chinese Custom House than that which results from British Consular officers retaining in their possession the ships' papers until the production of a certificate from the Chinese Custom House that all duties upon ship and cargo have been duly satisfied. It is no part of the duty of Her Majesty's Consular authorities to take

give permission for the selection also of French and American subjects, was subsequently incorporated by both the French and the American Governments in their Tientsin Tariff Agreements, it follows that the three Powers which had taken the lead in initiating the foreign Inspectorship system wished to make it clear that their Governments were now relieved of all responsibility in respect to the choice of those foreigners whom the Chinese authorities might select to aid them in their Customs Service The adoption of this rule, therefore, definitely marks the transition of the Service from the state of being a foreign governmental makeshift to that of an essentially Chinese establishment Sir Frederick Bruce, writing to Lord Russell under date of 26th October, 1860, remarks —"The new system differs from that which previously existed at Shanghai, inasmuch as the foreigners employed are no longer recommended by the foreign Consuls It has now become a purely Chinese Service "[1] A few years later the Inspector General, Mr (afterwards Sir) Robert Hart, writing on the same subject, remarks —"In its origin and in respect of the objects it chiefly contemplated, the Inspectorate partook of the nature of a foreign rather than of a native establishment it was in short a foreign governmental measure, and did not originate with the Chinese authorities Its rules and practice were at first of the simplest kind, nevertheless, it at once clashed with the aims of those of the community who would have gladly availed themselves of the absence of such an institution, to take every advantage of the helplessness of the native officials and of the disorders of the times Soon, however, and in virtue of a vitality inherent in its mixed nature, the office gradually separated from its original founders, and, with unpremeditated gravitation, became more and more a Chinese institution "[2]

greater care of the Chinese revenue than the Chinese authorities are themselves disposed to take British subjects indeed are not to be protected against the consequences of any fraudulent transactions in which they may be engaged, but the Chinese authorities on the other hand are not to be compelled to be more observant of the interests of the Imperial Treasury than they are when left to themselves" Clarendon to Elgin, 20th April, 1857 B P P *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857*, p 5

[1] B P P *Correspondence respecting Affairs in China, 1859-60*, 1861, p 249

[2] B P P *China No 1" (1865) Foreign Customs Establishment in China*, p 4

Appointment of Mr. H. N. Lay as first Inspector General.

§ 15. The one man at that time (1858) obviously indicated as the most suited to set going at all the other treaty ports the system which had proved so successful at Shanghai was Mr. H. N. Lay. Of the three Shanghai Inspectors he was the only one who had a sound knowledge of the Chinese language, and the only one who had devoted his whole time and energy to the actual task of administering Customs affairs. Besides the knowledge and experience he had thus gained, he had also a first-hand knowledge of all the negotiations which had resulted in the drawing-up of the Tientsin treaty and tariff. He had likewise proved his ability as an administrator and organizer. It is true he had grave defects of temper, and was of domineering self-conceit, but his sponsor Ho Kwei-tsing (何桂清), Imperial Commissioner of Foreign Affairs for the Liang Kiang,[1] evidently considered that his merits outweighed his defects, and he was accordingly appointed Chief Commissioner (總稅務司), a title which he himself translated as Inspector General, and was commissioned to open at the other treaty ports Custom Houses on the Shanghai model. At the same time the French and the American Inspectors, Mr. Edan and Dr. Fish, were paid off. To assist Lay in his task, Bruce, the newly appointed British Minister, in September 1859 addressed a circular to all the *British Consuls informing them that Lay was about to visit the* ports to inaugurate a uniform system of Custom House management, that Her Majesty's Government took great interest in the success of the experiment, that accordingly the Consuls were to afford him such assistance as he might require, and that if the Chinese authorities approached the Consuls on the subject they were to state that Her Majesty's Government considered the system the best means of protecting at once the Chinese revenue and the interests of trade.[2] Having appointed a Commissioner, Mr. H. Tudor Davies, to superintend the Shanghai office,[3] Lay sailed for Canton where ever since January 1858 control of the City had been in the hands of the commissioners of the allied forces.

[1] Hsieh, Taotai of Shanghai "had to all appearances the most unbounded confidence in Lay, the proof of which is given in the fact of Lay's appointment to form the Foreign Customs establishment he has undertaken; which appointment was conferred on him by Ho, Hsieh's chief, entirely on the representations of Hsieh." F.O. 228/262: Bruce to Russell, desp. No. 57, 5th December, 1859.

[2] F.O. 228/274: Bruce's Circular desp. to British Consuls, 28th Sept. 1859.

[3] N.C.H. No. 482, 22nd October, 1859.

Customs situation at Canton in 1854: Abuses under system of linguists and revenue farmer: Occupation of Canton by allied British and French forces: Temporary closure of Custom House, and cessation of trade: Restoration of friendly relations with Canton officials through Hart's agency: Smuggling by river steamers, and *via* Fatshan: Hoppo's efforts to stop smuggling: Hart joins Customs Service: Visit of Lay, and opening of Customs House on new model: Attitude of American authorities to new institution.

§ 16. Here Lay found a situation almost, if not equally as interesting as that which had obtained at Shanghai. Canton, the home of the old *co-hong*, had in 1843 witnessed the negotiations which were to establish a new heaven and a new earth so far as Customs tariff and Customs procedure were concerned. What of the performance? Within ten years of the drawing up of the tariff and of the new Customs system which was to sound the deathknell of syndicated fraud, Parkes reported that the rule of forwarding manifests to the Custom House had been discontinued, and that the practice of evading or rather compounding for the duties had become so systematic "that the Revenue officers and the foreign merchants often arrange through the medium of a third party, for the delivery of cargo at the factories on payment of one-half or two-thirds of the tariff duty."[1] He also pointed out that the official linguists, a class of men peculiar to Canton, who supervised the discharging and loading of foreign vessels, and who at one time were highly remunerated for these services, would in 1853 not only frequently volunteer to perform these services without pay "but in their eager competition with each other have been known to offer to consignees as much as twelve hundred dollars to receive the profitable custom arising out of the payment when made through their hands of the duties on a single ship's cargo". In a memorandum,[2] written in 1854, on the irregularities of the Custom House at Canton, Parkes gives a detailed description of Customs conditions then obtaining pointing out that at Canton the collecting of duties on foreign trade devolved upon a branch of the Custom House distinct from that which had the supervision of the domestic trade carried on in native craft. As the former was supposed to be regulated by a treaty tariff and treaty stipulations, the Hoppo was obliged to submit to the Imperial Government detailed accounts of duties collected; while in the case of the Native Customs levies only the fixed quota was

[1] F.O. 228/151. Bonham to Clarendon: despatch No. 84, 9th August, 1853.

[2] F.O. 228/187: Enclo. in despatch No. 246, Bowring to Clarendon, 3rd December, 1854.

called for. He might have added that the detailed accounts of the foreign trade, being drawn up by past masters in misleading exactitude, were utterly untrustworthy. At that time the greater portion of foreign-owned goods was stored in Chinese packhouses at Whampoa, the owners of which undertook "to convey the goods from Whampoa to Canton, to land them at their packhouses, pay duty, boat-hire, and every other charge thereon, and present their bill for the same when the goods are removed from their hands." The five licensed linguists, then in control of foreign trade, each with a large establishment of clerks, were worthy successors of the co-hong so far as defrauding the revenue was concerned. Under-declaration was the usual device. A consignment of six thousand bales would be reported by the linguist to the Custom House as three thousand, while the foreign consignee would be told that it had been declared as four thousand, on which quantity, he would pay to the Government bank the full tariff duties. The banker and the linguist would then divide between them the duty on the thousand bales not declared to the Customs. At Canton the river frontage was divided into beats, each of which was under the control of a revenue farmer, who had acquired the job from the Hoppo by competitive purchase. The farmer recouped himself for his outlay by "levying a small wharfage or transit duty according to a tariff, not always adhered to, on all Chinese goods landed or shipped" within the limits of his beat. With the legal business of foreigners they had no authority, or inducement, to interfere, but they eagerly interested themselves in those transactions which were unauthorized by the Custom House, and were always ready "for a sufficient consideration, paid them by the foreign merchant to ensure the safe delivery of goods illicitly landed or shipped". In order to pass his goods without payment of regular duty from his premises to the vessel lying opposite the factories, the foreign trader had first to arrange with the farmers for the safe conduct of his goods past the Custom House guard-boat. The simplest course for the farmers, who maintained a boat alongside the Customs guard boat, was to gain the collusion of the crew of the latter by dividing the profits with them. Other means of rendering the guard boat crew innocuous were employed when the farmers wished to retain all the profits, such as entertaining them at a feast or plying them with opium, while the goods were being removed. During the years 1852-1853 the average income of the farmers of the foreign factory boat was $200,000 per annum,

but out of this they had to pay substantial quotas to the Custom House employees, magistrates, police, and other official or private persons cognizant of their activities. Such in rough outline was the Custom House system in force when in October 1856 the British began military operations against Canton, which were finally to result in the capture and the occupation of the City on the 28th December 1857 by the allied British and French forces.[1] These naval and military operations brought trade to a standstill and on the 26th October 1856, "the Custom House was closed by order of the Imperial Commissioner"[2] thus immobilizing goods worth $1,500,000 stored in Chinese packhouses but belonging to British merchants. Parkes, then Consul at Canton "being aware that the Custom House was closed, although not officially notified of the fact by the Chinese Government . . . allowed all the British vessels at Whampoa to leave the anchorage without the usual Custom House clearances".[3] Two years and a half later, the Hoppo put in a claim on behalf of three linguists for a sum of Tls. 12,619,463 for duties etc. due by British merchants when the Custom House was closed.[5] In reply, Dr. Winchester, the Consul, pointed out that the Custom House had been closed by the orders of Governor Yeh, and that in consequence merchants were then debarred from paying their duties and could not obtain the grand chop.[4] From 10th January 1858 the government of the city of Canton was placed in the hands of the Governor General Pih Kwei (貴柏) assisted by an Allied Commission consisting of Captain F. Martineau des Chenez, Colonel Thomas Holloway and Consul Harry S. Parkes.[6] The secretary to this Commission was the young Consular Interpreter Robert Hart, who in this position was to make acquaintance with and win the goodwill of highly-placed Chinese officials, a circumstance which was to prove invaluable to him in his subsequent career. The unusual conditions arising from the foreign occupation of Canton raised automatically the question of the Custom House, and Dr. Winchester, the British Consul at Whampoa, urged the establishment of a foreign

[1] B.P.P. *Elgin's Special Missions*, Sir M. Seymour to Elgin, 29th December, 1857; p. 134.

[2] B.P.P. *Papers relating to the Proceedings of Her Majesty's Naval Forces at Canton*, 1857, Parkes to Bowring, 2nd December, 1856, p. 123.

[3] F.O. 228/266: Winchester to Bruce, desp. No. 18; 11th July, 1859, encl. corr. with Hoppo.

[4] F.O. 228/266: Winchester to Bruce, desp. No. 29; 7th September, 1859.

[5] F.O. 17/285: Elgin to Clarendon, desp. No. 6, 9th January, 1858. B.P.P. *Elgin's Special Missions*. Elgin to Clarendon, 13th January, 1858. p. 148.

Inspectorate to remove inequalities of treatment.[1] Elgin, however, did not believe that the British Government would in the circumstances approve of this proposal, and expressed the pious hope that when the British Consulate was transferred from Whampoa to Honan the Custom House officials would be able to collect duties with impartiality.[2] The Allied Commissioners shared this view, and in order "to prove to the Superintendent of Customs . . . that the administration of the Custom House should remain as heretofore entirely in his hands, we delivered to him a letter from the Acting British Consul reporting his arrival that morning at Honan, in accordance with the instructions of the Earl of Elgin and Sir John Bowring, in order that he might carry on with better effect than at Whampoa, the superintendence of the commercial affairs of his nation."[3] On the 29th April the Custom House boat, or chop, was towed up from Whampoa and anchored at Honan, a transfer which fitted in with Winchester's prediction "that the dues and duties which may be collected will be settled for not at the Deputy's office here but at Honan".[4] The blockade of Canton had been lifted on 10th February, and after that date for a time foreign trade exhibited an extraordinary vitality. "River steamers arrive and depart daily with full cargoes. Twenty-two British square-rigged vessels of 14,216 tons have been entered, and eighteen of 12,457 tons cleared; of the latter, twelve ships of 8,517 tons—laden with Tea—have left for England".[5] But the Chinese authorities themselves, realizing the uncertainty of the times, were perturbed on the subject and

[1] F.O. 228/245: Winchester to Bowring, desp. No. 27, 24th March, 1858.

[2] F.O. 228/246: Bowring to Clarendon, desp. No. 105, 20th April, 1858: "I never considered his [Sir John Bowring's] plan of taking into his own hands the administration of the Customs of Canton to be practicable. In raising the blockade of the river and port of Canton, we have not meddled with the Custom House further than by requiring that during the provisional occupation of the City and suburbs by the Allied Forces, the duties shall be levied at Whampoa. We adopted this arrangement in order to avoid conflicts of jurisdiction which might have arisen if Consuls with the powers of extraterritoriality conferred on them by treaties with China, had been established within the circuit over which martial law extends." F.O. 17/286: Elgin to Clarendon, desp. No. 38, 13th February, 1858. The U.S. Minister Reed had concurred in this arrangement. F.O. 228/246: Bowring to Clarendon, desp. No. 105, 20th April, 1858, enclo. desp. from Elgin, 7th April, 1858, enclo. desp. from Elgin, 7th April, 1858.

[3] F.O. 17/302: Allied Commissioners to Major-General van Straubenzee, 30th April, 1858.

[4] F.O. 228/252. Winchester to Lord Elgin, desp. No. 4, 2nd March, 1858.

[5] F.O. 228/259. Winchester to Lord Elgin, desp. No. 6, 11th May, 1858.

approached Parkes hinting that they would not be adverse to foreign assistance in the collection of the Customs duties. Parkes gave them no encouragement,[1] even though Winchester was afraid that there was the danger of the sums, then being collected, being used to pay soldiers and to purchase arms to be employed against the Allies.[2] The renewal of military operations made this question more academic than actual, and early in July Consul Winchester had to report that as both the Custom House and his own linguist had disappeared he had been "deprived of all regular means of transacting Custom business".[3] In the meantime, the British Government had come to the conclusion—in which the French Government concurred—that the Chinese Custom House at Canton "should be temporarily administered by the Allies, and that duties should be collected on their behalf and by their authority, or by officers appointed by them for that purpose".[4] Later on, however, after learning the real conditions prevailing, the Government altered their opinion so far as to leave the matter to Elgin's discretion.[5] In July all semblance of trade had disappeared, the river was in possession of the men-of-war, and the city—"little better than a mass of deserted ruins"—was in like manner in the exclusive occupation of the Allied forces. In these circumstances the British Consular establishment was temporarily moved from Canton to Hongkong, while Consular affairs at Whampoa were left in the hands of Vice-Consul Bird.[6] Trade went on in a haphazard irregular way, but evidently with growing irritation to the foreign officials concerned. In October the United States' Consul Perry at Canton complained that Vice-Consul Bird had cleared the British vessel "Sabina" without payment of duties to the detriment of American shipping, and that British ships

[1] B.P.P. *Elgin's Special Missions*, Parkes to Hammond, 12th April, 1858, p. 233.

[2] F.O. 228/247: Bowring to Malmesbury, desp. No. 156, 9th June, 1858; encl. Winchester to Bowring, desp. No. 77, 7th June, 1858; also Bowring to Malmesbury; desp. No. 174, 26th June, 1858.

[3] F.O. 228/247: Winchester to Bowring, desp. No. 108, 1st July, 1858.

[4] B.P.P. *Elgin's Special Missions*. Malmesbury to Elgin, 8th July, 1858, p. 2[illegible].

[5] B.P.P. *Elgin's Special Missions*. Malmesbury to Elgin, 25th September, 1858, p. 361.

[6] F.O. 228/248: Bowring to Malmesbury, desp. No. 202; 30th July, 1858; encl. Alcock to Bowring, desp. No. 133, 28th July, 1858: also Bowring to Malmesbury, desp. No. 210, 6th August, 1858. F.O. 228/259: Alcock to Elgin, desp. No. 10, 6th August, 1858.

were taking advantage of the facts that Great Britain was at war with China and that Canton was under military occupation in order to evade payment of duties while American vessels had to pay. The charge turned out to be baseless, as the "Sabina" had presented the usual grand-chop, while no American vessels, with the sole exception of the river steamer "Willamette", had entered or cleared since the removal of the British Consulate.[1] The incident convinced Alcock that the Consulate at Canton should be re-opened as quickly as possible.[2] Accordingly on the 4th November he re-opened the Consulate at Canton[3] and had an interview with the Governor and the Hoppo, arranged for him by Hart, who was now, at Alcock's request, removed from his post of secretary to the Allied Commission, and retransferred to the Consulate staff.[4] Before the end of the month official relations had been restored with all the Chinese officials, and trade completely re-established.[5] This restoration of amicable relations enabled the Hoppo to bring forward the question of the extensive smuggling carried on by the river steamers plying direct from Hongkong and Macao to Canton.[6] These steamers had at first been permitted to ply once or twice a week to carry passengers only. The regulations governing this traffic were very strict, and relaxation of such strictness was obtained only on the clear understanding that these vessels

[1] F.O. 228/249: Bowring to Malmesbury, desp. No. 291, 26th October, 1858.

[2] F.O. 228/249: Alcock to Bowring desp. No. 154, 25th October, 1858.

[3] Hongkong Government Notification No 46, 6th November, 1858

[4] F.O. 228/249: Bowring to Malmesbury, desp. No. 300, 10th November, 1858; encl. desp. No. 159, Alcock to Bowring 5th November, 1858, also Bowring to Malmesbury desp. No. 305, 12th November, 1858. Alcock's opinion of Hart's merit is worth quoting—"His intimate personal acquaintance with the High Authorities, the good relations he has maintained with them of a personal nature, give him an advantage in the transaction of the public business, under existing circumstances, which I have no hesitation in saying without the slightest disparagement to Mr. Meadows, no other Interpreter can bring to the office—I will only add that I attach great importance at this moment to the aid and instrumentality of Mr Hart as Interpreter, and a present medium of communication in building up a new system of intercourse with all the Chinese officials. and I do not believe any Interpreter, however superior in knowledge or talent, could be as effective an instrument with those who are now in office, and who have been already on terms of familiar and friendly intercourse with him in the transaction of public business for a long period." F.O. 228/249: Alcock to Bowring, desp No. 169, 25th November, 1858.

[5] F.O. 228/259: Winchester to Elgin desp. No. 20, 25th November, 1858.

[6] F.O. 228/249: Alcock to Bowring, desp. No 162, 13th November, 1858. F.O. 228/260: Alcock to Bowring, desp. No. 167, 18th November, 1858. F/O 228/259: Alcock to Elgin, desp. No. 22, 13th December, 1858.

were not to be used for carrying cargo. Taking advantage of the disorder of the times, the owners of these river steamers openly flouted all regulations and restrictions. They ran their steamers as frequently as they pleased and at all hours, after dark or before sunrise. They discharged and took on cargo both on Chinese and on foreign account, together with large numbers of Chinese passengers. Sometimes an incoming steamer would have as many as 10,000 packages on board. All this was carried on without any reference whatsoever either to Chinese or Consular authorities, without reporting arrival or departure, and without any declaration of cargo going or coming. Alcock, with his Shanghai experience to draw on, kept pressing the Hoppo to take steps to deal with this clandestine and irregular trade, and offered to provide him with a limited number of certificates in English and Chinese, which were to bear their joint seals, and which could be used by Custom House officials when exerting their authority on board British vessels. To this offer were attached two conditions,—(1) that there must be a vigilant and effective Custom House administration to carry out examination of cargoes, prevent fraud, and obviate delay, and (2) that the regulations controlling this traffic must be agreed to by all the Treaty Powers, and be made applicable to all vessels irrespective of nationality. The Hoppo was all for an elaborate and detailed set of regulations, while Alcock, advised that the rules should be as few and as simple as possible, such as the placing of Customs officers on board each steamer to prevent the fraudulent landing or shipping of goods, insistence on the presenting of an inward manifest, the examining of unmanifested Chinese consignments at the Custom House, and the forbidding of the shipping of goods without permits.[1] The linguist system of controlling the Customs business of traders had now gone by the board as it had failed utterly to control the river steamers; but the Hoppo soon found out that his attempts to bring the Customs establishment into some semblance of efficiency, and to control the notorious smuggling traffic of the river steamers, had only driven smugglers to make use of the circuitous route *via* Fatshan. To deal with this development the Hoppo planned to establish a monopoly of the foreign trade in favour of twenty-one Chinese hongs. Alcock naturally raised objections to this, and the Hoppo defended himself by saying that he had no intention of re-establishing the co-hong, and that

[1] Hongkong Government Notification No. 59: 15th December, 1858.

he was simply trying to put an end to the clandestine trading of Fatshan smugglers who brought in goods from Hongkong and Macao by passenger boats, and—anticipatory of more modern developments—in police cruisers, which they engaged for their protection, and who took away cargoes of silk and tea without payment of duties. To help him in suppressing this clandestine trade he had called on the Canton merchants whose interests were at stake to assist him. His suggestion was that the merchants should form an association to protect themselves, and to restrict trade to the members, and that rewards should be issued to merchants assisting in making seizures. Alcock, while sympathizing with the Hoppo in his difficulties, was suspicious of such mercantile combinations as they encouraged monopoly. He pointed out that the foreign ideal was an adequate preventive service, and an efficient Custom House administration, while the Chinese ideal was association and a system of mutual security among traders as the means of guaranteeing Customs duties. Foreigners could not accept the latter as they held that it interfered with trade and endangered their legitimate interests.[1] The Hoppo was having his difficulties also with the collecting of the duty on opium, which had been legalize' by the British Treaty of Tientsin, and was so much at a loss how to proceed that he had applied to Alcock for suggestions. He wished to ascertain "how far there was any chance of assistance from the Colonial Governments of Hongkong and Macao in preventive measures for the diminution of the large contraband trade on which much of the prosperity of those places as trading marts depends".[2] Alcock could only counsel a reform of the Custom House on the Shanghai model. The question was one of paramount importance, more particularly because for the past five years the revenue quota remitted from Canton to Peking had fallen from Tls. 300,000 to Tls. 180,000 per annum.[3] It was discussed by the Governor General Lao Ch'ung Kuang (着宗光) and the Hoppo Heng-chi (恆棋), with the result that they decided to request the young Consular Interpreter Hart, whom they knew intimately and whom they believed they could trust, to establish

[1] F.O. 228/261: Bowring to Malmesbury, desp. No. 97, 23rd April, 1859; encl. Alcock to Bowring, desp. No. 35, 19th April, 1859; encl. correspondence between Alcock and Hoppo.

[2] F.O. 228/266: Alcock to Bowring, desp. No. 37, 24th April, 1859.

[3] F.O. 228/286: Winchester to Bruce; desp. No. 22, 2nd August, 1859, encl. translation of a Memorial from Superintendent of the Imperial Household.

a Custom House at Canton on the same lines as the one presided over by Lay at Shanghai. Hart declined this flattering offer, but suggested that doubtless Mr. Lay himself, if invited, would willingly visit Canton for the purpose. At the same time Hart provided Lay with a lengthy memorandum on the state of affairs at Canton for his guidance.[1] The result was that on 27th May, 1859 Hart sent in his resignation from the British Consular Service in order to accept a situation that had been offered to him in connection with the collection of Chinese revenue at the ports open to foreign trade.[2] The resignation was accepted as Bruce was firmly convinced that the only hope for the success of the experiment envisaged in Rule X of the Rules of Trade, attached to the Treaty of Tientsin, lay in the enlisting for the infant Service of foreigners of character and ability with a good knowledge of Chinese conditions. Such a Service he recognized would not only spare the Legations endless discussions and disputes over Customs questions, but would also, in the conditions then prevailing, enable assistance and disinterested advice to be given to China, which if proffered by foreign diplomats would be open to suspicion. By the 30th June Hart had made over charge of the Chinese department of the British Consulate at Canton to his successor, Mr. C. Alabaster, and was free to devote himself entirely to his new duties.[3] During the next three months, prior to Lay's arrival Hart was busy preparing the ground, helping the Hoppo to draft Custom House regulations, and to devise means for controlling the smuggling by the river steamers. The question of the duty on opium also came in for a share of his attention. The Hoppo wished to create a monopoly of this trade under two former hong merchants, Pontinqua and Mingsua, and to collect on each chest a levy of Tls. 50, of which Tls. 30 would be the tariff duty, Tls. 17 for the monopolists, and Tls. 3 for the steamer chartered to convey the drug from Hongkong[4]. This scheme was opposed by the British authorities who suggested that as Lay had now arrived, with proper credentials, to organize a Custom House on the new model, the question of the collecting of the tariff duty on opium should be left to him to deal with.[5] By the 13th October Lay

[1] C.A. I.G. Circ. No. 25 of 1869.

[2] F.O. 228/266: Winchester to Bruce, desp. No. 11, 27th May, 1859, encl. Hart's letter of resignatoin.

[3] F.O. 228/266: Winchester to Bruce; desp. No. 13, 30th June, 1859.

[4] F.O. 228/267: Winchester to Bruce, desp. No. 36, 8th October, 1859.

[5] F.O. 228/267: Winchester to Bruce, desp. No. 38, 12th October, 1859.

had succeeded in overcoming the Hoppo's hesitancy, so that on that date the latter addressed a letter to the British Consul stating that he intended opening on the 24th of the month Custom Houses at Canton and Whampoa on the lines of the one functioning at Shanghai, and to this end had appointed "Mr. FitzRoy, Commissioner, and pending his arrival Mr. Glover, Acting Commissioner, Mr. Hart, Assistant Commissioner, and Mr. Matheson, Assistant Commissioner at Whampoa".[1] That, however, did not end the matter. The American Consul at Canton, Mr. C. H. Perry, refused to recognize this new institution, on the grounds that he had not received from his Minister instructions similar to those issued by Bruce in his circular of 28th September, that although his British colleague had been consulted in the drawing up of the new Custom House regulations he had not, nor had he been shown them before their promulgation and that the personnel of the new institution was almost exclusively British. He claimed that these regulations violated the extra-territorial rights of American citizens, and refused, therefore, to be bound by them.[2] The American merchants at Shanghai supported these contentions.[3] Ward, the recently arrived American Minister, took up the matter in his interview at Kunshan with the Imperial Commissioner Ho. "He considered that in the personnel of the new establishment the United States ought to be represented in proportion to her trade; that the regulations should be submitted to the Consuls at the port, and if objected to, that they should be transmitted for consideration of the Ministers before being put into force".[4] Commenting on these representations Bruce remarks that he had always urged upon Lay the necessity of not giving too exclusive a character to the new Service, representing that it was better to employ one or two inefficient men than to arouse national jealousies. In his anxiety not to foist useless men upon the

[1] F.O. 228/267: Winchester to Bruce, desp. No. 39, 17th October, 1859: encl. letter from Hoppo 13th October, 1859, also Canton British Consulate notification of 15th October, 1859. F.O. 228/276 Parkes to Bruce, desp. No. 48, 15th November, 1859; encl. translation of proclamation issued by Governor General and Hoppo announcing opening of Custom House on 24th October under foreign supervision.

[2] F.O. 17/319: Winchester to Bruce, desp. No. 43, 7th November, 1859 and F.O. 228/267: Winchester to Bruce, desp. No. 46, 13th November, 1859.

[3] F.O. 17/315: Bruce to Russell, desp. No. 49, 22nd November, 1859: N.C.H. No. 486, 19th November, 1859.

[4] F.O. 17/314: Bruce to Russell, desp. No. 44, 7th November, 1859.

Chinese Government Lay had been inclined to overlook these considerations, and in consequence this had led to the pretensions of certain Powers being defined with a precision which was bound to entail inconvenience in the working of the system, the continued existence of which, Bruce rightly foresaw, depended to a large extent upon the goodwill of all the Treaty Powers. The British Foreign Office sensed the importance of the issue raised, and instructed their Ambassador, Lord Lyons, at Washington to request the United States Government for their view on it.[1] General Case, Secretary of State, made it clear that his Government could not but support Mr. Ward. "They approved of the Inspectorate in principle, and made no objection to Mr. Lay, the Englishman who had been placed at the head of it. But they thought the establishment could never work smoothly or satisfactorily unless all the nations interested were fairly represented in it, and were duly consulted respecting the regulations. To make it exclusively English might possibly be convenient as regarded the mere routine of the business, but would give rise to national jealousies and suspicions, which would much more than counter-balance any such advantage. Even if it were otherwise, public opinion in the United States would never admit of the American Government consenting to the exclusion of American citizens".[2] A week later the impasse, if it can be called such, had been removed. Mr. Ward admitted in writing that he had "entertained a strong prejudice that the British authorities at Canton and Mr. Lay had desired to thwart the views of the United States, and the commercial interests of American citizens, and to give an undue preponderance to British influence and British commerce; but that he was bound to say that on investigation he had discovered that he had been entirely mistaken. He added that his observations respecting the Inspectorate had been responded to with perfect fairness and candour, and that he considered the arrangement finally made was perfectly equitable and suitable in all respects".[3] It was almost worth while having a misunderstanding to elicit so handsome and generous a retraction.

[1] F.O. 228/278: Russell to Bruce, desp. No. 20, 18th January, 1860.

[2] F.O. 228/278: Hammond to Bruce, desp. No. 58, 1st March, 1860; encl. desp. No. 54, Lyons to Russell, 13th February, 1860.

[3] F.O. 228/278: Hammond to Bruce, desp. No. 61, 5th March, 1860; encl. desp. No. 65, Lyons to Russell, 20th February, 1860. F.O. 17/315: Bruce to Russell, desp. No. 58, 6th December, 1859.

Extension of system to Swatow: War indemnities of 1860 payable to Great Britain and to France made a charge on Customs revenue: As this necessitated centralizing arrangements the Inspector General received his appointment from the newly created Tsungli Yamên: Lay proceeds on leave.

§ 17. From Canton Lay proceeded to Swatow where in January 1860 he opened a similar establishment, leaving Mr. W. W. Ward in charge as Commissioner. The renewal of hostilities between Great Britain and China halted further progress till the signing in October, that year, of the conventions of peace and friendship between Great Britain and China, and France and China. Both these conventions stipulated for the payment by China to each of the Powers mentioned of an indemnity of Tls. 8,000,000. This indemnity was to be met by quarterly payments consisting of one fifth of the gross revenue from the Customs collected at the ports open to foreign trade. It was further stipulated that the instalments as they fell due should be paid to representatives of the two Powers specially appointed to receive them, and that the accuracy of the amounts payable on each occasion should be duly ascertained by specially appointed representatives of China and of the two Powers concerned.[1] Thus was set the first precedent for the use of the Customs Service as a debt-paying agency, the collecting of the revenue for the payments and the accounting for these payments being under the supervision of foreigners serving the Chinese Government as employees in its Customs Service, while the records and registers showing the amounts of revenue collected at each port were at the close of each quarter to be open to the inspection and checking of the British and the French Consuls in the ports concerned. This was the forerunner of the January 1912 agreement between China and the Powers, by which the Inspector General was charged with the collecting and disposing of the Customs revenue, while the accounting for its disposal was to be made not only to the Ministry of Finance, but also to a commission of foreign bankers approved by the Diplomatic Body. But between the two dates 1860 and 1912 there lies a long and unenviable tale of steady foreign aggression, of concessions extorted, of territories appropriated, and of growing weakness and decline in China's governmental machinery, ending at last in a complete breakdown, but a breakdown which was to mark the dawn of a better day. In view of these war indemnities of 1860 to be paid out of Customs revenue, it became necessary to make

[1] Conventions of Peking, 1860; Br. Art. III; Fr. Art. IV.

centralized arrangements for their regular payment, and as this was a direct obligation of the Central Government, it was considered advisable that there should be created a Central Government Council to look after both Customs and foreign affairs, as the two were so closely intertwined, and that the foreigner to be chosen as Inspector General of the Customs Service should receive his appointment from the head of the new Council. Wade, who, early in January 1861, as Chinese Secretary to the British Legation, had many interviews at Peking with Prince Kung and his associates, prior to the creation of this Council, or Tsungli Yamên as it came to be called, reports that on one occasion Wen Hsiang (文祥) declared "that they could not manage the indemnity questions without foreign assistance in the Customs establishments, which, moreover, they [were] bound to bring under a uniform system." At the same interview, when speaking of Lay, Wade remarked "that Lay had not been sent for by us purposely in order that he might not be looked [upon] in his connection with the Customs, as a British agent, and that although the greater regularity of the foreign system was a source of satisfaction to the British Government, it did not care who collected the duties of China; she might employ Chinese, English, French, etc. etc." Wen Hsiang replied that "it would not do to employ Chinese, because it was clear they did not report all they collected, and he instanced Hsieh, who, he said, had sent in no account *for the last three years.*"[1] Relying on the testimony of Lao Ch'ung-kuang (劳崇光), Governor General of the Liang Kwang, Ho Kwei-tsing (何桂清), Imperial Commissioner of Foreign Affairs for the Liang Kiang, and Hsieh Huan (薛煥), Taotai of Shanghai, all of whom had spoken strongly in Lay's favour, Wen Hsiang at an interview a few weeks later informed Wade that his own desire was to see Lay installed as Inspector General, and that his employment would be valuable "to the Government not only in respect of trade and Customs, but as a confidential adviser on foreign affairs in general."[2] On the 20th January an Imperial Decree was issued announcing the formation of the Tsungli Yamên (總理各國事務衙門) with Prince Kung as head, and Kwei Liang (桂良), Manchou Secretary of State, and Wen Hsiang (文祥), Senior Vice-President of the Board

[1] F.O. 17/350: Bruce to Russell, desp. No. 14, 12th March, 1861 enclo. letter of 11th January 1861, Wade to Bruce.

[2] F.O. 17/350: Bruce to Russell, desp. No. 14, 12th March, 1861, enclo. letter of 23rd January, 1861, Wade to Bruce.

of Revenue as coadjutors.[1] The same decree appointed also Peiyang and Nanyang Ta Chen to supervise affairs of trade in the northern and southern ports respectively. On the issue of this decree Prince Kung handed to Heng Chi, who had been summoned from Canton to assist the Yamên, his letter appointing Lay as Inspector General, in which, after referring to the increase in Customs revenue that had marked Lay's tenure of office as Inspector at Shanghai, the Prince charged him with the duties of exercising a general surveillance over all things pertaining to the revenue, of aiding the Superintendents to collect the revenue at the various ports, of preventing frauds upon the revenue, and of standing sponsor for the good conduct of the foreigners engaged in the Customs Service.[2] Heng Chi delivered this letter to Wade together with a note from himself requesting Lay to come up to Peking to discuss Customs affairs with the Yamên. The Prince's letter and Heng's note were duly transmitted to Lay, who, however, instead of obeying the summons, pleaded inability to come on account of illness, and requested permission to return to England on leave to recuperate his health, which had been impaired by the exacting work of the past five years, and by the wounds he had received in the summer of 1859 when he had intervened in a disturbance on the Nanking Road, Shanghai, which had arisen from public resentment against the kidnapping of coolies for forced emigration.[3] In the opinion of Bruce and of the members of the infant Service, Lay's inability to go to Peking, and his departure for Europe were a great opportunity lost.[4]

During Lay's absence on leave Messrs. Fitzroy and Hart acted as Officiating Inspectors General: Hart's first visit to Peking.

§ 18. To take Lay's place during his absence, the Imperial Commissioner Hsieh Huan, on Lay's recommendation appointed Messrs. FitzRoy and Hart "to exercise conjointly a general surveillance over all things pertaining to the collection of Customs revenue and foreign trade at the treaty ports."[5] At the time the former of these, who had come to China in 1857 as an attaché to

[1] F.O. 17/350: Bruce to Russell, desp. No. 7, 20th February, 1861.

[2] N.C.H. No. 554, 9th March, 1861.

[3] F.O. 228/274: Meadows to Bruce: desp. No. 23, 8th September, 1859. F.O. 17/313, Bruce to Malmesbury, desp. No. 41, 1st August, 1859.

[4] F.O. 17/351: Bruce to Russell, desp. No. 45, 9th May, 1861: "His departure for Europe at that moment was in opposition to strong remonstrances made by myself and others in what we conceived to be his own and the interests of the infant Service." Hart to Commissioners, C.A.I.G. Circ. No. 25 of 1869.

[5] C.A., I.G. Circ. No. 1 of 1861.

Lord Elgin, was commissioner at Shanghai, and the latter Deputy Commissioner at Canton. This joint commission functioned from April to June that year at Shanghai. Early in the latter month, however, Hart who had taken the natural leadership in the joint commission both on account of his ability and energy, and his special knowledge of Chinese, was invited to come to Peking through his friend the British Minister, the Honourable Frederick Bruce.[1] An intrigue, however, was set on foot to prevent him from coming further than Tientsin. Heng Chi, the former Hoppo at Canton, who had amassed a considerable fortune in that office, was anxious to prevent Hart, who was well acquainted with all that had transpired at Canton, from having any direct intercourse with the Prince and Wen Hsiang. Heng Chi accordingly proceeded to Tientsin to intercept Hart, and to constitute himself the medium of communication between Hart and the Yamên. Warned in good time, Hart eluded his would-be kidnapper, and came on to Peking without delay. At the first interview, arranged through Bruce, the Prince was reserved and on his dignity, but Wen Hsiang, between whom and Heng Chi there was little cordiality, was anxious to obtain all the information possible on financial and commercial matters. Hart had come well provided with all necessary statistics and documents, and was able quickly by a series of memoranda and by conversations, which often lasted the whole day, to put Wen Hsiang in possession of all the essential facts of the Customs situation. In the meantime, Heng Chi, finding that his prey had escaped him, hastened back from Tientsin, but owing to the death of his mother was obliged to retire from public business for the official one hundred days of mourning. "The Prince himself became friendly and courteous in the highest degree, and the impression produced by Mr. Hart's honesty and frankness was so favourable, that he was urged strongly to remain at Peking to assist the Chinese Government in these questions.—The Prince always speaks of him as "our Hart", and the common answer to any suggestion which appears reasonable but difficult of execution is "We could adopt it if we had 100 Harts."[2] It was then that Hart received from

[1] "It was only at my invitation, and contrary to the intentions of the Chinese Government, that Mr. Hart was able, two years ago, to come up to Peking, and it was only by his tact, good sense, and modesty that he obtained access to the Prince of Kung, and turned to useful account the favourable impression he made upon His Imperial Highness and his advisers." Bruce to Russell, 19th November, 1863; B.P.P. *China No. 2 (1864)* p. 22.

[2] F.O. 17 353: Bruce to Russell, desp. No. 85, 7th July, 1861.

Prince Kung under date of 30th June, 1861, a despatch confirming the appointment of Mr FitzRoy and himself as Officiating Inspectors General, and instructing them "to cooperate zealously with the Chinese Superintendents of Customs at the several ports, in the management of affairs in accordance with the treaties,—to report quarterly the amounts of Duties and tonnage dues collected together with the expenses of collection, —to make strict and faithful enquiry into all breaches of regulations committed by ships that presume to move about in contravention of law, and into all cases wherein smuggling is attempted or the revenue defrauded" This despatch further instructed that —"It will be their duty, inasmuch as it is impossible for the Chinese Government to form an estimate of the merits of the different Commissioners and other foreigners employed in the public service, to take cognizance of the same, and make examination and inspection from time to time"[1]

Discussion with Prince Kung and Wen Hsiang on Customs problems Extension of foreign Inspectorate system to Chinkiang, Ningpo, Tientsin, Foochow, Hankow, Kiukiang, Amoy, Chefoo, Tamsui, Takow

§ 19 Although FitzRoy was his senior yet Hart from the very outset retained the position of leader, a position in which he was strengthened by his thorough knowledge of the treaties and of their bearing on Customs work, by his three years experience in Canton, by his mastery of the Chinese language, and by the favourable impression he had made on the higher authorities at Peking[2] Having discussed with Prince Kung and Wen Hsiang in full detail the various problems confronting the Customs, and having reached agreement regarding their solution, Hart threw himself into his duties with characteristic energy and enthusiasm, tempered by his Ulster caution and his keen sense for politics He moved about from port to port unifying procedure, especially in the rendering of quarterly revenue returns,[3] office expendi-

[1] C A, I G Circ No 1 of 1861

[2] "I can speak however, from personal knowledge as to the soundness of the advice given by Mr Hart to the Higher Officers of the Chinese Government at Peking, and to the perseverance with which he has urged upon them enlarged views in commercial matters Bruce to Antrobus 23rd September 1861, B P P *Further Papers relating to the Rebellion in China* 1863 p 171

[3] "I may allude to one provision which is of considerable importance, and which was introduced at Mr Hart's suggestion namely that of reporting quarterly the duties received to the Board of Foreign Affairs This will tend to give some practical acquaintance with the financial view of trade to those high officers, with whom Foreign Ministers are brought in contact" F O 17/363 Bruce to Russell, desp No 85, 7th July, 1861

ture, and fines and confiscation accounts, in the checking of cargoes carried coastwise, in making arrangements and regulations for the levy of transit dues and of coast trade duty, for the issue of exemption certificates and drawbacks, and for the control of trade on the Yangtze. Armed with authority from the Tsungli Yamên he took up the task which Lay had left unfinished of opening Customs establishments on the new model at the remaining treaty ports, and, on account of the close connection between Customs affairs and treaty obligations, of gradually taking the administration out of the hands of the local authorities and of centralizing the control under the Tsungli Yamên.[1] To avoid the stirring up of local and international jealousies this called for delicate diplomacy especially in the appointment and disposition of staff. At each port a skeleton staff of competent and trustworthy foreigners under a foreign commissioner had to be installed, and to prevent unnecessary friction the relations between that commissioner and his Chinese colleague the Taotai or superintendent had to be clearly defined To a certain extent the ground had already been prepared for him by correspondence between the Peking Government and the provincial authorities; but at many places the establishing of the new order called more for tactful handling by the individual than for the backing of the Government.[2] For the ports of Amoy, Foochow, Tamsui and Takow it was easy sailing as the Governor General of Fukien had himself requested the Emperor's sanction to introduce the new system.[3] In 1861 six of the treaty ports were attended to in this respect, namely Chinkiang, Ningpo, Tientsin, Foochow, Hankow and Kiukiang. In 1862 Amoy was brought into line, and in the year following Chefoo, Tamsui and Takow so that when Hart came to sign in May 1863 the circular despatch notifying the port commissioners that Lay was resuming charge of the Service he was able to

[1] "It is now in contemplation on account of the connection that exists between Customs affairs and Treaty obligations to take the administration entirely out of the hands of the local authorities, and appoint collectors of Customs directly under and responsible to, the Foreign Board at Peking. This will ensure unity of system, and the reference of all questions in dispute to the Minister and to the Government at Peking" F O. 17/374 Bruce to Russell, desp No 141, 13th October, 1862, enclo memo from Wade reporting conversation with Hart

[2] "But a few years ago the Tatar Governor-General of Fokien who now voluntarily opens the centre door of his hall to Mr Hart, refused to show this mark of respect to Sir J Bowring, Her Majesty's Minister, and only yielded when it was intimated that the visit could in that case not be paid" B P P *Further Papers relating to the Rebellion in China* 1863, p. 131.

[3] B.P P. *Correspondence respecting Affairs in China, 1859-1860.* p. 248.

address it to thirteen out of the fourteen ports then open by treaty. The fourteenth port, Newchwang, was not provided with a new model Customs establishment till 1864.

Hart's memorandum on smuggling and frauds on revenue: Attitude of Consuls towards punitive powers of Customs

§ 20. The question of smuggling and of frauds on the revenue also engaged Hart's attention. In a long memorandum which he sent to Bruce towards the close of 1861[1] he cites what he calls "a few of the instances in which respectable firms at Shanghai have attempted to defraud the revenue, or carry on business in contravention of treaty stipulations. During the last six years—there have not been many houses at this place that have not obtained some little notoriety at the Customs Office through their occasional attempts at sharp practice,—Strange to say," he continues, "in the many cases of so-called 'clerical errors', the error has *always* been one that, if not found out, would have profited the merchant and defrauded the revenue. The mercantile pen in doing Customs business, runs in one groove when left to itself—understatement!" He then proceeds to give details of case after case in proof of his assertions, such as that of a well-known firm attempting to pass eighty bales of shirtings as containing only 2,000 pieces instead of 4,000, or that of nine cases, addressed to missionaries, declared to contain screws and books which on examination proved to be percussion caps, and naturally not for the missionaries at all, or that again of a firm which obtained a permit to ship Pcls. 484 of tea which had paid duty at Ningpo, but which on examination proved to be Pcls. 700. In this case the Consul refused to permit confiscation on the ground that the Ningpo duty document was for Pcls. 484! Cases of attempted fraud of this, or like, nature were of daily occurrence; but what perturbed Hart was the attitude taken by most of the Consular authorities towards such attempts. He remarks that—"the delightful idea upon which merchants would wish Consuls to base all their action, is that the merchants have the right to do everything they can, and that the Chinese have no right to do anything except what the treaty says they may do." He then proceeds to adduce instances in illustration, citing the case of the "Ellen Masters", which had come to Shanghai from Wenchow, a port not then open to foreign trade, with a cargo of 1,500 bags of salt, an article in

[1] F.O. 17/357: Bruce to Russell, desp. No. 191, 23rd December, 1861, enclo. letter and memorandum of 15th November, 1861, Hart to Bruce.

which foreigners were forbidden to deal. Although the master of the vessel admitted the facts, the Consul, in spite of the Taotai's representations, refused to allow confiscation, on the ground that the transaction had been sanctioned by the Wenchow authorities. Then there was the case of the British lorcha "Wave", which had entered Shanghai with a cargo of 9½ kegs of gunpowder, a contraband article, which the Tidesurveyor, a British subject, promptly seized. The results were interesting. The British Consul, Mr. T. T. Meadows, forthwith fined the Tidesurveyor for daring on a British ship to seize even contraband goods without a warrant from him as Consul; and then, by what perhaps he considered poetic justice, proceeded out of the fine levied to reimburse Messrs. Bennet and Leighton, the consignees, to the amount of the value of the confiscated powder! In support of his action Meadows declared that contraband goods could not be seized without a warrant, and that no warrant could be issued for the seizure of such goods "as long as the vessel concerned made no attempt to land them." Small wonder that Bruce, writing of Meadows, exclaimed—"I never had to deal with so impracticable and mischievous a subordinate."[1] Finally, there was the case in which one of the largest and best-known firms in Shanghai intending to send a consignment of opium to a place not yet opened to foreign trade, wished to obtain a drawback by declaring the consignment in question as destined for a treaty port! These and scores of similar cases convinced Hart that "Customs business will never go on smoothly until the Chinese have an efficient Preventive Service; even then the fact that most Consuls oppose any attempt to take precautions against smuggling that have not been stipulated for in the treaty expressly will give rise to difficulties."[2] Bruce, too, was fully aware of these difficulties, and decided to discuss with Hart "with the light of our present experience, the possibility of relieving the Custom House from the odium of being sole judge in such cases. But unless something satisfactory in the nature of a mixed tribunal can be constituted, I doubt the expediency of altering the present system." He was ready to admit that he was not aware that the Chinese Government had "shown itself harsh in inflicting penalties, or in confiscating goods," but, on the other hand, it had given clear evidence that it did not "consider itself bound by Consular decisions," as it

[1] F.O. 228/281: Bruce to Elgin, private letter, 31st August, 1860.
[2] F.O. 17/357: Bruce to Russell, desp. No. 191, 23rd December, 1861, enclo. Hart to Bruce, letter and memorandum of 15th November, 1861.

had not hesitated when dissatisfied to bring a case "before the Minister in the nature of a complaint for breach of treaty. Unless, therefore, I could persuade this Government to recognize an absolute judicial power in the Consuls in such cases, they will continue to be dealt with diplomatically, and any proceedings taken before the Consul, must be treated as merely a preliminary investigation.—In my opinion," he continues, "it is sound policy to recognize and uphold the authority of any branch of the Chinese executive, which shows energy and honesty in the discharge of its duty. Experience proves that the principle of extra-territoriality, unless exercised with great caution, and confined within the narrowest limits, compatible with the security of foreigners, becomes a source of disorganization, and is consequently most prejudicial to all interests."[1] Most of the British Consuls, however, had their own ideas on the subject, and Consul W. H. Medhurst was only voicing the opinion of most of his colleagues when he wrote—"I maintain that no British subject can be punished, or his property confiscated save on distinct proof before a competent court that he has fairly incurred the penalty, and I hold that failing any distinct instructions on the subject, the Consular Court is the only Court where such a charge can be heard." Bruce's reply to this was a definite limitation of Consular pretensions—"It results," he remarked, "from the case of the 'Wynand' and the 'Paoushun,'[2] which you will find in the records of the office, that Her Majesty's Government are not disposed to take up complaints against the infliction of penalties by the Chinese authorities for breaches of fiscal regulations when injustice has not been done." By way of a much needed warning, he added—"I must caution you against too readily admitting absence of fraudulent intent as a justification for manifest breach of regulations. Such a doctrine is not, I believe, admitted in any country."[3] Hart kept clearly before him the two questions of what was the legally unquestionable extent of the Customs authority under the treaties in regard to fines and confiscations, and of the best form of a court for the trying of fines and confiscations cases.[4] To answer the first question Lay while on leave in London obtained the opinion

[1] F.O. 17/371: Bruce to Russell, desp. No. 31, 12th April, 1862.

[2] *Vide antea*, pp. 137-139.

[3] F.O. 17/571: Bruce to Russell, desp. No. 31, 12th April, 1862, enclo. letter No. 197, Medhurst to Bruce, 23rd December, 1861; and lette. of 10th March, 1862, Bruce to Medhurst.

[4] *Vide postea*, *Chap.* III, §§ 11-13, pp. 213-221.

of some of the highest legal authorities in Great Britain, while the answer to the second finally took shape in the Court of Joint Investigation, both of which developments will be dealt with later.

Increase in revenue under new Custom House administration.

§21. Unquestioned as were the benefits conferred by the infant Service in quickly giving effect at the treaty ports to the necessary arrangements for the implementing not only of the treaty clauses regarding trade and shipping, but also of the Tsungli Yamên's decisions on questions not dealt with in the treaties, they were, from the point of view of those whose chief business it was to keep the state exchequer in funds, less spectacular than the effect the operations of the new Service had on the garnering of the revenue. Prior to 1842, when foreign trade was confined to Canton, the Customs revenue assessment for that port, fixed by the Government, was Tls. 900,000. On the opening of the five ports to foreign trade the revenue from Canton quickly fell, due chiefly to competition from Shanghai, so that the Canton quota had to be reduced to about one-third of its former figure. After the introduction of the foreign element in Custom House administration, the Canton revenue rose steadily until in 1861 it stood at Tls. 1,230,000,[1]—a revenue from Canton alone thirty-five per cent higher than what used to be remitted to the Imperial Treasury as the revenue for the total foreign trade of China. At Amoy the Chinese authorities estimated that the first month's collection under the new system would be Tls. 5,000: the actual receipts for that month were Tls. 30,000. At Foochow the first year's collection ran to Tls. 1,500,000, while at Shanghai the total collection was in the neighbourhood of Tls. 2,500,000. "The results of foreign management" states Bruce, "have been the same at every port, where it has been introduced, and looking to the recovery of the indemnities, and to the great importance of the Chinese Government not being deprived of funds at a moment when it is striving to restore tranquillity to the country, I think Your Worship will agree in the policy of upholding the system against the clamour of those who are interested in returning to the former corrupt and unsatisfactory Customs administration."[2]

[1] *Returns of the Import and Export Trade carried on under Foreign Flags at the Port of Canton for the Year 1861.* Published by order of His Excellency, the Superintendent of Customs at Canton.

[2] F.O. 17/374: Bruce to Russell, desp. No. 134, 6th October, 1862.

The Sherard Osborn fleet: Dismissal of Lay: Appointment of Hart as Inspector General.

§22. Lay resumed his post as Inspector General on the 9th May 1863 after an absence of a little over two years. During that absence, however, he had entered on a course of action which, seven months after his resumption of duty, brought about his downfall. At the time when he had left for England the Taiping rebels were at the height of their power, and were a constant menace not only to the safety of Shanghai, but also to all honest trade, especially on the Yangtze. Foreign troops had been used to help in suppressing this rebellion against constituted authority, and after the loss of Ningpo and Hangchow it appeared to the Tsungli Yamên, and to the Chinese authorities on the spot who were actually combating the rebels, that the aid of a well-manned well-equipped fleet of foreign gunboats would be an invaluable auxiliary. So far back as 1856 Iliang (怡良), the Viceroy of the Liang Kiang, had stated in a memorial to the Emperor that Lay, the British Inspector of Customs at Shanghai, had suggested that foreign steamers should be used in crushing the rebels.[1] Nothing further had come of the suggestion at that moment, but Hart, who during the winter of 1861-62 was in Shanghai, had interviews with His Excellency Hsieh, then Governor of Kiangsu, on the subject of the purchase of foreign ships and guns, and on his suggestion, warmly supported by Wen Hsiang,[2] the Tsungli Yamên agreed to entrust Lay with the purchase and equipment of a steam fleet for the use of the Imperial Government. The Yamên accordingly sent urgent instructions to Hart "to lose no time in consulting with His Excellency Hsieh on the immediate carrying-out of these projects. Let there be no further delay; when the steamers have been procured and equipped with arms, either of Their Excellencies, Hsieh or Tseng, Governor General of the two Keang, will appoint officers to proceed in the vessels, first to Ningpo to oppose and exterminate the rebels, and after that place has been recovered to clear the river and go right at Nanking. With such steamers as these will be, we may hope in a given time to see that little plague extinguished."[3] The primary object, then, for the acquisition of this flotilla was evidently the extermination of the rebels, but the secondary object of using it for the

[1] *Ch'ou Pan I Wu Shih Mu* (籌辦夷務始末), reign of Hsien Feng, vol. 21, p. 11.

[2] F.O. 17/493: Wade to Hammond, 6th March, 1866.

[3] B.P.P. *China No. 2; (1864)*. Instructions from Chinese Foreign Board to Mr. Hart; 1st February, 1862; p. 29.

suppression of smuggling had not been lost sight of. Writing in October 1862, Bruce notes "with pleasure that Captain Osborn is about to organize a Preventive Service on behalf of China, for it will be impossible for our gunboats to do this duty on the Yangtze river without committing acts which it will be found difficult to justify on any international principle, and which will create and keep up a bad feeling on the part of the Chinese authorities and people."[1] That Prince Kung was not oblivious of this preventive function of the flotilla is evidenced by the instructions he issued to Captain Sherard Osborn when offering him the post of Assistant Commander-in-Chief:— "As regards smuggling," he wrote, "and smuggling guilds at the ports on the coast and up the rivers, the fleet is authorized to take measures for the due repression of the same."[2] Well informed circles, too, outside of the official classes, were aware of this probable use of the flotilla. The "Shanghai Recorder", a paper started by Messrs Jardine, Matheson & Co., "to advocate the policy of abolishing tariffs and treaty restrictions, and of conducting trade along the coast and in the rivers of China by means of arrangements with the local authorities,—thus ignoring or setting at defiance all central authority,"[3] printed an article in its issue of the 29th November 1862 drawing attention to the revised regulations for trade on the Yangtze, and lamenting that these regulations provide for the service of revenue cruisers to enforce them, thus threatening the existence of the "very large and very lucrative trade in smuggled goods" then carried on. Commenting on this article the "China Mail" of 11th December 1862 remarked that "the present course now adopted by the authorities of Peking was spoken of so far back as 1859, and felt to be necessary in order to render the Customs scheme complete. . . The opinion here and elsewhere certainly is, that Sherard Osborn's fleet is for service against the rebels, and would never have been organized but for that purpose. We have reasons for doubting this: the idea of such a fleet has long been in existence, and the presence in England of a high officer of Foreign Customs is the first good opportunity that has offered for carrying out the idea, on to which that of warfare has

[1] F.O. 17/374: Bruce to Russell, desp. No. 135, 6th October, 1862; also F.O. 17/390: Bruce to Russell, desp. No. 6, 20th January, 1863.

[2] B.P.P. *China No. 2, (1864)*, Prince Kung's letter of instructions to Captain Osborn, 8th July, 1863; pp. 8 & 9.

[3] F.O. 17/390: Bruce to Russell, desp. No. 6, 20th January, 1863.

undoubtedly been engrafted. Be that as it may, the new Regulations for trade on the Yangtze show that operations against Nanking if they be undertaken by Captain Osborn's fleet of gunboats are not expected to absorb all his attention: it seems to be assumed that he will be able to spare time for the supervision of the river trade. There is even a likelihood of Captain Osborn's fleet being used to prevent unlawful trading on the coast, as well as in the river." Hart passed on the Yamên's instructions to Lay, and at the same time drew up a memorandum for the Yamên giving a general idea of the number of officers and of Chinese gunners, sailors and marines that would be required to man the seven vessels, not counting the supply ship, which it was proposed should constitute the fleet. At the same time he pointed out that a Chinese officer of high rank should be appointed to act with Captain Sherard Osborn in all matters connected with the control and management of the fleet.[1] Lay made the necessary arrangements with the British authorities to enable British naval officers to accept posts in the service of China,[2] and bought and equipped the vessels, paying for them out of funds remitted to him from the Customs revenue from the six ports of Canton, Swatow, Amoy, Foochow, Shanghai, and Kiukiang. But Lay put a wide interpretation on his instructions, and in doing so exceeded them. He entered into a signed agreement with Captain Sherard Osborn, in which *inter alia* Osborn undertook to act only upon the orders of the Emperor conveyed through Lay, and engaged "not to attend to any orders conveyed through any other channel", while Lay, on his part, undertook "to refuse to be the medium of any orders of the reasonableness of which he is not satisfied."[3] Hart, on hearing of this arrangement, was greatly perturbed. He realized at once how utterly unacceptable it would be to the Chinese authorities, and the menace it held to the safety and continuance of the infant Customs Service. He accordingly wrote to Lay a strong letter of remonstrance, pointing out how intolerable and harmful such an agreement would be. Lay, however, was impervious to argument, and held on his course. That agreement was Lay's

[1] B.P.P. *China No. 2, (1864)*. p. 28.

[2] B.P.P. *Correspondence respecting the Employment under the Government of China of Officers in the Naval or Military Service of Her Majesty.* 1862; and *Order in Council authorising the Enlistment of Officers and Men, and the Equipment and Fitting-out of Vessels of War for the Service of the Emperor of China.* 1863.

[3] B.P.P. *China No. 2, (1864)* p. 7.

undoing.[1] When he returned to Peking in May 1863, he found Prince Kung and the members of the Tsungli Yamên highly incensed that he should arrogate to himself powers which had never been conferred on him, that he should attempt to usurp the exclusive control of this formidable force, and thus be in a position to be able to dictate to the Government the policy he wished to pursue, and that he should deliberately flout the long-established Chinese governmental system of holding Viceroys and Governors responsible for the control of provincial affairs and for the maintenance of tranquillity in their territories.[2] For four months the question of the flotilla and of its control formed the main subject of debate between Lay and the Yamên, the former maintaining that the instructions issued to him gave him a perfectly free hand, that he had forwarded a translation of the agreement to the Prince who had never acknowledged it, that the conditions laid down in the agreement were the only ones by which he could obtain the sanction of his own Government and the services of officers of proper standing, and that in bringing to China material military aid it behoved him to take care that the power and responsibility conferred upon him by Her Majesty's Order in Council be not abused, and to guard against this military aid being misapplied which would be a cause of scandal and a loss of prestige to the British authorities who had helped to promote the scheme.[3] Hart did all in his power to induce Lay to accept an agreement in five articles, drawn up by him in consultation with the Tsungli Yamên, in place of Lay's own agreement with Osborn in thirteen articles. Lay at first was inclined to accept but finally declined to consider

[1] "Mr. Lay mistook his position, and overrated his influence when he resolved on starting this flotilla without having previously ascertained that the terms agreed upon with Captain Osborn would be accepted." F.O. 17/395: Bruce to Russell, desp. No. 168, 19th November, 1863. B.P.P. *China No. 2, (1864)* p. 20.

[2] "His failure is due to the spontaneous resolution of the Chinese themselves; their motives being the opposition of the provincial authorities; the reluctance of the Chinese Government to assume the responsibility of directing the force, instead of leaving it to be directed by the local Governors; and above all, the alarm and suspicion engendered in their minds by the proposals contained in the understanding entered into by Mr. Lay and Captain Osborn, by which they considered that the exclusive control of the operations would be vested in Mr. Lay, who would thus be enabled indirectly to compel them to act in all matters in subservience to his will." Bruce to Russell, 19th November, 1863. B.P.P. *China No. 2 (1864)*; p. 21.

[3] B.P.P. *China No. 2, (1864)* p. 7.

any modification of the agreement[1] which would imply consent to Captain Osborn's being placed under the orders of local authorities, a step which in view of the ease with which reckless foreign rowdies could then be enlisted at Shanghai, Lay believed would have destroyed all hope of improvement in any direction.[2] Lay did not make matters easier by his general attitude and bearing. The flattering reception he had received at home and the honour of Companion of the Order of the Bath, conferred on him by Queen Victoria, had gone to his head and helped to turn a naturally autocratic man into a megalomaniac with dreams of empire. On his return to Peking he acted as if he were the independent head of a great revenue department responsible only to the Vice-Regent of the Empire. He proposed that he should be given a Prince's palace as a residence. He demanded the dismissal of the Peiyang and the Nanyang Ta Chen so that he himself should be sole director of the Foreign Customs revenue. He submitted no accounts of how the money for the fleet had been expended, and he made no secret of his hopes that by controlling the Customs as the source of funds and the fleet as an instrument of power he would be able to compel the Chinese Government to adopt such measures as he should propose.[3] Prince Kung, however, was equal to the occasion; and, although a scion of the Imperial House, proved himself, so far as foreign pretensions at China's expense were concerned, as nationalist as any patriot of today could desire. He refused to ratify the agreement entered into between Lay and Captain Sherard Osborn, and pointed out to the British Minister that in his letter of instructions to Lay there was nothing to the effect that the commander of the fleet should receive his orders from Mr. Lay and through no other channel, that in this letter, too, it

[1] "The Yamên of Foreign Affairs did accordingly write a despatch in the sense Mr. Hart requested, but Mr. Lay did not adhere to the course agreed upon by Mr. Hart and the members of the Yamên. On his arrival in Peking he produced a contract of his own, which differed widely from the original proposition. We, the Prince and his colleagues objected to this, and after many verbal discussions with Mr. Lay and Mr. Hart we drew up another paper in five articles, which after every word and passage in it had been considered and agreed to, we laid before the Throne. After the presentation of our Memorial to the Throne, however, Mr. Lay suddenly returned to his thirteen articles, and insisted that these should be the rule of action: our five articles he would have nothing to do with." Translation of letter from Prince Kung, enclo. in desp. of 1st May, 1865, Bruce (then at Washington) to Russell: F.O. 17/492.

[2] B.P.P. *China No. 2; 1864* pp. 18-19.

[3] *Ibid.* p. 21; p. 23.

had been clearly stated that the fleet, when purchased, was to proceed with the least possible delay to Shanghai and there to await orders, an instruction which showed that the uses to which the fleet should be put would be decided by the Government that had ordered and paid for it. Without authority, too, Lay had in the agreement bound the Chinese Government to guarantee the provision of a fund sufficient to cover all salaries, wages and expenses of the fleet for a period of four years.[1] Captain Sherard Osborn on reaching Shanghai with his flotilla in September found his troubles beginning. The agents of Li Hung Chang commenced to tamper with his crews, offering them higher wages, and trying by other specious ways to inveigle them from their allegiance, their object being to bring vessels and crews under the control of the local authorities.[2] To get the fleet away from these enticements Osborn brought it up to Chefoo, and proceeded himself to Peking. There he was handed Prince Kung's letter of instructions of 8th July,[3] appointing him Assistant Commander-in-Chief, and informing him that the Chinese Commander-in-Chief would be appointed by the Governor General of the Liang Kiang and the Governor of Kiangsu, from whom both commanders were to take their orders.[4] As these instructions ran directly counter to his agreement with Lay, Osborn reminded Prince Kung that the British Government had permitted him and his brother officers to serve only the Emperor or his Regent, and that if ratification of his agreement with Lay, which was drawn up on this basis, were withheld he would have no option but to disband the force. Receiving no reply, he appealed to Bruce requesting to be informed whether there was any objection to the ships being surrendered to Prince Kung, as they were Imperial property, the danger of such transference being the possibility of their falling into the hands of the rowdies and pirates then so numerous at Shanghai.[5] Bruce thereupon took up the matter with Prince Kung, who finally requested that Captain Osborn be instructed to undertake the responsible duty of assuming charge of the vessels and crews, the former to be disposed of in England or in India, and the latter to be sent home and paid off on their arrival there.[6] The armament was

[1] B.P.P. *China No. 2 (1864)*: *Ibid.*, pp. 30 & 31.
[2] *Ibid.*, p. 11; p. 16.
[3] *Ibid.* pp. 8 & 9.
[4] *Ibid.*, p. 9.
[5] B.P.P. *China No. 2 (1864)* p. 13.
[6] *Ibid.*, p. 14.

a formidable one, and if it had fallen into the hands of unscrupulous adventurers in China or of any Power or State engaged in hostilities with another Power or State at peace with Great Britain serious complications would most likely have arisen. For undertaking this task Captain Osborn received the special thanks of the Government, and a grant of Tls. 10,000 in addition to his pay for the labour entailed upon him. Osborn conveyed the flotilla homewards, leaving four of the vessels in Bombay, and taking the remaining four direct to England. Three of these latter were eventually sold to the Egyptian Government, while the fourth had to be disposed of to provide funds for paying off the crews. Two of the vessels left in Bombay were purchased by the Government of India, and the remaining two by Captain C. Forbes, who two years later became the first Marine Commissioner in the Chinese Customs Service.[1] For Lay there remained nothing but dismissal; but it was a dismissal softened by exceptionally generous financial treatment.[2] He was instructed to proceed to Shanghai, to make up clearly all his accounts of income and expenditure, and to hand everything over, including all balances due to the Chinese Government, to Mr. Robert Hart, the newly appointed Inspector

[1] Four of the eight vessels comprising the flotilla, namely the "Pekin", the "China", the "Tientsin", and the supply ship "Ballarat" with 338 men and all reserve munitions of war were sent direct to England, while the *remaining four*, the "Keangsoo", the "Kwangtung", the "Amoy", and the yacht "Thule" were taken to Bombay, where the Governor allowed all guns and arms to be landed in the Royal Arsenal. The crews of these latter four ships, 120 men in all, were sent as passengers to England. Of the ships sent to England, the "Ballarat", with stores, was sold by Osborn to meet the cost of disbanding the crews, while the "Pekin", the "China" and the "Tientsin" were eventually sold in December 1865 to the Egyptian Government. Of the four ships laid up in Bombay, the yacht "Thule" and the "Kwangtung" were purchased by the Government of India, who presented the former to the Sultan of Zanzibar, while the "Amoy" and the "Keangsoo" were sold in 1866 to Captain C. Forbes. The value of the fleet when it left China was assessed by the British Admiralty at £152,500, but its sale realized only £67,083-3-10. The difference was made good to China by the British Government. F.O. 17/492 and 17/493.

[2] B.P.P. *China No. 2 (1864)* pp. 34-37. Other influences were at work as well as the flotilla affair to bring about Lay's downfall. "There were, no doubt, other influences at work adverse to the scheme. Mr. Lay by his imperativeness and impatient demeanour had frightened the authorities at Pekin, and he had made enemies of the merchants by the way in which he had conducted the Inspectorate of Customs. Moreover the Foreign Ministers at Pekin were jealous that the force should be exclusively English, and Mr. Lay was either too proud or too self-reliant to endeavour to conciliate all these differences." F.O. 17/493: Memorandum of 28th May, 1866.

General.[1] One point of vital importance that comes out clearly from this regrettable incident is the light in which the Chinese Government regard the position and powers of the Inspector General. This was well and clearly put by Sir Frederick Bruce writing to Earl Russell, under date of 19th November, 1863. Speaking of the Chinese Government's comprehension of the scope and bearing of Lay's schemes, Sir Frederick remarks:— "They do not look upon the Inspector General as anything more than a subordinate officer in their employ; to whom a general superintendence is given over the foreigners engaged to aid in the collection of the Customs revenue on foreign trade, but on whom no control is bestowed over the application of the receipts. They do not consider him as a political officer at all, nor do they consult him as of right even in questions affecting foreign trade". In fact, it was Lay's ill-advised attempt to grasp political power that convinced both the Tsungli Yamên and the foreign Ministers at Peking that it would be better for the Inspector General to reside on the coast and to come to Peking only on Customs business and when sent for. Bruce advanced the opinion that it was "very desirable with a view to the maintenance of the Custom House administration that the head of it should not be permanently at Peking", and then, seemingly retracting his previous warm advocacy of the Inspector General's value as an adviser on other than Customs matters, he urged as a reason, "for if he is, he is supposed to act as the adviser of the Chinese in matters not appertaining to his office, and thereby incurs the odium of the errors they commit."[2] Then with particular reference to Lay's mission Bruce proceeds:—"They looked upon him as an agent for a special purpose, whose authority was limited to the purchase of ships and to the engaging of men to bring them out. They certainly did not contemplate conferring upon him any authority to tie up their hands for years as to the manning of these vessels, still less that he should take upon himself to determine, at his will, how the operations of the ships were to be directed, and under whose immediate orders they were to be placed; and they were totally indisposed to alter the character of the office he bears, to give to him, or to any foreigner, a leading part in the administration of the Government, or to invest him with any control over the Customs' revenues, except insofar as

[1] B.P.P. *China No. 2* (1864), p. 36. C.A. I.G. Circs. Nos. 23, 24, & 25 of 1863.

[2] *Ibid.*, Bruce to Russell, 27th November, 1863: p. 34.

was required to meet the expenditure of the foreign part of the establishment".[1] "I do not admit," he added, "that a man who serves the Chinese as an agent is entitled to exceed his authority, and if he does exceed it he must do so at his own risk and take the consequences."[2] Lay left China for good, but although his departure was under a cloud, yet he left with the consciousness that so far as the Customs Service was concerned he had laid a strong foundation for others to build on. It was he who had created at Shanghai a renovated Custom House organization which served afterwards as the model for similar establishments at other ports. It was he who established firmly the main lines of Customs procedure, the presentation of manifests and of import and export applications for individual consignments, the examination of cargoes, the assessment of duties to be entered on the applications and the issuing of duty memos, the payment of those duties at the Customs bank designated by the Taotai, the checking of the receipts issued by the bank, the keeping and rendering of full accounts of the duties assessed and paid, as well as detailed returns of the ships and cargoes entered and cleared. It was he who up till that time had done more than any other to put an end to smuggling, and to suppress the old-time corruption and malpractices which flourished both within and without the Custom House. It was he who secured the definition of the legal status of foreigners engaged in the Chinese Customs Service, and the recognition of the right of the Chinese Government to confiscate, without prior reference to the Consul concerned, goods landed or shipped in contravention of treaty stipulations. It was he who took the initial steps to make the foreign staff of the young Service as cosmopolitan as circumstances required. It was he who, by his knowledge gained from years of intimate experience of Customs work at Shanghai, was able to give such practical advice to the framers of the Tientsin treaty that the articles dealing with trade and tariff were of a much more practicable nature than they otherwise would have been. It was he, at the time of his appointment as Inspector of Customs at Shanghai, who helped the Chinese to regain their right to choose and appoint, without Consular interference, the foreigners whom they desired to have as Inspectors, and it was he who, on the basis of this and with the approval of the British authorities, saw to it that Rule X of the

[1] B.P.P. *China No. 2 (1864)* p. 22.

[2] *Ibid.* p. 34.

Rules of Trade, appended to the Treaty of Tientsin, should be so worded as to leave the hand of the Chinese Government unfettered in the selection of the foreigners they might wish to appoint to aid them in the administration of the Customs. Lay deserved well of his employers, and his employers gave the fact most generous recognition by the treatment accorded him on dismissal.

CHAPTER III.

THE ADMINISTRATION OF THE TARIFF: FROM THE CREATION OF THE INSPECTORATE OF CUSTOMS TO THE REVISION THAT FAILED, 1868.

§ 1. No revision of tariff for over forty years: injustice of this to China. § 2. Hart discusses Customs problems with Tsungli Yamên. § 3. Transit dues inward; causes for failure of system, *likin*, etc. § 4. Fixing of transit dues rate for both inward and outward transit at half tariff duty: merchants given option of paying existing inland provincial levies instead. § 5. Origin and growth of coasting trade in foreign vessels: piracy and the convoy system: coastwise trade of Chinese goods in foreign bottoms not a treaty right: influence of coasting trade in opening of new ports. § 6. Origin of coast trade duty: confusion arising from not applying treaty tariff rates of Chinese goods carried in foreign vessels. § 7. Protests of foreign merchants against paying more than one export duty and one transit due on Chinese produce carried coastwise: Tsungli Yamên's proposal: Coast trade duty fixed at half duty on re-importation. § 8. Chinese produce destined for shipment abroad not liable to coast trade duty. § 9. Effect of *growth of coastwise trade on tonnage dues levy: Claim of French authorities* for exemption from tonnage dues of coasting vessels: Use made of tonnage dues proceeds. § 10. Regulations for trade on the Yangtze; Parkes' draft of 1861: Clandestine traffic with Taiping rebels in arms and supplies: Defiance of provincial taxation rights: Revised regulations: British Minister's proposal for opening of Anking, Tatung and Wuhu for tea trade, not approved. § 11. Right of foreign employees in the Customs to fine and confiscate contested by Consuls and foreign merchants: Claim that all such cases should be submitted to Consuls. § 12. H. N. Lay obtains high legal opinion in England on nature and scope of punitive power of the Customs, and on liability of foreign employees for acts done in their official capacity. § 13. Creation of Court of Joint Investigation to deal with cases of fine and confiscation: Rewards to officers making seizures. § 14. Drawbacks first issued as extra-treaty privilege: Becomes treaty right but only for foreign duty-paid imports when re-exported abroad: Privilege extended to refund of Coast trade duty: Provincial authorities prefer duty to be paid at port of destination: Time limit within which a drawback could be claimed. § 15. Early attempts to secure bonding privilege: Alcock's improvised bonding system: Fitzroy's plan of clearing steamers under guarantee for payment of duties. § 16. Local alterations of treaty tariff rates, without previous assent of Tsungli Yamên, forbidden. § 17. Revenue, central and provincial, derived from legalized opium trade: § 18. Proposed revision of Treaty of Tientsin: The *Burlingame Mission*. § 19. *Memorials from merchants* on desired reforms: Complaints and suggestions from Shanghai Chamber of Commerce. § 20. Proposals from merchants at Foochow and Tientsin. § 21. Attitude of Hongkong merchants. § 22. Commission to discuss treaty and tariff revision appointed by Tsungli Yamên and the British Minister: Part played by Hart on this Commission. § 23. Alcock informs diplomatic colleagues of results of negotiations: France and Germany reserve their

rights for further revision: Alcock's memorandum on the tariff. § 24. Progress of the Burlingame Mission: Hart's work in connection with Alcock Convention: Features of the Convention. § 25. Convention denounced by merchants: Alcock's reply to criticisms: British Government decides not to ratify Convention.

No revision of tariff for over forty years: injustice of this to China.

§1. For over forty years the Tientsin treaty tariff remained, without revision, the tariff governing China's trade relations with the outside world. They were momentous years for China witnessing such events as the final suppression of the Taiping rebellion; the Mohammedan outbreak in Kansu; the Panthay uprising in Yunnan; the Burlingame mission to the western Powers; the Japanese invasion of Formosa; the Margary expedition with its tragic ending; the negotiating of the Chefoo Convention; the great famine in Shansi and Shensi; the return of Ili by Russia to China; the war with France; the war with Japan, resulting in the cession of Formosa to Japan and ultimately in that country's protectorate over Korea; the beginnings of railway enterprise; the occupation of Kiaochow by Germany, of Port Arthur and Dalny by Russia, and of Weihaiwei by Great Britain; the Emperor's reform edicts; the leasing of Kowloon to Great Britain, and of Kwangchowwan to France; and finally the Boxer uprising with its aftermath of treaties, bringing again at long last a revision of the import tariff so as to restore it to an effective five per cent basis. Time and time again during these forty odd years, as China was called on to face one or other crisis she found herself hard pressed for funds, until in the moment of her most bitter need she was forced at last to turn to the foreign money lender. At no time, however, during these years was she allowed to fall back on what would in any other country have been regarded as the natural source of an increased income, namely, her Customs revenue. Free movement in this direction was impossible, for the gyves and shackles of the treaty tariff bound her hand and foot. Before the middle of the century had turned, China was in treaty relations with Russia, Great Britain, the United States of America, France, and the united kingdoms of Sweden and Norway; but before the close of the sixties that relationship had been extended to Germany 1861, Portugal 1862, Denmark 1863, the Netherlands 1863, Spain 1864, Belgium 1865, Italy 1866, and Austria-Hungary 1869. It was not until 1871 that Japan first joined the happy throng. It was this very multiplicity of treaties, all accepting the same tariff, which, through the

operation of the most favoured nation clause, fettered China, and made it extraordinarily difficult, in fact almost impossible, for her to use her tariff as the means of making good deficits in the national treasury. A change of rate of duty on any article required the approval of all the treaty powers before it could become effective, and as the trade interests of fourteen different nations are never completely non-competitive, it followed that China's chances of having the tariff altered in her favour were more visionary than real. From time to time during those forty wilderness years tariff revision was mooted; but as the only revision in which foreign traders were interested was that of revision downwards, it is not surprising that things were left as they were. Even China's acute financial distress in 1895-96, after her disastrous war with Japan, was not sufficient to move the Powers to sanction a much-needed revision, although the loans, floated abroad, to pay the indemnity to Japan, were one and all secured on the Customs revenue. Had tariff autonomy remained in China's hands, the necessity of resorting to the foreign money-lender would not have been so clamant, and the avoidance of that necessity would unquestionably have freed China from much political and financial embarrassment. The Chinese Government was fully conscious that a revision of the tariff was her just due, and took care to direct the veteran statesman, Li Hung-chang, when about to proceed on his mission to Europe in 1896, to press for a revision of the tariff so as, at least, to give China her treaty due and, if possible, a 50 per cent increase in her Maritime Import duties.[1] The aged Viceroy's efforts to gain either end were fruitless. It was not until means had to be devised to enable China to pay to the Powers the grim indemnity imposed on her by the Peace Protocol of 1901, that the Powers ultimately agreed to allow a revision of the import tariff rates so as to bring them once more up to the five per cent *ad valorem* level. "La peau est plus proche que la chemise."

Hart discusses Customs problems with Tsungli Yamên

§ 2. Comprehensive as were the Treaties of Tientsin, they did not provide, and in the circumstances it could not fairly have been expected that they should have provided for every contingency that might arise from the enforcement of the new trade regulations and the application of the new treaty tariff. In fact, as the newly-appointed British Minister and Plenipoten-

[1] A. Gerard, *Ma Mission en Chine*. Paris, 1918, p. 125. J.O.P. Bland, *Li Hung Chang*. London, 1917. p. 212.

tiary wrote, it soon became apparent that "the conclusion of a treaty is the commencement and not the termination of difficulties."[1] Among the more pressing of these difficulties three stood preeminent; (*a*) the interpretation and the application of the treaty article and tariff rule regarding transit dues, a subject which had loomed large in the past and was destined to loom still larger in the future, (*b*) the treatment to be accorded to native goods carried coastwise in foreign steamers, and (*c*) the measures that should be enacted for the regulating of trade on the river Yangtze. In the discussions and arrangements necessary for a solution of these difficulties a leading part was taken by Mr. Robert Hart, then one of the two Officiating Inspectors General. As we have seen, it was early in June that year that Hart, on the invitation of the British Minister, had gone on a visit to Peking, had obtained access to Prince Kung, and by his tact and ability had become, under the existing conditions, not only an indispensable intermediary on trade and tariff matters between the Chinese Government and the ministers of the foreign Powers,[2] but also an adviser whose counsel and assistance the Chinese quickly found were worthy of complete trust. After many conferences and much correspondence, the British Minister early in October 1861 sent to Prince Kung the text of two notifications, which he proposed should be issued, the one dealing with transit regulations, exemption certificates, and the coasting trade, and the other with provisional rules to regulate trade on the river Yangtze.[3] By the beginning of November that year the contents of these notifications had been agreed to by the Tsungli Yamên,[4] and on the 14th of that month they received the Imperial approval,[5] although they had already been notified to the public by the British Minister,[6] to the Com-

[1] B.P.P. Bruce to Russell, 18th July, 1862. *Further Papers relating to the Rebellion in China*, 1863, p. 59.

[2] Bruce to Russell, 26th October, 1861, B.P.P. *Papers relating to the Rebellion in China, and Trade in the Yangtze-Kiang River*, 1862, p. 79, Bruce to Russell, 23rd September, 1861, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 171. Bruce to Russell, 19th November, 1863, B.P.P. *China No. 2 (1864)* p. 22.

[3] Bruce to Prince Kung, 9th October, 1861, B.P.P. *Papers relating to the Rebellion in China and Trade in the Yangtze-Kiang River*, 1862, p. 75.

[4] C.A. I.G. Circ. No. 8 of 1861.

[5] Bruce to Russell, 25th November, 1861, B.P.P. *Papers relating to the Rebellion in China, and Trade in the Yangtze-Kiang River*, 1862, p. 81.

[6] H.B.M. Consul's Notification, Shanghai, 30th October, 1861, N.C.H. No. 588, 2nd November, 1861.

missioners at the ports by the Officiating Inspector General, and to the Superintendents of Customs by the Imperial Commissioner Hsieh.

Transit dues inward; causes for failure of system, *likin*, etc.

§ 3. The article of the Treaty of Nanking dealing with transit dues (Article X), and the subsequent declaration of 26th June, 1843 on the same subject, legislated solely for the conveyance inland, to any province or city of China, of foreign duty-paid imports. Such goods were to be conveyed inland only by Chinese merchants, and the additional duty leviable on them while in transit was not to exceed the rates then levied, which were declared to be on a moderate scale. That was probably the best arrangement then possible, but it was an arrangement which, even if the Taiping rebellion had not supervened, would almost certainly never have worked satisfactorily. The lack of precise knowledge on the part of foreign traders and of Consuls as to what inland charges were leviable left the door wide open for unauthorized exactions from the inland Customs House officials, and for the no less, if not still more, onerous exactions of the Chinese brokers to whose mercy foreign merchants had of necessity to trust themselves. Even if the Treaties of Nanking and of Hoomunchai had accorded merchants the right to travel in the interior for trading purposes—a right which was expressly withheld—it would not have helped matters much as the average foreign merchant, through his ignorance of the Chinese language, was in no position to ascertain and check the actual facts. Indeed, such liberty of travel in the interior at that time would probably have led to regrettable incidents. A situation of this sort is bound to give rise to misunderstandings and to exaggerations on the part of those who were, or who believed themselves to be, victimized. Beyond question, abuses existed, and inland levies on foreign imports, not allowed for according to the strict letter of the treaty, were continually being exacted; but to maintain, as some of the merchants then did, that the onerousness of the inland transit dues was the sole, or even the main, cause for the lack of expansion in their import trade, was to shut their eyes not only to the undoubted facts that the market they were dealing with was well supplied with home-made products similar to those they wished to sell, that, contrary to popular belief among foreigners, that market was one of the poorest instead of one of the richest in the world, that it takes time to create a demand for foreign goods especially among a very conservative people and that such foreign imports as were selling in the

interior were being sold at reasonable rates,[1] but also to their own shortcomings—ignorance of the language, too great a dependence on Chinese brokers and compradores, lack of initiative in failing to adapt their goods to suit the market, and in the case of some of the largest firms, concentration of interest on only one import, opium, and on only two exports, tea and silk, with frank indifference to all other articles of trade. In fact, the flourishing trade in opium alone, contraband until 1858, did more than anything else to hinder the development of healthy inland markets for foreign goods. Opium dealers were as avid for money as the horse leech is for blood, and it was this ceaseless drain on the floating capital of the country that vitally reduced its purchasing powers of other commodities. The advent of the *likin* system, however, and its rapid and widespread growth during the years of the Taiping rebellion did give foreign traders solid ground for complaint. It not only added, in most cases substantially, to the amounts to be paid on goods passing into or from the interior, but it also increased the uncertainty of merchants regarding the inland tax treatment of their goods, as tariffs were not accessible, and as there was no uniformity in the rates levied by the various provinces—each province being in this respect a law unto itself. More than this, the *likin* system by its multiplicity of stations and barriers, forming a fine network through the meshes of which even the most elusive of traders could not slip, and by the dilatory methods of its employees, who had a fine appreciation of the cash value of delay, became within a few years of its initiation an intolerable clog on the movements of trade, forcing it in many cases out of its natural channels, and in some instances so hampering it that goods often missed the most favourable market, or lost in value through deterioration caused by delay. So large did these hindrances and malpractices loom, that we find a non-mercantile witness of the time exclaiming, when writing on the *likin* impositions on tea and silk coming down from the interior to the treaty ports for export abroad:—"Free transit through China.

[1] Even as late as 1858 Lord Elgin found British imports selling at Hankow at rates bearing no relation to the statements of Chinese agents in Shanghai regarding the onerousness of transit dues. B.P.P. *China No 5., 1871, Correspondence respecting the Revision of the Treaty of Tientsin;* p. 442. George Wingrove Cooke's experiences at Ningpo in this connection are also illustrative. *China: being the Times Special Correspondence from China in the Years 1857-1858;* London, 1858. pp. 196-197. See also B.P.P. *Returns of the Trade of the various Ports of China, down to the latest Period,* 1847, p. 46; and *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859.* p. 250.

. . . Nothing short of this will do; . . . nothing short of this will prevent future wars".[1]

Fixing of transit dues rate for both inward and outward transit at half tariff duty: merchants given option of paying existing inland provincial levies instead.

§ 4. Both Lord Elgin and his brother, Mr. Frederick Bruce, who succeeded him as British Minister and Plenipotentiary, grappled with these difficulties, and, so far as negotiations and agreements with the Central Government went, did all that could have been done to remove them. The former gained for his nationals the right, up till then withheld, to travel, under passports, either for pleasure or for purposes of trade, in all parts of the interior,[2] and thus, if so minded, to accompany their imports inland to place of destination, and to purchase native produce in the interior, and accompany it from place of production or of purchase to a treaty port for shipment abroad. Further, he had it decided that instead of a number of separate inland charges, Native Customs and *likin*, which in the past had proved so indefinite and elastic, British, and by application of the most favoured nation clause, all foreign merchants, should have the option of paying on their goods while in transit a single commutation charge, which should be at the rate of one-half of the tariff duty, or, as the tariff was now definitely on a five per cent *ad valorem* basis, of two and a half per cent *ad valorem*. The fixing of the transit due at this rate was prompted by the fact that, as experience had shown, it was impossible to carry out what had originally been intended—when the Transit Dues declaration of 26th June, 1843 was issued—namely to ascertain precisely and publish officially the recognized inland tax rates then prevailing. It was also felt that giving merchants the option of paying this fixed rate, or of taking their chance with the inland tax offices was fair to the provincial authorities, who were thus left at liberty to multiply or change these inland charges as necessity demanded.[3] More than this, Lord Elgin obtained for the first time the privilege that this commutation transit due of half the tariff duty, or of two and a half per cent *ad valorem*, should apply also to native goods, purchased by British merchants or their agents in the interior and conveyed by them to a treaty port for shipment abroad.[4] The Treaty of Nanking had made no

[1] Cooke, G. W.; *op. cit.*, p. 273.

[2] Treaty of Tientsin; Article IX.

[3] Bruce to Medhurst, 30th April, 1862, B.P.P. *Further Papers relating to the Rebellion in China*, 1863; pp. 40-41.

[4] Treaty of Tientsin, Art. XXVIII; Rules of Trade No. 7.

provision whatsoever for this outward transit trade, an omission which had soon become a first rate grievance with those whose interests lay in the export trade. The provision now made removed that grievance so far as treaty stipulations could, but as after events showed, the interpretation and the application of these stipulations gave rise to endless disputes between Consuls and merchants on the one side and the Customs and Chinese authorities on the other. It was, if possible, to forestall disputes of this sort, as well as to make clear the implications of the treaty article that the British Minister issued his notification of 30th October, 1861. On the 22nd July that year the Shanghai Customs had published a notice laying down six rules regarding the duties leviable on Chinese produce when imported and exported,[1] and the British Chamber of Commerce had immediately written to their Consul, protesting, firstly, against the promulgation of such rules without the consent previously obtained of the British authorities, and secondly, against the interpretation put by these rules on the treaty clause respecting transit dues, and more particularly against the cessation of the practice of issuing exemption certificates for native goods when re-exported to another treaty port, after having paid export duty at port of shipment.[2] The Consul endorsed the contention of the Chamber, lodged a formal protest with the Superintendent of Customs, issued a notification recording his protest, and referred the matter to the British Minister. The interpretation placed by the Minister on the transit dues article was announced to the public by a Consular notification dated 23rd September, 1861,[3] which may be regarded as having been superseded by the Minister's own ratification of 30th October of the same year. This latter notification made clear that the payment of the treaty stipulated transit dues, either on foreign goods, owned by a British merchant, going inland, or on native goods, owned by a British merchant, *en route* to a port of shipment was not compulsory; but that merchants might, if they so chose, pay instead the charges of the various inland custom houses. To leave no room for misunderstanding, the notification stated emphatically that foreign goods, not protected by inward transit, were liable to all charges imposed on goods in transit by the provincial governments through whose jurisdiction they might pass, and that native goods were not permitted to be conveyed inland from a treaty

[1] N.C.H. No. 574, 27th July, 1861. *Vide* Appendix D.
[2] *Ibid.* No. 575, 3rd August, 1861.
[3] *Ibid.* No. 583; 28th September and No. 584, 5th October, 1861.

port under cover of an inward transit pass, but must pay while in transit all existing inland provincial levies, native customs and *likin*, which latter term, as experience proved, could be stretched to include whatever new forms of trade taxation the provincial authorities thought fit to levy. To put a stop to the practice of selling while in transit, under an outward transit pass, native goods declared for conveyance to a treaty port for shipment abroad, a practice which defrauded both the Imperial and the provincial treasuries, the notification laid down the rule that the merchant's memorandum to be presented at the first inland barrier passed must be in the form of a declaration, signed by the firm or merchant concerned, and to the effect that the goods stated were the property of the signer, who bound himself to pay the half-tariff transit dues thereon. Finally, the notification pointed out that transit dues were not leviable on foreign imports or native goods carried up the river Yangtze between Shanghai and the ports then declared open to trade under provisional rules; to these ports, such goods were to pay foreign or native transit dues according as they were under transit pass or not.[1] By the time when treaty revision fell due (1868), and was being much discussed, we shall find that the transit pass system, from the malpractices and illegalities to which it lent itself, had as many bristles in it as a porcupine.

Origin and growth of coasting trade in foreign vessels: piracy and the convoy system: coastwise trade of Chinese goods in foreign bottoms not a treaty right: influence of coasting trade in opening of new ports.

§ 5. The second outstanding question dealt with by the proclamation of 30th October, 1861 was that of the duty leviable on native goods when conveyed coastwise from treaty port to treaty port in foreign vessels. The Treaty of Nanking makes no reference to the coasting trade of vessels under the British flag, a trade which at once sprang into activity, and developed rapidly during the next fifteen years; but Article XVII of the Supplementary Treaty of Hoomunchai (1843), a treaty which remained in force till it was superseded by that of Tientsin (1858), laid down specific regulations for the numerous small craft plying under the British flag on the Hongkong-Canton-Macao fun. This was a coasting trade, though not in the sense of a coasting trade between the treaty ports such as is distinctly recognized by Article II of the Treaty of Whampoa (1844) with France, where, after specifying five ports to be opened to foreign trade, it is stated—"les navires

[1] N.C.H. No. 588, 2nd November, 1861.

français pourront commercer librement dans lesdits ports, y séjourner et circuler de l'un à l'autre, suivant leurs convenances." Similarly from Articles III, VI, and XX of the Treaty of Whanghea (1844) with the United States of America, it is clear that American vessels were at liberty to engage in the coasting trade between open ports so far as the conveyance of foreign goods from one treaty port to another was concerned.[1] Article III permits American citizens with their vessels and merchandise to proceed "from either of the said five ports to any other of them." Article VI stipulates that if an American vessel, which has paid tonnage dues at one of the five ports, "shall have occasion to go to any other of the said ports to complete the disposal of her cargo" the said vessel is not to be subject to the payment of tonnage dues a second time; while Article XX calls for the right of free re-exportation from any one of the five ports to any other of these ports of foreign goods on which duty has been paid at first port of arrival. Trying the market for the disposal of foreign wares was an essential feature of early treaty port trade, and that could only be effected by liberty to convey the goods from one port to the other.[2] So long therefore, as French and American vessels, and by application of the most favoured nation clause, vessels of any Treaty Power did not attempt to carry on trade with unopened ports, or to engage in clandestine enterprises along the coast, it was open to them to take part in the carrying trade of foreign goods from one treaty port to another. The privilege, however, of conveying Chinese goods from treaty port to treaty port in foreign bottoms, although not forbidden, was as yet not definitely conceded. It was tacitly recognized that the coastwise conveyance of China's own products was a trade that should fairly be left to China's own native craft, which in the past had proved fully competent to handle such trade. But circumstances can necessitate getting the better even of treaty stipulations as well as of unwritten laws, and the circumstances in this case were the numerous bands of pirates who infested the China seas, and preyed almost without restraint on the native shipping. Most of these pirates were professionals with agencies ashore for the disposal of their loot. They were fine seamen and hard fighters, and had as much, or as little, justification for their

[1] F.O. 228/65: Davis to Palmerston, desp. No. 10, 26th January, 1847, enclo, No. 8, Canton trade report for the year 1846.

[2] This right of trying the market was subsequently distinctly recognized by the Treaties of Tientsin; Article XLV in the British, Articles XVI and XXI in the American, and Article XXIV in the French.

trade as the old-time vikings or the gentlemen rovers and buccaneers of the sixteenth and seventeenth centuries. Like the late senator Huey Long they believed that wealth should be shared, and they adopted their own methods for the effecting of the division. The war with England gave them the golden opportunity—when chance offered a foreign prize—of cloaking their activities as patriotic reprisals, and here they found colleagues and competitors in the crews of Imperial war-junks. On occasion they would assume the guise of harmless fishermen, and many a good merchantman temporarily becalmed or caught on a sandbank or shoal fell a victim to the stinkpots and gingalls of ostensible fishing fleets. The insertion in the treaties of articles calling for the capture and punishment of pirates and the recovery of property pillaged by such,[1] for the right of foreign men-of-war to participate in the suppression of the scourge,[2] and for the protection of wrecks and their distressed crews[3] was not the interchange of mere polite formulae. It was an attempt to grapple with actual conditions. Foreign craft, being well-armed, more speedy and more seaworthy than junks, and as a rule manned by crews to whom a brush with pirates was something to be desired were not so liable to be molested by these redoubtable Chinese sea robbers; and yet, as the tale of piracy in the China seas during the forties and fifties of last century abundantly proves, even they were not immune. To protect themselves junks adopted the tactics of sailing in fleets and also of employing foreign-flag and foreign-manned vessels, generally lorchas, to act as convoys,[4] which latter practice, unfortunately,

[1] Treaties of Tientsin; Br. Art. XIX; Fr. Art. XXXIV; Am. Art XIII.
[2] *Ibid.* Br. Arts. LII & LIII; Am. Art. IX.
[3] *Ibid.* Br. Art. XX; Fr. Art. XXX; Am. Art. XIII.
[4] "Your Excellency is aware that hordes of pirates infest the coast in consequence of which the junks have found it necessary to sail in fleets for mutual protection, but even this precaution has not prevented a number from being captured and pillaged, and many of the crews and merchants from being detained as hostages until heavily ransomed; to such an extent have these piracies been carried, and so great is their fear of being plundered that for some months past many Portuguese lorchas and some small British vessels have found lucrative employment in convoying large fleets up and down the coast principally between this port and Chinchew." Consul Sullivan (Ningpo) to Sir John Davis; 3rd January, 1848; B.P.P. *Returns of the Trade of the various Ports of China for the years 1847 and 1848.* p. 2. "The native coasting trade continues interrupted by the depredations of pirates notwithstanding the exertions made to suppress them as well by our cruisers as the Chinese themselves.—Some armed vessels, principally Portuguese lorchas with schooners under English colours and a Dutch barque have been engaged, for periods of several months, to convoy fleets of trading junks between this and the ports of Ningpo and Amoy.

in too many cases became a remedy more terrible than the disease. Scores of lawless foreigners who infested the China coast at this time took up the lucrative trade of "protecting agents" *pao hu* (保戶) and many of them rapidly degenerated into "protecting tigers" *pao hu* (保戶). Reckless of consequences, these scoundrels openly practised extortion, robbery and even murder, until the long arm of the law got hold of them and put an end to their activities.[1] Writing on the convoy system, as it existed in the fifties, Bruce relates that "a Maltese called Marlini, whose vessel formed part of the Portuguese convoying fleet, was tried at Hongkong, and it was proved that these lorchas were in the habit of attacking both trading and Imperial junks, of massacring men belonging to them, and of committing assaults on villages attended with every species of outrage and extortion on the defenceless inhabitants".[2] Bruce suggested that Consuls should be armed with the power of deportation to deal with these scoundrels. In May 1859 a certain Samuel Austin was tried at Ningpo for abuses committed by his convoying vessels. He was ordered to dissolve his company and withdraw his vessels under penalty of a fine of $5,000 for delay. It was in circumstances like these that Chinese merchants, anxious for the safe conveyance of their goods, fell back upon the land routes, but here delays, greater cost of transport, losses caused by the disorders arising from the Taiping rebellion, and the growing burden of inland trade taxation, soon forced them to find some other means of despatching their domestic merchandise quickly and safely to its destination. Nor did it take them long to discover the solution. The well-found, well-managed foreign merchant vessels, mostly American and British, joined later by a motley

As many as sixty and seventy native vessels thus commit themselves to the safeguard of a single foreigner with very little preparation for defence among themselves, being indeed prohibited by their Government from carrying arms and ammunition. Their safety, therefore, depends on their keeping company with their convoy in a compact body as any that chance to straggle almost certainly fall into the hands of the miscreants who continually hover around." Consul R. B. Jackson (Foochow) to Sir John Davis, 10th *January*, 1848. *ibid.* p. 36.

[1] N.C.H. No. 62, 4th October, 1851. F.O. 17/286: Elgin to Clarendon, desp. No. 73, 2nd April, 1858: "In the immediate vicinity of Foochow I observed several lorchas carrying from ten to twelve heavy guns apiece. These vessels are, I was informed, for the most part engaged in convoying fleets of junks for the ostensible object of protecting them against pirates. It is, however, notorious that they are in many instances themselves pirate vessels of the worst class. Among their crews Europeans are not infrequently found, and they sometimes enjoy the protection of foreign flags."

[2] F.O. 17/314: Bruce to Russell, desp. No. 43, 5th November, 1859.

fleet representing nearly every country in Europe, offered the very advantages the Chinese merchants desired, greater speed, comparative security against pirates, and the much-coveted benefit of marine insurance. The fact that there was no specific treaty stipulation permitting the carriage from treaty port to treaty port of native goods in a foreign vessel was not an insuperable difficulty. To Chinese merchant and to foreign ship-master, or ship-owner alike, silence on this score meant not prohibition of such trade but implied consent to it. In short, the absence of prohibition was interpreted as permission. At the outset it was recognized that this participation of foreign vessels in the coastwise conveyance of native goods was not a treaty right, but as it was the Chinese merchants themselves who were the first to claim the privilege—no foreign shipowner or master being in the position to compel any Chinese to ship goods by his vessel in preference to a junk—and as the exercise of the privilege would in normal times of peace threaten the interests of native shipping it became necessary for this innovation to be regularized. As early as 1843 the question of Chinese subjects shipping goods in European vessels had arisen at Amoy, and Sir Henry Pottinger had ruled "that the Treaty [of Hoomunchai] only made restrictions regarding Hongkong especially, and therefore could not apply to other places, because it is a necessary rule that when any one thing is particularly defined and specified all others are excluded thereby". Four years later Davis, Governor of Hongkong and Superintendent of British trade, pointed out to Keying, the Imperial Commissioner, that many Singapore Chinese were British subjects, and therefore fully entitled to make use of foreign style ships in trading to and between the open ports.[1] The Hai Fang T'ing at Amoy had prohibited the chartering of foreign vessels by Chinese merchants and loading them on their own account; but as the treaty was made to promote commerce and secure friendship Davis suggested an exchange of notes on the subject. On 17th September that year (1847) these notes were incorporated in a Government notification issued at Hongkong.[2] The Imperial Commissioner admits that if Chinese merchants are prevented from putting their cargoes on board British vessels trade will be impeded, and that therefore measures are to be adopted and arrangements made so that Chinese may not be debarred from chartering or using such vessels for the conveyance of their goods. He stipulates, however, that while

[1] F.O. 228/67: Davis to Palmerston, desp. No. 165, 1st September, 1847.
[2] *vide* Appendix C.

duties on Chinese goods are to be paid by the Chinese merchants, tonnage dues are to be a charge on the ship itself, payable by the owner or the ship's agent.[1] In a subsequent letter, dated 18th September, Keying informed Davis that he had notified the Governor-General of Fukien and Chekiang as well as the Superintendents of Customs of this arrangement. This exchange of notes had not of course the scope or authority of a treaty article, but it was sufficient to give the carriage of native goods in foreign vessels the appearance of legality. The response to this permission was immediate, in fact, the permission only regularized an already existent practice. At first it was only the foreign vessels on the spot that could avail themselves of this privilege whenever opportunity offered, and these vessels were, of course, those merchantmen coming direct from abroad with cargoes of foreign imports, and destined to return abroad with native goods. Such vessels, therefore, took advantage of this coastwise trading privilege only as a subsidiary interest, and as it fitted in with their chief concern, the conveyance of goods between China and foreign ports. The gains, however, to be made out of the freighting of native goods coastwise in foreign bottoms were too tempting a bait, and within a few years of the official sanction of this trade, foreigners began to put boats, most of them lorchas, varying from fifty to three hundred tons capacity, on special coastwise runs for the sole and express purpose of engaging in the coastwise trade in native produce, not only between the treaty ports but also between any ports the charterer might name. In 1845 steam vessels, as freighters, had appeared for the first time in China,[2] and as their numbers increased it became still more marked that the advantages of greater security and quickness of transport by water lay with the foreign interlopers. In 1850 the Peninsular and Oriental steamship company placed their paddle wheel steamer the "Lady Mary Wood" on the regular run between Hongkong and Shanghai *via* the Ports. Three years later this company alone had no fewer than five steamers engaged

[1] F.O. 228/67: Davis to Palmerston, desp. No. 169, 11th September, 1847: B.P.P. *Rules and Regulations concerning the Trade in China, and Notifications promulgated in 1847*, pp. 35-36.

[2] Wei Yuan (魏源) in his Hai Kuo To Chih (海國圖志) states that the first steamer to appear in Chinese waters was a despatch boat from Bengal which arrived at Canton in April, 1828. Two years later the steam tug "Forbes" arrived at Lintin towing the opium barque "Jamesina". The first steamer designed for regular use in China was the "Jardine", which was brought out under sail and arrived at Lintin on 20th May, 1835. She was intended for use solely as a passenger boat between Canton and Macao. *Ch. Rep.* vol. IV, pp. 436-438.

in this coastwise trade. By the early sixties steamers were running regularly between Shanghai and practically every port then open on the coast, and all such vessels were engaged in the carrying of native as well as foreign goods. As trade developed, these coasting boats, both sail and steam, especially between 1850 and 1860, grew rapidly in numbers, so that by 1863, according to the testimony of Consular reports, seven-tenths of the British shipping frequenting Shanghai were engaged in the coastwise trade, while practically the whole trade at that time of such ports as Tientsin, Chefoo, Newchwang, Ningpo and the Yangtze ports, with the exception of Hankow, lay in the coastwise carriage of native as well as foreign goods, the direct trade abroad from any of these places being infinitesimal. In fact, during the decade preceding the Treaty of Tientsin it was the development of the coasting trade, especially in Chinese goods, which proved then the salvation of Amoy, Foochow, and Ningpo, and which had no small influence in the opening up of other ports, such as Swatow, Wenchow, Tamsui, and Taiwan, with which places a vigorous coasting trade had sprung up in foreign-flag vessels years before they were formally opened by treaty.[1] In 1848 the British Consul at Foochow reported that "numbers of small armed foreign vessels, schooners, and lorchas, under English, Portuguese, Danish, and Dutch colours, a large majority, however, being Portuguese, are kept in constant employment along the whole extent of coast between Shanghai and Amoy."[2] Five years before Chefoo, Tientsin, Newchwang and Swatow were opened by treaty we read that the firm of Russell & Co., two of whose partners were acting as U. S. Consuls at Canton and Shanghai, were sending an opium clipper to the gulf of Peichihli, and that a Mr. Tait, a British merchant, had erected barracoons for the coolie traffic on the mainland at Swatow, near Namoa and was paying the local officials a tael per head for each coolie exported.[3] In November 1854, Parkes, then acting Consul at Amoy, reported to Bowring an illegal expedition to Formosa carried out by Messrs. Dent, Beale & Co.'s clipper schooner, the "Zephyr", and added—"the barque "Syren" Chinese owned but under Dutch colours has lately returned to this port from Tamshway, whither she had been despatched for rice. . . . Portuguese lorchas also pass constantly between Amoy and the Formosan ports

[1] B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859*, p. 31, pp. 83-84.

[2] B.P.P. *Returns of the Trade of the various Ports of China for the Years 1847 and 1848*, p. 104.

[3] F.O. 228/149: Bonham to Malmesbury, desp. No. 4, 10th January, 1853.

conveying there opium and a few foreign goods, and returning with rice. They are chartered for these voyages by Chinese, who in these dangerous times hesitate to trust valuable goods in their own junks, and the employment therefore of foreign bottoms in this branch of trade contributes to the general welfare of the port."[1] To meet the charge that this trading with non-open places was an infringement of the treaty, foreign shipowners maintained that their action was justified, seeing that their vessels were under charter to Chinese merchants for the conveyance of goods which in ordinary circumstances would have been carried to these places by junk but could not then with safety be so conveyed, and seeing too that the Chinese authorities at these non-open ports raised no objections to the trafficking of these foreign vessels. The question of the desirability of giving treaty status to this coastwise trade between treaty ports of Chinese produce in foreign bottoms was brought to the attention of the British negotiators of the Treaty of Tientsin. Bowring discussed the matter with Lord Elgin, emphasizing that the trade was unauthorized by treaty, and pointing out that it was "to some extent carried on under flags unlawfully assumed or irregularly granted."[2] In this he was only confirming what he had consistently maintained when issuing Hongkong Sailing Letters to the owners of coasting vessels under the British flag, namely that "the treaties conferred no such privilege as with the connivance of the Chinese Custom Houses they were exercising."[3] In this attitude he was supported by the Home Government, who had "laid down in despatch No. 61 of 1856 to Her Majesty's Plenipotentiary that we had no right under the Treaty of Nanking to carry on a coasting trade in Chinese produce, and that that right had not accrued, though some Chinese officers had connived at the practice."[4] Lord Elgin therefore declined, in spite of the pressure of the shipping and mercantile communities, to broach the subject at the negotiations with the Chinese Plenipotentiaries "on the ground that it was not a right so recognized by international practice in Europe as to justify us in imposing it by force."[5] Even though he negotiated for a "relaxation of the interdict formerly affecting transport of cash, grain and pulse"

[1] F.O. 228/167: Parkes to Bowring, desp. No 79, 22nd November, 1854, enclo. in Bowring to Clarendon, desp. No. 220, 5th December, 1854.

[2] F.O. 228/246: Browning to Clarendon, desp. No. 111, 23rd April, 1858.

[3] F.O 228/167: Bowring to Clarendon, desps. Nos. 178 and 217 of 22nd November and 4th December, 1854.

[4] F.O. 17/356: Bruce to Russell, desp. No. 158, 10th November, 1861.

[5] B.P.P. *China No. 5 (1871)*; Wade's Memorandum of December, 1868: p. 441.

he purposely "kept clear of any provisions that would transfer the *cabotage* of China to foreign bottoms." He considered "the junk trade fairly entitled to this protection."[1] So far as treaties are concerned the matter rested here till the conclusion of the treaty with Denmark in 1863, when for the first time an article—the forty-fourth—was included definitely legalizing this coastwise trade of Chinese produce in foreign vessels. Before that date, however, and after creation of the foreign Inspectorate of Customs, the existence of the trade had raised a fiscal issue which called for immediate settlement—a settlement which made possible the inclusion of the coast trade duty article in the Danish and subsequent treaties.

Origin of coast trade duty: confusion arising from not applying treaty tariff rates of Chinese goods carried in foreign vessels.

§ 6. The permitting of this coastwise trading privilege by the exchange of notes between Keying and Sir John Davis at once raised the question of what duty treatment should be accorded the native goods conveyed in foreign built and foreign owned vessels (1) from a treaty port to a non-treaty port, and (2) from one treaty port to another. In the former case, so far as duties at port of destination were concerned the matter was one for the local Customs authorities to deal with, and here British Consuls, unless breaches of treaty were reported and proved, left well, or ill, alone; but in the latter case the matter came directly under their notice. Alcock, with his usual thoroughness and foresight, realized that there would be this difficulty about duty treatment, and assumed that Chinese merchants shipping Chinese goods in foreign vessels trading coastwise would have the right to pay the tariff in force for Chinese subjects.[2] Experience of the actual working of the privilege, however, soon convinced him that as a matter of practical policy "all goods or produce shipped in foreign bottoms should, without reference to their origin, follow the tariff and rules established for such vessels."[3] The Imperial Commissioner's note of 17th September, 1847 was silent on this point, perhaps designedly so. These were still, it should be remembered, the days before the establishment of the

[1] B.P.P. *China No. 5 (1871) Correspondence respecting the Revision of the Treaty of Tientsin*, p. 441, Wade's Memorandum of December, 1868.

[2] "I assume that no question can be raised as to the right of Chinese shippers to pay the duties on their own produce according to the tariff in force for Chinese subjects." B.P.P. *Returns of the Trade of the various Ports of China for the Years 1847 and 1848*, p. 57.

[3] B.P.P. *Returns of the Trade of the various Ports of China for the years 1847 and 1848*, p. 114.

foreign Inspectorate of Customs, when the native Custom Houses at the five ports then open dealt not only with native craft and their cargoes under the old Imperial tariff and its accretions, but also with foreign vessels and their cargoes under the recently ratified treaty tariff for foreign trade. To continue to charge on Chinese goods, shipped coastwise by Chinese merchants in foreign vessels, the rates levied under the old Imperial tariff, and to charge on the same classes of goods, when similarly shipped by foreign merchants, the treaty tariff rates could not but lead to unfair discrimination and fiscal confusion. It meant that the Chinese merchant could ship his goods in a foreign vessel from one treaty port to another by paying the old native charges at port of shipment and port of discharge, both of which charges combined were in some cases lighter than the single treaty tariff export rate leviable on the same goods if shipped by a foreign merchant. Here it was manifestly unfair to the foreign trader, while in the cases where the combined shipment and discharge levies were more than the treaty tariff export rate it was unfair to the Chinese trader. On the whole, the balance was in favour of the Chinese and this was the burden of the complaints of foreign traders.[1] As late as 1855 we find the foreign merchants at Shanghai petitioning the Taotai that Chinese produce shipped by them coastwise in foreign bottoms should be allowed to pay duty according to the rates in force for junk-borne goods.[2] Two years later the merchants at Hongkong, when placing before Lord Elgin their ideas on treaty and tariff revision, pointed out that as the coasting trade in Chinese produce had now become well-established it was necessary "to guard and define it by specific regulations. It would be" they continued "a highly desirable and important point that—the same scale of Customs duties be applied to merchandise conveyed in foreign as in native vessels. A differential and lower scale of duties is now charged on goods imported or exported by the latter; and were the two to be assimilated we are inclined to believe that a material stimulus would be given to the employment of foreign shipping which in process of time would probably engross a very large share of the carrying trade along the coast."[3] Again, the coast-

[1] Bruce to Russell, 23rd September, 1861, enclo. address from Shanghai Chamber of Commerce; B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 168. B.P.P. *China No. 5 (1871)*, pp. 383-385.

[2] N.C.H. No. 244, 31st March, 1855.

[3] Hongkong merchants to Elgin, 18th November, 1857, B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859*, p. 71

wise carriage of Chinese goods in foreign bottoms meant that the Chinese merchant making use of this privilege escaped the levy on his goods of all the various provincial charges which would have been levied on them *en route* between the treaty ports if they had been conveyed by junk. This was a decided gain to the merchant and an encouragement to trade; but it was naturally not viewed with favour by all those officials who had a stake in provincial taxation and finance. The existence of the Nanking treaty tariff, and of the, to them, objectionable transit dues arrangement for foreign goods going inland was already a serious interference with their traditional fiscal rights and dispositions. It was bad enough from the point of view of provincial finance, that the foreign merchant could export native goods abroad on payment of a single ascertainable duty; it was bad, too, that such foreign-owned native exports having once paid export duty could be conveyed coastwise from one treaty port to another by a foreign vessel without payment of any provincial charges whatsoever; but it would be tenfold worse if this latter privilege should be extended to Chinese-owned native produce which hitherto had been carried by junks, and had been made to pay *en route* all the existing provincial levies. But from 1847 up till the issue of the tariff of the Treaty of Tientsin it was precisely this that happened. Chinese goods, the property of Chinese merchants, were conveyed freely in foreign vessels from treaty port to treaty port, and from treaty port to places as yet not opened by treaty, and *vice versa*, on payment simply at port of shipment and at port of discharge of the duties that would have been levied had such goods been conveyed by junk.[1] The authorities at both ends were satisfied. It was only those provincial officials at intermediate trade-taxing stations on certain routes, at which junks were obliged to touch, but where these foreign vessels did not put in, who had just ground for complaint. Later, when the

[1] Notification issued by H.B.M. Consul at Canton, dated 15th February, 1859 in Hongkong Government Gazette of 19th February, 1859, and in N.C.H. No. 451, 19th March, 1859. "There is no doubt that a moderate duty on Chinese goods conveyed in Chinese vessels coastwise is exacted both at the port of shipment and discharge. The amount of these duties there is no difficulty in ascertaining, and Mr. Vice-Consul Parkes found it practicable in the latter part of 1854 to effect an arrangement of this nature through the authorities at Amoy whereby Chinese-owned goods were carried to and fro between that port and Ningpo up to March, 1856, and there existed no evidence of any desire to escape from the letter or spirit of the regulation." Customs Papers: *Reports of the Commissioners of Customs on Questions connected with Tariff Revision; 1865-1872*; Shanghai, 1872; p. 70. F.O. 17/286: Elgin to Clarendon: desp. No. 45, 27th February, 1858.

treaty tariff of 1858 was put into force by the new foreign Inspectorate of Customs, another reason for complaint arose, this time from the side of the merchants. That tariff, although originally drawn up in two separate schedules for imports and exports respectively, was published as a general tariff for foreign trade, making no distinction between genuine imports and exports from and to foreign countries and domestic imports and exports moving solely between treaty ports of different provinces, and connected with foreign trade solely to the extent of being carried in foreign vessels. Thus, in the absence of treaty stipulations recognizing the right of foreign vessels to convey Chinese produce coastwise, it came to be considered "that carriage by foreign vessels constituted foreign trade, and that the terms of assessment applicable to imports from and exports to foreign countries were equally applicable to articles produced and consumed in China when carried from one port to another in foreign vessels."[1] In other words, from 1858 it became the established practice at some ports to levy full treaty tariff export duty at port of shipment and full treaty tariff import duty at port of discharge on all native goods conveyed coastwise in foreign vessels. This practice naturally raised further complaint. It is to the satisfying of these complaints that the origin of the coast trade duty is to be ascribed. Before the institution of this duty, however, the recently established foreign Inspectorate of Customs at Shanghai had fallen foul of the practice of allowing coastwise shipment in foreign vessels of Chinese-owned native goods on payment only of junk duties on such goods at ports of shipment and discharge. For several years a considerable coastwise trade in these goods by foreign vessels had existed between Amoy and Ningpo; but in March, 1856 large quantities of such goods *en route* between these two ports touched at Shanghai to be transhipped there for Ningpo. The foreign Inspectorate refused to allow such transhipment to take place until the import duty leviable on these goods had first been paid, and after payment, issued certificates declaring the goods to be exempt from duty on entering Ningpo. Against this procedure the Ningpo Taotai protested most vigorously, pointing out that the province of Kiangsu, in which Shanghai is situated, had no right to deprive the provincial authorities of Chekiang of their lawful dues, and that the dues collected at Shanghai which went to swell the Customs remit-

[1] Commissioner T. Dick to Messrs Jardine, Matheson & Co., 1st May, 1869, B.P.P. *China No. 5 (1871), Correspondence respecting the Revision of the Treaty of Tientsin.*

tances to the Imperial exchequer, did not help him to meet his administrative expenses.[1] To the Ningpo Taotai the whole transaction was clearly a case of robbing Peter to pay Paul.

Protests of foreign merchants against paying more than one export duty and one transit due on Chinese produce carried coastwise: Tsungli Yamên's proposal: Coast trade duty fixed at half duty on re-importation.

§ 7. The Ningpo Taotai's protest bore fruit. His claim was manifestly a just one, and the principle involved was supported throughout the provinces by the whole hierarchy of officials who had anything to do with the taxation of trade. In fact, what many of them really desired was that Chinese produce shipped in foreign bottoms from one treaty port to another, no matter if intended for shipment abroad, should be treated exactly in the same way as such produce when moved by junk from place to place for domestic consumption.[2] This contention was based on long-established Chinese procedure as well as on the non-existence at that time of any treaty stipulations sanctioning the coastwise conveyance of Chinese produce in foreign bottoms. When the provisional system was in force at Shanghai, Alcock had initiated a form of exemption certificate for Chinese produce, mostly silk, shipped coastwise for the duties on which he held promissory notes. Parkes, then Consul at Canton, pointed out that the Custom House authorities at Canton objected to this practice as they could not "be expected to receive a certificate that payment of duty has been provisionally guaranteed as an equivalent for the duty itself."[3] In fact the Canton authorities held that they were entitled to collect the Shanghai export duty as well as the Canton import duty. In 1859, after the signing of the Treaty of Tientsin, Alcock, then Consul at Canton, tells of a consignment of fifty bales of Native Cotton Cloth imported into Canton from Shanghai covered by an exemption certificate. The Hoppo protested, pointing out that exemption certificates were meant solely for foreign goods, that in this case as the goods were Chinese the document covered only the export duty at Shanghai, and that according to Chinese practice, import duty was leviable at Canton.[4] The matter was of so much importance that a Canton

[1] Elgin to Clarendon, 27th February, 1858, enclo. Winchester's Memorandum of 24th November, 1857, B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859*, p. 208.

[2] Tsungli Yamên Memorial of 7th July, 1861; N.C.H. No. 588, 2nd November, 1861.

[3] F.O. 228/161: Bonham to Alcock, desp. No. 86, 14th October, 1853.

[4] F.O. 228/266: Alcock to Bowring, desp. No. 10, 21st January, 1859.

Consular Notification was issued on the 15th February that year warning merchants that if the details given on exemption certificates for foreign goods did not agree in every particular with the goods, duty would be charged. In reporting this to Bowring, Alcock had added:—"No Chinese produce brought here from any other port or place for consumption or sale can by treaty be held exempt from an import duty, either on the plea that it has already paid an export duty at the place of shipment, or that it is of a class of produce exempted by the treaty import tariff."[1] Against this the foreign merchants at Shanghai vigorously protested, through their Chamber of Commerce, maintaining that this, if allowed, would result in a violation of the treaty which sanctioned the levy of only one export duty and one transit due on Chinese produce destined for abroad. They cited the possibility of being called on to pay not one and a half but three and a half times the duty on such shipments, that is, half duty for transit dues on the goods coming down from the interior to a treaty port, one full export duty on shipment from that treaty port to Shanghai, one full import duty on arrival at Shanghai, and a third full duty on export from Shanghai abroad. Such a practice, if enforced, would have meant a possible levy on tea of Hk. Tls. 8.75 per picul instead of Hk. Tls. 3.75, and on silk of Hk. Tls. 35.00 per picul instead of Hk. Tls. 15.00.[2] H. N. Lay, the Inspector General, then on leave of absence in London, derided the Chamber's statements in this connection as preposterous;[3] but Hart saw to it that the matter was not left in a state of uncertainty. He submitted a memorandum on the subject to the Tsungli Yamên, drawing attention to the confusion and anomalies arising from this firmly established but extra-treaty foreign-borne coasting trade in native goods. After much discussion the Yamên suggested that Chinese produce, no matter to whom belonging, carried coastwise in foreign bottoms should pay either full export duty at port of shipment and another full duty at port of discharge, the latter duty to be liable to the indemnity deduction of one-fifth, or full export duty at port of shipment and a half duty at port of discharge, the latter duty to be exempt from indemnity deductions.[4] As it was the latter

[1] F.O. 228/260: Bowring to Malmesbury, desp. No. 46, 24th February, 1859.

[2] Bruce to Russell, 23rd September, 1861, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 168.

[3] *Ibid.* p. 173.

[4] *Ibid.* p. 172.

alternative that was finally agreed upon, we find the notification of 30th October, 1861 directing (1) that the practice, first started by Alcock in 1853 and re-instituted in 1855 by the foreign Inspectorate of Customs at Shanghai,[1] of issuing exemption certificates for duty-paid native goods shipped in foreign bottoms from one treaty port to another was to cease,[2] since according to the treaty such certificates were issuable to cover only duty-paid foreign imports when shipped from treaty port of importation to another treaty port, the document covering the goods irrespective of ownership, and (2) that in future on arrival at a treaty port destination a coast trade duty was to be levied on all native goods, irrespective of ownership, conveyed in foreign vessels from another treaty port, at which latter port the treaty export duty had been paid. This arrangement which subsequently received the blessing of the British Government,[3] was a compromise. It recognized as valid the principle, enunciated by Alcock, that goods carried in foreign vessels, without reference to their origin or ownership, should be subject to the tariff and rules established for such vessels. It did away decisively with the former practice of levying on Chinese-owned native goods in foreign bottoms the old Native Customs charges at ports of shipment and discharge. It protected the Imperial revenue, as the duty at port of shipment on such goods was to be the export duty specified in the treaty tariff, and benefited that revenue, as such duties would now be strictly accounted for and passed to the credit of the Imperial exchequer. Similarly, it protected and benefited the provincial treasuries, as the newly-created coast trade duty was recognized as being in effect a transit due, the proceeds of which were not subject to deductions for the payment of the war indemnities to France and Great Britain,[4] but were to be held for disposal by the provincial authorities as the Central Government might direct. The amount of the coast trade duty was fixed, like the overland transit dues of the treaty, at half of the tariff rate, or, in the case of *ad valorem* goods, at two and a

[1] F.O. 17/357: Bruce to Russell, desp. No. 185, 6th December, 1861.

[2] In fact the Officiating Inspector General, on the instructions of Prince Kung, had already issued orders to the various treaty port Custom Houses to cease this practice as from 17th July, 1861; C.A. I.G. Circ. No. 2 of 1861; N C.H. No. 575, 3rd August, 1861.

[3] F.O. 17/356: Bruce to Russell, desp. No. 158, 10th November, 1861: B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 196.

[4] Prince Kung to Bruce, 31st September, 1861, B.P.P. *Papers relating to the Rebellion in China and Trade in the Yangtze-Kiang River*, 1862, p. 71.

half per cent.[1] In the English text of the notification the rate is declared to be "half import duty", but the Chinese text 復進口半稅 shows that what was meant was "a half duty on re-importation". As the goods were native produce, although conveyed in foreign vessels, it was obviously not intended to treat them as merchandise of foreign origin coming under the tariff for foreign imports. In most cases, indeed, it would have been impossible to have treated them as such, for the simple reason that being native goods they appeared only in the export schedule of the tariff. The English wording of the notification was unfortunate; but in the actual application of the new procedure there was no confusion. The early editions of the Tientsin Treaty Tariff, published by the Customs for office use, blended both import and export schedules in one general alphabetical list, so that to those whose business it was to apply the tariff the distinction between import and export, so far as the coast trade duty was concerned, fell into the background. The simple levying of half the tariff rate specified precluded any risk of error. The issue of the notification of 30th October, 1861 gave the clue to those countries entering into treaty relations with China after that date, such as Denmark (1863), Spain (1864), Belgium (1865), Italy (1866), and Austria-Hungary (1869), and led to the inclusion of special coast trade duty articles in these treaties. The Chinese text of these articles is identical, and to a Chinese reader admits of no dispute concerning the interpretation, that interpretation being that the duty to be levied on native goods conveyed in foreign bottoms is at treaty port of shipment to be the export duty of the treaty tariff, and that to be levied on such goods at port of discharge is to be half of the export tariff duty. The English text of the Danish treaty (Article XLIV) agrees with this interpretation, but the French text of the Belgian treaty (Article XXXIV) leaves no room for any doubt in the matter. The opening sentence of that article runs thus:—"Les navires belges pourront transporter des produits chinois de l'un à l'autre des ports ouverts au commerce étranger en payant au port d'embarquement les droits de sortie fixés par le Tarif, et à celui de débarquement les droits de cabotage, qui seront de la moitié des dits droits de sortie." This article only put into words what had then become the accepted practice.

[1] The alternative proposed by the Tsungli Yamên that the rate of this duty might be the full tariff rate, and that it be subject to the two-tenths deduction for the Indemnity was ruled out by the Foreign Ministers. N.C.H. No. 588, 2nd November, 1861.

Chinese produce destined for shipment abroad not liable to coast trade duty.

§ 8. As the *raison d'être* of the coast trade duty was to protect the transit dues rights of the provincial authorities on the movements of native goods, and as the treaties clearly provided that foreign merchants were entitled to export abroad such goods from any of the treaty ports on payment of the export tariff duty, it followed that coast trade duty-paid native goods passing from treaty port to treaty port in foreign vessels, which could have been shipped abroad from the original treaty port should not be held liable to such coast trade duty if declared for shipment abroad. This was a privilege which might easily be abused to the detriment of the revenue, and to prevent such abuse it was stipulated that native produce, destined for shipment abroad, on which coast trade duty had been paid, must be shipped abroad within three months of such payment to entitle the merchant to a refund of the coast trade duty paid. Failing shipment abroad within that period the coast trade duty was not refundable, and if the goods later on were shipped abroad a further full export duty was to be charged. The same forfeit was to be imposed if the goods, though shipped abroad within the term allowed, should be found to have undergone unauthorized re-conditioning. Such re-conditioned goods were likewise declared liable to another export duty. Coast trade duty once paid, the notification declared, was to free the goods concerned from any further charge under this heading if the goods were subsequently shipped to another treaty port, and to ensure this, duty paid certificates were to be issued. Finally, on account of the unsettled conditions, due to the Taiping rebellion, prevailing in the Yangtze valley, it was stipulated that both export and coast trade duties on native goods shipped from Hankow or Kiukiang to Shanghai and *vice versa* should, for the time being, be collected at Shanghai. As the three months' time limit was soon found to be inadequate, it was in June, 1863 extended by an exchange of notes between the British Minister and Prince Kung to twelve months,[1] an extension which in July that year was embodied in the treaty with Denmark (Article XLIV). At the same time it was decided by the Tsungli Yamên that the owner of goods on which coast trade duty had been paid was entitled either to claim drawback for this duty should he re-ship the goods in question to another treaty port, thus leaving them liable to the coast trade duty at the second treaty port destination, or to allow the goods to go

[1] Bruce to Prince Kung, 18th April, 1863; Prince Kung to Bruce, 25th June, 1863; B.P.P. *China No. 3 (1864)*, pp. 142-143.

forward under a duty paid document certifying that the goods specified had acquitted themselves of the coast trade duty.[1] Ten years later, in May, 1873, the question was raised whether the time limit of twelve months, allowed by the Danish, the Belgian, and the Austro-Hungarian treaties, within which time native goods could be shipped abroad free of coast trade duty, was to be interpreted strictly in accordance with the terms of the original notification of October, 1861, and applicable, therefore, only to such goods as had been declared for shipment abroad; while native goods, which had discharged both export and coast trade duties, and which were intended for consumption in China were not to be bound by this twelve months' time limit, but could be reshipped coastwise at any time, and be ever after free from liability to export and coast trade duty. The Tsungli Yamên, to whom the question was referred, decided that the coast trade duty articles in these treaties, correctly interpreted, covered also those native goods destined for consumption in China, and directed that such goods, when reshipped coastwise after being twelve months in port, were to pay again export duty on shipment to another treaty port and coast trade duty on arrival at port of discharge.[2] To this ruling there could be no objection on the part of the Treaty Powers, as the duty treatment of native goods intended for consumption in China in no way concerned them.

Effect of growth of coastwise trade on tonnage dues levy: Claim of French authorities for exemption from tonnage dues of coasting vessels: Use made of tonnage dues proceeds.

§ 9. This coast trade privilege had also a vital bearing on the question of tonnage dues. As we have already seen[3] the levy of these dues was first provided for by the proclamation issued in July, 1843, by the Canton authorities, and by the general trade regulations forming part of the British Supplementary Treaty of 1843, where the fifth article provided that a charge of five mace per registered ton should be levied on all vessels entering any of the five ports, while Article XVII of the Supplementary Treaty itself stipulated that the charge on the small boats of under 150 tons, plying on the Hongkong-Canton-Macao run should be one mace per ton every trip. These rates, as was freely recognized at the time, were in striking contrast to the former crushingly heavy ship dues and measurement fees; but

[1] C.A. I.G. Circs. Nos. 19 and 20 of 1863.

[2] C.A. I.G. Circ. No. 7 of 1873.

[3] Chap. I, § 12, p. 49.

even these rates, light as they were, came within a few years to be regarded in some quarters as burdensome. The appetite grows by what it feeds upon. The American Treaty of Wanghea (Article VI), confirmed the rates, but added the proviso that tonnage dues should not be levied a second time in cases where a vessel should have to go to another treaty port to complete disposal of her cargo. The French treaty (Article XV) follows the lines of the American, but adds that a vessel may be forty-eight hours in port before becoming liable to tonnage dues, and that a vessel shall be held liable to such dues only once for each voyage from a foreign country to China. The practical enforcement of these stipulations meant that Treaty Power vessels were obliged on every voyage to China to pay these dues at any rate forty-eight hours after entering a treaty port; but, by virtue of the reservation made first in the American treaty, were permitted to make that payment cover trading at several or all of the treaty ports on that same voyage. The growth of the coasting trade, already described, soon engendered dissatisfaction with these levies on the ground of their being burdensome, and the fact that many of the non-Treaty Power foreign vessels engaged in this trade went scot free of all tonnage dues, these vessels not being hampered with the presence of Consuls to see that such dues were duly paid, did not improve matters.[1] The latter reason afforded genuine ground for discontent, as did also the complaint that nothing was provided in the way of light-houses and aids to navigation or for harbour improvements and facilities, although such might reasonably be expected to be erected and maintained out of tonnage dues receipts. This dissatisfaction was voiced by the various chambers of commerce and by the leading merchants at the open ports when Lord Elgin was carrying out his enquiry for a revision of the tariff. The British Chamber of Commerce at Shanghai was of opinion that the rate of tonnage dues on vessels to and from abroad was equitable on condition that aids to navigation be provided, but that tonnage dues on coasting vessels should not be levied more often than once in six months,[2] while the Consul at that port maintained that failing the provision of aids to navigation the impost should be abolished, but that

[1] Elgin to Malmesbury, 22nd October 1858 *Report on the Revision of Tariff, etc.*, B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859* p. 199, p. 492

[2] Shanghai Chamber of Commerce to Elgin, 2nd October, 1857, B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859*, p. 48, also *Further Papers relative to the Rebellion in China* 1858, p. 186

if such aids were provided, the levy at the rate of one mace per ton should be retained, as coasting vessels would be the ones to benefit most by such aids.[1] From the merchants of Hongkong and of Canton arose the same cry about the lack of aids to navigation, and the same suggestion that tonnage dues on coasting vessels should not be payable more frequently than once every six months.[2] The result of these representations was the inclusion of Articles XXIX and XXX in the British Treaty of Tientsin fixing the rate of one mace per ton for vessels of 150 tons and under, and at four mace per ton for vessels above that limit, and stipulating that the tonnage dues certificate to be issued on payment of these dues should confer exemption from any further levy of such dues at any of the treaty ports for a period of four months. The American Treaty of Tientsin (Article XVI) confirms these rates, defines the ton as forty cubic feet, repeats the terms of the Treaty of Wanghea, but makes no mention of the four months' time limit for the validity of a tonnage dues certificate. The ratification of the American treaty on 16th August, 1858, more than a year before that of the British, 24th October, 1860, gave American ships prior advantage of the reduced tonnage dues rate, and such advantage was accorded by the Shanghai Customs. By virtue of the most favoured nation clause in the Hoomunchai treaty (Article VIII), the British claimed and obtained similar treatment even before ratification of their Tientsin treaty.[3] The tonnage dues clause in the French Treaty of Tientsin, Article XXII, is a word for word reproduction of Article XV of the Treaty of Whampoa, even to the retention of the rate of five mace per ton on vessels over 150 tons, an oversight which was corrected two years later by Article X of the French Convention of Peking. Even with this correction the tonnage dues article of the French Treaty of Tientsin, having been originally drawn up to suit the conditions prevailing in the early forties, was manifestly unsuited to the conditions of the sixties. The French Consul at Shanghai claimed that the clause—"tout

[1] Robertson to Elgin, 7th December, 1857; B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859*, p. 113.

[2] Hongkong merchants to Elgin, 18th November, 1857, and Elgin to Clarendon, 27th February, 1858, enclo. Winchester's Memorandum of 24th November, 1857; B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859*, p. 209; and p. 71.

[3] F.O. 228/270: Parkes to Bruce, desp. No. 60, 13th December, 1859: Bruce to Russell, 6th December, 1859, and 5th January, 1860 B.P.P. *Further Correspondence with Mr. Bruce, etc.* 1860, pp. 2-4.

navire français ne devant en être passible qu'une seule fois à chacun de ses voyages d'un pays étranger en Chine"—meant that the Chinese Customs could not demand tonnage dues more than once from a French vessel no matter how many years she might continue to trade from port to port along the coast of China. To this interpretation the Tsungli Yamên objected, pointing out that the right of engaging in the coastwise conveyance of native goods from one treaty port to another had not been granted by treaty, and that therefore the tonnage dues article in the French treaty could refer only to the direct carriage of goods between foreign countries and China. The French Minister in his reply, after claiming that the fixing of the four months' time limit allowed by the British treaty implied coasting trade,[1] suggested that the discussion was academic as there were then no French vessels engaged in the coasting trade, and declared that if in the future any such vessels should engage in this trade he would be ready to discuss the subject and agree upon an arrangement for the periodic payment of tonnage dues.[2] The matter, however, did not rest here. Notes continued to be exchanged between Prince Kung, the head of the Tsungli Yamên and the French representative at Peking, a correspondence which culminated in a note from the French Chargé d'Affairs to the Prince, under date 20th August, 1865, in which he communicates the decision of his government to renounce the privilege, accorded by the treaty, of exemption from tonnage dues of Chinese junks chartered by French merchants, and to accept the ruling that French vessels engaged in the coasting trade are subject to the payment of tonnage dues once every four months. In return for these concessions the French Government demanded that vessels under the French flag should be allowed to ply between Chinese treaty ports and the ports under French control in Cochin China, as well as the ports of Japan, under the same conditions as regards payment of tonnage dues as vessels plying between Chinese treaty ports and Hongkong. The Prince in his reply, dated 1st September, 1865, accepted these terms, thereby bringing not only French vessels for tonnage dues levy into line with those of other Treaty Powers, but also re-confirming the coastwise

[1] The British Chamber of Commerce at Shanghai had drawn the attention of Lord Elgin to this implication on 2nd October, 1857, B.P.P. *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859*, p. 63. Shanghai British Chamber of Commerce to Bruce, 19th October, 1861; *Further Papers relating to the Rebellion in China*, 1863, p. 183.

[2] C.A.: I.G. Circ. No. 7 of 1863.

trading privilege of foreign vessels.[1] The purposes to which these tonnage dues should be devoted raised not a little acrimonious discussion. As we have seen, the continuance of the levy was strongly opposed on the ground that since its inception in 1843 not a cent of the money collected under this heading had been devoted to the providing of much-needed aids to navigation, lighthouses, buoys, beacons, and so forth. The conviction of merchants, shipowners, and foreign officials alike was that if the levy were to be continued, it should be used in whole or in part for the erection and maintenance of these essentials to navigation. Instead, however, of embodying this conviction as a hard and fast stipulation in the treaty itself, the British negotiators relegated its expression to Rule 10 of the Rules of Trade, where it is abbreviated to the statement that:—"The maintenance of which [i.e. lights, buoys, beacons and the like] shall be provided for out of the tonnage dues." That the intention of the foreign negotiators was that the erection of these aids should also be met from the tonnage dues collection may be inferred (*a*) from the expression of public and official opinion to this effect at the time, (*b*) from the placing in the British treaty of Article XXXII stipulating that "the Consuls and Superintendents of Customs shall consult together regarding the erection of beacons or lighthouses," immediately after the articles dealing with tonnage dues and the earmarking in Rule 10 of these dues for such aids, and (*c*) from Article XVI of the American treaty which, after dealing exclusively with the levy of tonnage dues concludes with the sentence:—"The collectors of Customs at the open ports shall consult with the Consuls about the erection of beacons or lighthouses, and where buoys and lightships should be placed." If it was not intended that the erection as well as the maintenance of lighthouses, etc., should be defrayed from tonnage dues, why was this sentence inserted in the tonnage dues article? The Chinese authorities recognized both the logic and the necessity of the situation, for in January, 1865, as soon as they were free from the fiscal drain caused in suppressing the Taiping rebellion, they entrusted the Inspector General with one-tenth of the tonnage dues collection for harbour improvement works.[2] That marked the beginning of the Customs Marine Department, a

[1] C.A.; I.G. Circ. No. 10 of 1865. *vide* also "Note sur les Modifications apportées à l'article XXII du Traité de 1858" pp. 891, 892 in Vol. I of 2nd edition of *Treaties, Conventions, etc. between China and Foreign States*. C.P. Shanghai, 1917.

[2] C.A.; I.G. Circ. No. 1 of 1865.

department which has played, and still plays, many parts, such as the controlling of harbours, the erecting and tending of lights, buoys, beacons, and aids to navigation, the conducting when required of coast and river surveys, the compiling of charts, and the keeping of meteorological records. From 1st April, 1868[1] the allocation for these purposes was increased to seven-tenths of the tonnage dues collection, and in April, 1917,[2] arrangements were made by which the Chinese Government permitted the Inspector General to retain the whole of the tonnage dues collection to meet the growing expenses of the Marine Department.

Regulations for trade on the Yangtze; Parkes' draft of 1861: Clandestine traffic with Taiping rebels in arms and supplies: Defiance of provincial taxation rights: Revised regulations: British Minister's proposal for opening of Anking, Tatung and Wuhu for tea trade, not approved.

§ 10. The second notification issued by the British Minister in October 1861 embodied a revision of the provisional regulations for trade on the Yangtze, which had originally been issued in March of that year. By Article, X of the British Treaty of Tientsin it was stipulated that merchant ships should be allowed to trade upon the Yangtze, but that as the lower valley was in the hands of the rebels, only the port of Chinkiang should be opened to trade until the restoration of peace, when not more than three ports between the mouth and Hankow should be agreed upon as ports of entry and discharge. So long as the rebellion was in progress the British had technically no right to claim the opening of the river to trade, but pressure from the merchants, who wished in spite of the rebellion to find an uninterrupted channel of communication with the western provinces of China, induced the Minister in November 1860 to take up the question with Prince Kung. He proposed to the Prince as a provisional arrangement that the two ports of Hankow and Kiukiang should be thrown open to foreign trade, but that as long as conditions remained disturbed all tonnage dues and duties leviable under the new tariff, both import and export, on cargoes conveyed to and from these ports should be payable at Shanghai or Chinkiang.[3] All traffic in arms and ammunition was, of course, to be prohibited under severe penalties, a much-needed prohibition in view of the widespread

[1] C.A.; I.G. Circ. No. 2 of 1868. From 1st April, 1877 seven-tenths of the tonnage dues from Chinese vessels were also allocated for lights purposes. C.A. I.G. Circ. No. 25, Second Series.

[2] C.A.; I.G. Circ. No. 2653 Second Series.

[3] N.C.H. No. 549; 2nd February, 1861.

banditry and rebellion and of the rowdy and lawless foreign elements which had at that time gathered in Shanghai for the express purpose of making gain out of China's distress.[1] The Prince met this proposal of opening the river to trade in a most liberal spirit; not only agreeing to it, but actually leaving it to the Minister to draw up the necessary régulations in consultation with the Customs authorities at Shanghai. He made, however, the reservation that if the arrangement should result in a decrease of revenue the two governments should consult together for the prevention of such decrease.[2] To reach an understanding with the rebels not to hinder legitimate trade once it should be started, and to obtain first hand and reliable information on the political and commercial conditions prevailing on the river, Mr. Parkes was deputed by Lord Elgin to accompany Vice-Admiral Sir James Hope on a voyage of investigation from Shanghai to Hankow. The expedition, which included also a deputation from the British Chamber of Commerce in Shanghai, was conveyed up river in an imposing fleet of ten gunboats. Its practical outcome was (1) an agreement with the rebels by which they pledged themselves not to interfere with British traders or their property on condition that such traders observed strict neutrality,[3] and (2) the promulgation on 18th March, 1861 by a British Consular Notification at Shanghai of a set of ten provisional regulations to govern trade in the Yangtze valley.[4] The distinctive features of this first draft of the Yangtze regulations were (*a*) the making of Shanghai for vessels bound up river, and of Chinkiang for vessels bound down river the only ports at which dues and duties on all vessels and their cargoes could be paid; (*b*) the precautions taken by the British authorities to maintain control over British vessels while trading on the Yangtze by retention of the ship's papers against a "river pass" issued by the Customs; (*c*) the absolute prohibition of trade in arms and ammunition; (*d*) the opening of the ports of Kiukiang and Hankow and the locating of British Consuls there; and (*e*) the

[1] B.P.P. *China No. 3 (1864)*; *Papers relating to the Affairs of China*: pp. 136-137. Bruce to Russell, 14th July, 1862; *Further Papers relating to the Rebellion in China*, 1863, p. 58.

[2] Bruce to Russell, 2nd December, 1860, enclo. Prince Kung to Bruce, 27th November, 1860, B.P.P. *Correspondence respecting Affairs in China; Expedition up the Yangtze-Kiang*, 1861, pp. 1-3.

[3] Admiralty to Hammond, 13th May, 1861; B.P.P. *Correspondence respecting the Opening of the Yangtze-Kiang River to Foreign Trade*, 1861, pp. 8-9.

[4] *Ibid.* pp. 18-21. N.C.H. No. 556, 23rd March, 1861.

permitting of "any vessel so authorized to discharge or load legal merchandise at ports or places on the river above Chinkiang" without Customs formalities until the vessel should return to Chinkiang. This last provision was naturally interpreted by merchants and others to mean that legitimate trading was permissible at any and every point on the river between Chinkiang and Hankow, and this interpretation was fully in keeping with the intentions of Lord Elgin, as given in his despatch of instructions to Parkes.[1] The Shanghai Taotai protested vigorously against the enforcement of these regulations, and his protests were well founded. In the disturbed state of the Yangtze valley an arrangement of this nature was open to grave abuse, and it is not surprising that although these regulations were issued by Admiral Hope and Consul Parkes, the British authorities at Shanghai, and acted on by British traders, the Chinese authorities refused to ratify them,[2] and soon had occasion to lodge with the British Minister complaints against unscrupulous British traders, who were taking advantage of the arrangement by supplying the rebels with arms and foodstuffs so that it even looked "as if trade on the Great River had been established for the sole purpose of furnishing the rebels with supplies."[3] Writing in April 1863 the British Consul at Chinkiang described the foreigners trading on the Yangtze in sailing vessels as "almost without exception men without principle or character, outlaws in fact who have no regard for treaties or regulations, and who look upon the Chinese as made for them to prey upon." The traffic with the rebels in arms and ammunition, purchased in the British ports of Hongkong and Singapore,[4] was carried on with reckless violence

[1] "You are aware that it is my desire that the privilege thereby acquired for British vessels should not in practice be limited to a permission to trade at certain specified ports, but that it should, if possible, be carried out in such a manner as to throw open to them the general coasting trade of the river." Elgin to Parkes, 19th January, 1861; B.P.P. *Correspondence respecting the Opening of the Yangtze-Kiang River to Foreign Trade* 1861, p. 3.

[2] Bruce to Russell, 24th August, 1862; 22nd September, 1862; and 22nd November, 1862, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 80; p. 127; and p. 147.

[3] Foreigners of other nationalities were also engaged in this illicit traffic. F.O. 17/393: Bruce to Russell, desp. No. 108, 18th July, 1863. B.P.P. *Further Papers relating to the Rebellion in China*, 1863; pp. 58-59, 74-77; 123: *China No. 5 (1864) Papers relating to the Affairs of China*, p. 66; pp. 136-137; 140-141.

[4] F.O. 17/373: Bruce to Russell, desp. No. 94, 14th July, 1862: General Staveley, reporting on the smuggling of arms to the Yangtze, states that 3000 cannon of different sizes had been sold at Singapore within a year. F.O. 17/390: Bruce to Russell, desp. No. 22, 12th March, 1863.

and deeds of blood. Further, these regulations rode rough-shod over provincial trade-taxing rights. This was a very serious consideration as the provincial treasuries were hard put to it to raise funds for the suppression of the rebels. Dishonest Chinese traders with the connivance of hired foreign ruffians were making use of sailing vessels, flying foreign flags to convey their goods from place to place on the river in order to evade payment of *likin*, and of local Native Customs dues and duties.[1] To put a stop to such malpractices, Hart when at Peking in June 1861 advised Prince Kung to withdraw the privilege of unrestricted trading on the river, and to confine foreign trading operations strictly to the two open ports of Kiukiang and Hankow. In this the British Minister concurred, as it was fully in keeping with what he himself had previously suggested,[2] taking in this respect—to the disgust of the trading community—a view directly opposed to that of his brother, Lord Elgin. Accordingly, the revised provisional regulations for British trade on the Yangtze, which had been negotiated during September and October 1861 at Peking by Prince Kung and the British Minister, approved by the Throne on 14th November, and which were communicated by the Inspector General to his Commissioners in that month, restricted foreign trading on the Yangtze to the two ports of Kiukiang and Hankow, where British vessels (and by application of the most favoured nation clause all other foreign vessels) would be permitted to load or discharge cargo without applying for Custom House permits until their return to Shanghai, which now became the sole port at which dues and duties could be paid by vessels trading to and from the river ports. Clauses also were added to these regulations forbidding the shipping up-river of oil, hemp, steel, iron, provisions, timber, and copper cash except under bond, and also forbidding the use by British subjects of chartered or purchased native boats for trade on the river except under a special junk pass issued against a bond covering

[1] Bruce to Russell, 27th August, 1862; B.P.P. *Further Papers relating to the Rebellion in China*, 1863; p. 81.

[2] "I agree to the substitution of 'Hankow and Kiukiang' for 'ports and places on the river above Chinkiang' as being in accordance with the proposal made to and accepted by Your Highness in November last." Bruce to Prince Kung, 9th October, 1861; B.P.P. *Further Correspondence respecting Affairs in China*, (*Expedition up the Yangtze Kiang*), 1861, p. 75. Bruce to Russell, 24th August, 1862, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 80.

the value of the vessel and its cargo.[1] These revised provisional regulations, however, were destined to remain in force for only a little over a year. During 1861 British Consulates had been established at the three ports of Chinkiang, Kiukiang, and Hankow, and thanks to Hart's energy and initiative Customs Houses on the new model had also been opened at each of these ports. So far as the machinery went there was no reason why dues and duties should not be paid at these ports instead of at Shanghai alone. Further, the Hukuang Viceroy, Kuan Wen (官文), was strongly opposed to the duty collecting monopoly of Shanghai on the ground that it was injuriously affecting his provincial revenues,[2] and was not favourably disposed to having foreigners at the Custom House. The merchants, too, were not altogether satisfied with the existing practice of paying at Shanghai alone, when the privilege of unrestricted trade along the river was withdrawn, and desired the same facilities for payment of duties at the river ports as obtained elsewhere. Hart, armed with the necessary despatches from the Tsungli Yamên, visited the river ports, and with the aid of these as well as of copies of recent Edicts, which up till then had not reached Wuchang and Hankow, regarding the installation of the Emperor T'ung Chih and the abolition of the Palace Council of Eight, which had been running the Empire, was able to effect a sudden conversion of the Hukuang Viceroy.[3] Hart also carried with him a special despatch to the Liang Kiang Viceroy, the famous Tseng Kuo-fan (曾國藩), in which Prince Kung strongly recommended the revised Yangtze regulations to his favourable consideration.[4] Accordingly with the approval of the higher Chinese authorities, the new set of Revised Regulations of Trade on the Yangtze, as drawn up by Hart[5] in seven articles, was made known to the public by notifications issued in November 1862 by the British Legation in Peking and the United

[1] C.A. I.G. Circ. No. 8 of 1861. Prince Kung to Bruce, 21st September, 1861; Bruce to Prince Kung, 9th October, 1861, B.P.P. *Further Correspondence respecting Affairs in China* (*Expedition up the Yangtze Kiang*), 1861, p. 74 and p. 77.

[2] Prince Kung to Bruce, 14th July and 11th October, 1862; B.P.P. *Further Papers relating to the Rebellion in China*, 1863, pp. 149-150.

[3] F.O. 17/375: Bruce to Russell, desp. No. 169, 22nd November, 1862, enclosing correspondence with Prince Kung on revised Yangtze Regulations.

[4] F.O. 17/370, Bruce to Russell, desp. No. 9, 23rd February, 1862, enclosing extract of letter of 21st January, 1862 from Hart to Bruce.

[5] Prince Kung to Bruce, 11th October, 1862; B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 151.

States Consulate in Shanghai.[1] These new regulations, which came into force on 1st January, 1863, restricted foreign trade on the Yangtze to the three ports Chinkiang, Kiukiang, and Hankow, and divided vessels trading on the river into sea-going vessels and regular river steamers. Boats of the former class were no longer obliged to report at Shanghai;[2] but, if trading above Chinkiang, they were to deposit their papers at that port and obtain a "Chinkiang Pass", while boats of the latter class were to continue to deposit their papers at Shanghai and obtain in exchange a "River Pass". To facilitate business all duties on cargo conveyed in river steamers were to be paid at the ports at which the cargo was shipped; but tonnage dues in the case of river steamers were to be paid alternately at Chinkiang, Kiukiang, and Hankow. Native produce shipped from a river port by a river steamer, and destined for export abroad, was allowed a time limit of three months, later extended to one year,[3] for export from Shanghai. If shipment abroad took place within that time limit the shipper could claim a re-exportation certificate, the production of which at the river port of shipment would entitle the holder to a drawback for the amount of coast trade duty paid. Cargo shipped by native craft, owned or chartered by British or American merchants, was to pay duty at the rates leviable under the treaty tariff, but such boats instead of tonnage dues were to pay port dues at every port entered according to whatever local tariff was in force. All such craft, moreover, had to be secured by bond. It was not until the autumn of 1865 that the French, whose trade on the river up till then was carried on almost entirely in native craft,[4] agreed to accept these restrictions on native craft when owned or chartered by Frenchmen.[5] To encourage legitimate trade by affording merchants the facility of shipping teas from places as close as possible to areas of production, the British Minister proposed to Prince Kung that the towns of Anking, Tatung and Wuhu in the province of Anhui should be recognized as places at which steamers might call for the shipment of tea under special permits issued by the Hankow or the Kiukiang Customs. Hart discussed the proposal

[1] C.A.; I.G. Circ. No. 2 of 1862. N.C.H. No. 644, 29th November, 1862. B.P.P. *Further Papers relating to the Rebellion in China*, 1863, pp. 152-154.
[2] C.A. I.G. Circular No. 3 of 1863.
[3] C.A. I.G. Circular No. 19 of 1863. B.P.P. *China No. 3 (1864)*, pp. 142-143. Notification issued by British Consul, Shanghai, on 18th July, 1863.
[4] Bruce to Russell, 18th July, 1863; B.P.P. *China No. 3 (1864) Papers relating to the Affairs of China*, p. 136.
[5] C.A.; I.G. Circ. No. 10 of 1865.

with Tseng Kuo-fan, the Liang Kiang Viceroy, who pointed out that there was no steamer traffic at Anking, that Wuhu had only recently been recovered from the rebels, but that steamers frequently shipped and discharged cargo at Tatung. The Viceroy admitted that the *likin* levies were a matter of life and death to him as it was on them he chiefly depended for the cash wherewith to pay his troops. Any decrease, therefore, in that revenue would only bring disaster and trouble. In spite of Hart's suggestion that shipments from these three places by steamer should be made to pay not only *likin* at place of shipment but also coast trade duty at Shanghai, both of which levies would, of course, pertain to the Viceroy, the Tsungli Yamên considered it advisable to refuse the British Minister's proposal.[1] To put a stop to the illicit trade and lawless acts of vagabond Europeans and Americans who were hired by Chinese to give their junks the protection of a foreign flag, Prince Kung, adopting a suggestion put forward by FitzRoy, the Commissioner at Shanghai, proposed to Sir Frederick Bruce that no vessel of less than 200 tons should be allowed to trade up river. The British and, especially, the French Ministers, however, were not in favour of the proposal, and that was enough to prevent its adoption.[2] For thirty-five years these revised regulations for trade on the Yangtze continued in force, and for the most part unchanged, although during that time foreign trade on the river expanded fifty fold and tonnage nine fold, while three new treaty ports—Wuhu, Ichang, and Shasi—were opened, as well as five ports of call or stages where, under special regulations, passengers and cargo could be landed or shipped. The revision that these altered conditions called for will be dealt with later.

Right of foreign employees in the Customs to fine and confiscate contested by Consuls and foreign merchants: Claim that all such cases should be submitted to Consuls.

§ 11. With these difficulties at any rate temporarily disposed of, Hart, who was now full Inspector General, was free to devote himself to the solution of other problems in connection with the application of the tariff as well as to the consolidation and development of the Customs Service, to the oversight of which the Government had appointed him. Questions of Service

[1] F.O. 17/390: Bruce to Russell, desp. No. 36, 30th March, 1863, enclo. Hart to Wade, 16th January, 1863. Bruce to Prince Kung, 6th November, 1862; Prince Kung to Bruce, 13th November, 1862, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, pp. 151-152.

[2] F.O. 17/393: Bruce to Russell, desp. No. 108, 18th July, 1863. B.P.P. *China No. 3 (1864)*; *Papers relating to the Affairs of China*, p. 186.

organization, such as constitution and disposal of staff, rendering of accounts, and preparation of returns and reports of trade, as well as such subjects as pilotage, harbour control, quarantine measures, coolie emigration, and the establishing of aids to navigation do not concern us here, but problems arising from practical application of the tariff do. Prominent among these latter stood the dealing with seizures involving fines or confiscations, the issue of drawbacks, and the alteration of tariff rates. The Treaties of Tientsin in the main confirmed the preventive measures authorized by the earlier treaties, but to emphasise the fact that the era of active Consular intervention for the enforcement of these measures was past, the British treaty contains the stipulation (Article XLVI) that—"the Chinese authorities at each port shall adopt the means they may judge most proper to prevent the revenue suffering from fraud or smuggling." A direct development from this, as well as from Rule X of the Rules of Trade, and from the success of the Shanghai experiment was the instituting at all the treaty ports of the new system of Customs Inspectorship. Thanks to the high Chinese officials who supported it, and to the high quality of the personnel employed, the new Maritime Custom House at each port came gradually to be recognized, not only as standing for efficiency and honesty, but also as a court which, within the limits imposed on it, could be relied on in revenue matters to administer and exact justice. The attainment of this recognition was not, however, an easy matter. In fact at first the right of the foreign Customs officials in the employ of the Chinese Government to punish offences against the revenue by fine or confiscation was one that was fiercely contested by the foreign merchants and questioned and opposed by many of the Consuls. To the merchant it seemed that the treaty-acquired privilege of extraterritoriality protected him from the imposition of penalties for revenue offences at the hands of Customs officials, more especially as those officials were foreigners and therefore themselves subject to Consular jurisdiction. The Hongkong Chamber of Commerce was firmly of opinion (1) "that the Custom House should be deprived of the power of confiscation on its own authority, and that no penalty for breach of revenue laws, whether by confiscation or fine, should be inflicted upon British subjects except by a Consul after a fair and open trial", and (2) that in the case of foreigners employed in the Customs "their official character, and the circumstance of their proceedings being done in the name of the Chinese Superintendent of Customs,

should not shield them from being amenable to a Consular or other foreign Court for damages at the instance of any suitor who may prosecute them for injury sustained, when, in the judgment of the Court, they exceed their legitimate powers."[1] The Shanghai British Chamber of Commerce while maintaining that it is not competent for the Chinese Custom House authorities either to fine a British ship or subject, or to confiscate British property, without the active intervention of the British Consul, yet showed itself more reasonable than the Hongkong Chamber in its attitude towards a possible solution of the difficulty by suggesting that if all such cases could not be taken before the British Consul and decided by him in open court, then "a Joint Court should be instituted in which the Chinese and British authorities would act in concert in the exercise of an equal authority, and in open court."[2] Commenting on these proposals at the time they were made (1861) Mr. Lay pointed out (1) "that a foreign employee of the Chinese Customs has not the power of confiscation, but that it is his duty to advise the Chinese authorities in cases where they should exercise their right to confiscate;"[3] (2) "that the Chinese Superintendent of Customs, with or without the advice of the foreign Commissioner, can in no case overstep the limits assigned to his action by the treaties without being forthwith called to account by the Consul upon the complaint of the merchant aggrieved;"[4] (3) that "it would be hardly fair to expect that the Chinese Government should submit its right to fines and confiscations, secured to it by the treaties, to the judicial discussion and decision of any foreign Court; still less that it would allow merchants, who are themselves daily endeavouring to evade the Chinese revenue laws to have any voice in such discussion and decision as the assessors of their Consul;"[5] (4) that the Chinese Government which "has not surrendered its right to adjudicate upon infractions of its own revenue laws" maintains "that the British Consul can only intervene politically and not judicially;"[6] and (5) that the real object of the Chambers was "to get British Customs officers made amenable to a British Court. They would then make it impossible

[1] Hongkong Chamber of Commerce to Russell, 26th August 1861, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 162.

[2] Shanghai Chamber of Commerce to Russell, 20th August, 1861, B.P.P. *ibid.* p. 169.

[3] Lay's Memorandum of 11th January, 1862, B.P.P. *ibid.* p. 174.

[4] *Ibid.* p. 178.

[5] *Ibid.* p. 178.

[6] *Ibid.* p. 178.

for British subjects to serve the Chinese Government in an executive capacity."[1] The British Minister declined to support the contention of the Chambers that exclusive jurisdiction in the matter of fines and confiscations should be vested in the Consuls, stating that such an arrangement "could only be carried out by consent of the Chinese Government", and that he had proof this Government was not willing to submit its rights to Consular decision,[2] an opinion which was fully endorsed by the British Government.[3] Lord Elgin, then in Egypt, to whom the matter was referred, was of opinion "that existing treaties with China do not authorize us to confer on our Consuls the power claimed for them, and that if we had the means of acquiring such a power it is more than doutful whether it would be expedient to exercise it."[4]

H. N. Lay obtains high legal opinion in England on nature and scope of punitive power of the Customs, and on liability of foreign employees for acts done in their official capacity.

§ 12. Lay, in whose time this issue was first raised, was determined that it should not be left in doubt. With his experience both of the British Consular and of the Chinese Customs services he realized better than most others how productive it would be of conflicts, complaints and misunderstandings to leave unsettled the questions (*a*) of the nature and scope of the punitive power of the Customs in view of treaty limitations, and (*b*) of the liability of foreigners employed in that service for acts done in their official capacity. Accordingly, in the early months of 1862, while still on leave in England, he obtained the opinion of some of the leading lawyers[5] in London on the following six queries—

[1] Lay's Memorandum of 11th January, 1862. B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 179.

[2] F.O. 17/356: Bruce to Russell, 10th November, 1861; Bruce to Shanghai Chamber of Commerce, 12th November, 1861, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 192.

[3] Russell to Bruce, 26th February, 1862, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 196.

[4] Elgin to Layard, 8th February, 1862, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 194.

[5] The lawyers consulted were—Sir Fitzroy Kelly P.C. Solicitor General 1852, Attorney General 1858, Chief Baron of the Court of Exchequer, Lord Chief Baron 1866-1880; Sir W Atherton, Solicitor General 1859, Attorney General 1861; James Hannen, D.C.L., Judge of the Court of Queen's Bench 1868, Judge of the Court of Probate and Divorce 1872, Life Baron and Lord of Appeal in Ordinary 1891, President of Parnell Commission 1888; George Wingrove Cooke, Tithe, Copyhold, and Inclosure Commissioner, *Times* Correspondent in China; and James Stephen, Registrar of the Court of Bankruptcy at Leeds, Judge of the Queen's Bench Division, 1879; Judge of the High Court of Justice, 1879-1891; author of *History of the Criminal Law of England*, 1883.

(1) "Whether under the British Treaties of Nanking or Tientsin (having regard to the Queen's Order in Council of 13th June, 1853) it is obligatory on the Chinese authorities to refer Customs cases of fine and confiscation, where these affect a British subject, to a British Consular Court for adjudication.

(2) Whether the right of "adjudication" in such cases does not rest with the Chinese authorities alone, subject only to the political and not judicial intervention of the British authorities.

(3) Whether the Chinese authorities can refuse the Port Clearance mentioned in the 41st Article of the British Treaty of Tientsin until the treaty fines and confiscations shall have been paid or given up to them.

(4) Whether, although not obligatory on the Chinese authorities, it is not allowable for them to resort as complainants to the British Consular Courts in cases of fraud and confiscation, and to call upon the Consul (under the 2nd Article of the Nanking treaty and the Queen's Order in Council) to see that the just duties, etc., of the Chinese Government are duly discharged by British subjects, and for that purpose to issue search warrants, etc.

(5) Whether a British subject is amenable to a British Court or Tribunal for acts done by him as a Chinese Customs officer, provided such acts be not disavowed by the Chinese Government.

(6) Whether, if a British vessel should have on board articles of contraband or merchandise that has not been entered in her manifest and which is consequently confiscable (see the 37th and 48th Articles of the Tientsin treaty), the Chinese authorities can without a warrant from the British Consul seize such articles of contraband merchandise while still actually on board the vessel and under the British Flag, or whether they must in the first instance obtain the Consul's warrant for such seizure."[1]

In summarized form the replies given to these queries were—

(1) That the Chinese authorities alone have the right of adjudication in cases of confiscation; but that in cases

[1] C.A. I.G. Circ. No. 28 of 1870.

of fine, such punishment being against the person, cannot be enforced except before the Consul.

(2) That if the Chinese authorities exercise this power of confiscation unjustly redress can be sought only by diplomatic proceedings.

(3) That the Chinese Government, to enforce payment of a fine, cannot refuse clearance of a vessel after all treaty dues and duties have been paid; but that it can refuse such clearance in cases where an offence has been committed entailing penalty of confiscation.

(4) That the Chinese authorities may, if they see fit, in cases having reference to fine or confiscation or to dues and duties secured to China by treaty resort as complainants to British Consular Courts, and in such cases these Courts are auxiliary tribunals to the Chinese Courts;

(5) That in the event of any proceedings being taken in a British Court against a British subject in the employment of the Chinese Government as a Customs officer, it will be a conclusive answer to such proceedings that the act complained of was done by the defendant within Chinese jurisdiction, in pursuance of his authority as a Chinese Customs Officer; and

(6) That confiscable goods on board a British steamer in Chinese waters may be seized by the Chinese authorities without a warrant from the British Consul.

These opinions were communicated by the Inspector General to the British Minister, who endorsed them, enjoined the Consul at Shanghai to be guided by the principles therein laid down,[1] (principles which had also been accepted by the American Minister), and cited them on several occasions in despatches to Lord Russell in connection with cases at issue between the Chinese Customs and various British merchants.[2] The Minister not only concurred with the opinions referred to, but also contended that the Supreme Court of Hongkong had overstepped its province in directing British Consuls in China to try cases arising between British merchants and British subjects in the employ of the Chinese Customs, as it had done in the case of Bowman *v* Fitzroy.[3] Earl Russell, after consulting the law officers of the Crown, was

[1] Bruce to Harvey, 30th March, 1863, B.P.P. *China No. 3 (1864)* p. 73.

[2] Bruce to Russell. 2nd December, 1862; Bruce to Consul Sinclair, 9th December, 1862; Bruce to Russell, 23rd December, 1862; B.P.P. *ibid.* p. 12, p. 17, and p. 31.

[3] Bruce to Russell, 23rd December, 1862; B.P.P. *ibid.* p. 32.

able to inform the Minister that the British Government fully concurred with his views.[1]

Creation of Court of Joint Investigation to deal with cases of fine and confiscation: Rewards to officers making seizures.

§ 13. This verdict was decisive on the correct interpretation of the treaty clauses involved; but, like the treaties themselves, it contained no suggestion for the provision of a court of enquiry in which charges of breach of regulations could be tried in public, and there established or disproved. As we have seen, the Shanghai Chamber of Commerce had already suggested the formation of such a court. Hart, too, was convinced that the creation of a court of joint investigation, in which charges should be openly made, evidence sifted, and judgment given after a full and public hearing in a fair and open court, would go far to allay complaints that a full and impartial hearing was denied to the accused, that Customs action in these matters was capricious, arbitrary and afraid of facing the light, and that settlement of cases by a mere interchange of despatches was not a satisfactory way of discovering facts and doing justice. This conviction was shared by the various foreign Ministers then at Peking, who signified their approval when in 1864 Hart induced the Chinese authorities at Shanghai to try as an experiment a system of joint investigation in all cases involving confiscation, leaving cases involving fine to the jurisdiction of the Consular Courts.[2] Three years later (1867) the Tsungli Yamên approved the extension to all the open ports of the four rules drawn up for trial at Shanghai. The British and the United States Ministers, to whom the Yamên had communicated the rules, saw the opportunity and proposed that additions should be made to the original four rules so as to provide for joint investigation also in the case of fines. The Tsungli Yamên welcomed this proposal, as it evidenced a desire on the part of the foreign authorities to extend to the Chinese authorities in the case of fines what the latter by the four rules had already granted to foreigners in the case of confiscations, namely, the advantage, if the complainant so desired, of having each case tried on its merits in open court. The original rules were accordingly revised and enlarged in scope so that by June 1868 Hart was able to

[1] Russell to Bruce, 5th June, 1863, 23rd June, 1863, and 14th August, 1863, B.P.P. *ibid.* p. 71, p. 80, and p. 94.

[2] C.A. I.G. Circ. No. 19 of 1868. U.S.A. Foreign Relations; 1864; iii; p. 147. C.P. Office Series No. 17: *Joint Investigation in Customs Cases*, 1882.

communicate to the ports a set of eight Rules for Joint Investigation in cases of confiscation and fine by the Custom House authorities.[1] In cases of confiscation these rules provided that the Commissioner, besides informing the Superintendent, was to notify the merchant concerned, who, if he desired to dispute the Commissioner's decision, could through his Consul call for a court of joint investigation, which court was to be summoned by the Superintendent and be held at the Custom House, and at which the Consul was to have a seat on the bench along with the Superintendent and the Commissioner. If, after investigation, the court decided that confiscation was justified the merchant had no appeal; but if the Consul dissented the merchant was at liberty to appeal, in which event the case was to be referred by the Consul to his Minister and by the Superintendent to the Tsungli Yamên. Pending the decision of the superior authorities the property attached might be released on bond. Should there be a difference of opinion regarding the value of the attached goods to be entered on such a bond, the valuation declared by the owner was to be taken as decisive, and the Customs authorities were to be given the option of taking over the vessel or the goods at that valuation. When the irregularity committed was one involving a fine it rested with the Commissioner to take the initiative in calling for a court of investigation, which was to be summoned by the Consul and held at the Consulate, and at which the Commissioner, or his deputy, was to have a seat on the bench along with the Consul. On conviction the Consul was to declare judgment, and the merchant had no appeal; but the Superintendent and the Commissioner were free, if they thought fit, to mitigate the sentence in cases where the treaty or the regulations gave the Consul no option but to impose a fine of a specific amount. In the event of a difference of opinion between the Consul and the Commissioner the latter was to inform the Superintendent, and the matter as in the case of a confiscation was to be referred for decision to the higher authorities at Peking. Provision was also made for the settlement of differences of opinion between a Consul and the Customs authorities when the matter at issue was whether certain duties should or should not be levied, the procedure in such cases being for the merchant to give the Customs a bond, duly sealed by the Consul, for the amount of duty in question, pending decision of the case by the higher authorities at Peking. Finally, in order to expedite the trans-

[1] C.A. I.G. Circ. No. 19 of 1868.

action of business, provision was made by which Consul and Commissioner could in the first instance transact business direct, either personally or by writing, without being obliged at every step to communicate with each other through the Superintendent. The introduction of these rules making provision for public trial in cases of revenue offences removed the objection to the payment of seizure rewards to the officers making the seizure. Such rewards, fixed at one-tenth of the amount involved were restricted to members of the outdoor staff. From this time, too, dates the quarterly issue of the *précis* of fines and confiscations, which from 1869 to 1910 formed a regular part of the Customs Gazette.[1] The success of these rules is not to be measured by the consideration that during the sixty odd years of their existence they have comparatively seldom been called into play,[2] but rather by the fact that they have acted as a restraining and preventive influence. By strengthening the hands of the Customs authorities they proved an effective warning to those who before their existence made no scruple of resorting to illegalities. At the same time by defining a course of procedure, controlling the action of the authorities at the ports, whether in defence of China's revenue, or of foreign trading interests, they were widely effective in creating an atmosphere of consideration, and in making in numberless cases counsels of moderation to prevail before matters had reached a stage where joint investigation would become necessary. As time went on the development of trade became such that the rigid enforcement of treaty stipulations was likely to become a serious restriction on that development. The merchants' and shipowners' necessity became China's opportunity, and the Government, through the Customs, were able to secure a firmer control over merchants and steamship agents by granting or withholding extra-treaty privileges, such as the allowing of a vessel to be cleared before all import duties due have been discharged, or the working of cargo on Sundays or holidays or after working hours. A hold of this sort has proved, as a rule, a much more effective argument than an appeal to a court of joint investigation, and foreign firms have again and again preferred to pay a fine, without reference to the Consul concerned, rather than have an extra-treaty privilege cancelled.

[1] C.A.: I.G. Circ. No. 19 of 1868. Statistical Secretary's Printed Note, No. 379.

[2] C.P. *Joint Investigation in Customs Cases.* Office Series, No. 17, Shanghai, 1882: I.G. Circs. II Series. Nos. 203, 268, 283, 290.

Drawbacks first issued as extra-treaty privilege: Becomes treaty right but only for foreign duty-paid imports when re-exported abroad: Privilege extended to refund of Coast trade duty: Provincial authorities prefer duty to be paid at port of destination: Time limit within which a drawback could be claimed.

§ 14. The Treaties of Nanking, Whampoa, and Wanghea contained no stipulation granting to merchants the right to claim drawbacks on foreign duty-paid imports when re-exported abroad. At that time duties were payable immediately on import, and as these duties were light, and as stocks usually could be worked off in reasonable time, there was little necessity for the introduction of a bonding system or for the issuing of drawbacks. All the same, as we shall see, the privilege of bonding was early applied for, and so too was that of drawback. The latter privilege was actually obtained as early as April 1847 when Alcock induced the Taotai at Shanghai to agree to the refund of duties on foreign duty-paid imports which, on being found unsaleable, had to be re-exported abroad. These goods were to enjoy the further advantage of being stored in the merchants' own godowns, but on re-export were to be in the same condition as when imported.[1] This extra-treaty privilege was speedily abused as merchants used it to claim exemption from import duty on the ground that their goods were declared for re-export. The old tricks of mysterious disappearance and of substitution became so prevalent that Alcock had to intervene, and inform the merchants by notification[2] that by treaty imports should pay duty on being landed, and that the privilege of drawback was intended only for those imports which after payment of duty had genuinely been found unsaleable, and which were being re-exported abroad in their original condition. Then came the Taiping rebellion with its concomitants of banditry and piracy upsetting trade, especially at Shanghai, and leaving merchants with large stocks of unsaleable foreign imports on their hands. Merchants began to cry out for relief measures, and this time the credit for securing that relief belongs to the infant Customs Inspectorate. Early in 1856 Mr. H. N. Lay persuaded the Chinese authorities to grant to merchants the privilege of special duty receipts, or drawback certificates, that might "be tendered in payment of import or export duties upon goods (*i.e.*, foreign imports) found unsaleable and re-exported

[1] F.O. 228/66: Davis to Palmerston, desp. No. 72, 5th May, 1847; British Consular Circular, Shanghai, 13th April, 1847.

[2] N.C.H. No. 119, 6th November, 1852; British Consular Notification, No. 21, 30th October, 1852.

to a foreign country."[1] Two years later the privilege thus voluntarily granted by the Chinese Government hardened into a treaty right by being embodied in the British Treaty of Tientsin.[2] Both the American and the French Treaties of Tientsin contain no such article, although both have the usual clause governing the issue of Exemption Certificates on foreign duty-paid imports shipped from one treaty port to another.[3] By the most favoured nation clause, however, the privilege conceded to Great Britain became automatically available to all merchants whose Governments had entered into treaty relations with China. This treaty right to drawbacks at the outset was confined to foreign duty-paid imports when re-exported abroad, while the goods to be entitled to such treatment must be the original imports unchanged in any way, in their original packages and bearing the same marks and numbers as at time of importation. The argument advanced in justification of these drawback certificates was that China had at that time no bonding system to enable merchants to hold their goods duty free in bonded godowns until such time as they were sold or shipped elsewhere.[4] Hart, when Officiating Inspector General during Lay's absence, discussed this question of drawbacks with Prince Kung, and expressed himself as not in favour of extending the privilege to coastwise shipments of foreign imports on account of the easy opportunities such a procedure would afford for frauds on the revenue.[5] Hart, however, perceived that in fairness this drawback privilege should be extended so as to include a refund of the newly instituted coast trade duty in the case of Chinese goods re-exported abroad on which the port to port export duty and the coast trade duty had been paid. It was accordingly arranged that coast trade duty would be refunded in cash to the merchant concerned when the goods in question were duly exported abroad within a period of three months from payment of the duty. In June 1863 this three months period was extended to twelve months, while the drawback itself was thenceforth issuable as a certificate instead of in cash.[6] The manifest advantage of the drawback system soon

[1] Lay's Memorandum of 11th January, 1862; B.P.P. *Further Papers relating to the Rebellion in China* 1863, p. 173.
[2] Art. XLV.
[3] Am. Tr. of Tientsin, Art. XXI. Fr. Tr. of Tientsin, Art. XXIV.
[4] Hongkong Chamber of Commerce to Russell, 23th August, 1861, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 163.
[5] N.C.H. No. 588, 2nd November, 1861.
[6] C.A. I.G. Circ. No. 19 of 1863. N.C.H. No. 677, 18th July, 1863; British Consular Notification of that date quoting despatch from British Minister, dated 25th June, 1863.

led merchants to agitate for its extension (1) to duty-paid foreign imports when re-shipped from one treaty port to another, and (2) to native goods on which coast trade duty had been paid, when re-shipped to another treaty port.[1] The revenue centralizing activities of the newly established Inspectorate of Customs had roused at some ports the strong opposition of the provincial authorities, and it was to enable the Chinese authorities at each port to "receive the duties attaching to the trade of their own locality"[2] that merchants, among other reasons, urged the issuing of drawbacks on duty-paid goods when re-exported coastwise. Provincial opposition to this centralizing of the Customs revenue was very pronounced at Tientsin, where the new order of things had very seriously deranged large vested interests in that revenue.[3] It was no matter for surprise, therefore, that in February 1863 the Officiating Inspector General found it necessary to issue instructions that Exemption Certificates on foreign duty-paid imports when re-shipped to Tientsin, Chefoo or Newchwang were no longer to be issued and that drawbacks were to be given instead. At the same time he instructed that this privilege of drawbacks should be extended also to the coast trade duty in the case of native goods re-exported to one of the three northern ports.[4] This marks the beginning of drawbacks on goods, either foreign or native, when carried coastwise. The privilege was at first confined to the northern ports, but very soon afterwards similar treatment was claimed by the southern ports, so that by April and May British Consular and Customs notifications had to be issued at Shanghai informing merchants that Exemption Certificates for foreign goods would no longer be issued, but that drawback certificates would be issued instead.[5] A few months later the Tsungli Yamên, in order to encourage trade, ruled that the drawback privilege should be extended also to native goods, on which coast trade duty had been paid, when re-exported from one treaty port to another, no matter whether north or south: the Yangtze ports, however, were excluded from

[1] Lay's Memorandum of 11th January, 1862, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 173.

[2] Shanghai Chamber of Commerce to Russell, 20th August, 1861, B.P.P. *Further Papers relating to the Rebellion in China*, 1863, p. 169.

[3] *Ibid.*, p. 169. B.P.P. *China No. 1 (1865)*, *Foreign Customs Establishments in China*, p. 5.

[4] C.A.; I.G. Circ. No. 12 of 1863.

[5] Shanghai Customs Notification of 28th May, 1863; N.C.H. No. 670, 30th May, 1863. British Consular Notification of 22nd April, 1863; N.C.H. No. 665, 25th April, 1863.

this privilege, but native goods coming from one of these ports to Shanghai and subsequently re-shipped from there to a coast port were to be covered by a special Shanghai Certificate of Re-shipment entitling the goods to drawback at original port of shipment.[1] All merchants, however, did not desire drawback certificates, especially as these documents at that time were not encashable and could be used only at port of issue for payment of duty. By August, too, the difficulties with the Tientsin authorities had so far been overcome that Prince Kung was able to issue orders that in future merchants re-shipping foreign duty-paid imports from one treaty port to another, the northern ports included, should be at liberty to choose either a drawback or an Exemption Certificate, thereby bringing practice more strictly into line with treaty stipulations.[2] From 1863 to 1876 no change took place in drawback procedure, but it was during this period that a decision was reached on the question of a time limit from the date of the importation of the goods within which a drawback could be claimed and on expiry of which no drawback would be issuable. The Treaty of Tientsin had imposed no such limit, but in 1859-60 Sir Frederick Bruce, the British Minister and Plenipotentiary, consented to limit the term within which a drawback could be claimed on duty-paid imports to twelve months from date of importation a prescription which appears in the Shanghai Customs Regulations of 25th July, 1859.[3] Merchants objected to this limit as being too restrictive, and agitation against it was unceasing, an agitation which was reflected in the Austro-Hungarian Treaty of Peking (1869), Article XXXI of which declares that the Dual Monarchy would be willing to agree to any such defined time limit if all the other Powers would also signify acceptance. Great Britain led the way by including in the Alcock Convention (October 1869) an article (XI) fixing the time limit at three years and stipulating that drawbacks for imports re-exported abroad within three months of importation should be convertible into cash. This Convention, however, was not ratified, but in the Chefoo Agreement signed seven years later, 13th September, 1876, a clause was inserted (Section III (V)) agreeing to a term of three years within which a drawback might be claimed on duty-paid imports. During the negotiations preceding this agreement Sir Thomas Wade had proposed that

[1] Shanghai Customs Notification of 4th July, 1863; N.C.H. No. 675, 4th July, 1863.

[2] C.A. I.G. Circ. No. 20 of 1863.

[3] B.P.P. *China No. 3 (1882)*, p. 62. *China No. 5 (1871)*, p. 41.

drawbacks for import duty should be redeemable in cash, but Li Hung Chang, then Grand Secretary, had been strongly opposed to such a concession.[1] One by one the other Powers acquiesced in the three year limit, but Germany held out for the option of redemption in cash. Germany's stand was successful, and from 13th February, 1877 the Government ordained that drawbacks on foreign duty-paid imports which had been three years in China were not to be issued, and that duly authorized drawbacks might, at the option of the holder, either be exchanged for cash or used for the payment of duty. To safeguard the privilege of exchange for cash, a merchant desiring cash for his drawback certificate was obliged to have it endorsed and sealed by the Port Commissioner before the Customs Bank would honour it.[2]

Early attempts to secure bonding privilege: Alcock's improvised bonding system: Fitzroy's plan of clearing steamers under guarantee for payment of duties.

§ 15. Closely allied with the question of drawbacks was the further question of bonding. The privilege of storing goods in a bonded warehouse, and of thereby deferring payment of duty till the goods were required for consumption was not conceded by any of the treaties concluded in the forties of last century. Neither was it conceded by the Treaties of Tientsin. In fact, all these agreements distinctly stipulate that import duties shall be paid on the landing and export duties on the shipment of the goods. This, however, is not to be interpreted as meaning that in those days there was no demand for the bonding privilege. There was. On the opening of the port of Shanghai in 1843 Captain George Balfour, the first British Consul, entered into negotiations with the local Chinese officials for the establishing of a bonded warehouse system.[3] His proposals were at first favourably received, but in May 1844 he had to report that the Governor General of the Liang Kiang was not in favour of the proposed bonding system, as it was contrary to the trade regulation that import duties are payable on the landing of the goods.[4] An additional reason rendering the privilege asked for unnecessary was that the American Treaty of Wanghea contained an article (XX) permitting the free re-export of foreign goods from one treaty port to another when covered by a certificate

[1] B.P.P. *China No. 3 (1882)*, p. 63.
[2] C.A. I.G. Circ. No. 11; 2nd series.
[3] F.O. 228/31: Balfour to Pottinger, desp. No. 14, 27th February, 1844.
[4] F.O. 228/31: Balfour to Pottinger, desp. No. 37, 18th May, 1844. B.P.P. *Report from the Select Committee on Commercial Relations with China*, 1847; p. 319. N.C,H. No. 165, 24th September, 1853.

showing that duties had been paid. This fact strengthened the Chinese authorities in their contention that the proposed bonding system was superfluous. The project was accordingly dropped for the time being. Ten years later, as we have seen, the Taiping rebellion had so upset trade that merchants in Shanghai were unable to dispose of their stocks of imports, which kept on steadily growing until the merchants were actually no longer able to afford further payments in cash of import duty on goods arriving. The financial stringency of the time, created by the general panic to hoard sycee and Carolus dollars and by the drain on silver to pay for shipments of contraband opium, was aggravated by the fact that the fall in values in the case of certain goods paying specific rates had raised the duties leviable from a 5 per cent *ad valorem* standard to one varying from 12 to 28 per cent. It was in these circumstances that Alcock had set up his short-lived improvised bonding system, taking guarantees from the merchants to cover his liability to the Taotai. That system ended ignominiously.[1] Alcock, however, did not forget the incident, for when he came to draw up the convention, which goes by his name, he included a clause authorizing the establishment of bonded warehouses at such treaty ports as might be found expedient. Long before the drafting of that convention, however, it became evident that practical difficulties would have to be met somehow. With the development of trade, and with the quick delivery and quick clearance demanded by the growing steamer traffic, it was obvious that the treaty stipulation calling for payment of all dues and duties before the issue by the Customs of a port clearance to the vessel concerned was much too rigid, and that if trade was not to be needlessly cramped some form of relief must be devised. This difficulty was felt most at Shanghai, and it was there in the early sixties that Mr. G. H. Fitzroy, the Commissioner of Customs, originated the plan of allowing steamship owners and agents to land and store in their godowns, import cargo, for which consignees had not yet come forward, and of extending to them "a few days of grace . . . in order to allow them to adjust the accounts after the clearance and departure of the vessel." Such non-duty paid cargo was kept under Customs supervision, and was not allowed to be taken delivery of until all claims to duty had been satisfied.[2] This non-treaty privilege

[1] *antea* Chap. II; §5. pp. 99-100.

[2] C.P. *Reports on Trade at the Ports in China open by Treaty to Foreign Trade for the Year 1868.* Shanghai, pp. 9 & 10.

—not recognized in the Shanghai Customs Regulations of 25th July, 1859—was an undoubted boon to shipowners and merchants, and soon hardened into the present Annual Guarantee practice. It was quickly found, however, that the "few days of grace" were insufficient, and in 1864 the Shanghai Commissioner, then Mr. T. Dick, laid before the Inspector General the proposal that a system of storing goods, approximating to the bonded warehouses of Europe and America, should be introduced. His suggestion was that imports might be stored for a limited period before payment of duty in godowns on the water front, specially approved and controlled by the Customs. Such duty-free storage was to expire a month after the departure of the importing vessel, while the merchant benefited was to give the Customs a guarantee that on or before such expiry all dues and duties leviable would be paid.[1] Nothing came of this proposal at the time, but Mr. Dick continued to give the bonding question his close attention, and in 1869 reported that in order to facilitate the quick discharge of vessels he had established a branch of the Haikuan Bank in the Custom House to receive export duties before shipment of the goods, and that as regards imports the Chamber of Commerce had proposed that such should be allowed "to remain after the despatch of vessels under bond at public warehouses." The Commissioner expressed the hope "that the temporary measure proposed for imports might be a stepping stone to a regular bonding system" His hopes, however, were dashed, for the reply from the Inspector General was that he was "Not to make any promise, undertake the carrying out of any suggestion, give cause for speculation as to future changes, or involve the Maritime Customs in any way, without the sanction of this Office to the steps proposed to be taken by you."[2] The Government, in short, was not in the mood to sanction a scheme which bade fair to involve them in complications and difficulties without any counterbalancing advantages. In the meantime the guarantee system, introduced by Fitzroy, had become an established one. After some unfortunate experiences, however, of guarantees that could not be enforced, the Inspector General in 1868 issued instructions that in future every such guarantee was to be signed not only by the merchant or firm proposing it, but also by two sureties, the one a merchant or firm of undoubted solvency, and the other the Consul, who entered the ship, in his official capacity.[3]

[1] C.A.; Dick to Hart, desps. Nos. 9 and 22 of 1864.

[2] C.A.; Dick to Hart, desps. Nos. 17, 91, 125 and 129 of 1869, and Hart to Dick, desps. Nos. 10, 47 and 74 of 1869.

[3] C.A.; I.G. Circ. No. 17 of 1868.

Local alterations of treaty tariff rates, without previous assent of Tsungli Yamên, forbidden.

§ 16. The existence of a fixed tariff with hard and fast rates, and of a unified organization, under a central authority, functioning at all the ports to enforce those rates impartially would, to the average official and trader of today, be sufficient guarantee that strict uniformity in the application of the tariff was now a fully accomplished reform. In the sixties of last century, however, officials and traders were not so sanguine, and in fact some of them did not wish to be. They lived too close to the days when accommodation in tariff rates could be had for a consideration. The Customs organization was as yet young, and although it worked under the watchful eye of a unifying head, yet at each port the local tradition of separatism was still so strong that at times local interests could prevail upon the Chinese Customs Superintendent to take action with his colleague the foreign Commissioner to alter a tariff rate without referring the matter to headquarters. This naturally bred confusion, for as the alteration was usually one in favour of the merchant, it meant that there was grave danger of a system of local preferential rates springing into being, a system which would, if allowed, stultify the very purpose of the treaty tariff. To obviate this danger an order went forth in April, 1866[1] from the Tsungli Yamên that as departures from the rates of the treaty tariff, sanctioned by local Customs authorities without the previous assent of the Tsungli Yamên, had resulted in considerable inconvenience to traders when the altered but unauthorized rates were cancelled by the Yamên, it was to be clearly understood that in future no change was to be made in tariff rates until the Yamên's approval had first been obtained. From then on, local decisions on tariff questions ceased, and in their place grew up the arrangement by which all questions regarding tariff rates or tariff classifications were referred to headquarters, by the Commissioner to the Inspectorate and by the Superintendent, if necessary, to the Tsungli Yamên, or later the Shui-wu Ch'u. More often than not the Superintendent refrained from action, leaving to his foreign colleague the task of making the required representations to the Inspector General, who since August, 1865 had been instructed to take up permanent residence in Peking, and who could therefore most easily make both oral and written representations to the Yamên. The decisions were communicated by the Inspector General to the port Commissioners either by despatch and/or by circular—

[1] C.A. I.G. Circ. No. 12, of 1866.

that is, a printed despatch for transmission to all officers in charge of ports, but as tariff questions affected all ports directly or indirectly, the practice gradually grew up from the early eighties of embodying in special circulars all decisions on tariff questions.[1]

Revenue, central and provincial, derived from legalized opium trade.

§ 17. Legalization of the opium trade did not put an end to the smuggling of the drug. That went on, principally from the free trade depôt of Hongkong.[2] The bulk of the trade was gradually brought under control, however, and at once began to bring in much-needed revenue to the Imperial treasury. For the nine months 1st October, 1860 to 1st June, 1861 at least three lacs of Taels were collected by the Customs for the Government. Four years later, that is from 1st July, 1864 to 30th June, 1865, the Customs collection on opium had risen to one million seven hundred thousand Taels, a result due both to increased trade and improved control. The following year it had reached the two million mark, and was practically double the amount of revenue realized on all other imports. But it was not the Imperial exchequer alone upon which these refreshing showers descended. The provincial authorities, having been in enjoyment of a highly welcome income from the drug when it stood outside the law, had no intention of passing a self-denying ordinance now that the trade had the official sanction of the Central Government, for whose benefit the Customs revenue, not only on opium but on all imports and exports, was being garnered. From all sides rose the cry of the opium traders against the heavy exactions—in the shape of *likin, octroi,* defence tax, monopoly tax, etc., etc.,—levied by the local authorities to make up for the loss of their former perquisites. At Foochow, for instance, these local levies amounted to Tls. 84.64 per picul;[3] at Amoy they ran to Tls. 74.88 per picul;[4] while at Shanghai they stood as high as Tls. 91.38 per picul.[5] At Canton opium imported through the Canton Custom House was called on to pay levies amounting to Tls. 64.40, including duty, before it could be released for consumption in Canton, and Tls. 25.30 in addition

[1] C.A. I.G. Circ. No. 159, 2nd Series.

[2] In the Canton area alone it was estimated that for every chest declared at the Customs four were smuggled.

[3] B.P.P.: *Commercial Reports from Her Majesty's Consuls in China, Japan, and Siam 1865-66;* p. 41.

[4] *Ibid.* p. 195.

[5] Customs Trade Report for the year 1866.

if shipped from Canton for consumption in the interior, while opium shipped in junks direct from Hongkong to Kongmoon escaped with a total levy of Tls. 38.40.[1] As a result of an investigation carried out by the Customs in 1868, it was revealed that the amount of internal charges on opium per picul at the treaty ports then open was as follows:[2]—

Port	Import Duty	Local Port Charges	Charges *en route* to inland market	Total
	Hk.Tls.	Tls.	Tls.	Tls.
Newchwang	30.000	18.600	10.197	58.797
Tientsin	30.000	17.000	Tls. 36 to Peking Tls. 17 to Shansi	83.000 64.000
Chefoo	30.000	18.600	—	48.600
Hankow	*30.000*	*13.920*	*16.564*	*60.484*
Kiukiang	30.000	34.000	16.960	80.960
Chinkiang	30.000	38.400	24.000	92.400
Shanghai	30.000	44.740	—	74.740
Ningpo	30.000	34.000	—	64.000
Foochow	30.000	84.640	20.860	135.500
Tamsui	30.000	32.136	—	62.136
Takow	30.000	45.340	—	75.340
Amoy	30.000	90.290	—	120.290
Swatow	30.000	11.050	3.710	44.760
Canton	30.000	23.000	25.340	78.340

Basing our calculations on the charges specified in this table and on the actual quantities of the drug imported at the above ports during the year 1868, we find that the total import duty collected on behalf of the Imperial exchequer was in round figures Tls. 1,600,000—four-tenths of which was by Imperial order remittable to Peking—while the total collected by the provincial authorities from their charges was approximately Tls. 2,600,000. Obviously, as a source of revenue, legalized opium had proved a great success, more so for the provinces than for the Capital, but the inequality of the charges levied by the provincial authorities, and the abuses springing from this inequality, could not fail to rouse attention now that tariff revision was once more under discussion.

[1] B.P.P. *Commercial Reports from Her Majesty's Consuls in China, 1869;* p. 37.

[2] C.P. *Returns of the Native Charges, as far as they can be ascertained, levied on the principal Imports and Exports, at and near the different Treaty Ports in China,* Shanghai, 1869, p. (1).

Proposed revision of Treaty of Tientsin: The Burlingame Mission.

§ 18. Revision of the tariff and of the commercial clauses in the British Treaty of Tientsin had been provided for by Article XXVII of that treaty which stipulated that at the end of ten years either of the high contracting parties might demand such a revision. Alcock, now British Minister, when on tour round the ports in the late spring of 1867, received from the merchants at various places representations on the subject. Chefoo merchants wanted their port to be made a free trade centre so that it might become the Hongkong of North China. Kiukiang strongly urged the opening of the Poyang Lake with its tributary rivers to steam navigation, while Chinkiang emphasized the maladministration of justice and suggested that the salt trade should be thrown open to foreign participation.[1] On reaching Shanghai, Alcock issued a circular to all British Consuls calling on them to ascertain what modifications the merchants would desire in case treaty revision became actual. He reported his action to Lord Stanley, then Secretary of State for Foreign Affairs, who in expressing his approval stated that—"Her Majesty's Government neither wish, nor have they the right, to impose sacrifices on China, even though they may be convinced that the inconvenience of such sacrifices will be only temporary, whereas the benefit which will result from them will be lasting. We must not expect the Chinese, either the Government or the people, at once to see things in the same light that we see them; we must bear in mind that we have obtained our knowledge by experience extending over many years, and we must lead and not force the Chinese to the adoption of a better system."[2] To ensure that no one entitled to express an opinion on the subject should be overlooked, a circular was sent out from the Foreign Office to all the leading Chambers of Commerce at home, drawing attention to the proposed revision of the Treaty of Tientsin and calling for suggestions and comments.[3] Both sides wanted revision, but as the views and wishes of the two parties were diametrically opposed, both sides got ready for the fray. The Chinese Government was naturally apprehensive that a revision would only mean demands for further concessions, and Heaven knew in what difficulties and vexations they were involved by the concessions already extorted from them. These exacting

[1] Alcock to Stanley, 10th June, 1867. B.P.P. *China No. 5 (1871)*. pp. 1-5.

[2] B.P.P. *China No. 5 (1871)*, p. 8. Stanley to Alcock, 16th August, 1867.

[3] *Ibid* pp. 9-12.

foreigners with their fixed belief in the efficacy and inviolability of treaties had, in the opinion of most Chinese officials, wrought incalculable mischief by rigidly insisting on dealing solely with the Central authority and by holding that authority, and that authority alone, responsible for all breaches, real or imagined, of treaty stipulations committed by local and provincial officials. "Beset by difficulties on all sides, conscious of their own weakness, unable to determine how far they could evade the responsibilities which had been forced upon them, [and] ignorant of the ultimate designs of foreign governments"[1] it is not to be marvelled at that the Government seized with alacrity a proposal which promised them relief from further pressure. That proposal, for which Hart was partly responsible, was that China should send an embassy to the Western Powers to disabuse them of the idea that China was retrograde, to advocate the right of the Chinese to manage their own affairs, and to plead that if they could not be relieved of the embarrassments created by the existing treaties, at any rate no fresh burdens should be laid upon them by stipulations involving changes in the fiscal, commercial, and social systems of the Empire.[2] The activities and the outcome of the Burlingame Mission do not concern us here, but the fact of that Mission and of the attitude towards China that inspired its inception must be kept in view when considering the tariff and treaty revision proposals of 1868-69. Prior to the final decision that called the Mission into being, the Tsungli Yamên, in order to ascertain the views of the provincial Viceroys and Governors, had issued a circular calling on all these highly-placed officials to submit their suggestion how the revision could be so handled as to avoid a rupture, and in case of rupture being inevitable what would be the best means of ensuring safety. Fresh concessions were not to be considered, but definite expressions of opinion were wanted on such subjects as the granting of an Imperial Audience to foreign Plenipotentiaries, the appointment of Chinese Ministers abroad, residence of foreign merchants in the interior, telegraphs and railways, the salt trade, the development of mines, and the missionary problem. Not a word was said about the tariff nor about the all-important subject of trade taxation. From the political point of view, the gubernatorial

[1] Reply of Mr. J. Ross Browne, American Minister to China, to an Address presented by American and English Merchants; Shanghai, 17th July, 1869.

[2] F.O. 17/496: Alcock to Stanley, desps. Nos. 2, 3, 13 and 29, 6th and 22nd January, and 26th February, 1868. F.O. 17/521; Alcock to Clarendon, desp. No. 30, 6th April, 1869, enclo Alcock to Burlingame, 2nd April, 1869.

replies were interesting, especially those from the Viceroys Li Hung-chang and Tseng Kuo-fan, but as the tariff and trade taxation had not been mentioned, the Viceroys naturally left them out of consideration.

Memorials from merchants on desired reforms: Complaints and suggestions from Shanghai Chamber of Commerce.

§ 19. Foreign merchants, however, were not so indifferent to these issues. To them the questions of Imperial Audiences, representations abroad and so forth were secondary; the vital issues were such questions as the right of residence for trading purposes in any part of China, the failure of the transit pass system, the exaction of inland levies, principally *likin*, the cumbersome action of diplomacy in cases of disputes between foreigners and Chinese, the right of inland navigation, and the revision of certain tariff rates. On the invitation of Sir Rutherford Alcock, the British Minister, they embodied their views and demands in a series of memorials which although deficient in sweet reasonableness lacked nothing in clarity as to their meaning.[1] After having given the Treaty of Tientsin a friendly pat on the back as having been on the whole a success as shown by the expansion of trade in spite of taxation impediments, in spite of the rebellion, and in spite of the unprecedented rise in the price of cotton manufactures consequent upon the outbreak of the American Civil War, the Shanghai Chamber of Commerce in its memorial launched out into a formidable list of grievances. Chief among these was the refusal of those in authority to interpret the four words "or at other places" in Article XII as giving permission to foreign merchants to rent land and houses and carry on trade in the interior in the same manner as at a treaty port, with, of course, all the blessings of extraterritoriality thrown in. "The provision most essential to the progress of foreign trade has been deprived of all practical effect, and the grand design of the Treaty of Tientsin, namely, the penetration of foreign goods throughout the interior, and the purchase by foreigners of China's produce at the places of growth, together with immunity in either case from illegal taxation of every kind have been altogether nullified."[2] Was ever so portentous an argument built on so flimsy

[1] B.P.P. *Memorials addressed by Chambers of Commerce in China to the British Minister at Peking on the subject of the Revision of the Treaty of Tientsin.* 1868. *China No. 12 (1869)*: *Correspondence with the Chamber of Commerce at Shanghai respecting the Revision of the Treaty of Tientsin* 1869. *China Nos. 1, 2, 4, 6, 10, and 11 (1870)*. *China No. 5 (1871)*.

[2] B.P.P. *Memorials*, etc. p. 2.

a foundation? Complaint was made of the local taxes, which had been in force since 1860, levied by the Chinese authorities on foreign goods between the warehouse of the importer and the native shop in the foreign settlement. These local taxes were on a scale of half the import tariff duty. The transit dues clauses, too, were openly flouted; imports that had paid the two and a half per cent transit due were so heavily taxed at the inland barriers that it was "impossible for a single bale of foreign manufactures to penetrate 100 miles into the interior of the country".[1] Similar heavy imposts were being laid on native produce *en route* to a treaty port for export abroad; the levies on silk alone were equal to three times the export duty. Attention was also drawn to the fact that it had only been within the past year that any attempt had been made to apply part of the tonnage dues collection to the erection of much-needed lighthouses and aids to navigation. The memorialists, therefore, asked for (*a*) the right of residence in the interior for purposes of trade within a fixed radius of 200 miles from some, or all, of the treaty ports; (*b*) the right of inland navigation, that is "the right to convey specie and merchandise in steam cargo boats up and down the navigable creeks connecting the country districts with the shipping ports";[2] (*c*) the right of exemption of foreign goods from all levies in excess of the treaty tariff duties, this right to cover not only the goods themselves, but also all those trading in such goods; (*d*) the reform of the transit dues system by which these dues instead of being paid to the foreign-controlled Customs at the treaty ports should be made payable direct to the provincial authorities at the market where imports are sold or export produce is bought, so as to allow the provincial authorities to enjoy that part of the revenue which they regard as theirs by right; (*e*) the introduction of some more definite system for deciding upon the manner in which tonnage dues should be devoted to the erection of light-houses and other aids to navigation; and (*f*) the protection of foreign interests in cases of Customs confiscations and fines, by arranging that in future all confiscations, which hitherto could be made freely by the Chinese Customs authorities, should be held merely as security, pending the infliction of a fine by the Consul or court of the foreigner concerned. The rates of the tariff generally the memorialists regarded as satisfactory, but they suggested that the duties on tea dust, pepper black and

[1] B.P.P. *Memorials*, etc. p. 3.

[2] *Ibid.* p. 5.

white, and tin plates should be reduced, that the duty on watches should be placed on a five per cent *ad valorem* basis, that a conference should be held to arrange an equitable tariff on timber, that the import duty on coal should be abolished, that the prohibition on the import of salt should be removed, that drawbacks should be payable in cash without limit of time for such encashment, and that the privilege of free import of goods intended for the use of foreigners should be enforced and extended.

Proposals from merchants at Foochow and Tientsin.

§ 20. The Foochow memorialists were similarly insistent that the *likin* exactions of the provincial authorities had killed the transit trade and rendered the Transit Dues Article (XXVIII) of the Tientsin treaty a dead letter. As a substitute for this abortive system, they suggested that *likin* on all goods, import and export, should be stabilized at half the rate of the import or the export duty, and that these rates be left to the local authorities to collect, the merchants having the right of appeal to the Consul and the Commissioner of Customs in any case of a higher or additional levy. They requested that the export duty on tea should be reduced as the rate of Tls. 2.500 per picul worked out at approximately ten per cent of the average price. In addition to the usual suggestions regarding lighthouses, residence in the interior, and the abolition of coast trade duties they advanced the original proposal "that vessels should be allowed to trade wherever they please along the coast, under Custom Houses permission and regulations, . . . ; the vessel declaring her intended voyage at the treaty port from which she starts, and giving a full report of her cargo before starting, and also on her return to the same or the next other treaty port at which she calls."[1] This suggestion is the germ of what was subsequently developed into the Inland Waters Steam Navigation Procedure. From Amoy, too, rose a bitter cry against the arbitrary *likin* exactions. "It is impossible for us to express ourselves too strongly on the subject of these illegal exactions. . . . We are prepared to prove that these taxes range from four and three quarters per cent to ninety per cent, and that under this heavy incubus our trade has materially diminished. It would certainly be preposterous to expect anything else, particularly when our goods can be undersold in our own legitimate consuming districts by importations overland from neighbouring pro-

[1] B.P.P. *Memorials*, p. 15.

vinces where no such illegal taxes exist."[1] The memorialists also charged the free trade foreign port of Hongkong with having ousted Amoy from being the headquarters in South China of the trade with Siam, the Straits, and Java. For this, too, the new foreign-controlled Custom House was partly to blame, firstly, on account of its strict methods in Amoy itself, and, secondly, because it lacked a proper preventive service on the coast, thereby giving encouragement to the active smuggling that prevailed. As regarded the tariff and tariff rates, the memorialists were of opinion that the export duty on tea should be reduced to a five per cent *ad valorem* rate, as the then levy on the average value of common Anhui tea worked out at no less than thirty-five per cent, a rate which made competition with Japanese tea of the same class impossible. Conveyance of salt coastwise, under bond, by foreign vessels should be permitted, and its export abroad should also be sanctioned. The rates on cotton and on woollen piece goods, they thought, should be reduced by one half, the latter on account of competition with Russian goods which reached China overland. Dock materials and foreign coal for use in foreign vessels should be allowed the privilege of import free of duty, while the duty on native coal was excessive, being thirteen times higher than that on foreign coal. They pressed for the abolition of coast trade duties on the ground that they were not provided for by treaty stipulations, an astonishing claim to advance, in view of the fact that foreign participation in the coasting trade in native produce was, as we have seen, a privilege and not a treaty right. Having been admitted to the privilege, they now desired to enjoy it on their own terms. Like their colleagues at Foochow they, too, had hit upon the idea which afterwards materialized as the first form of Inland Waters Steam Navigation Procedure. "We would propose that it be imperative that all vessels going to any of these ports [*i.e.*, any port on the coast not a treaty port] must from the nearest treaty port where they would deposit their papers, give bond, take out a special permit and afterwards return to the same treaty port to clear out in the usual manner. We think that without some salutary regulations such as we have pointed out, the trade would speedily degenerate into a smuggling one."[2] Apart from a few suggestions of purely local interest, the memorial from the Tientsin merchants was in substance mainly a reiteration of what had been submitted by memorialists at other ports. It contained, however,

[1] *Ibid.* p. 18.
[2] B.P.P. *Memorials*, etc. p. 21.

a few innovations such as the proposals that Mongolia should be thrown open to foreign colonists, that foreigners be permitted to own coal and iron mines in China and to work them on foreign principles, that bonded warehouses be established at all treaty ports, that Peking be opened to foreign trade, that foreign merchants be allowed direct intercourse with Chinese officials instead of being obliged to carry it on through the Consuls as hitherto, and that as the values of goods became lower through the introduction of railways and inland steam navigation duties should be lowered *pari passu* with such decreased values. The foreign mercantile communities at the treaty ports, it is clear, had a firm belief in the future of China, or rather in their future in China, provided that their ideas of what they considered progress and enlightenment were carried out, and coupled with, and as overweening as, that confidence was the assumption that their interpretation of the meaning of certain disputed treaty stipulations was the only correct one. Their claims displayed in many cases an astonishing ignorance of the real facts of the situation and of the difficulties in the way, and too much of a selfish indifference to the traditions and sentiments of the Chinese.

Attitude of Hongkong merchants.

§ 21. This attitude comes out very clearly in the memorial from the merchants of Hongkong, who *enjoyed the advantage of living directly under* the ever-present protection of British arms, and of carrying on trade, legitimate and illegitimate, from the privileged position of a vast free-trade depôt. Thus safely ensconced, the memorialists could afford to be fire-eating swashbucklers and they grasped the opportunity to indulge their fancy. They deplored the attitude of passive resistance shown by the Chinese authorities as "barring the way to commercial progress", they demanded that short shrift should be given to such obstructiveness and to effect this they desired that the power of the Consuls be increased "by the occasional display, if not employment, of more than moral force". As travel in the interior had in the past been prevented "by the evident ignorance of the Chinese people" they suggested that the terms of the treaty should be made known throughout the Empire. For the development of Hongkong's trade they requested that steam traffic be permitted on the West River beyond Canton, that as treaty privileges had been withheld liom merchants wishing to trade at Chao-chow (Swatow) the Tsungli Yamên should make an example of the Prefect of the city by having him removed from office, and that

as trade with Kiungchow was permitted only to vessels clearing from Canton a British Consul should be sent to Kiungchow "to perform all necessary acts connected with the opening of the port" even if "the protection of a gunboat would for a time be requisite". They were convinced that reduction of tariff rates would lead to expansion of trade "to an extent that would actually give more revenue than was collected under the higher scale of duties"; in this matter they were anxious "that Her Majesty's Government should bear in mind the importance of combating the notion of anything approaching to a retrograde movement." As a *quid pro quo* for Great Britain's reduction of her import duty on Tea from 1*s.* 9*d.* to 6*d.* per pound, the memorialists advocated that the rates in China's import tariff on all textiles and metals be reduced by one half. *Likin* and other internal levies on trade came in for the usual castigation and were denounced as "an unwarrantable breach of the treaty". The stipulation calling for the payment of tonnage dues should, in their opinion, be abrogated unless an adequate return be made by the Chinese authorities in the suppression of piracy and the provision of lighthouses and aids to navigation, and as the British Navy was actively engaged in the suppression of piracy on the China coast "it may not be deemed unreasonable to propose that a portion of the tonnage dues paid by foreign vessels, and those bearing the flags of Powers having no naval force in China, be returned to Her Majesty's Government half-yearly by the Maritime Customs in recognition of services rendered."[1] The Joint Investigation Rules, which could be invoked in cases of fine or confiscation, were not viewed with favour; they limited "the judicial functions of British Consuls" and placed "them in juxtaposition with Chinese officials, their inferiors in rank. The Chamber therefore begs that in all cases the British Consul will be instructed to adjudicate in person, and be entitled to call a Court at the British Consulate, and that, at the invitation of the British Consul, the Chinese officials representing the Customs be invited to assist in the hearing of the case. This Chamber has from the very first denied the right claimed by employees of the Chinese Maritime Customs to adjudicate in cases of contravention of the Revenue laws."[2] The memorialists, jealous of a trade in which they could not partake, further objected to the Chinese Government's camphor monopoly in the island of Formosa, and characterized this restriction as a "contravention

[1] B.P.P. *Memorials;* p. 26.
[2] *Ibid.* p. 27.

of the obligations entered into by the Chinese Government." Finally, they protested emphatically against the withdrawal from Hongkong of the privilege, allowed at all treaty ports, of transhipment without loss of status of native goods *en route* from one treaty port to another; they claimed the advantage, but they flatly refused to allow the condition necessary for such an advantage, namely, supervision in Hongkong of such transhipments by officers of the Chinese Maritime Customs. With justice might it have been said of these commercial conquistadors what Talleyrand said of the French émigrés—"Ils n'ont rien appris, ni rien oublié".

Commission to discuss treaty and tariff revision appointed by Tsungli Yamên and the British Minister: Part played by Hart on this Commission.

§ 22. The upholders of coercion, however, were not destined to win the day. In Peking the Tsungli Yamên and the British *Minister*, *Sir* Rutherford Alcock, nominated a commission to discuss in detail the whole subject of treaty and tariff revision and to submit their findings to their principals.[1] Mr. Wade, the Chinese Secretary of the British Legation, being then on leave, and Mr. McLeavy Brown, the Assistant Chinese Secretary, having gone as interpreter with the Burlingame Mission, the British were represented by Mr. H. Fraser, Second Secretary of Legation, and Mr. T. Adkins, of the British Consular Service. As their delegates the Tsungli Yamên appointed two of their most experienced secretaries and Mr. Hart, the Inspector General of Customs, who, by his personality as well as by his experience and wide and thorough knowledge, quickly and naturally fell into the position of leadership. During 1868 and 1869 the Commission held frequent meetings, but early in its career it was decided that as many of the issues raised by the memorialists were subjects coming within the purview of the Burlingame Mission, it was only fitting, at least for the meantime, to rule them out of discussion. Led by Hart, the debates of the Commission were brought to concentrate on fiscal and tariff questions. For such debates the Inspector General was well prepared. Through his Commissioners of Customs at the various ports he had obtained the fullest and most up-to-date information both on the trade of the country and of the bearing of the 1858 tariff on that trade, as well as information on the various internal taxes on trade, as far as they could be ascertained, levied on the principal imports and exports at and near the different treaty ports in China. Taking the figures for the year 1867, the Inspector

[1] B.P.P. *China No. 5 (1871)*, pp. 99, 100, 102, 110.

General had no difficulty in showing that out of an approximate total revenue of eight and a half million taels the duty on the foreign trade, import and export, accounted for eighty-one per cent, while the duty on the domestic trade, that is, on the native goods carried coastwise in foreign vessels for native consumption, made up the remaining nineteen per cent. Taking the foreign trade by itself, import duties were a little over forty-five per cent of the total and export a little less than fifty-five per cent. Among the imports the dominant feature was, of course, opium, the duty collected on which made up nearly sixty per cent of the total import duties, a fact which illustrates the paramount influence of this article in China's trade at that time; next to opium stood cotton piece goods, which had brought in a little under thirteen per cent of the total allowed by woollen piece goods, which had been responsible for a little over nine per cent of the total. Of the exports tea stood an easy first, having eighty-five per cent of the total export duty collection to its credit, followed by raw silk with ten and a half per cent of that total. Silk piece goods accounted for less than one per cent. In the domestic trade in native goods carried coastwise in foreign vessels for native consumption the duties collected on sugar, peas and beans, raw silk, cotton nankeens, paper, vegetable oils, medicines, chinaware, and tobacco made up about seventy per cent of the total coastwise duties collected. These coastwise duties, it is well to remember, comprised not only the coast trade duty, or half the export rate, which has been already described, but also a full export duty levied on all native goods not destined for abroad when carried in foreign bottoms from one treaty port to another. To-day (1937) this export levy carries the more appropriate title of interport duty. On the basis of the average values of the imports listed, the Inspector General demonstrated that the so-called five per cent tariff—even if it had been such at the time it was drawn up—was a myth. The rates of levy, in fact, varied from 0.59 per cent on foreign coal to 44.80 per cent on pictures. Ginseng paid at the rate of twelve and a half per cent, cotton umbrellas at almost ten and a half, opium at six and three quarters, cotton piece goods at three and a half, raw cotton at a little over two and a half, metals at five and a half, and Japanese tea leaf at over twenty-two per cent. Of the hundred and ninety-nine articles listed, one hundred and twenty-two paid five per cent or over, and the remaining seventy-seven less than five per cent. On the basis of the average value of the goods concerned the export rates showed a range from 0.03 per cent

on goldware to twenty-one per cent on native coal. The rate on black tea worked out at almost eleven and a half per cent, on green tea at eight and a half, on brick tea at almost seven and a half, on raw silk at approximately three per cent, and on silk piece goods at two and a half. Of the two hundred and eighty-five articles listed, one hundred and eighty-eight paid five per cent or over, and the remaining ninety-seven less than five per cent.[1] The main question at issue, however, with the Commission was not the treaty tariff and its rates, but the levy of internal trade charges, which the merchants claimed were contrary to treaty, as they nullified the purpose of the transit dues clauses. Here Hart, while admitting that *likin* and other internal levies were a clog on trade, took the stand that their perception on goods belonging to foreign merchants, even when covered by transit pass, was not necessarily an infraction of the treaties. He pointed out that in the opinion of the Chinese a transit pass was meant to protect goods only while actually in transit between two given points, namely, treaty port and inland place, or *vice versa*, but could not and was not intended to protect goods from such levies as production and consumption taxes, or local municipal charges. To the merchants and to most of the foreign officials on the spot such an argument seemed mere quibbling, but as we shall see, it was Hart's view that was finally accepted by the higher British authorities as the correct one. In the meantime, the Commissioners of Customs at the fourteen treaty ports then open had sent detailed and carefully prepared returns showing as far as could be ascertained the internal charges levied on the principal imports and exports.[2] Certain incontrovertible facts emerged clearly from these returns. The first was that, leaving aside opium, which was not entitled to the treaty privilege of being sent inland under transit pass, on the principal imports such as grey shirtings, English camlets, raw cotton, and metals the native charges, leviable at the port of entry and at the barriers *en route* to the principal market in the interior, were with one or two exceptions much heavier than the transit due levy. At Tientsin such charges on grey shirtings

[1] C.P. *A Set of Tables showing the Bearing of the Chinese Customs Tariff of 1858 on the Trade of 1866 and 1867, compiled from the Returns of Imports and Exports, and of Native Goods carried in Foreign Vessels for Native Consumption.* Shanghai, 1868.

[2] C.P. *Returns of the Native Charges, as far as they can be ascertained, levied on the Principal Imports and Exports, at and near the different Treaty Ports in China, and of the Quantities of Goods on which such Charges are levied as compared with the Quantities paying the Transit Dues specified by Treaty.* Shanghai, 1869.

bound for Peking were six times the transit due rate, but if destined for Shansi were only twenty-five per cent more than the transit due rate, at Hankow such charges were more than double, at Kiukiang more than treble, at Chinkiang over eight times, at Shanghai, Foochow and Amoy four times, and at Ningpo almost five times. It was only at Newchwang and at Swatow that in their case were they less. On English camlets at Tientsin these native charges were less than one-third the transit due rate, while at Foochow they mounted to six times that rate, at Hankow they were about double, and at Amoy almost treble. Newchwang and Swatow once more shared, in this case with Tientsin, the honour of charging less than the transit due rate. On raw cotton Canton had the proud distinction of levying native charges ten times as great as the transit due rate, Swatow levied almost three and a half times the transit due rate, and Amoy a little over two and a half times. On metals Hankow and Chinkiang levied charges about double the transit due rate, Amoy and Swatow about two and a half times that rate, Foochow three and a half times, Ningpo six times and Shanghai almost ten times, while at Newchwang such levies were only two-thirds of the transit due rate. Taking the total quantities of these goods imported during 1868, these specially prepared returns showed that of grey shirtings only one-eighth went inland under transit pass, of English camlets one-thirteenth, of raw cotton nothing, and of metals less than one-twelfth. The balances in each case presumably found their way inland on paying the heavier native charges. The astonishing fact, however, is that even in districts where these native charges were heaviest the retail sale price of the articles affected at marts from one hundred to five hundred miles distant from the port of importation was so very little higher than the retail sale price at the port itself. At Tientsin, for instance, the retail sale price of a piece of grey shirtings was Tls. 2.20, while at T'ai-ku-hsien in Shansi, five hundred miles away, the same article, after meeting all native charges *en route* and at destination, sold for Tls. 2.50,– an increase of fourteen per cent on the Tientsin price which, considering the distance traversed, the primitive means of communication and the labour and risk involved in getting the goods to their destination, cannot be considered an exorbitant increase. In the Chinkiang area, where the native charges were unusually heavy, the retail price of the same article was also about Tls. 2.20 per piece, while at Huai-an-fu, a hundred and forty-five miles away, it sold, after paying all native charges, at Tls. 2.30 to

Tls. 2.50 per piece. Foreign merchants could wax vehement in their denunciations of these, to them, iniquitous internal levies, but it is noteworthy that the supplying of the detailed data regarding such levies was not done by the merchants, but by the Customs, and that consideration of this data does not entirely support the merchants' contentions. Turning to the principal exports, we find that on tea the native charges from places of production to port of shipment, including the levies at this latter place, were at Hankow slightly more than twenty-five per cent higher than the treaty transit due rate. In the Kiukiang district the charges on black tea were likewise twenty-five per cent higher than the transit due rate, while the charges on green tea were more than double the transit due rate. At Ningpo the charges were almost seventy per cent higher, while at Foochow they were almost double. At Amoy they were twenty-five per cent higher, but at Canton and Tamsui they were actually lower, in the former case a little over half of the transit due rate and in the latter they were only one-sixteenth of the treaty rate. On silk these native charges were exceptionally heavy; in the Hankow district they were almost three times the transit due levy, in the Shanghai area well over four times, and in the Ningpo a good four and a half. It was only at Canton that the local authorities seemed reasonable in their treatment of this article, for there the charges were only twelve per cent higher than the transit due rate. On cotton the officials at Chinkiang levied charges almost nine and a half times the transit due rate, and in the Ningpo district the levies were more than two and a half times that rate. In spite of these high local charges the returns for 1868 showed that of tea coming down from inland for export abroad only one-fifteenth took advantage of the transit due system. Of silk the quantity that came to the treaty ports under such protection was only one-thirtieth of the total exported, while of cotton the quantity claiming transit due privileges was considerably more than half of the total exported. These were striking figures. They proved beyond question that the transit pass system of the Tientsin treaty, both inwards and outwards, had failed to attain its object; but they did not prove that, even if at that time all foreign imports had gone inland under transit pass, and all tea and silk had come down from the interior under transit pass, the sum total of foreign trade would have been any greater than it was. Foreign merchants stubbornly refused to recognize the comparative weakness of China's purchasing power, the poverty and low standard of living of the vast majority of

her people, and persisted in speaking of China as an Eldorado to be exploited, an illimitable market capable of absorbing vast quantities of foreign products if only those iniquitous internal charges could be swept out of existence!

Alcock informs diplomatic colleagues of results of negotiations: France and Germany reserve their rights for further revision: Alcock's memorandum on the tariff.

§ 23. By the end of July 1868 the Commission had reached such a point in its discussions that Alcock decided he should report progress to his colleagues in the Diplomatic Body, firstly to indicate what had been agreed upon, which by the most favoured nation clause must be shared by all, and secondly to show that Great Britain was not attempting to obtain any exclusive advantages for British trade or interests. In his despatch to the Dean, M. Vlangaly, he laid stress on what he considered the main concession obtained so far, namely the pledge on the part of the Chinese that if all imports paid inward transit dues at time of importation an Imperial Edict would be issued abolishing for such imports every form of local and provincial taxation, and that native goods brought down from the interior would enjoy similar preferential treatment, provided they were actually exported abroad. The other concessions obtained he summed up as follows:—

"1. The framing of a code and rules of procedure for Mixed Courts.
2. The establishment of bonded warehouses.
3. The payment of drawbacks in specie if within the current quarter, and their receipt in payment of duties for three years.
4. To regulate payment of duties by fixing the value of sycee at each port.
5. To provide for steam requirements by allowing foreign machinery and assistance in working coal-mines.
6. To free dock materials from duty and to admit all household goods and personal effects, not for sale, also free.
7. To issue an Edict declaring the right to trade, and temporary residence throughout the interior.
8. To authorize inland navigation by foreign vessels (not steamers) for the transport of foreign goods.
9. To assist the expansion of steam traffic on the Yangtze by the addition of certain landing-stages for shipment and landing of goods and passengers at certain places

other than the ports already opened, namely, at Ta-tung, Ngan-king and Wuhu.

10 To open the port of Wenchow between Ningpo and Fu-chow, and also possibly others, if desired."[1]

As regards the tariff, it was suggested that it should be revised so as to bring all rates up to an effective five per cent *ad valorem* standard, except for the two articles tea and silk, the rates for which, it was proposed, should be doubled. The foreign representatives were not enthusiastic at the results gained. The mountains had been in labour and a puny mouse had come to birth. Comte de Lallemand, the French Minister, thought that the concessions offered were of little value and were not worth the price asked of double duties on tea and silk. He reserved France's right of revision in 1870.[2] Baron Rehfues, the Prussian Minister, also reserved Prussia's right of revision of tariff rates, but was sure that the doubling of the duties on tea and silk would be strongly opposed. The uniform five per cent tariff offered a great difficulty, because each treaty had its own tariff based on the special industrial interests of the country concerned. For Germany the list of free goods was of special importance.[3] M. Vlangaly, the Russian Minister, was frankly sceptical of the ability of the Government to make effective even the modifications agreed upon, but approved of the principle of equality between native and foreigner in the matter of trade facilities. To obtain rights of residence and of keeping business depôts in the interior, he thought that it would be worth while for foreigners to pay all local taxes as the Chinese did, and thought that the extra-territorial rights of foreigners might be reconciled with Chinese claims and practices. He, too, was doubtful about the doubling of the duties on tea and silk. The only one who hailed the proposed concessions with approval was Dr. S. Wells Williams, the American Chargé d'Affaires, who went so far as to designate the progress made as "a victory of peace." He considered the proposal for the control of transit dues a practical solution, though on account of weakness of Imperial control, it might fail in doing all that could reasonably be looked for.[4] With this modicum of commendation the Commission resumed its sittings, and the Minister his Sisyphean task of plying the Tsungli Yamên with memoranda on the findings and suggestions of the Commission. Among these memoranda there is an interesting one

[1] Alcock to Vlangaly, 5th August, 1868, B.P.P. *China No. 5 (1871)*, p. 240.
[2] Lallemand to Alcock, 9th August, 1868, *Ibid.* pp. 241-242.
[3] Rehfues to Vlangaly, 18th August, 1868, *Ibid.* pp. 244-246.
[4] Williams to Alcock, 13th August, 1868, *Ibid.* (1871), pp. 243-244.

specifically on the tariff[1] in which Alcock points out that in the opinion of the merchants and of the Diplomatic Body the time for a general revision of the tariff was not opportune. This opinion was directly at variance with the wishes of the Yamên, which desired a general revision, so that all the duties might be brought up to effective five per cent *ad valorem* rates, and a doubling of the existing rates on tea, silk, and opium. The Minister admits that such a tariff would bring in a largely increased revenue, but at the same time he believed that the same end could be attained without any additional taxation and under conditions favourable to both Chinese and foreigners. This, he believed, could and should be effected at some future date by a drastic simplification of the tariff. This simplification, he suggested, might consist in (1) reduction of articles in the import tariff to textiles, matches and opium, (2) reduction of articles in the export tariff to about eleven of the leading staples, and (3) compensation of the revenue loss thus involved by raising of the rate on raw silk and on silk piece goods to the original standard of five per cent. He admitted that this left out of account the revenue derived from the coasting trade of native goods in foreign bottoms and in junks, and that if the native goods now carried coastwise in foreign bottoms were to be exempted from coastwise duties, the same exemption privilege would have also to be extended to such goods when carried by junk. A still greater simplification, so far as mere increase of the revenue was concerned, would be to increase considerably, or even to double, the rates levied on tea, silk, and opium, and to offer as compensation for such increased levies the privilege of inland steam navigation. Thirty years had to pass before traders were granted this much-desired privilege, and during those thirty years the foreign trade of China was to undergo a revolution. Yet another of these memoranda, this time from Prince Kung, the head of the Tsungli Yamên, stands out for the proposals it contains. It suggests that on account of the great facilities afforded to smugglers by the presence of the free-trade depôt of Hongkong, the Chinese Government should be permitted to "appoint officials to reside at Hongkong for the express purpose of attending to the collection of duties in the interest of the Customs revenue."[2] This very definite suggestion

[1] Alcock's memorandum to Yamên of 5th September, 1868, B.P.P. *China No. 5 (1871)*, pp. 220-222.

[2] B.P.P. Alcock to Stanley, 14th December, 1868, enclo. Memo. from Prince Kung of 5th December, 1868. *Ibid.* p. 255.

was to the mercantile community about as welcome as a typhoon to a shipmaster. A second and equally unwelcome suggestion followed. It was that Great Britain and all the other Treaty Powers should in their dealings with China, collectively and individually, recognize the principle of reciprocity. The Prince pointed out that by the most favoured nation clause Great Britain was entitled to enjoy all advantages that China might allow to other treaty powers, and proposed therefore that "in the event of any treaty power conceding privileges to China, Great Britain should also make the same concession. For if the advantages of any arrangements made between China and a foreign Government are to be enjoyed by all treaty powers alike, it follows that all should alike concede the privileges which may be conferred upon China by any such arrangements."[1] Alcock had by now realized that the Chinese authorities were immovably determined "to refuse inland navigation by steamers; inland residence, with right of renting or building locations; the working of mines by foreigners on their own account; the introduction of railroads and telegraphic lines",[2] all of which were regarded as essentials by foreign traders, the self-appointed apostles of progress in China. To attain their end Alcock saw clearly that as things were it could only be done by the employment of force. "We cannot re-model the Chinese Empire and people, with their national institutions and system of government, by treaty stipulations. We cannot suddenly change the character and customs, any more than the language, of an Asiatic race, however convenient or desirable it might be to assimilate both to European types. But Western Powers may do incalculable mischief by making the attempt. Both change and progress may be initiated by force, but neither can be carried beyond a certain point

[1] Alcock to Stanley, 14th December, 1868, enclo. Prince Kung's memo. of 5th December, 1868, B.P.P. *China No. 5 (1871)*, p. 256.

[2] Alcock to Stanley, 23rd December, 1868, *Ibid.* p. 262. Three months later Alcock wrote to Burlingame;—"We see by the public press that you seem in a fair way of succeeding in one at least of the principal objects of the Mission in obtaining from the several Governments distinct pledges of forbearance, and a formal renunciation of a meddling and dictatorial policy. And this, doubtless, as you and I were perfectly agreed was much needed. But, on the other hand, we who are here cannot help feeling that if these promises or engagements by Treaty Powers are made with any hope that the Chinese Government will itself initiate improvements such as railroads, or telegraphs, or opening of mines—will adopt in any true sense of the word a *progressive policy*—they are certainly misled." Alcock to Burlingame, 2nd April, 1869, enclo. in Alcock to Clarendon, desp. No. 30, 6th April, 1869, F.O. 17/521.

without danger of disintegration."[1] Support for this point of view came from an unexpected quarter. In a lengthy despatch to the Foreign Office the Board of Trade discussed in detail the concessions proposed to be granted, reviewed the extent of British trade in China, and expressed their conviction that "the aggressive policy even if confined to moral agencies would have one of two results:—(1) the disorganization of China, politically and socially; (2) the development of its industrial and commercial capabilities in a rapid and decisive manner." They were not blind to the advantages of an efficient central administration and of a well-organized Customs system, but at the same time they saw that the adoption of the practical appliances of Western civilization, of steam and machinery, could "hardly fail to prepare the way for an organization of manufacturing industry which would compete keenly with that of Europe" and that increased intercourse would "consummate that which has commenced already, *viz.*, the transference of the mercantile coast trade of China from foreign to native hands and thus blot out one of the British interests in China." In the circumstances, the Board of Trade were convinced that the only safe course for Her Majesty's Government to pursue in China was "to confine their efforts to the consolidation of the position already obtained by patient, moderate, and gradual negotiation, and by bringing to bear, as much as possible, the moral influences derived from the principles of international equity which regulate and control the intercourse of civilized nations, and from the concerted action and coöperation of all the Treaty Powers."[2]

Progress of the Burlingame Mission: Hart's work in connection with Alcock Convention: Features of the Convention.

§ 24. While the Commission was in session the Burlingame Mission had visited both Washington and London, and had obtained at the two Capitals the assurances it had set out to obtain. At Washington this assurance took the form of a convention, signed on 28th July, 1858, the most important provision of which from the Chinese point of view was the article by which the United States Government pledged itself to leave China free to adopt or reject innovations and internal improvements, and also to use its influence with other Powers to this end. At London Lord Clarendon, who had just succeeded Lord Stanley as head of the Foreign Office, assured

[1] Alcock to Stanley, 23rd Dec., 1868. B.P.P. *China No. 5 (1871)*, p. 267.

[2] Mallet to Hammond, 19th May, 1869. B.P.P. *China No. 5 (1871)*, pp. 354-355.

Mr. Burlingame that so far as Great Britain was concerned "there was neither a desire nor intention to apply unfriendly pressure to China to induce her Government to advance more rapidly in her intercourse with foreign nations than was consistent with safety, and with due and reasonable regard for the feelings of her subjects." He declared further that "Her Majesty's Government feel that they are acting in the interest of the Chinese Empire, when they announce their preference for an appeal rather to the Central Government than to local authorities for the redress of wrongs done to British subjects. It is with the Central Government, and not with the provincial authorities, that foreign Powers have entered into treaties, and it is for the interest of the Central Government that foreign Powers should recognize its supreme authority over its provincial Governors, and that the Central Government should assume, and, on all occasions when appealed to for the redress of local wrongs, be prepared to exercise that authority."[1] Fortified with these declarations of non-interference the Chinese authorities came to regard the proceedings of the Commission with indifference, so that in the end, if it had not been for Hart, who acted as intermediary between the British Minister and the Chinese ministers of the Tsungli Yamên, the negotiations would have broken down completely. By his knowledge, experience, facility in Chinese, and above all by the trust in which he was held by both the British Minister and the Yamên, Hart was able to accomplish what no other man at that time could have done. He saved the treaty, and although it was destined never to be ratified, he helped to make it an outstanding landmark in the history of Anglo-Chinese relations, namely, the first treaty not to be exacted by force of arms. The convention which took shape from all these parleyings was signed on 23rd October, 1869 by Prince Kung and the ministers of the Tsungli Yamên as the representatives of China, and by Sir Rutherford Alcock as the representative of Great Britain. The very first article of the convention sounded a new note. By it, it was agreed that British subjects "desiring to participate in the advantages accorded by treaty to the subjects of other Powers shall participate in such advantages on the same conditions on which they have been accorded to, and are participated in by, the subjects of other Powers." As it was intended that the convention was to serve as a model for similar agreements between China and all the other Powers, such an article gave

[1] Clarendon to Burlingame, 28th December, 1868. B.P.P. *China No. 1 (1869)*, pp. 1 & 2.

the *coup de grâce* to the unjust anomaly by which certain Powers claimed by virtue of the most favoured nation clause the right to any advantages that might be granted to any other Power without being bound by the conditions under which such advantages had been granted. The transit dues bone of contention was dealt with in a novel way. For transit dues inwards it was agreed that all foreign piece goods, whether made of cotton, linen or wool, or of mixtures of these materials, should pay import duty and transit dues simultaneously at time of importation, and be thereafter exempt from all other charges and taxes whatsoever in treaty port provinces. For other articles and for provinces other than those in which treaty ports were to be found the former transit privilege was to continue in force. Following a suggestion thrown out by Baron de Meritens[1] among others, it was agreed that instead of transit dues outwards merchants conveying native produce *en route* from the interior to a treaty port should pay all inland charges at the various barriers, take receipts for all such payments, and be entitled on export abroad of the goods concerned to refund of any sums that may have been paid over and above the treaty transit due, provided such exportation took place within twelve months from date of arrival at treaty port of shipment. This proposed solution of the transit dues problem was from the fiscal—and the fiscal was the determining—point of view a compromise. It left to the provincial authorities, for the benefit of their local treasuries, the receipts from the outward transit trade, and it left for the Imperial exchequer the inward transit dues collected on foreign goods bound for places in the provinces within which treaty ports were located. The provincial authorities, too, might reap some benefit from piece goods going inland to places in provinces where there was no treaty port, and from any other type of goods no matter whither bound. On the outward trade, too, it was more than likely that the Imperial exchequer would be called on to make good more than it anticipated for provincial exactions in excess of the treaty rate outward transit due. The system was never given a trial, but discussion of it was revived in the seventies, when tariff revision was once more in the air, and half a century later at Peking when China met the Powers in conclave to assert her claim to and fight for her long-lost tariff rights. The Hongkong dilemma, it was also proposed to settle by a compromise; on the one hand, Chinese produce shipped from

[1] *Reports of the Commissioners of Customs on Questions connected with Tariff Revision, 1865-72*; Shanghai, 1872, p. 35.

Hongkong to a treaty port for conveyance inland was no longer to be regarded as foreign and entitled therefore to the protection of an inward transit pass, but was to be made to pay dues and duties and inland charges like all other native produce; on the other hand, Chinese produce shipped from a treaty port to a treaty port *via* Hongkong was not to be regarded as having lost its status from having been transhipped at Hongkong, but would be allowed to pay the usual export and coast trade duties leviable on such goods. There were articles, too, providing for the opening of Wenchow and Wuhu, the provision of bonded warehouses, the payment of tonnage dues on merchant vessels of every description, but not more often than once every four months; the delivery of export manifests—a provision not included in the Treaty of Tientsin, the reduction of the fine from the fixed amount of Tls. 500 for a false manifest should circumstances warrant it, the coöperation of the Superintendent or the Commissioner with the Consul in settling cases entailing a fine, and the coöperation of the Consul with the Superintendent or the Commissioner in cases of confiscation. Drawbacks, issued on foreign goods re-exported within three months from importation, it was agreed should be convertible into cash, while a limit of three years from date of importation was set within which drawbacks would be issuable on foreign goods. Attached to the convention were (1) a set of ten Rules describing the procedure necessitated by some of the main articles of the convention, and (2) a short list of articles of trade on which, it was proposed, the rates should be changed. Among the imports were watches of various types, pepper white and black, tin plates, and opium; the duty on the last-named was to be raised from Tls. 30 to Tls. 50 a picul, an increase of two and a half per cent on the prices then ruling. The export articles included simply silk and coal; on silk there was to be an increase of about one per cent, the rate on raw silk being raised from Tls. 10 to Tls. 20 a picul, and on Szechuan yellow silk from Tls. 7 to Tls. 10 a picul. On native coal the duty was drastically cut to be five cash per picul at the southern ports, and four candareens per picul at the northern ports.

Convention denounced by merchants: Alcock's reply to criticisms: British Government decides not to ratify Convention.

§ 25. Such was the convention for which so much preparatory investigation had been carried out. It was duly communicated by the British Minister to M. de Rehfues, Minister for the North German Confederation and Dean of the Diplomatic Body, in order that it might receive, if

possible, the general concurrence of the various Treaty Power representatives then stationed at Peking.[1] His reception of it was non-committal, and in this he was supported by his colleagues. At the inception of the negotiations they had made it plain that although it would have been better for all the Powers to act in concert, and that a more opportune time would be when the Emperor should attain his majority in 1872, still Great Britain had the treaty right to be the first to call for revision and that they would not place obstacles in her way. They expected naturally to be kept posted on all developments, and their feeling in general was one of sympathetic expectancy. Its reception by the merchants both in China and at home was unequivocal. They would have none of it. They denounced it as utterly inadequate and demanded, *vi et armis* if need be, the fulfilment of the Treaty of Tientsin according to their interpretation of that treaty. In language which left nothing to be desired in the way of plain speaking these believers in the *argumentum baculinum* claimed that if it were left to them instead of to the diplomacy of their Minister, they ventured to predict that in a very short time steamers would ply on all the navigable inland waters of China.[2] They scoffed at the provision by which British merchants could proceed inland on passports and rent for short periods hotels or private houses where they could store and display their goods, but on which they were not to exhibit their *hong* name. Such renting was not to protect the premises rented from taxes or charges to which they might be assessable, and this stipulation, they declared, would afford the local officials an excellent excuse for imposing rates on all houses so occupied.[3] They asserted that China could not be considered as a country entitled to all the same rights and privileges as civilized nations, and on the basis of this assumption deprecated the proposed power by which it would be possible for the Chinese Government to appoint a Consul in Hongkong; in the opinion of the petitioners the Chinese resident in Hongkong required no Consul to protect them, and such an official would only be a spy and an agent to extort toll from Chinese merchants.[4]

[1] Alcock to Rehfues, 20th October, 1869, B.P.P. *China No. 1 (1870)*, pp. 13-17.

[2] B.P.P. *China No. 6 (1870)*, p. 11. Hongkong Chamber of Commerce to Clarendon, 21st January, 1870.

[3] Hongkong Chamber of Commerce to Clarendon, 21st January, 1870; B.P.P. *China No. 6 (1870)*, p. 15.

[4] Memorial of Hongkong Colonists to Clarendon, 21st January, 1870; *Ibid.* p. 7: Hongkong Chamber of Commerce to Clarendon, 21st January, 1870, *Ibid.* p. 11.

They were, frankly, sceptical that the Chinese Government would be able to prevent the levy of illegal internal levies even on imports that had paid the combined import duty and transit due charge, and stigmatized this proposed arrangement as an insufficiently considered measure exposing British goods to unrestricted municipal taxation.[1] The suggested closing of the port of Kiungchow roused their wrath; they insisted not only that it should be left open, but also that native vessels trading to it should be freed from the time-honoured restriction of having first to obtain at Canton a duty-paid "chop" on the merchandise they carried.[2] They objected to any increase in the import duty on opium and the export duty on silk. A higher duty on opium, they argued, would "increase very considerably the production of opium in China, and as a natural result limit the demand for the Indian drug," which would obviously be to the detriment of the Indian revenue.[3] They poured contempt on the Burlingame Mission and characterized it as "suspicious in its origin, mischievous in its progress, and likely to prove in its results disastrous to all countries connected for commercial purposes with China. . . . We can discern nothing in Mr. Burlingame's mission from which to infer the inauguration of the epoch of good faith, progress, and civilization in China, so confidently predicted; on the contrary, we entertain the melancholy conviction that, if successful, it will only mark the date of fresh and still more complicated disputes between China and the foreign Powers that may be induced to accede to the proposed treaty."[4] Alcock's reply to all these animadversions was drawn up in the form of a memorandum addressed to the Earl of Clarendon. In it he points out that the merchants have persistently ignored the opinion of the Law Officers of the Crown as to the legal and proper interpretation of the disputed articles in the Tientsin treaty, and ignored also the clear testimony of the men who drafted that treaty as to the true meaning and intent of these articles. "But treaties are not of private interpretation according to the interest or caprice of individuals

[1] Mr. Matheson to Clarendon, 14th March, 1870; B.P.P. *China No. 6 (1870)*, p. 7, p. 14.

[2] Memorial of Hongkong Colonists to Clarendon, 21st January, 1870; *Ibid.* p. 20.

[3] Sassoon & Co. to Clarendon, 22nd March, 1870, *Ibid.* (1870), pp. 21-23.

[4] Hongkong Chamber of Commerce to Clarendon, 21st January, 1870, *Ibid.* pp. 15-16.

trading under their stipulation."[1] Applying this principle to the much-disputed transit dues clauses of the Tientsin treaty, he declared that "By that treaty, the importer of foreign goods has the right to sell them at the port without liability, while they remain his property, to any other duty than the import duty, or to send them to any internal market which he may select, free from any other charge than the Customs dues on importation and the stipulated transit due of two and a half per cent. But both at the port and at the internal market, when once the goods have passed out of his hands, they are liable to bear whatever taxes or duties the Chinese administration may see fit to levy on them in common with similar goods of Chinese origin. This is the authoritative reading of the articles in question accepted by Her Majesty's Government."[2] Contrasted with the stipulations of the Tientsin treaty the proposed combined import duty and transit due on textiles of the new Convention was a marked gain. By the former, the transit pass could protect the goods covered only so long as they remained the property of the foreign

[1] Alcock's memorandum of 3rd May, 1870, B.P.P. *China No. 10 (1870)*, p. 3.

[2] Alcock's Memorandum of 3rd May, 1870. *Ibid.* p. 3. Compare this with the pronouncement of the Earl of Clarendon to a deputation of British merchants on 28th February, 1870:—"Her Majesty's Government are unable to discover in either of the Articles [Article XXVIII of the Treaty of Tientsin and Article 7 of the Rules of Trade] which have been recited, or in the rules which explain them, anything which gives colour to the view of the mercantile body in China as to the scope of these provisions in exempting foreign produce from municipal taxation, whether general or local, when it has once passed into circulation in the country. The fair construction which ought, in the opinion of Her Majesty's Government, to be placed on these provisions, whether viewed in their legal bearing or with reference to international usage, is, as regards imports, that foreign produce may be imported on payment of 5 per cent, and circulate in equal competition with similar Chinese products at the port and its vicinity, and may be placed at any specified place in the interior also for purposes of equal competition with such Chinese produce, on payment of a transit duty of 2½ per cent in addition to the import duty; and as regards exports, that for the purposes of transit and exportation no more than 2½ per cent and 5 per cent shall be respectively levied on native produce destined for foreign markets. In neither case can it, they think, be legally contended that there is anything to prevent the Chinese from charging whatever general municipal taxes are leviable on Chinese goods at the port or in the interior, as regards imports, equally on foreign goods when once they enter into general circulation and consumption, and as regards exports, upon Chinese produce before it has been purchased for exportation. But even if Her Majesty's Government had shared the view expressed by the Memorialists as to the construction which should be placed upon the treaty stipulations bearing on this question, it would have been, in their opinion, very desirable that these stipulations should be revised and modified." B.P.P. *China No. 6 (1870)*, p. 3.

merchant, and only while *en route* to a specified town or place in the interior from the port of entry; but the Convention stipulated "for the most absolute freedom from any kind of duty charge or taxation throughout the nine treaty port provinces for all foreign textile fabrics—the bulk of the import trade—irrespective of ownership, and whether in Chinese or in foreign hands—including in this exemption the ruinous *likin* tax and all town or municipal dues to which, by the Treaty of Tientsin, they have been authoritatively declared to be liable, however injurious or excessive the amount, as soon as they cease to be the property of a foreigner, or pass into Chinese hands for consumption."[1] As regards transit outwards, Alcock had no difficulty in making it clear that his proposal for paying to the provincial authorities all charges leviable and of refunding to the merchant the difference between the total of these charges and the treaty transit due was a long step in advance. Such a measure not only ensured to merchants their treaty right, but was also "calculated to remove what had become a public scandal—the sale on the part of foreign merchants of the transit certificates to cover native produce never destined for shipment to foreign countries," while at the same time it rectified "a palpable defect in the Tientsin treaty arrangement, namely, an invidious distinction in favour of the foreigner and against the native dealer in the transport alike of Chinese produce and foreign goods from one province to the other." "The method proposed by the Chinese themselves is to repay whatever amount may have been so levied in the transit of such produce through the provinces to the treaty ports without interfering with the provincial administration under which such levies are made, or attempting to make any distinction so far as the levy of duties on Chinese produce is concerned, between produce destined for native and for foreign markets. And the machinery by which this twofold end is to be secured—non-interference with the provincial levy of duties, and ultimate protection to the foreigner from surcharges over the tariff rate—is of the simplest kind."[2] The fantastic claim of the merchants that the inclusion of the words "and at other places" in Article XII of the Treaty of Tientsin gave them an unlimited right of residence and of trading anywhere in the interior, was disposed of by the official statement of Mr. Wade, who had himself framed

[1] Alcock's Memorandum of 3rd May, 1870. B.P.P. *China No. 10 (1870)*, p. 6.

[2] Alcock's Memorandum of 3rd May, 1870. *Ibid.* p. 4.

the clause, that no such sense had been contemplated by Lord Elgin or by himself, and that the words in question had reference solely to places either in the ports themselves or in their immediate environs where merchants might be permitted to acquire settlement sites for residences and business houses.[1] Short work was made of the objections raised by the merchants to the suggested duty increases on silk and opium. The existing export duty rate on the former was much below the general tariff level of five per cent, while by the new method of collecting outward transit dues the proposed increase of Tls. 10 per picul yielded a duty very much lower than what was being paid, thanks to the multiplied internal taxes and charges. As for opium, the objectors to the proposed increased duty overlooked the fact that the Chinese Government was opposed to the trade in this article and had the indefeasible right to prohibit its importation altogether: in face of the demand for the total prohibition of this article and in face of our own excessive taxation on it in India, objection to a modest increase of three per cent on the existing rate was, to say the least of it, unreasonable. Caustically the Minister pointed out that compared to the Customs tariff prevailing in nearly every other State, the Chinese tariff based on an average of five per cent was practically equivalent to free trade; in England the duty on tea was fifty per cent and in India the duty on opium was from two hundred to three hundred per cent.[2] The exclusion of a Chinese Consul from Hongkong was, Alcock maintained, morally, and from the point of view of international usage, indefensible. From the practical point of view, the establishing of such a Consulate was greatly to be preferred to the state of blockade round Hongkong, which had been instituted by the Chinese Government to protect its revenue interests, and to which the Hongkong trading community objected so vigorously.[3] They had their choice, but in point of fact they did not want the choice, they wanted neither alternative. To sum up, Alcock had no hesitation in declaring that whatever the local merchants might say the Convention conferred benefits for the facilitating of trade which only the prejudiced could deny. "Whatever", he exclaimed, "may be the true value to be assigned to these concessions, taken either individually or collectively, it

[1] Wade's Memorandum of December, 1858. B.P.P. *China No. 5 (1871)*, p. 435.

[2] Alcock's Memorandum of 3rd May, 1870. B.P.P. *China No. 10 (1870)*, pp. 9 and 10.

[3] Alcock's Memorandum of 3rd May, 1870. *Ibid.* pp. 10 and 11.

may be confidently asserted as capable of demonstration that no country or Western Government has ever before made such liberal concessions to foreign trade. In how many countries, it may be asked, are all goods and stores for personal and house consumption of foreigners, all ship and dock stores, admitted duty free? In how many Western States are foreign ships allowed to share in the coasting native trade without differential duties or in the right of navigating all inland waters? Apart from the rights of extraterritoriality, which may be held to be something exceptional, and only to be exacted in dealing with Eastern Powers, it may yet be asked in how many European States is there perfect toleration in religion, and freedom to teach any creed or faith however subversive of existing religions, institutions, and forms of worship? Or lastly, to go back to material and commercial interests, in what country is there a Custom House Tariff so moderate in regard to foreign trade as that of China?[1] But Alcock's arguments and queries fell on deaf ears. The merchants and Chambers of Commerce both at home and in China to whom they were addressed refused to change their attitude or modify their opinions. Ephraim was joined to his idols, and the Home Government, though not quite sure of the wisdom of their action, decided to let him alone. Alcock was appropriately thanked for the work he had done, and at the same time the memorialists were informed that Her Majesty's Government although "not free from doubt whether the decision which they take is calculated to promote the real interests of the commercial and industrial classes, . . . have nevertheless determined to defer to the wishes expressed by the commercial bodies who have so urgently appealed to them, and they have accordingly advised Her Majesty to withhold her ratification from the Convention of the 23rd October last; and they will forthwith announce to the Chinese Government and to the Governments of other Powers having treaties with China, that the Convention will not be ratified by the Queen."[2]

[1] Alcock's Memorandum of 3rd May, 1870. B.P.P. *China No. 10 (1870)*, p. 9.

[2] Granville to Alcock, 25th July, 1870, and under same date to China merchants in London and elsewhere who had memorialized against the treaty. B.P.P. *China No. 11 (1870)*, p. 4.

CHAPTER IV.

FROM THE REVISION THAT FAILED TO THE REVISION OF 1902

§ 1. Failure of French demands for treaty revision 1870-1872. § 2. Murder of Margary and subsequent negotiations: Hart's mediation: the Chefoo Convention. § 3. Hart's memorandum on the better regulation of commercial relations: Analysis of abuses. § 4. Remedies suggested. § 5. Proof of financial and other benefits derivable from application of some of these remedies. § 6. China ratifies Convention, but Great Britain delays doing so. § 7. Negotiations for revision of German treaty: Terms of Supplementary Treaty of 1880. § 8. Treaty of Livadia: Denunciation of Chung Hou: Treaty of St. Petersburgh (1881): Duty treatment of overland trade. § 9. Question of taxation of foreign opium, chief obstacle to Britain's ratification of Chefoo Convention: Final settlement of combined duty and *likin* rate at Tls. 110 per picul. § 10. Regulations governing trade at ports of call on the Yangtze. §11. Duty-free list of dock stores. § 12. Origin and development of bonding in China: Bonding of kerosene oil. § 13. Duties on coal and sugar: Duty treatment of foreign goods reconditioned in China. § 14. Tonnage dues certificate made valid for four months without restriction as to ports called at. § 15. Smuggling of opium from Hongkong: Viceroy and Hoppo establish control stations and patrol of cruisers: Blockade of Hongkong: Opposition to Alcock's proposal that a Chinese Consul be appointed to Hongkong: Status of Chinese goods transhipped at Hongkong. § 16. Sir A. Kennedy, Governor of Hongkong, in favour of establishment of a Chinese Custom House in Hongkong: Duties leviable on junk-borne goods going to or coming from Hongkong: Hongkong Government's commission to investigate smuggling. § 17. Hongkong Opium Agreement 1886: Taking over by Customs of Viceroy's and Hoppo's control stations. § 18. Failure of Hongkong Opium Ordinance No. 22 of 1887: Abuses of Hongkong Opium Farm. § 19. Hart's proposals for Customs control in Hongkong on extension of colonial territory in 1898. § 20. Establishment of Customs control stations along new Kowloon frontier: Difficulties caused by new frontier: Commissioner Hillier's proposal that a Chinese Custom House should be established at Kowloon. § 21. Cooperation of Portugal in opium revenue work at Macao: Protocol of Lisbon, 1887: Customs Agreement with Macao Government. § 22. Outward transit trade at Tientsin, at Chinkiang, at Shanghai, at Amoy and at Canton: Abuses of system. § 23. Benefit of inward transit passes at first confined to foreigners: Goods so covered liable to local taxation after reaching specified inland destination: Extension of inward transit privilege to Chinese: § 24. Origin and development of steam navigation inland: Use of steam launches in inland waters during Taiping Rebellion: Steam tug regulations of 1867: Regulations for control of Chinese-owned foreign-style vessels: Regulations of 1898 for steam navigation inland. § 25. Agreement for the establishment of a Custom House at Tsingtao. § 26. Revision of Yangtze Regulations in 1898. § 27. Yamên asks for revision of British treaty in 1899.

Failure of French demands for treaty revision 1870—1872.

§ 1. Such was the fate of "the first instrument affecting British trade that had not been extorted from the Chinese by force of arms. It was the first in which there was at least a show of recip-

rocal interchange of concessions".[1] British commercial greed and bigotry had killed it and its decease put an end for the time being to British negotiations on treaty and tariff revision. Both the French and the German Ministers, however, had notified the Tsungli Yamên that no matter what the outcome of the British negotiations might be, they reserved the right conceded by their treaties to call for treaty and tariff revision, the French in 1870 and the German in 1872. Unfortunately in 1869 there had been a number of outbreaks in various parts of the country against foreign missionaries, outbreaks which culminated in June 1870 in the Tientsin incident when the French Consulate and the French cathedral were burnt, while the French Consul and a number of his nationals, including sisters of mercy, lost their lives. For the time being, this affair dwarfed all other issues, but by November of that year Comte de Rochechouart, the French Chargé d'Affaires, realized that it was useless for him to press further his demands for redress, and turned his attention to the question of treaty and tariff revision. Accordingly, he sent a despatch to the Tsungli Yamên requesting a revision of the tariff rules of 1858, but received an evasive reply. Here the matter rested for the better part of two years, but in September 1872 M. de Geofroy, the new Minister, who had been armed with full powers for the revision of the treaty, reminded the Tsungli Yamên of this outstanding question, informed them that he was empowered to deal with it, and requested the Yamên to acquaint him with the intentions of the Chinese Government regarding it.[2] The marriage of the Emperor Tung Chih delayed action, but towards the end of the year representatives of the French Legation and the secretaries of the Tsungli Yamên began treaty revision parleys. The negotiations did not last long. Article II of the French Convention of Peking (1860) stipulated that an Imperial Audience should be held for the reception of the French and other foreign Ministers, but the Chinese delegates refused to discuss this question until such time as the Emperor Tung Chih should have attained his majority. The same lack of harmony marked the discussion of the missionary question. By Article XIII of their Tientsin treaty and by Article VI of their Additional

[1] F.O. 17/520: Alcock to Medhurst, 1st April, 1869; "We are no longer dictating conditions of peace, but negotiating for reciprocal advantages upon an equal footing." enclo. No. 24 in desp. No. 28, Alcock to Clarendon, 31st March, 1869. Wade's report to Derby of 14th July, 1877, enclo. in Wade to Granville, 3rd June, 1882, B.P.P. *China No. 5 (1883)*; p. 48.

[2] Cordier H. *Histoire des Relations de la Chine avec les Puissances Occidentales.* Paris 1901-1902, Vol. I, p. 453, p. 464.

Convention the French—through the unscrupulous trick of a cleric[1]—had obtained for missionaries the right not only to proceed anywhere in China to propagate their faith, but also to rent and purchase land in all the provinces and to erect buildings thereon at pleasure. The result, as everyone knew, had not been a harvest of love, joy and peace, but a plentiful crop of misunderstandings, accusations against missionaries for interference in civil and political affairs, outbursts of popular fury, and in some cases massacre. France, with practically no trade at stake, and, for reasons of domestic politics, true to her assumed role of protector of Roman Catholic missions in China, placed this question in the forefront of the discussions and found that China was determined, if the privilege of residence in the interior could not be cancelled, to restrict, if possible, the privileges already granted by bringing all missionaries in the interior under Chinese law. This was acceptable to none of the Powers, least of all to France. As France also was eager to enlarge the prerogatives of her diplomatic representatives, and to reach as well a settlement of the audience question the discussion proved to be a fruitless expenditure of powder and shot. The German Minister likewise in July 1872 reminded Prince Kung and the Ministers of the Tsungli Yamên that by virtue of Article XLI of the treaty negotiated at Tientsin in September 1861 his Government desired changes in certain of the articles of that treaty. The Yamên's reply was polite but indecisive. For the moment the Government distrusted further negotiations, and there the matter rested till the murder in February 1875 at Manwyne in Yunnan of Mr. A. Margary, a British Consular official who had been despatched thither on a special mission, provided the opportunity of reviving once more the old-time method of settling differences, not by compromise and mutual concession but by the exacting of privileges as a penalty.

Murder of Margary and subsequent negotiations: Hart's mediation; the Chefoo Convention.

§ 2. To the British this outrage was inexcusable seeing that Margary and his party were travelling with special passports, and as the Tsungli Yamên had announced his mission to the high provincial authorities in Yunnan, the Central Government could not evade its responsibility. Wade, whose temper was apt to be "sudden and quick in quarrel" indulged in threats, and found, like so many others, that such indulgence

[1] F.O. 17/520: Alcock to Clarendon, desp. No. 18, 18th March, 1869; and desp. No. 6, 12th March, 1869.

was futile. The Chinese were willing to appease the desire of the foreigners for vengeance, but, mainly through lack of evidence, it was impossible to discover and punish the real culprits. Below the mere fact of the murder, however, lay the broad issue of the attitude of the Chinese Government to its treaty obligations, and the only satisfactory penalty that could be exacted was not a mission of apology, nor the payment of an indemnity, nor the decapitation of a few lawless brigands, but the reversal by the Chinese Government of the anti-foreign policy of which the Margary murder had been the inevitable result. Wade demanded (*a*) a safe passage as far as the frontier, or over it for his secretary and for a new mission from the Government of India to carry out an investigation on the spot; (*b*) the immediate despatch of a Chinese envoy to England to express regret; (*c*) the censure from the Throne of the Acting Governor General of Yunnan for delay in taking up the matter and for failure to report progress; (*d*) publication in the *Peking Gazette* of the Imperial decrees appointing the mission to England and censuring the Acting Governor General; (*e*) the placing of intercourse between the Government and foreign Ministers at Peking on a better footing; (*f*) the immediate removal of abuses in the taxation of foreign trade; (*g*) consideration of the regulating of trade across the Yunnan frontier; and (*h*) the payment of an indemnity.[1] Faced with this formidable list, the Yamên took the line "that this or that arrangement is impracticable because of the opposition of the Provincial Governments", while these latter maintained that they could do nothing without the Yamên's approval.[2] Irritated and impatient, Wade proceeded to Shanghai, threatening that if his demands were not taken seriously in hand he would withdraw the legation. On his return to the north a few months later he again had interviews at Tientsin with the Viceroy Li Hung-chang, to whom he observed "that if matters remained much longer in the same state, the natural retaliation would be stoppage of the duties." Li expressed surprise at this threat to violate the treaties, to which Wade retorted that "the question is not who shall pay the duty, but to how much duty the Chinese Government is entitled on British imports;" in other words, that the Chinese were already violating the treaties by the inland taxes levied on British goods going inland even though covered by transit passes. "A change in the general system of

[1] F.O. 17/699: Wade to Derby, desp. No. 125, 26th June, 1875. F.O. 17/701: Wade to Derby, desp. No. 164, 8th September, 1875.

[2] F.O. 17/699: Wade to Derby, desp. No. 101, 1st June, 1875.

inland taxation as far as British goods were concerned was absolutely necessary. British trade in China was being ruined by it."[1] As the Yamên delayed to give immediate acceptance to Wade's demands, he once more threatened to withdraw the Legation.[2] The Yamên thereupon called upon Hart to report fully on the taxation of foreign trade,[3] and this gesture Wade accepted as a pledge from China for the revision of commercial relations.[4] By the 6th July, 1876, Grosvenor, Wade's secretary had returned from his mission, but his report only added fuel to the flames.[5] Wade, supported by his bellicose Chinese Secretary, Mayers, roundly denounced the Chinese official investigation as a "farce in the form of a judicial enquiry", and informed the Yamên that if the securities he demanded for the future, in regard to diplomatic intercourse, inland taxation, and the Yunnan outrage were not forthcoming, he would send in a note calling for the trial of the Acting Governor General of Yunnan, and if that were refused, and if the Government published the report of its commission he would at once break off relations, and recommend Her Majesty's Government to demand an indemnity and occupy territory as a guarantee.[6] Hart's services as an intermediary were now much in demand, and thanks to his tact, cool judgment, and understanding of both sides he was able to persuade the irate Sir Thomas not to break off relations,[7] and to induce the Viceroy Li Hung-chang to procure full powers to settle all questions at issue, and to proceed to Chefoo to meet Wade, who had once more left the Capital for Shanghai.[8] Hart followed Wade, and on the authority of the Yamên, offered the following terms (1) permission to Chinese as well as to foreigners, to take foreign goods inland under transit pass, (2) permission to Chinese purchasing foreign goods to pay at time of purchase a transit due of two and a half per cent, or half tariff rate, and to receive either an inland certificate covering the goods to a specified destination, or a port certificate freeing the goods from all further taxation at the port of importation when sold there,

[1] F.O. 17/701: Wade to Derby, desp. No. 166, 9th September, 1875.
[2] F.O. 17/701: Wade to Derby, desp. No. 173, 19th September, 1875.
[3] F.O. 17/701: Wade to Derby, desp. No. 192, 18th October, 1875.
[4] B.P.P. *China No. 3 (1877)*, p. 2.
[5] F.O. 17/722: Wade to Derby, desps. Nos. 137, 9th July, 1876; 142, 15th July, 1876, and 149, 22nd July, 1876.
[6] F.O. 17/725: Wade to Derby, desp. No. 156, 24th July, 1876.
[7] F.O. 17/725: Wade to Derby, desps. Nos. 159 & 160, 26th July, 1876.
[8] F.O. 17/726: Wade to Derby, desps. Nos. 164, 3rd August, 166, 4th August, 169, 4th August; 174, 7th August; 176, 14th August, 1876.

(3) permission to Chinese, as well as to foreigners, to make use of outward transit passes, and (4) to open at once Wenchow, Ichang, and Pakhoi if the above terms were accepted.[1] Wade's tantrums and peregrinations of offended dignity may be of interest to psychologists, but his decision to make the Margary incident an opportunity to demand further commercial privileges concerns the historian. During the negotiations which dragged out from March 1875 till September 1876, when the final act took place, he had from time to time altered his demands, always retaining, however, stipulations to restrict the incidence of *likin*. The final act was staged at Chefoo, where for a month, 18th August to 17th September, 1876, with the representatives of the United States of America, France, Germany, Russia, Austria-Hungary, and Spain as interested spectators, and with a squadron of British frigates in the offing to lend point to their Envoy's arguments, Wade and the Viceroy Li Hung-chang finally reached agreement and signed on 13th September what is now known as the Chefoo Convention. Four days later the Chinese Government ratified the agreement. The Convention was arranged in three sections, the first dealing with the settlement of the Margary incident, the second with official intercourse and judicial questions, and the third—the only one which concerns us here—with trade matters. By the terms of this third section it was agreed that *likin* should not be collected on foreign duty-paid imports within the recognized area of the foreign settlements at the various treaty ports; that at ports where such areas were not defined the local authorities and the Consuls concerned were to carry out a delimitation; that Ichang, Wuhu, Wenchow, and Pakhoi should be opened to foreign trade; that Chungking should also be opened as soon as steamers had succeeded in reaching that place; that Tatung, Anking, Hukow, Wusueh, Lukikow, and Shansi on the Yangtze should be opened as ports of call where steamers could touch to land or ship passengers or goods subject to the regulations in force affecting native trade; that British merchants on bringing opium to a treaty port should deposit it in bond, either in a warehouse or a receiving hulk, that on sale the importer should pay the tariff duty and the purchaser the *likin*, and that the amount of *lukin* to be collected should be decided by the different Provincial Governments; that foreign duty-paid imports might be conveyed inland under transit pass irrespective of the nationality of the person owning the goods covered by the pass, but that native

[1] F.O. 17/726: Wade to Derby, desp. No. 167, 4th August, 1876.

produce being brought down from the interior which was not the property of a British subject or was not being taken to a treaty port for export abroad should not be entitled to the protection of a transit pass; that the term 'inland'—*nei ti* (內地)—should apply equally to places on the coast or on rivers as to places in the interior; that three years should be the time limit within which a drawback might be claimed on duty-paid imports when re-exported; that the stipulation regarding the opening of new treaty ports and of ports of call on the Yangtze should become effective within six months of Imperial ratification, but that the clauses regarding exemption from *likin* of foreign imports within the port settlements, and of the simultaneous collection by the Customs of duty and *likin* upon opium should be fixed as soon as the British Government had reached an agreement with other foreign governments on the subject; and finally that in view of the complaints from Hongkong of the interference of the Canton Customs revenue cruisers with the junk trade of the Colony a commission should be appointed to devise some system that would enable the Chinese Government to protect its revenue without prejudice to the Colony.

Hart's memorandum on the better regulation of commercial relations: Analysis of abuses.

§ 3. Hart's memorandum on trade taxation, referred to above—a document designated by Wade as "ambitious", although in the main he agreed with the views expressed[2]—was written in the heat of the controversy that had arisen over the Margary case, and at a moment when it seemed likely that that controversy would lead to open rupture. The despatch calling for it is dated 6th October, 1875, and in it the Ministers of the Yamên request Hart to submit proposals for the better regulation of all matters connected with the taxation of the commodities which pass through the ports open to trade. In particular, they demanded replies to three questions:—(1) If China agreed to open more ports to foreign trade, could all the Treaty Powers be induced to acquiesce in the continuance of the levy of *likin*? (2) If China opened new ports would not certain Powers, who do not agree to the continuance of *likin*, demand access to these

[1] *Proposals for the Better Regulation of Commercial Relations.* Customs Papers (Office Series) No. 2, Shanghai, 1876: B.P.P. *China No. 3 (1877)*, pp. 2-27.

[2] F.O. 17/725: Wade to Derby, desp. No. 154, 24th July, 1876. Prince Kung referred to it as a document of immense length and as containing many impracticable suggestions; F.O. 17/725: Wade to Derby, desp. No. 152, 22nd July, 1876.

ports under the most favoured nation clause, and thus China once more would be forced into conceding something without receiving anything in return? and (3) Would it be possible to obtain the consent of all the Treaty Powers to the adoption of one rule regarding the payment of import duty and transit dues which would ensure uniform procedure at every Custom House? The Inspector General's proposals, they added, must be advantageous and not harmful to China, they must be acceptable to all the Treaty Powers, and they must be capable of being easily put into force at all Custom Houses as well as by the local authorities. Instead of confining himself to answering the questions asked, Hart seized the opportunity of dealing with the whole situation created by the presence of foreign traders in China enjoying privileged protection. In his introduction he describes the salient features of the existing system and summarizes its defects. Like an expert diagnostician

> "He read each wound, each weakness clear;
> "And struck his finger on the place,
> "And said: Thou ailest here and here!"

He showed that in all past and present arrangements, based on treaty stipulations, the distinction is drawn between persons rather than between things, a principle which has naturally resulted in jealousy and angry feelings on both sides. Foreigners and Chinese are not placed on the same footing, and the former are accorded unfair advantages over the latter. The remedy indicated was reciprocity, a principle which, he might have added, Confucius, centuries before Christianity, had advocated as the golden rule in the conduct of life. Instead of reciprocity, however, the foreigner, not content with the treaty privileges he already enjoys, demands complete freedom throughout the whole of China for every kind of trading or industrial operation, and in the enjoyment of that freedom he is to be protected by his extraterritorial status. The Chinese, on the other hand, are naturally suspicious of change, especially when it is not a native growth but imposed by foreign aggression. They have learnt in the course of years the full implication of the principle of extraterritoriality, and it is hardly to be expected that they should welcome any further restriction of their sovereign rights. Hence arises a situation of deadlock. Then follows under the three headings of Commercial, Judicial, and Administrative an analysis of the complaints on both sides, and four sets of proposals under each heading, which if adopted would place things on a

better footing. The commercial complaints and proposals, which alone concern us here, revolve round *likin* and internal taxation of trade. The foreigner complains that *likin* is levied on his goods at the ports, and China replies that in no case is the area of a port defined. The foreigner maintains that if these heavy port charges are abandoned import trade will increase, and China retorts that these port charges are necessary to provide funds for the maintenance of tranquility without which trade cannot thrive. The foreigner complains that his opium business is needlessly harrassed by the surveillance of *likin* officials, and China points out that she has the right to put a check on the smuggler who has always the sympathy, and sometimes the aid, of the foreigner. The foreigner maintains that China is not entitled to claim payment of outward transit dues on native produce exported abroad when proof of payment of inland taxes is not forthcoming, and China claims that the treaty stipulation on this point leaves no room for doubt that her action in claiming payment is justified. The foreigner alleges that the inward transit pass covering foreign goods is not respected *en route*, that after arrival at destination, transit-paid imports are subject to local, and sometimes prohibitive, taxation, and that transit passes for native produce outward are rendered nugatory by taxes on producers. To this China replied that the inward transit pass protects only to place of destination not afterwards, that China like any other country has need of a revenue, that it is difficult to prevent mistakes along routes that are still disturbed, and that the payment of outward transit dues does not entitle Chinese goods to a return of what had previously been paid in local taxes. As a proof of the tendency of the foreign trader to exaggerate his hardships the Inspector General pointed out that the transit pass system had been in force for some fifteen years and that during that time not twenty cases in all have been instanced in which the certificates were known to have actually failed in doing what they were intended to accomplish. On the other hand, the Chinese complain that foreigners act as consignees for Chinese-owned goods, carried in foreign vessels, to enable those goods to evade local charges which they would have been obliged to pay had they been conveyed in Chinese vessels, thereby defrauding the revenue and placing at a disadvantage Chinese trading in their own name; further, that foreigners convoy opium for Chinese to prevent the collection of *likin*, and that some foreigners make it a part of their business either to sell their names and transit documents to Chinese to cover produce

brought from the interior or to bring down such produce in their own name but with no intention of exporting it abroad thus causing loss to local revenue and creating unlawful preferential treatment. Other charges, connected with the transit system, brought by Chinese against foreign traders are that they purchase produce inland and after passing it in transit at various barriers without payment of taxes, sell it in the interior, and that they defy the officials at the inland barriers and refuse to allow their goods to be examined. The Inspector-General sums up the situation thus:—"Commercial intercourse may be said to mean, first of all, exchange of products; thus commercial intercourse between China and not-China would mean exchange of China's for not-China's products. But commercial intercourse between China and not-China under the treaties covers something more: it means not merely exchange of China's for not-China's products, but goes further and authorizes not-China to engage in China's internal trade, in the exchange of the products of any one part for those of any other part of China. It does not even stop here—it goes still further: it means that not-China shall engage in China's internal trade, not in accordance with China's regulations and tariffs for native traders and inland budgets, but in accordance with a novel system devised for not-China's advantage as a foreign trader, and a tariff and regulations originally intended for foreign and not native trade. The foreign tariff and its attendant rules may be unobjectionable as long as their operation is restricted to commercial intercourse in its first signification; but set up in competition with a native system and applied to internal or domestic trade, they have created a serious derangement in China's affairs. At every point they favour the enterprise of the native who breaks native laws, and while they thus act injuriously on honest Chinese traders, they also create difficulties for and make enemies of the officials who administer native laws; at some points they even restrict the foreigner's own operations. The result has been harmful to native merchants and native revenue, and the sense of this has again resulted in opposition to the extension of foreign intercourse and interference with the rights of foreign commercial intercourse properly so-called. Most, if not all, of the complaints are to be traced directly or indirectly to the contemporaneous existence of two systems—a foreign tariff and a native tariff—side by side, and until this is changed complaints must continue to be uttered".[1]

[1] Hart, *op. cit.*, p. 16.

Remedies suggested.

§ 4. Having diagnosed the malady it remained to indicate the remedy. This the Inspector General proceeded to do in four sets of proposals, the first consisting of suggestions thought most likely to be beneficial to both parties, the second of suggestions based on the more liberal interpretation of the treaties, the third of suggestions based on the less liberal interpretation of the treaties, and the fourth—in case the three foregoing should be rejected—of the suggestion that a new starting-point might be sought in calling upon the merchants themselves, with whom the demand for a re-arrangement had originated, to propose the rules they wished to be bound by within the limits of the existing treaties. The first set of commercial proposals, which was evidently the set that commended itself most to the prescribing physician, consisted of the following:—(1) that the Treaty Powers should consent that import duty and transit dues be paid simultaneously by the following goods—cottons, woollens, metals, and sugar—on arrival at a treaty port, and that China should agree that such goods in all parts of China should be free from every kind of local and territorial tax: (2) that the Treaty Powers should consent that opium should pay an import duty of Hk. Tls. 120.00 per picul on arrival at a treaty port, that no other charges shall be levied at that port, but that at a distance of thirty *li* from the Custom House it shall be subject to local and territorial taxation: (3) that China should consent that all other imports should be exempt from import duty and transit dues on arrival at a treaty port, and that the Powers should agree that after such goods have been landed they should be treated in accordance with local regulations: (4) that duty-paid imports might be moved from treaty port to treaty port on bond valid for a specified number of months, and that three years after arrival re-exports should not be entitled to drawbacks: (5) that China should consent that tea, silk, sugar and cotton should be exempt from all forms of local or territorial taxation and that the Treaty Powers should agree that these commodities should pay export duty and outward transit dues simultaneously on shipment from a treaty port: (6) that China should consent that all other exports should be exempt from export duty and transit dues on shipment at a treaty port, and that the Treaty Powers should agree that all such goods in every part of China might be dealt with in accordance with local regulations: (7) that both foreigners and Chinese should be allowed to enjoy without discrimination in favour of any nationality the arrangements to be made under (1), (3), (4)

and (5) above: (8) that transit documents being thus done away with foreigners must carry passports when travelling in the interior: (9) that China should consent to open new ports, say—Chungking, Ichang, Anking, Wuhu, Wenchow, etc.: (10) that the Treaty Powers should consent to a revision every fifth year of the tariff and the commercial stipulations in the treaties. The second set concerned themselves almost entirely with counteracting the virus injected into the body commercial by the transit dues system. They consisted of the following: (1) that a mixed commission at each port should determine the port area and delimit the boundary lines, and that all foreign goods having paid import duty should be free within that area from all other taxation: (2) that duty-paid imports on passing the boundary line, no matter whether owned by foreigners or Chinese, should, if not covered by inward transit pass, be liable to all local taxes, but that if covered by transit pass they should be free from all taxation *en route*. On sale at place of destination, or on departure from it, the transit passes must be surrendered and the goods held liable to local, but not to differential or compensatory, taxation: (3) that native produce might be brought down from the interior by Chinese and foreigners alike either under transit pass or without such pass, in which latter case the goods should be liable to taxation *en route*. If under transit pass such goods on shipment abroad from a treaty port should pay export duty and transit dues, or on shipment to another treaty port export duty and an inland due equal to the export duty. If not shipped at all within so many months after arrival such goods should pay double export duty: (4) that foreign goods, with or without transit papers might be disposed of *en route* inland; but that native produce under transit pass *en route* outwards should not, under penalty of a fine, be so disposed of. All non-transit-paid goods accompanying transit-paid goods, if not declared by the merchant, should be confiscated; (5) that re-exports should not be entitled to drawbacks unless re-exported within three years from arrival; and (6) that there should be a revision of the tariff and tariff rules every fifth year. The third set of proposals left out the delimiting of the treaty port boundary lines, and in the case of native produce to be brought down from the interior under transit pass laid down that a promissory note for the value of the goods concerned should be deposited by the merchant with the Customs, and that this note should be enforced if the goods were not exported abroad within a specified time.

Proof of financial and other benefits derivable from application of some of these remedies.

§ 5. Two weeks after having submitted his diagnosis and suggested treatment the Inspector General, in a supplementary despatch to the Tsungli Yamên, brought forward conclusive proof of the financial and trade-fostering benefits to be derived from an application of his first set of proposals. Taking the Customs trade for the year 1874 he pointed out that in that year the four classes of foreign goods indicated paid, in round figures, the following amounts of import duty:—

Cottons	.. .. ..	Hk. Tls. 720,000
Woollens	.. .. ..	„ 160,000
Metals	.. .. ..	„ 140,000
Sugar	.. .. ..	„ 60,000
All other Imports	.. ..	„ 650,000

while the four classes of exports indicated paid the following amounts of export duty:

Tea	.. .. ..	.. Hk. Tls. 5,000,000
Silk	.. . ..	„ 870,000
Sugar	.. .. ..	„ 90,000
Cotton	.. .. ..	„ 40,000
All other exports	.. ..	„ 680,000

The eight import and export staples, therefore, during 1874 brought in a revenue of Hk. Tls. 7,080,000 while all other goods, opium excluded, yielded Hk. Tls. 1,330,000. During that year the Customs at the treaty ports collected also the following dues and duties:—

Opium, Import Duty	..	Hk. Tls. 2,100,000
Coast Trade Duty	.. ..	„ 570,000
Transit Dues	.. ..	„ 230,000
Tonnage Dues	.. ..	„ 200,000

so that the total collection for that year, made in accordance with the rules in force, amounted to Hk. Tls. 11,500,000. If, however, the proposal to tax staples at the treaty ports, freeing them elsewhere, and to free other goods at the treaty ports, taxing them elsewhere, had been in force the revenue collected by the Customs for the year 1874 would have been:—

Cottons, Import Duty plus Inland Dues:		Hk. Tls.	1,080,000
Woollens,	do.	„	240,000
Metals,	do.	„	210,000
Sugar,	do.	„	90,000
Tea,	Export Duty plus Inland Dues:	„	7,500,000
Silk,	do.	„	1,305,000

Sugar, Export Duty plus Inland Dues: Hk. Tls. 135,000
Cotton, do. „ 60,000

or, in all, Hk. Tls. 10,620,000. When we add to this the import duty on 70,000 piculs of opium at Hk. Tls. 120 a picul, that is Hk. Tls. 8,400,000 we reach a total of over nineteen million taels, as compared with the eleven and a half actually collected. Again, if the amount of *likin* collected in the eighteen provinces during 1874 be computed at ten million taels, a computation which may be accepted as reliable, it follows that the total Customs and *likin* revenue for that year amounted to about twenty-two million taels, a figure which the Customs revenue alone would reach in a few years if the proposals made were adopted. The advantages that would accrue to trade throughout the whole country by the abolition of *likin* were obvious, and here was a plan which proved that that desired end could be attained without loss to the Imperial Treasury.

China ratifies Convention, but Great Britain delays doing so.

§ 6. The Convention was signed, the Emperor had ratified it within four days of its signature, but it took nine years before it received the ratification of the British Government. At first, Wade had not considered formal ratification of the agreement necessary, but as he had "exacted the publication of an Imperial Decree approving that instrument" before he "would consent to report a final settlement of the Yün Nan affair" the Chinese Government naturally claimed a corresponding expression of approval on the part of Great Britain.[1] But there were difficulties in the way. The Indian Government was alarmed at the possible adverse effect of its opium clauses on their opium revenue,[2] merchants both in China and at home were contemptuous of an instrument which the leading English journal in Shanghai referred to as "a mass of meaningless verbiage",[3] while the representatives of the other Treaty Powers at Peking made it clear that the consent of their Governments was necessary before the right of imports to exemption from *likin* could be restricted in the manner indicated in the Convention. Wade, of course, was fully aware of the attitude of his colleagues. In a letter

[1] Wade to Lytton, 16th February, 1879, enclo. in Wade to Granville, 3rd June, 1882, B.P.P. *China No. 3 (1882)*, p. 70.

[2] F.O. 17/809: Wade to Salisbury, desp. No. 2, Confidential, 10th May, 1879, enclo. Wade to Lytton, 16th February, 1879. B.P.P. *Correspondence with the Government of India respecting the Negotiations with China on the subject of Opium; 1882; passim.*

[3] N.C.H. 6th July, 1878.

to them, dated 9th October, 1875, he had pointed out that as regarded trade all he had proposed to seek in the first instance was an engagement that the abuses in the matter of taxation, constantly complained of, should be enquired into with a view to their removal, and had added—"The regulation of the general trade is a matter that not only concerns us in common, but in respect of which, to make any rule operative, foreign representatives must be all agreed" [1] Accordingly when a year later after the signing of the Convention the Ministers of France, Russia, the United States, Germany, and Spain sent an identic note to the Tsungli Yamên to say that without negotiations pursued in the usual manner they could not consent "to the abridgment of the existing treaty stipulations", Sir Thomas gave their action his pontifical blessing [2] To make assurance doubly sure, however, the French Minister instructed all the French Consular authorities at the ports that if the subject of the delimitation of *likin* taxation areas at the ports should be brought up they were to reply that as yet they had received no instructions on the matter [3] The Chinese Government, on the other hand, promptly, on the expiry of the time limit stipulated, declared the four ports and the six ports of call, named in the Convention, to be duly open to foreign trade, thus giving in addition to the ratification further unquestioned evidence of their desire to observe their part of the contract [4]

Negotiations for revision of German treaty Terms of Supplementary Treaty of 1880

§ 7 During the whole of 1876 while Wade still occupied the centre of the stage with his activities, the German Minister, Herr von Brandt, with the support of his ministerial colleagues, was quietly pushing forward negotiations for the revision of the German treaty His Government desired especially the opening of more ports, the reduction of certain of

[1] Cordier, *op cit* Vol 2, p 59 "I could not have conceded restriction of a Treaty right—contraction of our area of exemption from taxation in excess of Tariff—or other modification of the commercial clauses of our Treaty, except with the consent, not only of my own Government but of all other Powers having Treaties with China Our Treaties have so much in common that it is scarcely possible in trade it is impossible that amendment of any single Treaty should be operative, unless all are agreed to adopt it ' Wade to Lytton 16th February 1879 B P P *China No 3 (1879)* p 69, *vide* also B P P *China No 2 (1880)*, p 2 & p 8

[2] Cordier *op cit* Vol 2 p 93

[3] *Ibid*, p 94

[4] C A I G Circ No 27, 2nd Series

F O 17/697 Wade to Derby, desp No 42, 23rd February, 1875, "If Germany invites co operation in revision of Treaty, please accept I have had to complain much lately of inland taxation "

the tariff rates, and a settlement of the questions of *likin* and of tonnage dues. The Chinese Government advanced counter claims, and wished for an understanding on such matters as the appointment of honorary Consuls, the interference of missionaries in local legal affairs, and the settlement of Customs cases. The signing of the Chefoo Convention strengthened Herr von Brandt's hands, and in December 1876, when Sir Thomas Wade had left Peking on furlough, the German envoy wrote to the Tsungli Yamên requesting that a date be fixed from which foreign imports in the foreign settlements of Shanghai should be exempt from *likin*. While claiming this exemption for foreign imports Herr von Brandt made it clear that he did not include opium, and that his claim was not based on the recently signed Chefoo Convention but on the stipulations of the Tientsin treaties.[1] The Yamên addressed a Memorial to the Throne and the 13th February, 1877, which happened to be the first day of the Chinese New Year, was fixed as the date for giving effect to the arrangement.[2] The British Minister, however, refrained from notifying acceptance of the rules then promulgated by the Yamên so as to leave him a free hand as the rules were not fully in accord with the terms of the Chefoo Convention.[3] Encouraged by this success von Brandt pushed forward with his representations, and again, with the aid of his colleagues, urged the opening of Woosung as a port, the establishing of bonded warehouses, and the duty-free treatment of materials for the repair of ships. In the early spring of 1877 the Tsungli Yamên demanded that there should be an increase in the import duties on cotton and iron and in the export duties on tea and silk, that the validity of a transit pass should be limited to one year, that the renting of land outside the settlements should be forbidden, and that there should be clearly defined conditions to govern travelling in the interior. Like his French colleague,[4] von Brandt regarded *likin* as an illegal levy, a view not shared by Wade,[5] and to eliminate this levy suggested

[1] Wade to Salisbury, 31st January, 1880, enclo. Wade to Prince Kung, 10th November, 1879 and Prince Kung to Wade, 20th November, 1879, B.P.P. *China No. 2 (1880)*, p. 2, p. 6; Wade to Granville, 3rd June, 1882, B.P.P. *China No. 3 (1882)*, p. 77.

[2] C.A. I.G. Circ. No. 11, 2nd Series.

[3] F.O. 17/753: Fraser to Derby, confidential desp. No. 1, 5th January, 1877.

[4] F.O. 17/781: Fraser to Salisbury, desp. No. 110, 27th June, 1878.

[5] F.O. 17/549: Wade to Clarendon, desp. No. 72, 7th May, 1870: Wade maintained that *likin per se* could not be assailed as contrary to treaty. Hart held the same view. Writing to a friend on 7th August, 1878 the latter remarked;—*"China's own view of likin is of more importance than even the collective view of the Treaty Powers"*. *Likin* is not a tax; it is a staple article of food on the Government's menu.

that foreign goods on importation should pay not only import duty but also an increased transit due, after which the goods should be stamped and thereafter passed free from all taxation throughout the Empire. Merchants, however, were still to be given the option of taking out transit passes if they so desired; but only goods not stamped or not provided with transit passes were to be liable to *likin*.[1] As the Chinese provincial authorities balked the Peking Government's investigations by failing to supply requisite data on the subject, von Brandt, relying on Consular reports, reviewed the situation port by port in his pamphlet "Inland Taxation on Foreign Goods and Native Produce in China."[2] The Yamên countered by suggesting that they might consent to yield some of the concessions desired provided the German Minister was willing to agree to an increase in the Customs duties laid down in the treaty tariff.[3] Negotiations were halted by the return of the Minister to Germany on furlough, but were resumed in June 1879, and led to the signing on 31st March, 1880 of the Supplementary Treaty (Zusatz Convention) between Germany and China. When the document was placed before the Reichstag it was pointed out that it was not the result of isolated action on the part of Germany, but the outcome of negotiations to which all the Treaty Powers had lent their support.[4] Ratifications were exchanged on 16th September, 1881. The treaty[5] confirmed the opening of the four ports and the six ports of call on the Yangtze, specified in the Chefoo Convention, and opened Woosung for the shipping and discharge of merchandise coming from or destined for Shanghai.[6] In return for this, Germany agreed that her subjects should be bound by the conditions attached to any privileges claimed under the most favoured nation clause. It stipulated that tonnage dues certificates should be valid for four months no matter to

[1] F.O. 17/779: Fraser to Derby, desp. No. 9, 29th January, 1878.

[2] F.O. 17/781: Fraser to Salisbury, confidential desp. No. 100, 11th June, 1878.

[3] F.O. 17/780: Fraser to Salisbury, desp. No. 83, 15th May, 1878.

[4] B.P.P. *China No. 2 (1881)*, p. 2.

[5] For text of Treaty *vide Treaties, Conventions, etc. between China and Foreign States*, Customs publication; 2nd edition, 2 vols. Shanghai 1917: vol. 2, pp. 194-207.

[6] The Chinese at first declined to recognize this article as giving Woosung the status of a treaty port, although on account of the Woosung bar much cargo from and to foreign countries continued for many years to be landed and shipped there. It was not until 1898—the year of disastrous concessions—that China finally agreed to recognize Woosung as having treaty port status. I. G. Circ. No. 822: B.P.P. *China No. 1 (1899)*, p. 6; p. 101.

what ports in the world the vessels concerned might repair, that China might appoint Consuls to Germany, that bonded warehouses should be established in all the open ports, that the penalty for a false manifest should be confiscation of the goods and a fine on the captain not to exceed Tls. 500, that the export duty on Chinese coal should be reduced to three mace a ton, that the penalty for anyone acting as pilot without a license should be a fine not exceeding Tls. 100, that vessels under repairs were to be exempt from tonnage dues while undergoing such repairs, that materials from ships broken up in port were to be exempt from import duty, that German subjects travelling in the interior without a passport should not only be turned over to the nearest Consul but also be liable to a fine of Tls. 300, that passports should be valid for only thirteen months, that dock materials should be free of duty, and that questions regarding the taxation of foreign goods in the interior and of Chinese goods in the possession of foreign merchants in the interior, and of intercourse between Chinese and foreign officials should be the subject of special negotiations. Appended to the Convention was a set of special stipulations expanding, and having equal authority with, the stipulations of the treaty itself. Two points stand out in these special stipulations, the one that bonded warehouses should first be tried at Shanghai; and the other that if any goods on a German ship were not entered on the manifest, for the discharge of which a Customs permit is required, the manifest should be regarded as false. The whole treaty, though but a meagre result of four years' discussion, marked nevertheless an advance in the settlement of China's commercial relations with foreign Powers, in that it was based on the principle not of imposing terms but of compromise and the balancing of one concession against another.

Treaty of Livadia: Denunciation of Chung Hou: Treaty of St. Petersburg (1881): Duty treatment of overland trade.

§ 8. But Great Britain and Germany were not the only countries carrying on parleys with China during the late seventies and early eighties for the betterment of commercial relations. The representatives of Russia, M. Koyander and later M. de Butzow, in addition to supporting their colleagues in their efforts, had fish of their own to fry. Since 1871 Russian troops had been in occupation of the Chinese territory of Ili, a step taken by Russia to protect her overland trade route, the safety of which was threatened by the widespread disorder caused by the rebellion of Yakub Beg.

By January 1878 that doughty and resourceful fighter Tso Tsung-t'ang had with ruthless thoroughness suppressed the rebellion, and Russia was accordingly called upon to keep her promise and evacuate the occupied territory. To arrange for this desired end Chung Hou (崇厚), who had had experience of travel to foreign countries, having been sent to France on a mission of apology after the Tientsin incident, was now commissioned to St. Petersburg to negotiate terms. He returned with the Treaty of Livadia by which Russia undertook to restore Kuldja to China against a payment of five million roubles, the granting of free trade, and the cession to Russia of Yarkand and the valley of the Tekkes river and the passes through the Tien Shan mountains. This was too high a price to pay for the restoration of stolen goods, and Chung Hou was accordingly denounced as a traitor, tried, and sentenced to decapitation. Thanks partly to the personal intervention of Queen Victoria and to the representations of the foreign Ministers at Peking this sentence was not carried out, but partly also to the realization by the wiser heads, in spite of the bellicose attitude of many at the Court, that war with Russia, who had massed troops in the claimed territory, would be a desperate hazard which might well mean the end of the dynasty. Chung Hou accordingly was reprieved, and Marquis Tseng was ordered to proceed to St. Petersburg to re-open negotiations. The result was the Treaty of St. Petersburg, which was signed on the 12th/24th February, 1881 and ratifications of which were exchanged on the 7th/19th August of the same year.[1] By this instrument China regained the Tekkes valley and the passes between Ili and Kashgaria and was confirmed in her possession of Ili except for a strip down the western side. The lands in the other parts of Eastern Turkestan were also restored to her. The free trade privilege in the area of Ili, Tarbagatai, Kashgar, Ouroumtsi, and Mongolia was modified to the extent that the privilege was to be withdrawn when trade had so developed as to be able to bear the imposition of duties. Comprehensive regulations were also drawn up, and attached to the treaty, to govern the overland trade between Russia and the provinces of China Proper. In these regulations, from the point of view of the tariff, the most noteworthy stipulation was the one granting a preferential reduction of one-third on the import duties on goods brought by Russian merchants by land from Russia into China *via* Kalgan, Tientsin or Chia Yu Kuan.

[1] For text of treaty *vide* B.P.P. *China No. 1 (1882)* or *Treaties, Conventions, etc.* Vol. 1, pp. 163-207.

Should such goods, however, be exported by sea from Tientsin to any other treaty port the Customs were to levy the one-third duty remitted at the land frontier. It was also stipulated that Chinese goods bought at Kalgan for export by land to Russia should pay export duty at only half the treaty tariff rate. This duty reduction privilege for trade across the land frontiers was seized on by the French when negotiating the treaties which brought to a close the hostilities of 1884-85 between France and China, and which *inter alia* dealt with the land frontier trade between Indo-China and the south-western provinces of China. Article VI of the Treaty of Tientsin, signed on 9th June, 1885,[1] stipulated that the import and export overland trade between Tonkin and the provinces of South China should be subject to a tariff lower than that obtaining for foreign trade at the treaty ports, while Articles VI and VII of the Convention of Tientsin, signed on 25th April, 1886,[2] stipulated that for overland imports into China across this frontier the rates should be those of the treaty tariff reduced by one-fifth, and those of exports from China should be reduced by one-third. These reductions, however, did not satisfy prospective merchants so by Article III of the Additional Convention, signed at Peking on 26th June, 1887[3] it was agreed that the rates for imports should be reduced by three-tenths and those for exports by four-tenths. Later on these latter reduction rates were claimed also by the British for the overland trade across the Burma-Yunnan frontier *via* Manwyne and Sansi.[4] To the officials of a state the fiscal arrangements of which had been seriously handicapped by the imposition of a conventional five per cent tariff this exaction of still lower rates for a petty frontier trade seemed to savour less of broad-minded statesmanship than of scrubby rapacity.

Question of taxation of foreign opium, chief obstacle to Britain's ratification of Chefoo Convention: Final settlement of combined duty and *likin* rate at Tls. 110 per picul.

§ 9. The German, the Russian, and the early stages of the French negotiations for treaty revision were interludes in the long drawn out struggle of Sir Thomas Wade to secure from his own authorities ratification of the Chefoo Convention. Chief among the obstacles in the way of ratification was the question of the taxation of foreign opium. Wade wished that both duty and

[1] *Treaties and Conventions, etc.* 2nd ed. Vol. I, p. 904.
[2] *Treaties and Conventions, etc.* 2nd ed. Vol. I, pp. 916, 917.
[3] *Ibid.*, p. 926.
[4] *Vide* Article IX of Burma Frontier and Trade Convention, signed 1st March, 1894: *Treaties, Conventions, etc.* 2nd ed. Vol. I, p. 527.

likin on this article should be collected by the Maritime Customs at the ports, and "had come to the conclusion that Tls. 32, or a little more, represented the total *likin* actually collected of opium, inclusive of all inland taxation which might be set against the amount of *likin* at present evaded at the place of import."[1] At the time of the drafting of the Chefoo Agreement Li had suggested a *likin* levy of Tls. 60 per picul, but as Wade could not pledge the Government of India, he had inserted a clause by which the several amounts to be levied in each province were to be decided by the different provincial governments. It was on the basis of his own province that Li had suggested a *likin* levy of Tls. 60 per picul, but he had taken care to point out that other provinces, notably Fukien, would be sure to ask for more. By October 1879 Wade was able to inform Lord Salisbury that the Yamên was willing that the amount of *likin* to be levied should be in accordance with the amounts assessed at the ports when the Agreement was signed, an amount which varied from Tls. 18 per picul at Tientsin and Newchwang to Tls. 84.6 at Amoy and Foochow,[2] "and to guarantee that this arrangement shall not be disturbed during a term of years."[3] Hart had suggested that a Commissioner of the Chinese Customs should be stationed in India to collect the *likin* on opium shipments thence to China, and Li Hung-chang considered the suggestion a good one provided that a Chinese official were placed over the foreign Commissioner to see that he was not tampered with![4] Hart, too, in conversation with Wade had "volunteered the observation that if the Chinese Government were to secure 40 taels *likin* per picul on all the opium now brought to Hongkong from India . . . it would really collect far more *likin* revenue on foreign opium than is now collected." As the Yamên, on the other hand, had informed Wade that they had often consulted Hart on the subject, and that he was in favour of a levy of Tls. 120 per picul, Wade preferred to believe that the Chinese were trying to drive a hard bargain with him and were using Hart's name as a shield."[5] The Grand Secretary Tso Tsung-t'ang,

[1] F.O. 17/810: Wade to Salisbury, confidential desp. No. 56, 9th August, 1879.

[2] Wade to Lytton, 16th February, 1879. *B.P.P. China No. 3 (1882)*, p. 72.

[3] F.O. 17/811: Wade to Salisbury, desp. No. 87, 1st October, 1879.

[4] F.O. 17/810: Wade to Salisbury, desp. No. 56, 9th August, 1879.

[5] F.O. 17/810: Wade to Salisbury, confidential desp. No. 59, 9th August, 1879.

who was eager for a root and branch eradication of the trade, if that were possible, after suggesting that the Indian Government should divide its enormous profits on the opium trade with the Chinese Exchequer, proposed a uniform rate of Tls. 150 per picul, of which Tls. 30 represented the import tariff duty, and Tls. 120 the inland *likin*,[1] a tax which, be it remembered, the Chinese consistently maintained was never illegal but only abnormal. To this proposal Wade replied that while the Government of China was free to levy what it pleased on the drug once it had passed into Chinese hands, still that Government could hardly expect to secure the aid of his Government in effecting what seemed to him unreasonable. Tso Tsung-t'ang then withdrew from the negotiations, and Li Hung-chang, at subsequent meetings, gradually reduced this *likin* figure of Tls. 120 per picul till it stood at Tls. 80. Wade maintained that he could demonstrate "that an addition of 50 taels *likin* to the 30 taels tariff, 80 taels in all, would be precisely the amount that they had declared was due to the Treasury according to a general estimate."[2] This was an advance of ten taels over the *likin* rate which nineteen months previously (November 1879) he had been prepared to recommend the Viceroy of India to agree to.[3] Hart, more solicitous about Imperial than about provincial revenue, was of opinion that it would be wiser to increase the treaty tariff duty and decrease the *likin* rate accordingly.[4] Memorials from the opium merchants of Calcutta and Bombay were emphatic in their denunciation of *likin* and were equally emphatic for the observance of the terms of the Treaty of Tientsin, which according to their interpretation did not permit of the levy of *likin* on opium within the area of the port of importation. During the negotiations at this time the American Government entered into a formal agreement with China by which traffic in opium was absolutely prohibited to American citizens, America gaining in return by a separate treaty,[5] negotiated at the same time, the right to regulate, limit or suspend Chinese immigration into the United States. Li Hung-chang stood firm by his suggestion of a combined rate

[1] Wade to Granville, 15th June, 1881. B.P.P. *China No. 8 (1882)*, p. 16.
[2] Wade to Granville, 15th June, 1881. *Ibid.* p. 16.
[3] Wade to Prince Kung, 10th November, 1879 enclo. in Wade to Salisbury, 31st January, 1880. B.P.P. *China No. 2 (1880)*, p. 3.
[4] Wade to Lytton, 16th February, 1879. B.P.P. *China No. 8 (1882)*, p. 74.
[5] Martens; *Nouveau Recueil Général de Traités;* Deuxième Sèrie; Goettingue, 1887; Vol. XI, pp. 730-731. Hertslet. *China Treaties*, 3rd edition, London, 1908; Vol. I, pp. 558-560.

ot Tls. 110, of which Tls. 80 were for *likin* and Tls. 30 for tariff duty, and this, as we shall see, was the rate finally adopted although at the moment the British Minister would not agree. He was pressed to name a rate, but suggested instead that the tariff rate should be raised to Tls. 45 and the native *likin* collectorates be left as they were to gather what harvest they pleased from the drug, an arrangement which he knew would be eminently satisfactory to the provincial authorities. His suggestion was not welcomed, and a return was made to the discussion of what in the eyes of the Chinese negotiators was the most favourable solution, namely, a combined rate to be collected by the foreign controlled Maritime Customs at the ports. It was now, however, (May 1881) made quite clear, and agreed upon by both sides, that the *likin* component of whatever combined rate should finally be accepted should clear the drug not simply from port *likin*, but from all and every *likin* charge in the interior as well, no matter to what part of the interior[1] it might be carried. At this point further discussions were interrupted as Li Hung-chang had to return to his vice-regal duties at Tientsin. An interesting diversion now took place. A Mr. Joseph Samuel who had studied the opium question both in India and in China came forward with the proposal that Great Britain should establish a world monopoly in opium, and become the sole trader both with the Chinese and other markets. So far as China was concerned a fixed annual quota of the drug should be agreed upon, and all consignments up to that amount should be stored under strict government regulation and supervision in Hongkong. Controlled in this way there would be certainty of income to both Governments, protection against contraband trade in the drug, and facility of reducing and gradually extinguishing the trade. The immediate outcome of Samuel's proposals was that the Viceroy Li Hung-chang was persuaded by Detring, the Commissioner of Customs at Tientsin, to despatch a special agent to India to study the opium question and to sound the Indian Government upon the practicability of gradually extinguishing the trade. The agent selected was Ma Kieh-chung (馬建忠), an official of Taotai's rank, who had formerly been attached to the Chinese Legation in Paris, and who, although no immediate result came from it, carried out his mission to the entire satisfaction of his superior. His, or rather Li's and Detring's proposal was that an experiment should be tried by which for a term of years, say 20 to 30, the Chinese Govern-

[1] Wade to Granville, 3rd June, 1882. B.P.P. *China No. 3 (1882)*, p. 79.

ment should become the sole proprietor of all opium produced in British India, the British Government guaranteeing that during this term the quantity of opium grown should be gradually reduced so that on the expiry of the term the export of opium from India should wholly cease. The price to be paid should be fixed at intervals by agreement, and the payment made either at Hongkong or in India, and either direct through a Government agent or by a privileged company.[1] Hart was not in favour of this scheme, and neither was the Tsungli Yamên; but if the British and the Indian Governments were to put all Indian opium into Samuel's hands, and were to assist him to get hold of all outside opium, then the Chinese Government was prepared to accept him as the recognized British agent, and to do all else necessary to make the plan a success. Yet another scheme was put forward by a group of Chinese merchants in Canton, and forwarded officially by the Governor of Hongkong. It was that a Chinese monopoly should be created for the sale of opium in China. The company was to have its headquarters in Hongkong, and in return for the exclusive right to sell opium anywhere in China free of all taxation was prepared to guarantee a large annual revenue to the Chinese Exchequer. This scheme was not looked on with favour, doubts being entertained not only of the financial standing of the proposed company, but also of the wisdom of entrusting to a merely local association so vast an enterprise as the opium trade had grown to be. The scheme too was unpleasantly reminiscent of co-hong days and co-hong ways. While these and other schemes were under discussion, Wade had come to the conclusion "after two years' incessant debate" that a *likin* rate of sixty taels was "the minimum offer which in any responsible official's opinion it would be worth the while of the Chinese Government to close with". "It must be for Her Majesty's Government to decide which rate, if any, it will consent to".[2] The Viceroy Li Hung-chang, however, still held out for a *likin* rate of eighty taels, the treaty tariff import duty to remain the same. He summed up his proposals in three articles:—(1) "The sum of 110 taels being collected at the port of entry by the Maritime Customs opium is to be thenceforward free of all charge whatever, and any official found to be levying *likin* upon it is to be punished. (2) All opium brought from India being deposited at Hongkong, an official Agency of the Chinese Government is to

[1] Wade to Prince Kung, 13th January, 1882, enclo. on Wade to Granville, 3rd June, 1882. B.P.P. *China No. 3 (1882)*, p. 87.

[2] Wade to Granville, 3rd June, 1882. B.P.P. *China No. 3 (1882)*, p. 95.

be established at Hongkong for the purpose of surveillance, the Government of India and the Government of Hongkong being instructed by the Government of Her Majesty to keep this Agency informed of the shipment and arrival of the drug, the duty on which is to be collected either at Hongkong or at the ports to which it is consigned, according as the Hongkong Government and the High Officer at the head of the Chinese Agency shall agree. The Governments of India and Hongkong are to engage to do all in their power to prevent smuggling. (3) These arrangements are to be tried under provisional regulations. When the sanction of the Governments of England and China shall have been given the Opium Clause of the Chefoo Agreement is to be cancelled."[1] Negotiations in China had now reached a deadlock. Wade had exhausted his arguments, and so far as he was concerned the decision now rested with his home Government, while the Chinese representatives on their part had made up their mind that the best solution of the problem lay in the simultaneous collecting of tariff duty and *likin* by the Inspectorate of Customs at ports of entry, and that the lowest acceptable rate for *likin* was eighty taels a picul. Concurrently with the negotiations in China constant correspondence on the subject had been going on between the Government of India and the Home authorities. By January 1883 these latter consultations had reached such a point that Earl Granville, then Secretary of State for Foreign Affairs, was in the position to inform Marquis Tseng, Chinese Minister in London, that the British Government would like to discuss the matter with him with a view to arriving at a settlement. The result was a series of informal conferences at the Foreign Office, at which Sir Thomas Wade along with the Assistant Under Secretary of the Foreign Office represented the Home authorities, while the Government of India was represented by the Secretary of the Revenue Department of the India Office and China by Dr. Macartney, English Secretary to the Chinese Legation. At the first meeting, held on 5th March, the British and India delegates handed in a memorandum suggesting that "the opium article of the Chefoo Convention should be put into force, on condition that the amount of *likin* to be collected by the Customs should be calculated on the basis of the amount levied in 1876 and that the area within which opium should be free from further taxation should be defined. The Chinese to

[1] Wade to Prince Kung, 13th January, 1882, enclo. in Wade to Granville, 3rd June, 1882. B.P.P. *China No. 8 (1882)*, p. 88.

be at liberty beyond that area to levy any *likin* they please".[1] Marquis Tseng met this proposal with a counter proposition, in which he pointed out that though the Chinese Government, in their desire to see the Convention given effect to, had at various periods been willing to discuss other methods, yet they had always shown a preference for the one which would convert the *likin* as then levied into a uniform rate. The Marquis therefore expressed the hope that the question might be discussed on that basis and urged that such a course would probably expedite the arrival at a definite understanding between the two Governments as his instructions had been drawn up on the supposition that such a basis would be accepted. For discussion on any other basis he would have to apply to Peking for fresh instructions, and this would involve still further delay as the Imperial Government would have to consult the provincial authorities. Another argument in favour of a uniform rate was that as it was the solution favoured by the Chinese Government it must be taken as the one most suited to the country, and therefore as the one most likely to work with the least friction. Finally, the Marquis suggested that the adoption of a uniform *likin* rate on opium, exempting that article from all further inland taxation whatsoever, would be "a step towards that freedom of circulation which, it has always been maintained, would be so advantageous to the development of the inland trade of China, native as well as foreign".[2] He therefore begged to propose—"That the Chefoo Agreement should be ratified by the two Contracting Governments, and with a view to obviating any difficulties which might arise in giving effect to it, that a Memorandum should be annexed to it, stating that Section 3, Article III of the Agreement shall be taken to mean, that the British Government thereby consents to British merchants, when opium is brought into port, being obliged to have it taken cognizance of by the Customs and deposited in bond, either in a warehouse or receiving hulk, from which it will only be taken on the importer paying to the Customs the tariff duty of thirty taels per chest of 100 catties, and on the person to whom it shall have been sold, paying also to the Customs a further sum of eighty taels per chest as *likin*. On the other part, the Chinese Government in consideration of the above action of the British Government, undertakes to issue, through the

[1] F.O. Memorandum of 5th March, 1883. B.P.P. *China No. 5 (1885)*, p. 2.

[2] Memorandum by Marquis Tseng, 12th March, 1883. B.P.P. *China No. 5 (1885)* p. 4.

Customs to Chinese subjects, transit certificates for the opium on which thirty taels tariff duty and eighty taels per chest of 100 catties *likin* shall have simultaneously been paid, exempting it from the payment of any further dues or duties whatsoever, whilst being carried from the port of entry to any place in the interior".[1] In their reply memorandum the British Government accepted the principle of a uniform rate of *likin* to be collected simultaneously with the tariff duty, but stated that, subject to certain conditions, the maximum *likin* rate they could consent to would be seventy taels per chest of one hundred catties. The conditions demanded were (1) that so far as imports of opium were concerned the nationality of the person possessing or carrying transit certificates would be immaterial; (2) that repacking of opium for inland markets into fractions of a chest should be authorized; (3) that all such packages, provided they are unbroken and with their "duty-paid" marks undefaced, should be allowed free circulation over the whole country and be exempt from all further duties or taxes of any kind; (4) that the presence of foreign opium in boats, warehouses, shops, or houses should not subject such boats, warehouses, shops or houses to any licence or tax other than imposed for the presence of native opium; and (5) that this arrangement should be terminable by either party at the end of five years.[2] These conditions had naturally to be referred to Peking and more than a year elapsed before Marquis Tseng was in a position to communicate the Chinese Government's reply. This reply was in effect an acceptance of all the points mentioned in the British Government's memorandum with the exception of two, one of them relating to the nationality of the drug while in transit in the interior and the other the amount to be paid in *likin*. As regards the first the Chinese Government pointed out that the attitude of the British Government had hitherto always been that as soon as opium, bought from British subjects, had passed into Chinese hands, it should no longer in any way be regarded as British property. This being so the Chinese Government presumed that this point would not be allowed to stand in the way of a settlement. The second point in the British memorandum which the Chinese Government could not accept was the fixing of the *likin* rate at seventy taels a picul. The Chinese Government still maintained that eighty taels a

[1] Memorandum of Marquis Tseng, 12th March, 1883. B.P.P. *China No. 5 (1885)*, p. 4.

[2] F.O. Memorandum enclo. in Granville to Grosvenor, 27th April, 1883; B.P.P. *China No. 5 (1885)*; pp. 5-6.

picul was the lowest figure they could accept, reminding the British Government at the same time that this rate, considering the exceptional nature of the traffic, was in reality a very moderate one as at present values of Indian opium a combined duty and *likin* of one hundred and ten taels a picul was only a twenty-five per cent levy. The Chinese Government also begged to point out that in effect their proposal of a uniform rate of *likin* on opium was a voluntary restriction of their power of unlimited taxation, seeing that Article XLVI of the Treaty of Tientsin recognized their right to take such measures as they might see fit for the protection of their revenue, under which they could require that *likin* be paid before opium were removed from bond, while Section I of Rule 5 of the tariff regulations, appended to the treaty, empowered them to raise the tax on opium to any figure they might think proper as soon as the drug should have passed into Chinese hands. Finally, they drew attention to the undoubted fact that at that moment foreign opium at some ports was paying *likin* at higher rates than the one they were prepared to accept as a uniform commutation rate, and to Sir Robert Hart's opinion that opium could stand a *likin* rate of ninety taels without interfering with the consumption of the drug.[1] Correspondence with the Government of India necessarily delayed the final decision which was given in February 1885 in a despatch from Earl Granville to Marquis Tseng.[2] In spite of the considerable loss to the revenue of India the British Government agreed to accept the commutation *likin* rate of eighty taels a picul on foreign opium proposed by the Chinese Government, and in doing so noted with satisfaction that China was prepared to give the guarantees suggested. They insisted, however, that the rate now accepted should be a maximum rate, and that there should be a clause in the final agreement giving the British Government the right to terminate the arrangement at any time if the internal *likin* upon opium were not effectively abolished, and that this right should not depend upon the consent of other Treaty Powers who may have joined in the arrangement. An Additional Article to the Chefoo Convention was accordingly drafted by the British authorities[3] and by the middle of June Marquis Tseng had

[1] Memorandum of Marquis Tseng to Granville, 27th September, 1884; B.P.P. *China No. 5 (1885)*, pp. 6-9.

[2] Granville to Tseng. 9th February, 1885, B.P.P. *China No. 5 (1885)*, pp. 9-10.

[3] Granville to Tseng 24th April, 1885 Salisbury to O'Conor, 18th July, 1885, B.P.P. *China No. 5 (1885)*, p. 11, pp. 14-16.

received a telegram informing him that an Imperial Decree had been issued authorizing him to sign.[1] The final act took place at the British Foreign Office on the 18th July, 1885 when the Additional Article was signed and an exchange of notes took place between the Marquis of Salisbury and Marquis Tseng.[2] By this Additional Article it was agreed that the question of *likin*-free areas at the foreign settlements should be reserved for further consideration, that foreign opium when imported into China should be deposited in bonded warehouses or receiving hulks under the control of the Inspectorate of Customs, and that it should not be removed thence until it had paid a tariff duty of thirty taels per chest of one hundred catties and a sum not exceeding eighty taels per chest as *likin*, that import duty and *likin* having been paid the owner should be at liberty to repack his opium into such smaller packages as may be agreed upon by the Customs and the British Consul, that if the owner so desired each such package should be provided with a transit certificate freeing the opium from any further tax or duty whilst in transport to the interior provided the package is unbroken and the marks unchanged, that such certificates should be valid only in the hands of Chinese subjects, that when a package has been opened at place of consumption the opium therein should not be subjected to any tax or levy, direct or indirect, other than or in excess of such tax or levy as may be charged on native opium, that this Additional Article should have the same force as if it were inserted in the original Convention, that the arrangement should hold good for four years after which either party might give a year's notice of its desire to terminate it, but that the British Government should have the right to terminate at any time should there be any infringement of the exemption from taxation conferred by the transit certificate, and that the commission to enquire into the question of Hongkong as a smuggling centre should be appointed as soon as possible. By the exchange of notes of the same date it was agreed that if the Chinese Government should fail to bring the other Treaty Powers to conform to the provisions of the Additional Article a reversion should be made to the former system of opium taxation, and that should the Additional Article be terminated, the rest of the Chefoo Convention, with the exception of clause 3 of section 3, should

[1] Tseng to Granville, 15th June, 1885, B.F.P. *China No. 5 (1885)*, p. 11.
[2] Salisbury to Tseng, and Tseng to Salisbury, 18th July, 1885, *China No. 5 (1885)*, pp. 16-17.

remain valid.[1] Thus, after more than eight years' protracted negotiations, China had at last succeeded in securing from a foreign Power consent to levy in her own territory what proved to be a fair rate of taxation on an article of import, the consumption of which was generally recognized as being more hurtful than healthful, the importation and use of which the majority of open-minded Chinese would gladly have seen suppressed, and the payment for which was an incessant drain on the resources of a nation which above all else needed that her resources should be husbanded for productive purposes. But the incident was not lost on the Chinese Government. They had discovered how strong were the bonds fettering their freedom of fiscal action, and had begun to realize that the breaking of these fetters would be for them a slow and painful process. For the one commodity of opium alone it took from the signing of the Additional Article of the Chefoo Convention over twenty years before China began, with the friendly assistance of the very Power that had helped to fetter her, to get rid of her bonds; while forty-five years were yet to elapse before she could stand fully emancipated from the shackles of fiscal restraint imposed on her by external authorities.

Regulations governing trade at ports of call on the Yangtze.

§ 10. On 1st April, 1876 Custom Houses were duly opened at the four new ports—Ichang, Wuhu, Wenchow and Pakhoi—and on 1st July of the year following river, but not ocean-going, steamers were for the first time permitted to ship and discharge cargo at the six ports of call on the Yangtze, viz: Shasi, Lukikow, Wusüeh, Hukow, Anking, and Tatung. As it was not intended that fully equipped Custom Houses should be established at these ports of call it became necessary to define the conditions and to lay down regulations under which trade at these places could be carried on. To study the situation at first hand the Inspector General spent seven months—April to October—of the year 1877 principally at the Yangtze ports, and while there decided to place the supervision of this port of call trade for statistical purposes in the hands of a special deputy to be located at Hankow. Discussion with the local officials and with the Commissioners at the Yangtze ports resulted in a set of provisional rules which were given their final shape at Ichang. These port of call rules[2]

[1] For text of Chefoo Agreement and Additional Article *vide* B.P.P. *China No. 3 (1886)*: Hertslet, *op cit* Vol. I., pp. 73-80, 84-87: *Treaties, Conventions, etc. op. cit.* Vol. I, pp. 491-505.

[2] C.A. I.G. Circ. No. 27, 2nd Series.

stipulated that goods duly covered by transit passes—foreign goods inwards from a treaty port to a port of call, and native goods outwards from a port of call to a treaty port were to pass without let or hindrance, the latter category, of course, paying transit dues on arrival at the treaty port in question and export duty on shipment abroad. Cargo shipped at a treaty port for a port of call was to pay a full duty provided there were no other treaty port between the treaty port of shipment and the port of call destination, but a full and a half duty if there were such an intermediate treaty port. Duty-paid merchandise was to be covered with a special receipt for delivery at the port of call, and a Cargo Certificate in Chinese giving a list and description of the goods was to be sent to the Weiyüan in charge of the native tax office at the port of call, and an English version to the Maritime Customs deputy at Hankow. Cargo shipped at a port of call either for another port of call or for a treaty port and passing a treaty port *en route* was to pay duty at the treaty port passed *en route*—full if there were no other treaty port between shipment port of call and destination port of call, but in all other cases full and a half duty. The Weiyüan at the port of call was to hand in a sealed envelope to the master of the carrying steamer a Cargo Certificate in Chinese which the master was to deliver to the Maritime Customs at the first treaty port passed, while the owner of the goods was to present his *likin* receipt for visé. The Custom House at the treaty port passed was to provide the owner with a duty receipt, and the carrying steamer with a cargo Certificate, in Chinese if for a port of call and in English if for a treaty port. English duplicates of such Cargo Certificates were to be sent to the Maritime Customs Deputy at Hankow. Any cargo arriving at a treaty port from a port of call without *likin* or duty receipts was to be confiscated. Cargo going from one port of call to another and not passing a treaty port *en route* was to be exempt from Maritime Customs duty but was to discharge all *likin* obligations at the ports of call in question. As Hukow was not actually on the Yangtze but well within the entrance to the Poyang Lake, and as local conditions made it not only inconvenient but inadvisable to open it at that time the shipment and discharge of cargo at that place by river steamers was for the time being deferred. In communicating these rules to the Service the Inspector General admitted that they were much more elaborate than the occasion called for. This was due to the attitude of the provincial authorities who wished to make sure that at the ports of call payment should be made up for the *likin*

of the stations passed *en route*, and that the levy of treaty tariff duties should take place not at a port of call but at the first treaty port passed. These authorities had no intention of allowing these ports of call to develop into miniature treaty ports or branch offices of treaty port Custom Houses. As time went on it became apparent that from the point of view of facilitating and developing Customs duty-paying trade this port of call procedure was comparatively a failure, but it proved a very great convenience to passenger traffic and to petty localized trade. On the abolition of *likin* from 1st January, 1931[1] these port of call rules as duty protecting regulations became restricted to the interport duty leviable on native goods when conveyed by regular river steamers between ports of call and open ports.

Duty-free list of dock stores.

§ 11. Two questions affecting the tariff and the administration of the tariff stood out in the Supplementary Convention of 1881 with Germany, the one was the freeing from duty of materials to be used in German docks in China for the repair, but not for the building, of ships, and the other was the providing for the establishment of bonded warehouses. The question of what could, and what should not, fairly be included in a duty-free list of dock stores was one that involved no little controversy and correspondence, but through the Port Commissioners a list satisfactory to both parties was at last agreed upon. That list was a liberal one, and included brass or yellow metal, copper, iron, galvanized iron, lead, steel, tin, zinc in all such forms as angles, bars, beams, bolts, castings, hoops, knees, pipes, plates, rods, shafting, sheets, slabs and wire; Babbit's metal; pewter or spelter; solder; hinges, hooks, locks, nails, rivets, screws, screw-nuts, shackles, swivels, spikes, and tacks of all kinds; boiler mountings and tubes; engine cocks, valves, steam gauges, gongs, packing, and whistles; hard-wood and soft-wood whether as beams, blocks, boards, crooks, knees, masts, spars, or tree-nails; cement; cordage; patent dryers; felt; firebricks; fireclay; glass; hose; india-rubber; leather; oakum; paint; polish; pitch; pumps; putty; resin; sand paper; tallow; tar; engineers' and carpenters' tools; varnish; washers; washstands; water-closet appliances; and whatever else a dock might indisputably require for effecting repairs, dock plant—excluding tools—excepted.[2] As such goods were to be duty free only when

[1] C.A. I.G. Circ. No. 4158.
[2] C.A. I.G. Circ. No. 158, Encls. No. 7.

used for repairs to ships and to be dutiable when used in the actual construction of new ships, it was clear that a system of Customs supervision of all docks enjoying this privilege was called for. This was effected by arranging that whenever a German, or any other foreigner enjoying most-favoured nation treatment, wished to open a dock he was to apply to the Commissioner of Customs for a bond, which he was to fill up and sign before his Consul, and which, after having been sealed by the Consul, was to be deposited with the Customs. This bond stipulated that the articles freed from duty for the repairs of ships were not to be disposed of to others or used for purposes other than the repair of ships, and that if either of these conditions should be violated a fine of Tls. 500 should be imposed. To keep track of these duty-free stores each dock was to keep a register in which all goods exempted were to be entered when received, according to date and classification, and to be written off when used with date and name of ship repaired. Exempted goods, stored in a dock, if required for any other use than repairing ships, were to be reported to the Customs and a dock duty memo applied for, after which, on the payment of the tariff import duty, the goods would be allowed to leave the dock. Goods thus removed were to be written off the dock registers. Customs officers were to be at liberty to watch all dock activities, and to call at any time for the dock registers for inspection. Should the registers fail to be produced or be found not kept written up to date the Customs were to cancel the dock's bond, return it to the Consul concerned, and thereafter refuse to exempt goods for the dock in question.[1] A special register of goods imported for each dock was to be kept at the Customs House with the amount of duty exempted entered against each item, and a précis of this register, in English and in Chinese, was to be sent annually to the Inspectorate. To ensure that no abuse would be made of the last entry on the dock free list, viz: whatever else a dock indisputably requires for effecting repairs, the Inspector General ordered that duty on deposit was to be collected on goods coming under that heading pending reference to him for final decision. For over twenty years dock stores enjoyed this duty-exemption privilege under the conditions stipulated, until the necessity of finding more revenue to meet the demands of the Boxer Indemnity compelled the reduction of the duty-free list. From the 31st October, 1902, therefore, when the Revised

[1] C.A. I.G. Circ. No. 158, Enclo. No. 7.

Import Tariff came into force, dock stores took their place as dutiable goods.[1]

Origin and development of bonding in China: Bonding of Kerosene oil.

§ 12. The second concession gained by the German Supplementary Convention which affected the administration of the tariff was that of deferment of duty payment by the depositing of goods in a bonded warehouse. As we have already seen this was a privilege which merchants from the very earliest treaty days had striven to obtain;[2] it was the privilege they had clamoured for in 1853 when the Taiping Rebellion had brought their trade to a standstill, and they were faced with accumulated and accumulating stocks for which they could get no sale and for the import duties on which they had no cash, and it was one of the necessities for which Alcock had made provision in his abortive Convention of 1868. The refusal of the Chinese authorities to grant such a privilege necessitated the introduction of the system by which, against a written guarantee, a vessel's agent was given a specified number of days of grace within which he could apply for and clear off the import duties due on any given vessel even though the vessel had already been granted clearance. The legalizing of the opium trade, however, by the Rules of Trade appended to the Treaty of Tientsin, and the previous local arrangements by which that trade had been carried on, resulted in an unofficial form of bonding for that article, the opium being stored either in special godowns or in receiving hulks which were now permitted to be anchored within port limits. Foreign goods generally were now, however, to enjoy the privilege of being stored in bonded warehouses in any of the open ports of China where they might be required in the interests of foreign trade and where local circumstances admitted of such an arrangement being made. As this was a new departure in China's Customs arrangements it was agreed by section 2 of the special stipulations appended to the German Supplementary Convention that "an experiment to ascertain whether bonded warehouses can be established in the Chinese open ports shall first be made at Shanghai" and that "for this purpose the Customs Director (Superintendent) at the said place with the Customs Inspector General shall forthwith draw up regulations suitable to the local conditions, and then the said Customs Director (Superintendent)

[1] C.A. I.G. Circ. No. 1050.
[2] *Antea* Chap. III, § 15, p. 226 *et. seq.*

and his colleagues shall proceed to the establishment of such bonded warehouse". The Inspector General duly proceeded to Shanghai in May 1882 to initiate measures for the introduction of bonding. Hart's proposals were that only foreign goods should be allowed to be bonded, and that the Chinese Government—instead of incurring expense by building special warehouses of their own and thus competing with existing warehouses—should license the godowns both of the China Merchants Co., and of the Associated Wharves "thereby confining the privilege to public companies whose shares can be bought by all in the open market, and extending it to natives and foreigners alike."[1] After long consideration, however, the Chinese authorities decided to exclude foreign warehouses and to grant to the China Merchants Company the monopoly of using certain of their godowns as duly licensed Government bonded warehouses. Regulations on this basis were drawn up, but it was not until the autumn of 1887 that it was finally decided to proceed with the scheme. Accordingly on 20th December, 1887 a Customs Notification was issued informing the public that from 1st January, 1888 consignees of foreign imports would have at Shanghai the option of paying duty and taking immediate delivery of the goods, or of deferring payment by depositing their goods in a bonded warehouse subject to the regulations for bonding authorized by the Chinese Government.[2] As was expected the announcement met with strong criticism from most of the foreign trading community in Shanghai. They rejoiced that the long-desired privilege of bonding had at last been granted, but they deprecated in the strongest terms the placing of all the godowns to be bonded as a monopoly in the hands of one firm. This seemed to some to be an unscrupulous attempt to lower the value of the godown property of foreigners, which could not be bonded. The Chamber of Commerce held a meeting of protest, but all to no avail.[3] After events, however, proved that they had been disquietened in vain. On the expiry of six months' trial the statistics showed that out of 416 vessels entitled to bond their cargoes only 30, or about seven per cent, took advantage of the privilege, and that out of 300,000 packages discharged by these 30 vessels, only 9,063 or about three per cent were bonded. The extent to which the foreign import trade of the port used the privilege of bonding

[1] C.A. I.G. Circ. No. 395.

[2] Customs Notification No. 279.

[3] N.C.H. No. 1063. 14th December, 1887, pp. 642, 649-650.

was estimated at two per mille.[1] The reasons for this failure were not far to seek. Import duties at that time were light and as goods passed quickly from the original importer to the purchaser there was in the great majority of cases no advantage to be gained by bonding. Sorting of the to-be-bonded cargo from the not-to-be-bonded cargo had in most cases to take place at the transit godowns and merchants found that the expenses incidental to the removal of goods from one godown to another, including coolie and cargo-boat charges soon ran up to a sum larger than the interest on the amount of duty payable. The main reason, however, for the failure of the system was the opposition caused by the creation of a Chinese bonding monopoly. Attempts made by the Inspector General to have this privilege extended to other suitably built and placed warehouses were unsuccessful, the only extension sanctioned by the Government at the time being that of allowing the China Merchants Company's Pootung premises to be licensed for the bonding of kerosene oil in cases.[2] After ten years' experience of the bonding system at Shanghai the general result was the same. Out of some 800 categories of goods finding a place in the foreign imports list only about 45 were to be found in the quarterly and yearly bonding tables published by the Customs, and of these 45 scarcely a dozen were in quantity sufficient to be worth notice.[3] In the opinion of the Shanghai Commissioner the decade's working had demonstrated (1) that the monopoly had been of no advantage to the monopolists, (2) that full security to the revenue was provided by the procedure in force and that no fault was found by merchants with that procedure, and (3) that so long as low import duties prevailed and goods passed quickly from consignee to dealer there was no special need for, and consequently little use to be made of the privilege. At the same time, it was pointed out that if the privilege were extended to other riverside godowns, the convenience would probably be more extensively used. There were always certain lots of goods unclaimed by consignees at the expiration of the six days from date of clearance then allowed under the annual guarantee system for clearing a steamer's import duty account. On the expiry of the time limit the steamer's agents were obliged either to apply for, and pay duty on, goods with which they really had no concern, or to request an extension of the time limit in order that the consignees might be found.

[1] C.A. I.G. Circ. No. 437, Enclo.
[2] C.A. I.G. Circ. No. 450.
[3] Customs Papers No. 59, *Bonding System at Shanghai*, 1899, p. 10.

In the case of an extension of the time limit no small inconvenience was caused to the Customs, for the duties on a vessel's cargo were not credited in the duty tables until her accounts were finally closed while the goods themselves were summarized and posted in the import ledgers if eight days had elapsed since the ship had been entered. Statistics of goods and duties were therefore not in correct relation to each other. The Commissioner accordingly suggested that it would be an advantage to all if all imports that are not taken delivery of within the stipulated time limit were bonded until they could be imported in the regular manner. The only hindrance in the way of this much-to-be-desired consummation was the existence of the bonding monopoly.[1] The next step in the development of bonding in China was taken in 1895 when as the result of much discussion and negotiation which had taken place during the previous year between various foreign Legations and the Chinese Government, the latter finally decided to permit the erection of tanks for the storage of bulk kerosene oil at ports where the local territorial authorities had no objection to such installations. Regulations for the licensing and bonding of such tanks were drawn up by the Tsungli Yamên,[2] and the first licence was issued in July 1895 to Messrs. Arnhold, Karberg & Co. at Shanghai as agents for the Russian Oil Syndicate, who were followed two years later by Messrs. Meyer, Lemke & Co. as agents for the Royal Dutch Petroleum Co. By the regulations then issued the bonding of tanks for the storage of kerosene oil in bulk was not compulsory, but if bonded the oil stored therein paid one import duty, might be packed in containers for re-export to other open ports, and enjoyed Transit Pass privileges, while the oil from unbonded tanks in addition to the full import duty, was called on when repacked to pay Coast Trade Duty at the second open port, and had no Transit Pass privilege when sent inland.

Duties on coal and sugar: Duty treatment of foreign goods reconditioned in China.

§ 13. The German Supplementary Convention called for a reduction of the export duty on Chinese coal from 4 candareens per picul (that is 6 mace 7 candareens 2 cash per ton) to 3 mace per ton. At ports where a lower duty was in force that duty was to remain unchanged. Already in 1875 the authorities to encourage the native coal mining industry

[1] Customs Paper No. 59, *Bonding System at Shanghai*, 1899, p. 14.
[2] C.A. I.G. Circs. Nos. 656, 673.

had reduced the export duty on Formosan coal to one mace per ton and the coast trade duty to half that rate.[1] Two years later (1877) the products of the Hupei and the Anhui mines were also accorded this privileged treatment,[2] and just a few months before the ratification of the Convention coal from the mines of Kwangsi and from the Kaiping fields in Chihli was also added to this reduced duty list.[3] Another article on which an adjustment of tariff rate was made at this time, mainly by German representations, was sugar. Up to June 1877 the Customs practice had been to treat clayed sugars as white and unclayed as brown. This practice was strongly objected to by merchants in the sugar trade, principally at Amoy and Swatow, with the result that it was finally decided to adopt the Dutch standard as a guide and to treat all sugars, clayed or unclayed, up to No. 10 inclusive as brown, and liable therefore to a duty of one mace two candareens per picul, and all sugars above No. 10 as white and liable to a duty of two mace per picul.[4] For tariff classification sugars continued from that time to be graded by the Dutch standard till 1st April, 1932 when, on account of the greatly increased duties imposed by the Government, the more scientific polarization system of classifying sugars was introduced.[5] Another tariff principle settled in the late seventies was that of the duty treatment to be accorded to foreign goods reconditioned in China. The question first arose over foreign shirtings dyed in China, and the decision given was that such native-dyed foreign shirtings were when sent coastwise or exported abroad to be treated as native cotton cloth. Not being any longer in the packages or condition in which they originally arrived when imported they had lost their foreign status and were not entitled to an exemption certificate when shipped coastwise or to drawback when sent abroad. As native cotton cloth they had to pay export duty at the rate of Tls. 1.5 per picul and a coast trade duty of half that amount. When sent into the interior such native-dyed foreign shirtings were not entitled to the privilege of the inward transit pass.[6] That decision became the guiding principle for the duty treatment for all manner of duty-paid foreign goods reconditioned in China and for articles manufactured or assembled in

[1] C.A. I.G. Circ. Nos. 8 and 56 of 1875.
[2] C.A. I.G. Circs. Nos. 28 and 29, II Series.
[3] C.A. I.G. Circs. Nos. 140 and 152, II Series.
[4] C.A. I.G. Circ. No. 26, II Series.
[5] C.A. I.G. Circ. No. 4,404.
[6] C.A. I.G. Circ. No. 92, II Series.

China from duty-paid foreign materials with or without the use or admixture of native materials. In October 1881 the Inspector General instituted the practice, which is continued to this day, of issuing at the close of each quarter a circular containing a précis of the instructions sent to the various ports during the preceding quarter in reply to queries on (*a*) tariff matters and (*b*) Customs practice.[1] The object of this was to ensure uniformity of duty treatment and Customs action at all the treaty ports.

Tonnage dues certificate made valid for four months without restriction as to ports called at.

§ 14. We have seen[2] that in September 1865 the Chinese Government, yielding to French representations, had agreed that vessels under the French flag should be allowed to ply between Chinese treaty ports and the ports under French control in Cochin China, as well as the ports of Japan, under the same conditions as regards payment of tonnage dues as vessels plying between Chinese treaty ports and Hongkong. Article II of the German Supplementary Convention still further extended the validity of the tonnage dues certificate so that it became permissible for any German vessel, and by application of the most favoured nation clause for any treaty power vessel, having already paid tonnage dues in China to visit not only all other open ports in China, but also any other port in the world, without being again obliged to pay tonnage dues within the given period of four months. Thus was crystallized as a treaty right a privilege which in 1870 the Inspector General had persuaded the Chinese Government to grant to all foreign vessels provided such vessels applied to the Customs for measurement and paid tonnage dues on the Customs measurement.[3] As the entry of vessels, from the earliest treaty days, was reported to the Customs by the Consuls concerned, it had followed that as a rule the Customs accepted the declaration of the Consul as to the vessel's tonnage. Then there occurred the case of a vessel belonging to one of the countries of the North German Confederation in which from previous records it was clear that the amount of tonnage had been grossly underdeclared. The attention of the Prussian Minister was drawn to this fraud and he not only disapproved of the Consul's action, but ordered that the vessel was to pay

[1] C.A. I.G. Circ. No. 159, II Series.

[2] *Antea* Chapter III, §9. p. 205.

[3] C.A. I.G. Circ. No. 16 of 1870.

on the highest tonnage ever reported. On the advice of the Inspector General the Tsungli Yamên decided that to prevent malpractices of this sort vessels should be measured when necessary, and, with the approval of the Prussian Minister, promulgated a set of rules for the measurement by two surveyors, one of whom was to be the Customs Harbour Master, of any vessel flying the flag of the North German Confederation when she had no tonnage certificate, or when there was doubt about her exact tonnage.[1] Seven months later, at the instance of the German Government, these rules were withdrawn, and in their place was adopted the so-called Galatz table for the conversion of lasts, etc., into English tons.[2] During the summer of 1870, however, the Prussian Minister, acting for the North German Confederation, protested strongly to the Tsungli Yamên against what he designated as unfair discrimination shown by the Customs in the levy of tonnage dues on North German vessels. He cited instances of this arbitrary and invidious discrimination and claimed the immediate refund of $500 for tonnage dues overcharged. A thorough investigation of all the cases cited by the Minister proved that instead of $500 being due to the claimants, the sum of Tls. 500 was due to the Chinese Government for tonnage dues underpaid in the very cases cited. On no occasion did the Customs collect except on the tonnage reported by the Consul or the shipmaster, and while the claimants maintained that only the lowest payment ever made by each vessel should rule, the result of the enquiry—made at five different ports and involving eight different Consuls—proved that in most cases the highest amount paid was considerably less than what should have been paid.[3] It was this incident which brought about the introduction in the tonnage dues regulations of 1870 of the rule authorizing the issue of a four months' special tonnage dues certificate to any vessel irrespective of the place cleared for, provided such vessel applied to the Customs for measurement and paid tonnage dues on the Customs measurement. This was a very valuable privilege, as it threw open to vessels the right to trade on a four months' tonnage dues certificate to such places as Bangkok, Singapore, Penang, Batavia, etc., a privilege which hitherto had been limited by treaty to Hongkong, Manila, Saigon, Japan, and Russian ports south of the Amur.[4] These tonnage

[1] C.A. I.G. Circ. No. 1 of 1869.
[2] C.A. I.G. Circ. No. 20 of 1869.
[3] C.A. I.G. Circ. No. 18 of 1870.
[4] C.A. I.G. Circ. No. 16 of 1870.

dues regulations were an unqualified success, and strengthened considerably the hands of the Customs in dealing with the measurement of vessels for the assessment of tonnage dues. Two and a half years later Germany, Austria, and Spain all decided to accept the English ton as a standard for tonnage dues measurement, while Spain issued orders that all Spanish vessels entering a Chinese treaty port were to be measured by the Customs Harbour Master and a tonnage dues certificate issued accordingly.[1] In cases of dispute regarding tonnage of German vessels, Commissioners were instructed to accept payment on the tonnage declared by the Consul, while the agent, in accordance with the Joint Investigation Rules, was at the same time to lodge a bond with the Customs for the payment of the full amount claimed, and the question was to be referred to Peking for settlement with the German Minister. During the decade 1873 to 1882 the question of Customs measurement for ascertainment of tonnage took on the form that it has retained until recent years. Owners of, or agents for, vessels flying Treaty Power flags continued to enjoy the privilege of reporting their tonnage through their Consuls to the Customs for assessment of tonnage dues and such vessels were thus, except in cases of dispute, exempt from measurement by the Customs, while all foreign style Chinese vessels and all non-Treaty Power vessels came completely under the jurisdiction of the Customs for measurement for tonnage. To secure correctness of uniformity, Customs surveyors, when called on to measure a vessel for tonnage, were instructed to be guided by Rule I of the British Merchant Shipping Act of 1854, together with the instructions published by the United States Government on what parts of a vessel which are above the upper deck to the hull should be included. It was during this decade too that certain of the Treaty Powers took up direct with the Government the question of China's compelling Customs measurement of their vessels, when such vessels wished to enjoy the privilege of unrestricted destination without forfeiting the four months tonnage dues certificate privilege. The last round of this contest was fought out in the negotiations over the German Supplementary Convention, and, as we have seen, China was once more forced to recognize as a treaty right what she had originally granted as a privilege.

[1] C.A. I.G. Circ. No. 8 of 1873.

Smuggling of opium from Hongkong: Viceroy and Hoppo establish control stations and patrol of cruisers: Blockade of Hongkong: Opposition to Alcock's proposal that a Chinese Consul be appointed to Hongkong: Status of Chinese goods transhipped at Hongkong.

§ 15. The Chefoo Convention focussed attention once more on Hongkong and drew attention especially to the undesirable reputation it had acquired as a smuggling centre. The special shipping pass stipulations of the Treaty of Hoomunchai, as we have seen,[1] had turned out a failure, and the Treaty of Tientsin had made no attempt to deal with the problem by substituting any other procedure.[2] In the meantime Hongkong had developed, trade was beginning to flourish more particularly as a fillip had been given to shipping by the Ordinances No. 4 of 1855 and No. 9 of 1856 by which Chinese residents of the Colony, holding leases of Crown lands, could register vessels and enjoy the protection of the British flag.[3] Unfortunately, the altered condition of affairs, while fostering legitimate trade, tended directly to the encouragement of opium running and smuggling generally. The traffic in opium—which by the treaty tariff of Tientsin had now become an article of legitimate trade at what was then a fairly high rate of duty—offered strong temptations to clandestine dealing, and Hongkong as a free port, where unlimited quantities of the drug could be stored with little or no supervision, offered great facilities to those trading in this commodity. Prior to 1866, it should be remembered, the import of opium into China had been restricted to foreign vessels, but smuggling of this article by native craft from both Hongkong and Macao had been carried on for years. Fleets of junks, engaged in this illicit trade, used to rendez-vous at both places, and as the Colonial authorities were not interested to stop them, they had little difficulty in slipping away Chinaward with their valuable cargo.[4] Being both well manned and armed they had

[1] *Antea* Chapter I, §5

[2] Wade's Memorandum of December, 1868 B P P *China No 5 (1871)* p 462

[3] "It shall be lawful for Chinese residents within this Colony to apply for and obtain Colonial registers, provided the person or persons applying as owners be registered lessees of Crown lands within this Colony" Sec VI, H K Ordinance No. 4 of 1855 "The British flag may be lawfully used by any Chinese resident within the meaning of Ordinance No 4 of 1855 on board of any ship or vessel registered in this Colony in the name of the said resident under the Ordinance aforesaid" Sec. I, H.K. Ordinance No 9 of 1856

[4] "That a large contraband trade is kept up by and through the two foreign colonies [Hongkong and Macao] on their coast—with the total absence of any effort to check it by their constituted authorities—inflicting enormous loss on the Chinese revenue, is a fact too well ascertained and universally known to admit of question" F O. 17/497 Alcock to Stanley, desp No 112, 12th May, 1868.

no fear of any preventive force that might try to intercept them. Whatever justification the Colonial authorities may have had in extending the protection of the British flag to Chinese junks owned by Chinese lessees of Crown lands, it is indisputable that in so doing they placed in the hands of such junk-owners the means of violating with impunity, so far as the Colonial authorities were concerned, Article IV of the Treaty of Hoomunchai (later on replaced by Article XLVII of the Treaty of Tientsin) which forbade the trading of foreign vessels to any place on the China coast not being a treaty port. To the Chinese Government this seemed to be nothing less than open connivance at smuggling and was bitterly resented. Hongkong junks under the British flag, however, were few in comparison with the numbers of Chinese-flag junks, which cleared from Hongkong for places along the coast and in the Canton delta which were not treaty ports. For such trade British authorities, at any rate after the signing of the Treaty of Tientsin, were not technically responsible, but they were fully aware of its existence and of the advantages it brought to Hongkong. They knew that by the treaty Great Britain had agreed that there should be no direct trade from foreign places to places on China's coast not expressly opened by treaty, they knew too that Hongkong since its cession was a foreign place, and yet they would do nothing—not even permit the functioning of a Chinese Consul—to assist China in controlling the vigorous clandestine trade which flourished along China's southern seaboard, and which could flourish only because it was based on a British free port located within two miles of that coast.[1] Only about one-tenth of the opium received from Hongkong by the towns along the West and the North Rivers, which should all have drawn their supplies from Canton, actually paid duty. Macao used to receive from Hongkong from 10,000 to 15,000 chests annually, and almost all of this was subsequently smuggled into the various ports on the West coast. In the twenty odd years that had passed since the signing of the Treaty of Nanking this illegitimate trade had grown to such proportions that in order to protect China's revenue rights, the Canton Viceroy Jui Lin (瑞麟), who was more especially anxious for his *likin* on opium gave permission in November 1866 for junks to carry opium to the following places—Tungkun (東莞), Sanui (新會),

[1] "The freedom of the port [Hongkong] means to all appearances the freedom of Chinese subjects, under Chinese colours, to run cargoes from the mainland to the island, and *vice versa* without let or hindrance." F.O. 17/519: Alcock to Stanley, desp. No. 56, 20th February, 1869.

Shuntak (順德), Heungshan (香山), and Hoiping (開平). Smuggling, however, did not abate, so the Viceroy, after informing the British authorities in Hongkong and Canton and the Portuguese authorities in Macao, issued on 1st July, 1868 a proclamation opening on Chinese territory a number of stations on the east and the west sides of the Kowloon frontier, and at the entrances to Macao, for the collection of *likin* on opium when conveyed in Chinese junks[1] The Viceroy's primary interest was in this *likin* revenue as it went direct to his provincial treasury and not to the Imperial Exchequer The treaty tariff duty on opium, on the other hand, was the direct concern of the Hoppo, or Superintendent of Customs at Canton, who, in addition to being the colleague of the foreign Commissioner of Maritime Customs, was also in charge of the original Native Custom House and its stations levying, according to time-worn tariffs, dues and duties, distinct from the modern *likin*, on native vessels and their cargoes Opium passing the Viceroy's stations paid *likin* alone at the rate of Tls 16 per chest, and as the treaty import tariff duty was Tls 30 per picul the difference in favour of junk-borne opium soon began to diminish still further the Canton Maritime Customs receipts The Inspector General brought the matter to the notice of the Tsungli Yamên, and proposed that the Maritime Customs should establish collectorates, alongside the Viceroy's *likin* stations, for the levy of the full import tariff duty The proposal was referred by the Throne to the Hu Pu and the Kwangtung higher authorities for consideration Finally in 1871 it was decided to establish the proposed stations but to place them under the Hoppo Accordingly after due notification on 27th June, 1871 the Hoppo proceeded to open stations for the collection of the treaty tariff duty on opium, these stations being either in close proximity to those already established by the Viceroy or

[1] "I cannot avoid the conclusion that the proposal of the Viceroy Jui Lin to establish stations on the coast of China for the prevention of contraband trade is strictly in accordance with Treaty and National rights It is impossible to contest their right to stop this wrong done them by any means which do not violate the Treaties in force Hongkong and Macao can only be regarded by them, it is evident, as great smuggling depots, and yet what they propose is not aimed at their existence or growth nor any development of a legitimate trade Not having the faculty to establish a Custom House at either of these great centres of smuggling operations what other resource have they but to establish controlling establishments as near as the Law of Nations permits in their own territories and on their own waters" F O 17/497 Alcock to Stanley, desp No 112, 12th May, 1868, encls Alcock to Robertson 3rd May, 1868

functioning in the same building with them.[1] One of these stations was at Capsuimoon (汲水門) to guard the entrance to the Canton river, another at Changchow (長洲) on the route to Macao and the west coast, a third at Fotochow (佛頭洲) near the Lyeemoon (鯉魚門) pass to watch the trade from and to the east and a fourth at Kowloon city. For Macao, stations were established at Malowchow (馬溜洲) and Chienshan (前山). Two years later, 1873, when Wen T'ien (文田) became Hoppo the levy of duties on general cargo was commenced, and as the duties levied in the cases of the Hongkong stations were those of the treaty tariff—Hongkong being regarded as a foreign country—the outcry from the trading community became loud and bitter. Some years before this, on 1st April, 1864, the Chinese Government had cancelled the privilege, which had been allowed till then, of permitting the shipment of Chinese produce in Hongkong with the same advantages as obtained at a regular treaty port.[2] The Hongkong authorities and Hongkong merchants protested against the withdrawal of this transhipment privilege, and objected strongly to the Hoppo's stations and patrol of revenue cruisers, which they designated as the Customs blockade of Hongkong, regarding both as an unwarranted interference with the trade of the Colony.[3] The patrol of the adjoining Chinese waters by armed Chinese revenue cruisers was particularly obnoxious to Hongkong traders, more especially as these cruisers, on the ground of being recognized as men-of-war, could, when not engaged in the suppression of smuggling, make free use of the waters of Hongkong harbour. During the negotiations

[1] B.P.P. *Hongkong: Report of the Commission ... to enquire into the ... Smuggling from Hongkong into China of Opium and other goods*, 1884; p. 6. also *Correspondence relating to the Complaints of the Mercantile Community in Hongkong against the action of Chinese Revenue Cruisers ...* 1875; pp. 16, 36.

[2] I.G. Circ. No. 2 of 1865. British Consular Reports for China, 1865, p. 93. B.P.P. *Memorials . . . on . . . the Revision of the Treaty of Tientsin*, 1868—p. 27.

[3] Robertson to Derby; 1st December, 1874. "Unfortunately the foreign portion of the colonists either do not, or will not, see the matter from any point of view but their own, and that is, Hongkong is a free port, and the "blockade" as they call it, is an interference with its freedom and is working ruin to the trade of the Colony. 'With smuggling we have nothing to do. We sell our goods to the Chinese, and if they smuggle that is not our affair. All we know and care for is this blockade affects our sales, and that is sufficient for us: and the Chinese Government has no right by any action taken for its own benefit, to damage ours'". B.P.P. *Correspondence relating to the Complaints of the Mercantile Community in Hongkong against the action of Chinese Revenue Cruisers, in the Neighbourhood of the Colony*, 1875, p. 37.

for the revision of the Treaty of Tientsin, Prince Kung, head of the Tsungli Yamên, proposed in a memorandum to Sir Rutherford Alcock that on account of the smuggling based on the free trade depot of Hongkong the Chinese Government should be permitted to "appoint officials to reside at Hongkong for the express purpose of attending to the collection of duties in the interest of the Customs revenue".[1] Alcock turned down the proposal, but in reporting it to his chief, Lord Stanley, suggested that it might be expedient to allow a Chinese Consul to be appointed to Hongkong. Alcock's action drew forth an indignant protest from Sir R. Graves MacDonnell, then Governor of Hongkong, who was piqued by the fact that "Her Majesty's Minister should have made the suggestion to Prince Kung, and should have transmitted it to the Foreign Office without the knowledge of this Government, and without affording me and my Council the opportunity of giving an opinion on the subject".[2] He then proceeded to state that he had laid the matter before the Executive Council of the Colony, with the result that their "unanimous judgment arrived at unhesitatingly and without the least difference of opinion is wholly opposed to authorizing by any revision of the Treaty of Tientsin, or otherwise, the appointment of a Chinese Consul to reside at Hongkong". In spite of this contretemps Alcock embodied in his unratified Convention an article giving the Chinese the right of placing a Consul in the Colony to protect Chinese interests, and as a *quid pro quo* another article restoring to Hongkong merchants the privilege of transhipping at Hongkong without loss of status Chinese duty-paid goods *en route* from one treaty port to another. The Hongkong community wanted the restoration of the privilege, but were fiercely opposed to the idea of a Chinese Consul. In a memorial to the Home Government, opposing the Convention, they maintained that such an official, if appointed, would "in reality be a spy on the Chinese merchants residing in this Colony",[3] and would use his position as a means of exacting contributions from his countrymen, that, unlike British subjects in China, Chinese subjects in Hongkong needed no Consular protection, that "the establishment of a Consul here, surrounded as he would be by a staff of Chinese officials and

[1] Prince Kung's memorandum of 5th December, 1868, enclo. in Alcock to Stanley, 14th December, 1868. B.P.P. *China No. 5 (1871)*, p. 255.

[2] MacDonnell to Granville, 12th May, 1869. B.P.P. *China No. 5 (1871)*, p. 391.

[3] Hongkong Chamber of Commerce to Clarendon, 21st January, 1870. B.P.P. *China No. 6 (1870)*, p. 13.

employees, would subject" the trade in native goods passing through the Colony "to a supervision resulting in the levy of taxes or duties for the Imperial Exchequer, in addition to those paid to the local officials . . . and thus a deadly blow would be struck at the trade and prosperity of this Colony".[1] Alcock had little difficulty in answering these contentions, pointing out that China could not be expected to confer upon Hongkong the benefit of allowing native goods to be transhipped there without losing their status as such except in return for some compensating advantage, that the Chinese were entitled both by treaty and by international law to adopt any measures on their own territory and in their own waters which they might consider necessary for the protection of their revenue from the loss of half a million pounds sterling, which they estimated they were called on to undergo annually "by this irresponsible proximity of a British free port at the mouth of one of their great rivers";[2] that when the Chinese had endeavoured to enforce their revenue laws by means of cruisers and land barriers they had been met by a loud cry of protest from both the merchants and the officials of Hongkong, and that this being so, it seemed to him that if this latter method of trade control was so reprehensible and injurious, the only other alternative was to cooperate with the Chinese authorities by "giving them the means in accordance with international usage of exercising a perfectly legal and reasonable degree of surveillance over the trade carried on by the native vessels sailing from Hongkong".[3] But Alcock's far-sighted attempt to deal with the Hongkong problem was, as we have seen[4], doomed to be thwarted. The British Government decided to defer to the wishes of the merchants, and although not convinced that the step it was taking was "calculated to promote the real interests of the commercial and industrial classes" yet decided to advise the Queen not to ratify the Convention.[5]

[1] Memorial of Hongkong residents to Clarendon 21st January, 1870. B.P.P. *China No. 6 (1870)*, p. 19.

[2] Alcock's memorandum of 3rd May, 1870. B.P.P. *China No. 10 (1870)*, p. 10.

[3] Alcock's memorandum of 3rd May, 1870. B.P.P. *China No. 10 (1870)*, p. 11.

[4] *vide* Chapter III, §25. p. 257.

[5] Granville to China merchants in London, etc., 25th July, 1870. B.P.P. *China No. 11 (1870)*, p. 4.

Sir A. Kennedy, Governor of Hongkong, in favour of establishment of a Chinese Custom House in Hongkong: Duties leviable on junk-borne goods going to or coming from Hongkong: Hongkong Government's commission to investigate smuggling.

§ 16. The Hoppo's blockade, therefore, was continued, and feeling on both sides ran higher than ever. Ample evidence of this exacerbation will be found (1) in the petition to Her Britannic Majesty from a group of Chinese merchants, resident in Hongkong, praying for protection from the actions of the Chinese revenue cruisers; (2) in the report submitted by the Commission appointed in December 1873 by Sir Arthur Kennedy, then Governor of Hongkong, to investigate the complaints against these cruisers and the Customs stations in the neighbourhood of Hongkong; (3) in the memorial on this topic submitted by the Hongkong Chamber of Commerce to the Home Government; and (4) in the resolutions passed at a public meeting, held in the City Hall, Hongkong, on 14th September, 1874.[1] The Governor, writing to the Secretary of State for the Colonies, put the case in a nutshell when he stated: "Complaints of a like nature appear to be almost the inevitable result of a free British port being in such close juxtaposition with the Chinese territory, where duties are levied, and will recur so long as there are Customs laws on one side and a large population with strong inducements to break them on the other";[2] and again "It is beyond doubt that a not inconsiderable number of Chinese junk owners are in the habit of consulting their individual interests by violating Chinese Customs laws and making this Colony the base of smuggling operations, for which its geographical position affords every facility, and the profits, it is to be presumed, exceed the loss and risk, or the practice would not be continued. The Chinese Customs Officers and Revenue Collectors, with a knowledge of these facts, lose no opportunity of seizing and confiscating every Chinese junk for which they can find a pretext, and the characterless class of persons employed as subordinates in that service makes it too probable that honest and innocent traders are often grievously harassed and plundered".[3] At the same time he repudiated the only remedial suggestion, made by the Commission he had appointed, namely that of employing "armed steam

[1] B.P.P. *Correspondence relating to the Complaints of the Mercantile Community in Hongkong against the Action of Chinese Revenue Cruisers in the Neighbourhood of the Colony*, 1875, pp. 2-4, 7-11, 31, 32.

[2] Kennedy to Carnarvon, 10th July, 1874; *Ibid.* p. 1.

[3] Kennedy to Carnarvon, 25th August, 1874. *Ibid.* p. 5.

launches at the outlets of the harbour to protect Chinese trading junks arriving and departing" declaring that he was "convinced that the shortest, best and only remedy for disputes and references which have existed for years, endangering our good relations with the Canton Government is the recognized establishment of a branch of the Chinese foreign Inspectorate at Hongkong itself".[1] Some relief of the abuses complained of was effected when the Canton authorities early in the seventies adopted the course of action, which had been recommended by the Inspector General in 1869, and placed the patrolling steam cruisers under the supervision of a British officer in the Chinese Maritime Customs service, and agreed that foreign officers should be employed in the cruisers themselves to see that illegalities were not committed. As, however, the Hoppo's and the Salt Commissioner's armed junks, which were not under foreign control, still continued their operations, the essential features of the situation remained unchanged. The agitation increased especially against the practice of the Canton authorities in treating junk-borne goods going to and coming from Hongkong as goods going to or coming from a foreign country, and therefore liable to the export and the import charges of the treaty tariff. This was bitterly resented and regarded as unfair discrimination against the Colony, while goods going to and coming from Macao continued to be treated as goods going to or coming from Chinese territory, and therefore liable to the lighter charges of the Native Customs tariff. Macao, it should be noted, was never officially recognized as Portuguese territory till the signing of the Protocol of Lisbon of 1887, the articles of which were confirmed by the treaty between Portugal and China, signed on 1st December, 1887.[2] To make matters worse, the provincial Native Customs regulations at that time required that all junk-borne native goods from the four lower prefectures of the province, destined for shipment abroad, should first be conveyed to the treaty port of Canton (direct export abroad from a non-treaty port being strictly forbidden); from which it followed that such goods were called on to pay (*a*) the Native Customs export duty at port of shipment when being despatched to Canton, (*b*) a special fee at Canton Native Customs,

[1] B.P.P. *Correspondence relating to the complaints of the Mercantile Community in Hongkong against the Action of Chinese Revenue Cruisers in the Neighbourhood of the Colony*, 1875, pp. 5-6.

[2] *Treaties, Conventions, etc., between China and Foreign States.* 2nd Edition, 2 vols. Shanghai 1917. Vol. II, pp. 273; 275.

and (c) export duty at Canton according to the treaty tariff.[1] British opinion was divided on the question of this application of the treaty tariff. Sir Brooke Robertson, the Consul at Canton, held that the Hoppo was "authorized by any reading of the Treaty of Tientsin to levy upon goods conveyed in Chinese vessels to and from a British Possession in accordance with the tariff annexed to such treaty, . . . for the intention of the treaty in spirit if not in word is that goods exported to or imported from a foreign market should pay duties according to a certain scale irrespective of their being British or Chinese owned, and that, in fact, the destination, and not the ownership governs the levy of duties".[2] Lord Carnarvon, then Secretary of State for the Colonies, did not support this view. In his opinion the Treaty of Tientsin had no reference to goods shipped by native traders in native junks;[3] the inference evidently being that in such case the treaty tariff was not applicable to such goods so shipped. His Lordship did not seem to realize that the Chinese Government was at liberty to apply what tariff it pleased to such junk-borne trade, and that it was an act of moderation on its part to be satisfied with the application of the same rates as those listed in the treaty tariff. The Chinese authorities were indubitably within their rights in taxing the junk-borne Hongkong trade as they did, but insistence on those rights was gall and wormwood to the traders in Hongkong. Sir Brooke Robertson made every effort to mediate between the two parties, but all his proposals came to grief either on the intransigent attitude of the Hongkong trading community or on the determination of the Chinese authorities to secure what they claimed as their rightful due. His final suggestion was that the remedy would be found "in the appointment of a European Chinese Consul whose duty it would be to check the cargoes of junks and report thereon to the Customs authorities at Canton. This at least would be a legitimate plan, and such as is practised by the United States Consul in cases of vessels arriving from and clearing for America, and my own impression is it would be found to work satisfactorily, and if any cause of complaint arose it would be investigated by him in conjunction with such officer as the

[1] B.P.P. *Further Correspondence relating to the complaints of the Mercantile Community in Hongkong, etc., etc.* 1876 pp. 17; 18; 23-25; 33-35; 38; 39.

[2] Robertson to Wade, 18th January, 1876; B.P.P. *Further Correspondence relating to the Complaints of the Mercantile Community in Hongkong, etc., etc.* 1876. p. 18.

[3] Colonial Office to Foreign Office, 20th May, 1876, *Ibid.* p 24.

Governor might be pleased to appoint".[1] This suggestion, which if it had been acted upon, would have meant the opening in Hongkong of a Chinese Customs establishment under the foreign Inspectorate, fell on deaf ears. It was a suggestion for which the Colony was not yet prepared. To reach a solution Sir Thomas Wade—who was in favour of the establishing of an office of the Chinese Customs at Hongkong either on a hulk in the harbour or on shore at Kowloon[2]—seized the opportunity of the drafting of the Chefoo Convention to insert an article (Clause VII of Section 3) calling for the appointment of a commission to inquire into the smuggling from Hongkong into China, and to devise a "system that shall enable the Chinese Government to protect its revenue without prejudice to the interests of the Colony". Then ensued the long drawn out negotiations which preceded the ratification by the British Government of this Convention with its Additional Article arranging for the simultaneous collection of import duty and *likin* on foreign opium. Eighteen months, however, before the ratification of the Convention, but when it was clear that both the Convention and the commission of inquiry that it called for would become realities, the Hongkong Government decided that it would appoint a commission of its own to investigate the alleged smuggling from the Colony to China. This commission, appointed by the Officer Administering the Government, was composed entirely of Hongkong officials and residents, and met during the early part of 1884. No witnesses came forward voluntarily, but as a result of its inquiries, made mostly amongst the members of the Hongkong civil service, the commission came to the conclusion that the smuggling from the Colony into China was carried on wholly by Chinese, and with few exceptions was limited to opium, salt, sulphur, saltpetre, and munitions of war. Although there was an annual difference of from twenty to twenty-five thousand piculs between the total quantity of opium imported into Hongkong and the total exported from Hongkong, through regular channels, into China, yet the commission was of opinion that, allowing for exports to Macao, California, Australia, and other places, only a yearly average of four thousand piculs was actually smuggled from the Colony into China. The commission further

[1] Robertson to Wade, 18th January, 1876. B.P.P. *Further Correspondence relating to the Complaints of the Mercantile Community in Hongkong, etc., etc.* 1876; p. 19.

[2] F.O. 17/753: Wade to Kennedy, 29th November, 1876, enclo. in desp. No. 10, Fraser to Derby, 15th January, 1877.

maintained that the Chinese authorities kept agents in the Colony who collected duty at special rates on opium destined for export by junk to places on the China coast not opened by treaty, issuing at the same time passes for such duty-paid opium which were recognized both by the Chinese *likin* and Customs stations on the outskirts of Hongkong and by the Hoppo's cruisers. As for salt, the commission estimated that about seventy-two thousand piculs a year were smuggled by junks from Hongkong to places on the mainland.[1]

Hongkong Opium Agreement 1886: Taking over by Customs of Viceroy's and Hoppo's control stations.

§ 17. The commission called for by the Chefoo Convention, which was composed of Taotai Chao Yu-lien (邵友濂) and Sir Robert Hart, Inspector General of Customs, representing China, and Mr. James Russel, Puisne Judge of Hongkong, and Mr. Byron Brenan, H.B.M.'s Consul at Tientsin, representing Great Britain, met in the summer of 1886. The commissioners for China had come authorized to offer the closing of the Viceroy's and the Hoppo's stations in the neighbourhood of Hongkong in return for the Colony's acceptance of a plan by which Chinese opium hulks might be anchored in Hongkong waters for the bonding of all opium imported from abroad, for the issue of certificates for all opium sent to Chinese treaty ports, and for the collecting of China's opium revenue on all opium leaving the hulks for Hongkong or Macao.[2] But, as the Hoppo, with a view to economy, had some time previously reduced his cruising flotilla and thereby relaxed the blockade considerably, the Hongkong representative looked askance at the proffered gift. *Timeo Danaos et dona ferentes.* He declined it; but expressed himself willing to accept coöperation. The outcome of the commission's labours was the Opium Agreement signed at Hongkong on 11th September, 1886.[3] By virtue of this instrument the Chinese Maritime Customs Service—which had hitherto confined its attentions solely to foreign shipping at the treaty ports—was for the first time to be entrusted with the control of Chinese craft sailing out of Hongkong waters into Chinese waters, and *vice versa*, and also for the first time with the collecting of *likin* and, as a natural consequence, of Native Customs

[1] B.P.P. *Report of the Commissioners appointed . . . to inquire into the Circumstances attending the alleged Smuggling from Hongkong into China of Opium and other Goods.* 1884. pp. 657.

[2] C.A. I.G. Circ. No. 418.

[3] C.A. I.G. Circ. No. 887. Hertslet, *China Treaties.* Third Edition. 2 vols. London 1908. Vol. I, pp. 90-91.

duties. The agreement provided not only for the collecting of duty and *likin* on opium under the cognizance of the Inspector-General, but also for the settling of disputes between Hongkong junks and the Native Customs revenue stations or cruisers in the neighbourhood. It was therefore natural, and indeed inevitable, that the management of the Hoppo's stations round Hongkong should devolve upon the newly created Kowloon office of the Maritime Customs, a result necessitated not only by its work of controlling all opium movements, but also by its position as arbiter in settling complaints made by junks against the Hoppo's stations or cruisers. The Hoppo's patrol service and four stations at Kowloon, Capsuimoon, Changchow, and Fotochow were accordingly handed over to the Inspector General to administer, and at the same time, for the greater convenience of the trading public, the Hongkong Government—instead of insisting on the letter of the agreement that the office of the foreign Inspectorate should be established on Chinese territory on the Kowloon side—permitted, without extending official recognition, the opening of an office of the Chinese Maritime Customs in the city of Victoria, where a Commissioner of Customs, of British nationality, appointed by the Inspector General, functioned as the Chinese official in charge of the Kowloon district and of all the Chinese revenue-protecting agencies within its limits. The agreement also removed the grievance of Hongkong merchants regarding duty discrimination by providing that junks with their cargoes trading between Chinese ports and Hongkong should not be subject to any dues or duties in excess of those leviable on junks and their cargoes trading between Chinese ports and Macao. In the same year as the signing of the agreement (1886) the Viceroy of the Liang Kwang, Chang Chih-t'ung (張之洞) had instituted a supplementary *likin* levy on all goods passing the stations inwards and outwards, the object of the levy being to raise funds to meet debts incurred by the Viceroy when arranging for the defence of Kwangtung against a possible attack by the French. At the same time a Coast Defence Tax was imposed on all goods both foreign and native passing the stations. This tax ceased in 1889, but was re-imposed in 1890 under the name of Battery Tax. On 2nd April, 1887 the Kowloon Commissioner was able to commence the levy of *likin* and *chingfei* on general cargo, the collecting of tariff duty and Convention *likin* on opium on the 14th of the same month, and on 1st July the collecting of Native Customs duties on general cargo according to the existing tariffs. The transfer thus effected was, however, not a root and branch

one, for there still remained at each of the stations agents of certain corporations to whom had been farmed out the collecting of *likin* and other local levies on certain articles of trade such as kerosene oil, matches, and so forth. To convince the provincial authorities that the operations of these agents were an inconvenience to merchants and a constant source of friction, and that this method of collecting was not only wasteful but also unnecessary, took some little time, but by June 1890, as soon as all vested interests had been satisfactorily disposed of, all these agencies were removed, and the Maritime Customs Service was left as the sole revenue authority at all the stations. As an illustration of the wastefulness of the farming system it may be mentioned that the taxing of kerosene oil at the Kowloon stations had been farmed out for the sum of $90,000 a year, but that in the first six months after the work of collecting had been taken over by the Customs, at the same rate as that employed by the farmer, the actual amount realized was $156,512. There was, however, one source of revenue which the Hoppo absolutely refused to give up, and that was the revenue derived from the duties on junk-borne cargo carried direct between Hongkong and Canton or *vice versa*. These duties the Hoppo insisted should be collected entirely by his Native Customs establishment at Canton, and not at any of the Kowloon stations. This arrangement persisted till the abolition of Native Customs levies in 1931.

Failure of Hongkong Opium Ordinance No. 22 of 1887: Abuses of Hongkong Opium Farm.

§ 18. To implement the Opium Agreement of 1886 the Hongkong Government passed the Opium Ordinance, No. 22[1] of 1887, which prohibited import and export of opium otherwise than in whole chests, declared illegal, except for the opium farmer, the possession of raw opium in quantities less than one chest, and stipulated that no opium should be imported, moved in the Colony, or re-exported without a permit from the Hongkong Harbour Master and without notice to the opium farmers. All dealers in opium, whether importers, exporters, or opium godown owners, were called upon to keep books showing clearly all movements of their stock, and arrangements were to be made for checking these records, searching for deficiencies by the opium farmer, and furnishing the Harbour Master with returns of stock. The harbour regulations, too, were to be amended so as to prohibit the clearance of junks by night. Had these stipulations been enforced honestly and vigorously, no

[1] For text *vide* I.G. Circular No. 418; Enclo. No. 2.

reproach could have been levelled at the Hongkong authorities; but they were not so enforced. On the contrary, the evidence soon began to accumulate that the interpretation of these stipulations would be in favour of the opium trader, that excess of zeal on the part of the Colony's police officers would be discouraged, and that evasion of official restrictions by the opium farmer would be condoned when such condonation was judged to be in the interests of the Colony. In November 1889, for instance, it was held by a decree of the Supreme Court that under the terms of the Ordinance a whole chest as imported meant no more than the quantity of opium which was usually contained in a chest, and that this quantity need not be in the original or any chest. This gave smugglers a tremendous advantage which they were quick to seize. It was not until two years later, November 1891, that it was sought to remedy the defect declared to exist in the 1887 Ordinance by an amending Ordinance (No. 8 of 1891) in which "loose opium" is defined as opium not contained in the original chest, and by which the possession or movement of loose opium in the Colony by unauthorized persons was declared illegal. Again, the Hongkong Government's system of farming out the monopoly of boiling and preparing opium was notorious for the abuses it fostered. As far back as 1845 the Colonial authorities had created a monopoly in raw and prepared opium, and in 1847 they had abandoned this in favour of a system of yearly licences. So great was the resultant loss to the Colonial revenue, that Sir John Bowring in 1858 sponsored the creation of the Hongkong opium farm. By Ordinance No. 2 of that year it was enacted that "the sole privilege of boiling and preparing opium, and of selling and retailing within the Colony, or the waters thereof, opium so boiled and prepared" should be granted to the highest bidder to be ascertained either by public auction or by tender. That the sale of this monopoly was the source of considerable income to the Colonial Treasury is evident from the facts that from 1895 to 1900 it realized $372,000 a year, in 1901 $678,000; in 1904 $1,945,000; in 1905 $2,040,000; in 1907 $1,550,000; in 1910 $1,228,000; while in 1914 the amount actually collected was $3,741,500. The farmer, who was under contract to the Colonial Government, was allowed to draw three hundred chests of opium every two months, of which not more than one hundred and seventy-five could be drawn in any one month. He was expected to report his withdrawals to the Colonial Office of Imports and Exports, and he was forbidden to part with any of his stock in the raw state. He was permitted to move it in

whole chests to his various boiling establishments, which, he maintained, were four in number although it was well known that three of these were bogus, and were used as convenient depots for the storing and repacking of opium which it was intended later to smuggle into China. All other raw opium moved in the Colony was to be moved only for export and was to be reported to the office of Chinese Customs. Only the opium farmer was allowed to bring prepared opium into the Colony. As might have been expected, the opium farmer made full use of his various privileges. He imported boiled opium in tins from Singapore for consumption in the Colony and for smuggling by steamer to Canton and the West River ports. The raw opium, which he withdrew from the controlled stocks within the Colony ostensibly for boiling, was almost all smuggled into China, and it was admitted, even by a responsible official of the Hongkong Government, that in order to make his monopoly pay the opium farmer was obliged to smuggle successfully into China seventy per cent of the total amount of raw opium allocated to him for withdrawal.[1] He employed a special officer to keep in touch with, and when necessary square, the Hongkong police. His method of smuggling was simplicity itself. Raw opium withdrawn from stock would be conveyed to Aberdeen, on the eastern side of Hongkong island, ostensibly to be boiled. There it would be repacked into bags of about forty catties each, and then conveyed by the farmer's own launch out to the fishing fleets where it would be transferred to the fast sailing junks waiting for it. To cover his risk the farmer was wont to charge a commission of from $87 to $93 a chest, in return for which he guaranteed safety of the opium till it left British waters. An incident which happened as late as June 1894 illustrates the ineffectiveness of the opium ordinances and throws a vivid sidelight on the attitude at times assumed by the Hongkong authorities towards those ordinances. On 6th June, 1894, four chests of Patna opium, the property of the opium farmer, were removed during prohibited hours, and were being conveyed in an unnumbered boat when they were seized by the Hongkong Water Police. The case was tried at the Police Court, and the magistrate imposed a fine of $250 and ordered the confiscation of the opium. On appeal, the Supreme Court dismissed the appeal with costs and confirmed the magistrate's verdict. On 13th August the following comment appeared in the *Hongkong Telegraph*:—"We are glad to hear that the four

[1] Customs Papers No. 56: V Office Series. *Hongkong Opium Farm.* Shanghai, 1898, p. 2.

cases of opium confiscated in the recent case of Police Constable Pepper *v* the Opium Farmer have been returned to the farmer this morning by instructions from His Excellency the Governor". In the opinion of the Commissioner of Customs at that time and of many others this leniency was most probably to be ascribed to the fact that the Colonial Government were at that moment advertising for new tenders for the purchase of the opium farm monopoly, and that in these circumstances the Governor considered the time inopportune for carrying out strict legal measures against those who, although guilty, had set at nought the opium ordinance stipulations of 1887 and 1891. In extenuation of the laxity and lukewarmess of the Colonial authorities it may be urged that the Colony could not afford to lose the revenue derived from the opium farm. The Hongkong Government knew too that the Chinese local officials connived at the illegal traffic in opium by permitting armed bands to traverse, even in daylight, their own territory running large ventures of contraband drug, that these officials probably benefited by every successful venture, and that the use of false *yin hua*, or opium stamps, was allowed to go on unchecked.[1]

Hart's proposals for Customs control in Hongkong on extension of colonial territory in 1898.

§ 19. This so-called Kowloon Office of the Chinese Maritime Customs in the city of Victoria continued to function on sufferance till the summer of 1898—the year of the international scramble for leases of Chinese territory—when the question of the extension of the territory of Hongkong brought up sharply once more the issue of the Chinese Customs operating on Chinese soil. Sir Robert Hart, to whom the matter was referred by the British Minister, proposed, apart from special provisions for the control of opium:—

(1) that the right of the Chinese Customs to maintain its office in Hongkong should be formally admitted, the status of the Commissioner of Customs as a Chinese official recognized, and that the existing stations be maintained although inside the newly-leased territory;

(2) that the Chinese Customs should have the right to collect dues and duties in Hongkong on general cargo, as well as on opium, shipped to and from China, and that for the control of junks the Chinese Customs should have one or more special jetties at the junk anchorages;

[1] Customs Papers No. 56. V Office Series; *Hongkong Opium Farm.* Shanghai; 1898: p. 5.

(3) that the revenue cruisers should continue their activities within the waters of the leased territory;
(4) that no arms or munitions of war or contraband goods should be shipped in Hongkong on board any vessel proceeding to a Chinese port without a permit issued or countersigned by the Chinese Customs; and
(5) that the Hongkong Government should pass such legislation as might be necessary to give effect to these provisions.[1]

These proposals were endorsed by the Canton provincial authorities,[2] but met with unqualified opposition from the Hongkong Chamber of Commerce, which was "profoundly convinced that the freedom of the port can only be properly safeguarded by the withdrawal of the Chinese Customs stations to Chinese territory, and the refusal of permission to Chinese Customs officials to collect duty either in the Colony or its waters".[3] This opposition was supported by the London Chamber of Commerce and by the China Association in London, which latter body maintained that "to authorize the collection in Hongkong of duties (*likin* included) on all goods and merchandise carried from or to any Chinese ports in Chinese vessels . . . would be to place Hongkong on the level of a Chinese treaty port",[4] and then proceeded to add "if the presence of Customs stations on the adjacent mainland and at the entrance of the harbour, and of Customs cruisers in the waters surrounding the Colony, has been a hindrance and a source of vexation when these territories and waters were Chinese, the annoyance would be less endurable still when they assumed the character of foreign establishments within territory under British control".[5] As a solution of the opium difficulty the Association, with the approval of the Hongkong branch, suggested that the Colonial Government might arrange to collect on behalf of the Chinese Government, against actual cost of collection, duty and *likin* on all opium exported from the Colony into China.[6] The attitude of the merchants both in Hongkong and in London was uncompromising and might fairly

[1] Hart to MacDonald, 27th June, 1898, enclo. in MacDonald to Salisbury, 4th July, 1898, B.P.P. *China No. 1 (1899)*, pp. 201-202.
[2] Tsungli Yamên to MacDonald, 10th September, 1898, *ibid.* pp. 283-284.
[3] London Chamber of Commerce to Salisbury, 11th November, 1898, *ibid.* p. 282.
[4] China Association to Salisbury, 14th November, 1898. B.P.P. *China No. 1 (1899)*, p. 296.
[5] *Ibid.* p. 296.
[6] *Ibid.* p. 297.

be summed up as a strong desire to see the Chinese Customs cleared bag and baggage out of the Colony and of Colonial waters.[1]

Establishment of Customs control stations along new Kowloon frontier: Difficulties caused by new frontier: Commissioner Hillier's proposal that a Chinese Custom House should be established at Kowloon.

§ 20. The Inspector General's proposals were not accepted. The New Territory was handed over to the Hongkong Government in April 1899 by virtue of the Convention for the Extension of Hongkong signed at Peking on 9th June, 1898.[2] Thanks to the personal intervention of Lord Salisbury the Chinese Customs stations, now within the New Territory, were allowed to continue functioning for six months from 17th April that year, and were finally closed on 4th October.[3] New duty-collecting stations were established at Taishan (大 鏟), and Lintin (伶 仃) in the estuary of the Canton river, to replace Capsuimoon, and at Shauchung (沙 魚 涌) and Samun (三 門) to the east of Mirs Bay, to replace Fotochow. Shumchun (深 圳) was opened as a collecting station on 1st March, 1900, and on 19th February of the following year Shataukok (沙 頭 角) was raised from the position of a frontier post to that of a collecting station. In addition, frontier guard posts, some of which have on occasion served also as collecting stations, had to be established along the land boundary. The number of these frontier posts has varied from time to time but it includes, or has included, the following; Chekwan (赤 灣), Kwaimiao (鬼 廟), Shatau (沙 頭), Lungtsunhu (龍 津 墟), Lofong (羅 坊), Lowu (羅 湖), Lintong (蓮 塘), Shataukok (沙 頭 角), Yimtin (鹽 母), Kaichung (溪 涌), Tipfuk (鼈 廂), Hasha (下 沙), and Namo (南 澳). This elongation of the land frontier was a great advantage to smugglers. Prior to 1899 the land frontier was only about two and a half miles in length, and was protected by a stout bamboo fence some eight feet high along the entire line. This fence was pierced by six gates and an armed patrol both by night and by day saw to it that only legitimate trade passed through these gates. After 1899 the frontier ran for some sixty miles through rough and hilly country from Chekwan on the west to Mirs Point on the east. To add to the difficulty of controlling this greatly extended line

[1] Customs Papers No. 62, V Office Series: *Kowloon Customs;* Shanghai 1899. *Hongkong Daily Press*, 9th, 10th and 15th September, 1898.

[2] Hertslet *op. cit.* Vol. I, pp. 120-121. *Treaties, Conventions, etc. between China and Foreign States.* 2nd edition, 2 vols. Shanghai, 1917; Vol. I p. 539: I.G. Circ. No. 917; Enclo. No. 1.

[3] C.A. I.G. Circ. No. 917; Enclo. No. 2.

the waters of the Shumchun river were declared to be British, while the boundary along the sea shores of Deep Bay and Mirs Bay was delimited at the high water mark. This egregious shore line boundary put a premium on clandestine trading as it enabled smugglers to lie protected in British waters within a yard or so of Chinese territory, and—as it was manifestly impossible for the Chinese Government to provide preventive officers to guard every junk—to slip their goods ashore practically when and where they pleased. Chinese revenue cruisers and cruising launches continued to patrol Chinese waters, and to make use of Hongkong harbour as ships of war; but the sea line now to be patrolled was perforce extended from a little over twenty to some eighty miles, a fact which also rejoiced the hearts of the smuggling fraternity. The Chinese Customs office, however, in the City of Victoria, for the convenience of the trading public, was allowed to remain, but on the old status of sufferance only. The situation created by this extension of Hongkong territory was one that naturally caused grave apprehension to those whose duty it was to protect China's revenue interests. Writing to the Inspector-General in September 1898, Mr. H. M. Hillier, then Commissioner of Customs for the Kowloon district, gave expression to his misgivings. "I stated (in a previous despatch) that I distrusted Hongkong promises to take any measures that would reduce the income derived from the opium farm, as that item of revenue would become more than ever essential to the Government. Without wishing to impute to the Colonial Government or the Chamber of Commerce any deliberate intention of bad faith, I cannot but judge from past experience as to the degree of conscientiousness the Government will display in carrying out any plans they may now have in view for so controlling the movements of opium, raw and boiled, that China shall suffer no loss to her revenue from smuggling. Such an undertaking may be held to have existed for the last ten years, if one may read through the lines of the Agreements and Ordinances that followed the Chefoo Agreement, yet . . . the Colonial Government have not only failed to carry out this undertaking, but have on the contrary, deliberately permitted themselves to rely for one of the most important items of their revenue upon the successful smuggling operations of the opium farmer. The Government of a great British Colony has, in fact, largely subsisted on the robbery of the coffers of her neighbour and friend China. This being our

experience of the past, are we to look with any confidence to more disinterested action in the future? The temptation in the past has no doubt been great. The sources of revenue in a free trade colony are not numerous, and the colonists are most jealous of any departure from the strictest principles of free trade. The area of the territory to be governed by the Colony is now to be increased many fold, and doubtless in course of time the Colony and its new additions will grow in prosperity and wealth. This, however, will be a gradual process. The first experience will be a heavily increased expenditure, both for civil and military purposes, and the resources of the new territory do not seem likely to produce a revenue more than sufficient for civil government of the most modest description, let alone the maintenance of a military force sufficient in these warlike days to adequately protect the Colony against invasion from sea or land, which was the declared object of the territorial addition. Who is to pay the cost of protection—the overburdened British taxpayer at home or the colonist? If the colonist. and it seems probable that he will at least have to bear his share, where will he get the money, especially if his revenue from the opium farm is reduced? It is true that the opium farmer, if he continues to exist, will exercise his functions on a wider area; but the addition to the population is estimated at 100,000 only, while the population he at present supplies is estimated at 250,000 and he is said to make seventy per cent of his profits from smuggling, which he will lose if Hongkong stops the smuggling. The farmer would therefore lose seventy per cent, or seven-tenths of the present earning and gain four-tenths on his present legitimate sale of prepared opium. He would therefore clearly be the loser, the farm would bring so much less to the Government, and the Government would have to pay more for a preventive staff competent to stop the smuggling. I think I have sufficient grounds for doubting whether the Colony will put forth its best endeavours to kill this source of revenue. . . . There is much talk of British prestige being maintained. Would that prestige not be more nobly maintained by a generous attitude to a nation that has given so much, than by living on the profits of the smugglers who defraud her revenue? Would not British prestige be the greater for assisting instead of oppressing a weak nation? England's sovereign rights, it is said, must not be sacrificed. China asserts that she has leased not given the territory to England, and that her sovereign rights over the territory remain, although its government is placed in British hands. England is China's tenant, and there should be no loss

of dignity to the tenant if the landlord collects his rent".[1] The Commissioner then went on to propose a plan that might help the situation. By the Convention respecting the extension of the Hongkong territory it was agreed that within the city of Kowloon the Chinese officials stationed there should continue to exercise jurisdiction provided such jurisdiction was not inconsistent with the military requirements of Hongkong, and that the landing place near Kowloon city should be reserved for the convenience of Chinese men-of-war, merchant and passenger vessels. The Commissioner's proposal was that a Chinese Custom House might be established there, where cargo might be examined, and after payment of duty, franked to any specified treaty port in China. Vessels complying with the requirements of this establishment could proceed under sealed hatches to the first station passed on leaving British waters where the seals could be removed and the vessels allowed to proceed freely to their destinations. This arrangement was not to be compulsory; but vessels not availing themselves of this facility would have to submit to the inconvenience of detention at Stations for search, examination of cargo, payment of duty, etc. The Hongkong Chamber of Commerce, however, had no sympathy with such an idea. They objected strongly to the residence of Chinese officials at Kowloon, and to the reservation of the landing place there for the convenience of Chinese vessels. In their opinion "such deference to the supposed susceptibilities of the Chinese Government must act prejudicially upon the minds of all the Natives, who under these circumstances will assuredly regard the Chinese rather than the British Government as the predominant Power".[2] Within the next eight months this intelligent anticipation was confirmed. Agitators got to work among the Chinese resident on the newly-leased territory, and two days before the day set for the hoisting of the British flag over this territory—17th April, 1899—these residents staged demonstrations against the cession of their homes and farms. The rioting was suppressed by British soldiers and the Hongkong police force, but not without loss of life. The opportunity was too good to be lost. The diehards gained their point, and on 16th May, 1899 Chinese jurisdiction was expelled from the city of Kowloon.[3]

[1] Kowloon despatch No. 3776 to the I.G.; published in Customs Papers No. 62, V Office Series. *Kowloon Customs*, Shanghai, 1899; pp. 11-13.

[2] *Hongkong Daily Press*, 15th September, 1898.

[3] N.C.H. No. 1654, 17th April, 1899, p. 673; No. 1655, 24th April, p. 710 & No. 1656, 1st May, p. 778.

Cooperation of Portugal in opium revenue work at Macao: Protocol of Lisbon, 1887: Customs Agreement with Macao Government.

§ 21. In the Opium Agreement of September 1886 between Hongkong and China the very first condition laid down by the Hongkong representative was that China should arrange with Macao *for the adoption of equivalent measures*.[1] To Portugal this was a God-given opportunity. Since 1557 her citizens had lived and traded at the Macao peninsula, and although in the course of time they had developed a colony and had built a thriving town there, the affairs of which were controlled by the Portuguese alone, and to the inhabitants of which Portugal extended her protection, yet the sovereignty over the territory occupied—in spite of the claims of Portuguese officials and of the interested colonists—had always been retained by China.[2] In 1869, at the time of the Burlingame Mission, a proposal had been brought forward to liquidate the situation by the sale of all Portuguese-owned property at Macao to the United States, who would then in due course and on agreed terms restore the place to China.[3] In spite of the nefarious coolie traffic then rampant at Macao, the French opposed the proposal and it eventually fell through. Portugal seized the occasion now offered, and demanded as the price of her acquiescence China's recognition of Portugal's full sovereignty over the territory and Colony of Macao. It was a bitter price to pay, and many of the leading Chinese statesmen were strongly opposed to any such concession, denouncing it as an unnecessary signing away of Chinese sovereign rights. Portugal, they knew, was weak, and Macao, they believed, could easily be blockaded into accepting whatever conditions for the control of the opium trade China might wish to impose. But the Hongkong Agreement called for

[1] C.A. I.G. Circ. No. 887. Hertslet; *op. cit.* Vol. I, pp. 90-91.

[2] F.O. 17/811: Wade to Salisbury, desp. No. 91, 6th October, 1879; "China has never surrendered her claim to the territory of Macao." *vide* also Chang Tien-tse; *Sino-Portuguese Trade from 1514 to 1844*, Leyden, 1934; p. 93.

[3] F.O. 17/518: Alcock to Stanley, confidential, desp. No. 6, 12th January, 1869; "Whether Mr. Burlingame has anything to do with it I cannot say, Mr. Hart and Senor de Mas have had some part in whatever has been done. It seems also very clear that from a fiscal point of view the former may have suggested the importance of getting rid of such a centre of smuggling at the mouth of the Canton river, as rendered all his efforts unavailing to protect the revenue. And either he or Senor de Mas may have also suggested the means of effecting this without any loss of prestige to the Chinese Government, by the aid of a sum of money for buildings purchased, which were it double the amount mentioned [Tls. 1,000,000] would be much more than repaid in a year by the increase of the Maritime Customs revenue under Mr. Hart's administration." *vide* also F.O. 17/811: Wade to Salisbury, desp. No. 91, 6th October, 1879.

a similar understanding with Macao as a condition necessary to enforcement,[1] and Hart—whose influence with the Peking Government had at that time reached its zenith, more particularly after his successful intervention for the settlement of the Franco-Chinese crisis of 1884-1885—was definitely in favour of implementing the agreement Any other course, in his opinion, would have imperilled the whole of his plans for the collection and protection of the combined duty and *likin* on opium His representations were successful, and he was authorized by the Tsungli Yamen to continue with the necessary arrangements Instructions accordingly were sent to Mr J D Campbell, the secretary in charge of the London Office of the Chinese Customs, to proceed to Lisbon and to negotiate with the Portuguese authorities what is known as the Protocol of Lisbon, which was duly signed on 26th March, 1887 This instrument contained four articles, the first stipulated that a treaty of friendship and commerce, with a most favoured nation clause, was to be concluded and signed at Peking, the second that China confirmed perpetual occupation and government of Macao and its dependencies by Portugal as any other Portuguese Possession, the third—seemingly aimed at possible French aggression—that Portugal engaged never to alienate Macao and its dependencies without agreement with China and the fourth that Portugal undertook to cooperate in opium revenue work at Macao in the same way as England at Hongkong[2] The treaty of friendship and commerce between Portugal and China, which was signed at Peking on 1st December, 1887, and ratified on 28th April of the year following at Tientsin,[3] confirmed these Protocol articles, and stipulated (Article IV) that the bases of cooperation with China in the collection of duties on opium exported from Macao to China should form the subject of a separate Convention to be appended to the treaty and to have the same force and validity as the treaty This Convention,

[1] 'To carry it [the Hongkong Agreement] out however, we must undertake to get Macao to act likewise now this means negotiations with Portugal and this implies tacit recognition of the Portuguese status of Macao, to negotiate we must promise a treaty, and no treaty would be accepted which does not recognize in so many words the Portuguese status of Macao Hart to a colleague 11th July 1886 The fact that we can't set to work (except without cooperation) at Hongkong, unless we begin at Macao also will probably turn the scale in favour of signature" Hart to same 9th March 1887

[2] *Treaties Conventions etc op cit* Vol 2, p 273, Hertslet, *op cit*, Vol 1, p 422, I G Circ 887, Enclo No 2

[3] *Treaties Conventions, etc op cit* Vol 2, pp 274-294, Hertslet, *op cit* Vol 1, pp 423 438

which was also signed on 1st December 1887;[1] bound Portugal to enact a law by which the opium trade at Macao was to be subject to restrictions similar to those that had been agreed upon for the same trade at Hongkong. To supplement this Convention an agreement[2] was signed at the same time by Hart on behalf of the Chinese Government and de Mello, the Secretary of the Special Mission, representing the Portuguese Government. This agreement provided for the opening of an office of the Chinese Customs close to Macao for the sale of opium duty certificates, and for the investigating and settling of any complaints made by Chinese merchants against the Customs stations or revenue cruisers. It was also agreed that junks and their cargoes, trading between Chinese ports and Macao, should not be subject to any dues or duties in excess of those leviable on junks and their cargoes, trading between Chinese ports and Hongkong, that no dues should be demanded from junks proceeding to Macao from ports in China, or leaving Macao for ports in China, over and above the dues paid or payable at the ports of clearance or destination, and that Chinese produce which had paid Customs duties and *likin* before entering Macao might be re-exported from Macao to China without further payment of duties or *likin*, but should be subject to the tax known as *hsiao hao fei* (銷 號 費). In fulfilment of this agreement a Custom House under the control of the Inspector General was opened at Lappa on the 2nd April, 1887. Its function was to collect on opium the consolidated import duty and *likin* rate of Hk. Tls. 110 per picul, and on general cargo the provincial *likin* and *ching-fei* taxes at the rates given in the provincial tariffs received from the Governor General of the Liang Kwang. Three months later (1st July, 1887) the Hoppo handed over to the Commissioner the collecting of duties on junk-borne general cargo according to the rates of the Native Customs tariff. The change was welcomed by all honest traders both Chinese and Portuguese. To the former it meant fixity of duty levies and security from squeeze, while to the latter it brought a much-desired increase in trade. A commission, appointed by the Governor of the Colony, to inquire into the decline of trade of Macao manifest from 1884 onwards, testified in 1889 that the conclusion of the Sino-Portuguese treaty by giving confidence to Chinese merchants had drawn to Macao the capital needed to increase trade, and that the liberal policy of the Chinese

[1] C.A. I.G. Circ. No. 887; Enclo. No. 3. Treaties, Conventions *op. cit.* Vol. II, pp. 295-297.

[2] C.A. I.G. Circ. No. 887; Enclo. No. 4.

Customs under the Commissioner had given a strong impetus to trade. The clause of the agreement, however, which stipulated that Chinese produce which had paid Customs duties and *likin* before entering Macao should when re-exported from Macao to China be exempt from a second levy of such duties, was a dead letter. Considerable quantities of Chinese produce which entered Macao was there sorted and repacked, and as the Colonial Government would not consent to this being done in bonded warehouses under the supervision of the Chinese Customs, it followed that it was impossible to identify such produce when it left Macao for import into China. The colonists argued that as Macao produced nothing all the Chinese produce shipped from there to China must have paid *likin* before entry into Macao, and should therefore be exempt on re-export whether identifiable or not. The answer to this was obvious. The colonists had conveniently overlooked the fact that most of the Chinese produce brought into Macao came both by steamer and by junk from Hongkong, and could not therefore be regarded as having already paid duty and *likin*. The Lappa stations, therefore, following the *likin* rule that a change in the carrying boat rendered the goods liable to a fresh payment, collected *likin* both ways and ignored the Convention. In actual practice what happened was that on Chinese goods bound for Macao the Lappa stations levied duty—*hsiao hao*—in every case, unless they came from the Kwangchow prefecture when they paid nothing, and *likin* in every case unless they came from Canton, when the goods would have paid the maritime *likin* at port of shipment. On Chinese goods leaving Macao the Lappa stations levied *likin* in every instance, no matter whither bound, and full duty—*hsiao hao*—on all goods even if they had already paid *hsiao hao* at the stations when bound for Macao. The only exception to this latter rule was in the case of Chinese goods originally from the Kwangchow prefecture and duly documented as having paid *hsiao hao* there.[1]

Outward transit trade at Tientsin, at Chinkiang, at Shanghai, at Amoy and at Canton: Abuses of system.

§ 22. During this period the transit trade developed those characteristics which marked it till the final abolition of transit dues by the National Government on 1st January, 1931.[2] At only nine of the open ports, namely Tientsin, Wuhu, Chinkiang, Shanghai, Ningpo, Foochow, Amoy, Canton, Kiungchow

[1] Customs Papers No. 37: V Office Series. *Report of Port Practice at the Lappa Stations.* Shanghai 1892: p. 4: p. 33.

[2] C.A. I.G. Circ. No. 4158.

and Pakhoi was the treaty procedure for the outward transit trade in operation, although that procedure was generally modified to suit local conditions and the necessities of the provincial treasuries. At Tientsin, for instance, a merchant desiring an export transit memorandum (Outward Transit Pass), or *San-lien-tan* as it was generally called, used to apply direct to his Consul, who obtained the document required from the Superintendent, and then handed it direct to the foreign applicant, who in most cases was not acting for himself but for Chinese. The Outward Transit Pass privilege, which had been secured by treaty for British merchants and was shared by other foreigners under the most favoured nation clause, was regarded by the Chinese Government as a compulsory concession which they had no intention of granting to their own nationals;[1] nor did they grant it to their nationals till July 1896.[2] They further maintained that this privilege had been conceded to foreigners on the condition that the goods brought down from up country under the protection of such a pass were for *bonâ fide* export to a foreign country. According to the procedure laid down by the Chinese authorities in 1861 this triplicate Memorandum should have been signed in triplicate by the applicant, such signature binding the signatory to pay transit dues on the goods entered at the first barrier "either upon the return of the Memorandum or upon the arrival of the said produce, whichever event to first happen".[3] Upon arrival of the goods at the first Customs station or barrier after purchase, the person in charge of the same was to enter on the Memorandum the amount of the produce and the port at which it was to be shipped. In exchange for the triplicate Memorandum he was then to receive from the officer in charge of the barrier a transit certificate or *yünchao* (運照) which was to be exhibited and viséd at every barrier on the way to port of shipment. Having issued the transit certificate, in exchange for the triplicate memorandum, the inland barrier was then to send one copy to the Customs at the port from which the produce was to be shipped, a second copy to the Tsungli Yamên at Peking, and the third was to be retained for its own archives. As soon as the produce, duly covered by a transit certificate, arrived at the barrier nearest the port of shipment notice was to be given to the Customs at the port so that the transit dues thereon might be paid and the goods passed. Unauthorized sale *in transitu* rendered the goods

[1] *vide* §§3 & 5 in Tsungli Yamên Circular letter in I.G. Circ. No. 512.
[2] Imperial Edict of 1st July, 1896, enclo. in I.G. Circ. No. 730.
[3] C.A. I.G. Circ. No. 9 of 1861.

liable to confiscation, and a similar penalty was to be imposed when any attempt was made to pass goods in excess of the quantity specified in the certificate. In the Tientsin trade area, which stretched as far as Mongolia in the north and Shantung in the south, these rules and restrictions were more honoured in the breach than in the observance. Only one barrier, that of Lin-ch'ing (臨 清) in the province of Shantung retained the triplicate memorandum, issuing in its stead the necessary *yün-chao*. All the other barriers and stations of the local inland tax offices issued no *yünchao* but allowed the goods covered by a triplicate memorandum to pass even without inspection. On arrival at the barrier nearest Tientsin the triplicate memorandum, in nine cases out of ten, would disappear, and the goods, instead of paying transit dues, would be released on payment of the local taxes (卡口稅), the grand total of which was less than the transit dues. The man in charge of the goods would then be given a tax receipt (卡口收稅單), emanating from the Superintendent's Yamên which, on presentation at the Custom House, would secure that the goods specified would be passed for export on payment of the treaty tariff export duty. The triplicate memorandum procedure, therefore, served three purposes: firstly, it protected native produce *en route* to the port against the imposition of *likin* and other taxes at barriers and inland stations, not under the control of the Tientsin Superintendent, secondly it enabled foreign merchants—in defiance of the purpose for which the procedure had been devised—to bring down, for themselves or for their Chinese friends, native produce for local sale and consumption, and thirdly, the existence of the procedure obliged the tax offices about Tientsin to keep their local tax rates below the level of the treaty tariff transit dues and to deal with the Chinese bearers of export transit memoranda—more or less connected with foreign hongs—in an accommodating spirit. At Chinkiang, where the outward transit trade was highly developed, the procedure was much more strict. There a merchant desiring an export transit memorandum was called on to execute a bond before his Consul binding himself to pay six times the duty on the goods to be bought in case he should fail to bring down the goods specified and export them to a foreign country in accordance with the provisional rules for the issue and surrender of transit passes. This bond was deposited with the Customs. On issuing a *san-lien-tan* the Superintendent at the same time sent a *yünchao* to the magistrate of the district where the produce was to be bought. To be valid the *san-lien-tan* had to be exchanged for a *yünchao*

within six months from the date of issue, and a similar time limit for validity was fixed for the *yünchao*. On arrival at the last barrier outside Chinkiang the *yünchao* was stamped and placed in a sealed envelope for delivery to the Customs, a time limit of four days being allowed for the transport of the goods from the barrier to the Customs. After examination of the goods the merchant was called on to pay the transit dues leviable, and to deposit in addition a sum equal to five times the transit dues paid as a guarantee that the goods would be exported abroad. If the goods were sent abroad direct from Chinkiang then the export duty (*i.e.* a sum equal to twice the transit dues) was deducted from the deposit and the balance (*i.e.* a sum equal to three times the transit dues) was returned to the merchant. If sent by an ocean steamer to a coast port, or exported by lorcha, the export duty was deducted, while out of the balance a sum equal to the transit dues paid was returned in cash to the merchant—this sum representing the coast trade duty payable at Swatow—while the remainder of the deposit, equal to twice the transit dues, would be refunded to the merchant on his producing a certificate from the Customs of the coast port concerned stating that the goods had been exported abroad within the time limit. Failure to export abroad within the specified time limit entailed confiscation of the balance of the deposit. If the goods were exported by a river steamer the export and the coast trade duties were deducted from the deposit, half the remainder was handed to the merchant in cash, while the balance would be returned to him by drawback on his producing a certificate proving that the goods had actually been shipped abroad within the specified time limit. In the case of transit goods not being shipped from Chinkiang within six months from the date of arrival the whole of the deposit, equal to five times the transit dues, was confiscated. At Chinkiang the number of types of goods that could be brought down to the port under *san-lien-tan* was restricted to the following thirty-one articles—silk, cotton, buffalo hides, buffalo horns, buffalo bones, hemp, wool, pigs' bristles, native wine, lily flowers, walnuts, black dates, red dates, dried dates, ground nuts, melon seeds, vermicelli, tallow, ground nut oil, bean oil, sesamen oil, dried persimmons, native soap, senna seed, varnish, tobacco leaf, coarse paper, fine paper, medicines, straw braid, and bamboo mats.[1] This restriction at

[1] *Memorandum on Transit Outwards at Chinkiang 1880*: V Office Series, Customs Papers No. 38. Shanghai, 1892.

Chinkiang on the types of goods that could be brought down under *san-lien-tan* was nullified by the Shanghai practice of issuing *san-lien-tan* without any restriction on the nature of the goods covered. Many of these Shanghai-documented goods had to pass through Chinkiang. Goods, however, which were brought down to Chinkiang under a Shanghai *san-lien-tan*, but which were not on the Chinkiang list of permitted goods were not allowed to be sent away by steamer, but had to be conveyed to Shanghai by lorcha or junk, due precautions being taken for their safe arrival at Shanghai. The outward transit pass procedure at Shanghai was much more lax than that obtaining at Chinkiang, and as a consequence abuses flourished. At Shanghai as at Tientsin no bond was exacted for the *san-lien-tan* issued, no limit of time was fixed within which the goods brought down must be exported, and no deposit of six times the transit dues was taken in order to penalize the merchant in case the goods were not exported. At Shanghai, too, the Superintendent did not issue any *yünchao*, while the tax officials at the North and South barriers would allow transit due goods to pass either with complete or incomplete *san-lien-tan*. Hundreds of *san-lien-tan* were never presented at all, having disappeared in the interior. There was only one explanation of this phenomenon. The missing documents were availed of to convey produce from the districts named to some point between them and Shanghai free alike of *likin* and transit dues. In fact even one of the three sections of a *san-lien-tan* was sufficient for this purpose. Small wonder that there was a thriving business in the sale of these documents. Foreign men of straw would go through the necessary formalities with the Consuls and the Customs to obtain these documents for Chinese clients, charging a commission for their services. At one time this commission was as high as five taels a document; but as most of the Consuls were very slack in calling for a signed declaration of ownership, competition in this business grew so keen that the commission per document dropped as low as fifty cents. *San-lien-tan* were "freely issued to such persons as barbers and pastry-cooks, toy-shop-keepers and chemists, clerks employed in firms of other nationalities, brokers and commission agents, etc., to people in short not the *bonâ fide* owners of the enormous quantities of cargo applied for".[1] These agents were mostly employed by

[1] Enclosure in Shanghai despatch to I.G. No. 4177; *vide* V Office Series; Customs Papers No. 57 *Outward Transit Trade: Reports on Port Practice*, Shanghai, 1898, p. 30.

a few Chinese merchants at Chinkiang who found the Shanghai *san-lien-tan* a much cheaper and more convenient document to deal with than the Chinkiang issued one, and those who applied for them very seldom pretended even to contend that they were the real owners of the cargo. At Amoy no bond was enforced and no deposit of duty taken, but the actual transit of goods to the port was controlled in accordance with the regulations by the surrender of the *san-lien-tan* at the first barrier and the issue of *yinchao*. At Canton, Kiungchow, and Pakhoi bonds were enforced but deposits of duty were not insisted on; as at Amoy and Chinkiang *yinchao* were issued by the Superintendent as well as the *san-lien-tan*. To put a stop, if possible, to the flagrant abuses which characterized the outward transit pass procedure, such as sale of passes to Chinese by unscrupulous foreigners, use of passes to bring down goods for local consumption instead of export abroad or to convey goods—tax free—from one mart to another in the interior,[1] an Imperial Edict was issued on 1st July, 1896, in response to a memorial from the Tsungli Yamên, that in future the privilege of being allowed to make use of outward transit passes was to be granted also to Chinese merchants—a course which had been urged by the Customs as far back as 1872, but which had then been refused—and that the procedure in force at Chinkiang—as embodied in the provisional rules of that port for the issue and surrender of transit passes, rules which had been accepted by the local Consular body but not by the Legations—was to be enforced at all ports.[2] The decree was obeyed so far as the extension of the privilege was concerned so that the abuse of illicit sale ceased, but as all ports were not able to adopt *in toto* the Chinkiang rules the abuses by which the provincial exchequers were robbed of their rightful dues continued. The obstacle to the full recognition of these rules lay in the fact that in the opinion of the higher foreign authorities some of them—notably that which restricted the use of the pass to specified categories of goods, and that which called for deposit of two and a half times the export duty—encroached on treaty privileges. The rules were highly successful at Chinkiang and at a few other ports on the Yangtze which adopted them, but their general enforcement was never effected.

[1] *vide* I.G. Circulars No. 3 of 1864; No. 1 of 1868, and No. 512; II Series.
[2] C.A. I.G. Circs. Nos. 730; and 735: II Series.

Benefit of inward transit passes at first confined to foreigners: Goods so covered liable to local taxation after reaching specified inland destination: Extension of inward transit privilege to Chinese.

§ 23. When negotiating for the privilege of transit inwards of British imports Sir Henry Pottinger did not stipulate that this privilege was to be confined to British, or foreign, merchants.[1] As the goods were to be conveyed to their destination in the interior by Chinese his idea was that the privilege should attach to the goods themselves and not to the fact of the ownership of the goods. This, however, was not the view taken by the Chinese authorities. Their object obviously was to protect intra- and inter-provincial trade levies from being too much encroached upon. As the demand of the foreign negotiators could not be refused, the only course was to see that the privilege was severely restricted to foreign-owned goods. On this rigid interpretation the authorities acted, and this was the interpretation in force when the Tientsin treaties were negotiated. As Lord Elgin, however, had secured for British subjects the right to travel under passport in all parts of the interior for purposes of trade (Article IX) it became possible to alter the article on inward transit (Article XXVIII) so as to bring out the fact that British imports could now be accompanied by their owner from port of importation to a specified inland market. By the Chinese authorities this was taken as an endorsement of their contention that the privilege of inward transit of foreign goods on payment of a single fixed transit due was to be restricted to the foreign owners of the goods. *Bonâ fide* foreign imports if owned by Chinese were not to be entitled to the privilege of this commutation tax, but would have to run the gauntlet of the local provincial levies. The first official attempt to put an end to this discriminatory treatment was made by Alcock in 1869 when he inserted in the first of the supplementary rules appended to his abortive Convention a clause to the effect that British and Chinese merchants were to be regarded as equally entitled to take out transit passes inwards. British prejudice, as we have seen, wrecked Alcock's proposals so that the privilege of franking foreign goods inland on payment of a commutation transit due continued to be confined to foreigners. This is confirmed by the circular letter which the Tsungli Yamên in March 1878 addressed to the Chinese Ministers abroad giving the views of the Government on transit, *likin*, extraterritoriality, and the

[1] Br. Tr. Nan. Art. X; Declaration respecting Transit Duties of 26th June, 1843.

most favoured nation clause.[1] In that significant document, in which the hand of Hart is clearly evident, the Yamên recognizes that by treaty foreigners "can convey duty-paid *foreign* goods into the interior and either, as Chinese merchants do, pay duties at each Custom House and taxes at each barrier passed, or, by payment of the tariff transit due, can free their goods from such duties and taxes *en route* to any place, however distant, named by them and entered in their transit certificate". The letter then proceeds to refute the claim made by foreign merchants that "foreign goods which have once paid transit dues cannot subsequently be called upon to pay any local charge whatever" by pointing out that the treaty required that the place for which the goods were destined must be named and entered in the certificate, and that the reason for this stipulation was because it was intended that the certificate should free the goods covered from the treaty port solely to the place named, after which the certificate was to become waste paper, while the goods changed their status to that of ordinary uncertificated merchandise, and like all other uncertificated goods thenceforth liable to taxation. Despite all agitation and protest on the part of dissatisfied foreign merchants the Government refused to alter their interpretation of the limits to exemption from taxation set for the inward transit certificate, but, yielding at last to pressure from interested parties, both Chinese and foreign, they decided in November 1880 that Chinese merchants should, as regards inward transit privileges, be placed on the same basis as foreign merchants and be permitted to take out transit certificates to cover foreign goods inland, the issue of such certificates from then on to depend upon the character of the merchandise and not upon the nationality of the applicant.[2] This removed a grievance which in practice was more theoretical than real, seeing that Chinese who wished to obtain transit certificates to cover consignments of foreign goods going inland had little or no difficulty in obtaining such through the medium either of their foreign friends or of foreigners willing to sell their services. Certain *likin* officials, however, in various provinces, after the removal of this disability, refused to recognize as valid transit passes made out in the name of Chinese merchants, but Government instructions to the provincial authorities concerned put an end to the obstructiveness.[3] Another concession, though of a minor nature, was granted by the Government in

[1] C.A. I.G. Circ. No. 119.
[2] C.A. I.G. Circ. No. 512, II Series.
[3] C.A. I.G. Circ. No. 803.

September 1896 when, in order to expedite business, it was arranged that inward transit passes at Shanghai should be issued at the Custom House instead of at the Superintendent's Yamên as had been the practice up till then. For some time previously the foreign Ministers at Peking had been pressing the Tsungli Yamên for the speedier issue of inward transit passes, and the Consular body at Shanghai had been urging the same request. On the representations of the Commissioner of Customs the Superintendent finally agreed stipulating that in order to protect the revenue the new procedure should be subject to the following five rules:—

(1) that, to prevent unauthorized alteration of a pass, a special mark or stamp in red was to be impressed over the number, weight, and denomination of goods as entered on the pass, and that over the date the stamp of the Superintendent's recording office was to be affixed also in red;

(2) that separate sets of passes, each series to be numbered 1 to 1000, be made out for the northern (Soochow creek) barrier and for the southern (Whangpoo river) barrier, and that a list—giving full details—of the passes issued be sent daily to each barrier so that effective checking and examination may be carried out;

(3) that goods for which passes have been issued reach the barrier concerned within 48 hours of issue, failing which the passes were to be cancelled unless good cause could be shown for the delay;

(4) that, to prevent substitution of superior for inferior, or of native for foreign, goods the weiyuan at the barrier was to affix his stamp to every package of goods after examination by the foreign examiner, and that goods not having this stamp, and goods tampered with after examination, were to be confiscated; and

(5) that if a false application, or fraud of any kind should be discovered, the goods concerned would be subject to confiscation, and the owner to prosecution and punishment—if a foreigner by his Consul, and if a Chinese by the Chinese authorities.[1]

In February 1898 the Tsungli Yamên, yielding to pressure issued orders that foreign goods on which transit dues inwards had been

[1] V Office Series: Customs Papers No. 51: *Inward Transit Passes; Shanghai Practice 1896*, Shanghai, 1897.

paid might be sold while *en route* to their declared destination.[1] After this no further change marked either inward or outward transit pass procedure until the whole transit system was finally abolished on 1st January, 1931.[2]

Origin and development of steam navigation inland: Use of steam launches in inland waters during Taiping Rebellion: Steam tug regulations of 1867: Regulations for control of Chinese-owned foreign-style vessels: Regulations of 1898 for steam navigation inland.

§ 24. Throughout the 19th century it was characteristic of foreign trading policy in China that once an advantage had been gained by aggression or concession such advantage should as quickly as possible be embodied in a treaty stipulation to give the privilege gained the status of a legal right and thus safeguard it from possible withdrawal. For the sake of profit foreigners in the first instance had forced their trade on China, and then—resenting the terms on which the Chinese were willing to carry on that trade—waged in the person of the foremost industrial and commercial nation of that day a successful war to impose their own trading terms. The privilege of trading was there before the war, but the instruments of peace, which concluded that war, converted that privilege into a treaty right. The appetite grows by what it feeds upon. Having legalized their trading status, and gained access to specified ports for direct foreign trade, import and export, these insatiable invaders forthwith proceeded to make further encroachments. Bartering—even with contraband goods—buying and selling were to them necessities above the law, and justified in their opinion the pushing of trade into forbidden ports, the opening of which they hoped new treaties would legalize. With but few exceptions among the more highly placed merchants these men were not crusaders in the sacred cause of enlightenment and progress, but hard headed traders, not burdened with too many scruples, and out at all hazards to drive good bargains and reap a profit. Not satisfied, however, with this direct import of foreign goods to seacoast ports, whether opened by treaty or not, and of export abroad of Chinese goods from such ports, they eagerly seized when chance offered, the coastwise carrying of Chinese goods, a practice which in its origin, as we have seen, was clearly a most unusual privilege, but which was soon hardened into a treaty right. Not content even with this, and casting

[1] C.A. I.G. Circ. No. 815.
[2] C.A. I.G. Circ. No. 4158.

greedy eyes on the vast internal trade carried on by Chinese shipping on China's inland waterways they were soon clamouring to be permitted not only to place their sailing vessels and steamers on the Yangtze to capture if possible some of the trade of what was then believed to be the richest river valley in the world, but also to open to steam launch traffic the rivers and canals in the Shanghai area, and thereby gain access to the numerous inland towns and villages of that district. By the early fifties of last century steam navigation was fairly well established in China especially at Shanghai, so that when the Taipings appeared harrying the countryside it is not surprising that the Chinese authorities bethought themselves of making use of steamers to check the advances of these ravagers. The taotai Wu Chien-chang at Shanghai was ordered by Imperial Edict to purchase steamers to be sent up the Yangtze to aid the Imperial troops in suppressing the rebels,[1] and for this purpose he purchased at least three foreign steamers although it does not appear that he ever made much effective use of them. The point, however, to be noted is that they were bought for use, and were actually used, on what were then inland waters. A little later both Ward and Gordon made use of small steamers, or steam launches, in their campaigns around Shanghai. These incursions by steamer into inland waters were all for military purposes, and were all under Chinese surveillance and control; but where these steam launches, or small steamers as they were then called, could travel as messengers of war, steam launches could also go, so argued the merchants, as peaceful harbingers of commerce. The fact that the turmoil of the times had blocked many of the usual channels of internal trade, and made dangerous the use of the slow moving native craft only added force to their argument. Chinese and foreigners alike were loath to lose trade, and so with Chinese acquiescence, during the decade 1856 to 1865 there sprang up a vigorous inland traffic by steam launches to the leading towns and markets that could be reached by river or canal in the neighbourhood of Shanghai. These launches, many of which had been built in England expressly for this trade, were owned by foreign firms, flew foreign flags, and were manned by mixed foreign and Chinese crews. As they traded to places not opened by treaty they eschewed, registration and report at the Consulates concerned, and had no dealings with the foreign controlled Custom House. In short, they were an anomaly called into existence by the needs of the times, but there was nothing either in the cause of their

[1] *Tung Hua Hsü Lu* (東華續錄). Hsien Feng's reign; Vol. 20, p. 6.

origin or in the conditions under which they functioned to justify their owners in claiming that what had been established by necessity should continue to exist when that necessity was past.[1] The Chinese provincial authorities, however, had no intention of allowing this embryo inland steam navigation trade to continue after the Taiping rebels had been driven out and the country pacified. Accordingly in February 1865 an official notification was issued to the effect that steam launches would no longer be permitted to go inland to places not opened by treaty. In issuing this order the authorities were defending native shipping interests which could not in time of peace stand up to steam launch competition, protecting provincial revenue as it was easy for native craft in tow of foreign-owned steam launches to slip past local tax offices, and preventing the smuggling of arms and ammunition. If such inland steam traffic was inevitable the Chinese were quite within their rights in determining that it should be in their own hands and not in those of extra-territorialized foreigners. The foreign launch owners, however, protested against this withdrawal of what they now claimed to be a right, maintaining that Article IX of the British Treaty of Tientsin was sufficient authority for this steam traffic inland, ignoring the fact that that article which concedes to foreigners the right of travelling in the interior limits the means of travelling to such native agencies and appliances as might be obtainable on the spot. Their contention too was directly at variance with the terms of Articles XLVII and XLVIII of the same treaty which restrict the ports of trade for foreign-flag vessels to those previously mentioned.[2] The Chinese, of course, were not debarred from acquiring these, or other, steam launches, and of using them for whatever purpose the authorities might approve. In the meantime foreign steam launch owners were informed by notification that the registers of launches plying as tugs were to be deposited with the Consul concerned, and that on receipt of a Consular report certifying that the launch was to ply as a tug and not to engage in any carrying trade, the Customs would register the vessel as

[1] F.O. 17/520: Alcock to Medhurst, 1st April, 1869: "To claim the navigation of all the inland waters which neither separate or traverse other countries in their course is wholly without warrant in any system of international law. No Western Power has ever conceded such right to any other, even when there is no question of extraterritorial privileges. No treaties have even sanctioned such a principle." Enclo. No. 24 in desp. No. 28, Alcock to Clarendon.

[2] N.C.H. No. 827; 2nd June, 1866. U.S.A. *Papers relating to Foreign Affairs* for 1866; Washington 1867, Part I, pp. 510-514.

such, after which the launch might come and go in the harbour and adjacent waters without reporting to or clearing from the Customs. If it was desired that a registered tug should proceed to another treaty port, such tug was to clear from and report at the Customs in the ordinary way, and failing to do so would be liable to a fine of five hundred taels. Should a tug be detected in any smuggling transactions or in the unauthorized carriage of cargo, the goods carried were to be confiscated, and the launch would no longer be regarded as a tug, but would have to report at and clear from the Customs on every future arrival or departure. Tugs were to be liable to tonnage dues every four months.[1] The Chinese authorities were now thoroughly alive to the importance of steam navigation and to the still greater importance of seeing to it that the development of this form of navigation so far as their country was concerned, both along the coast and in inland waters, should not be wrested from them by foreigners. At first, Chinese merchants were forbidden to own or operate steam vessels of any description, but from 1861 onwards the authorities made increasing use of purchased or chartered steamers both for military and official purposes; witness the hiring in 1862 of seven steamers to convey the army of Li Hung-chang from Anking to Shanghai, the use of a steam fleet in the Canton delta by the Viceroy for the suppression of smugglers, and the shipping by steamer during the Taiping troubles of tribute rice to Tientsin. Officials too were the pioneers in steamship building in China, the first workable launch being finished in 1863 at Anking by the engineering works opened by the Viceroy Tseng Kuo-fan. The years 1864-1865 saw the beginnings of what afterwards developed into the Kiang-nan Arsenal, and the purchase of the machinery in America for equipment by Yung Wing (容閎). An annual appropriation from the Customs revenue for the building of steamships was secured, and in September 1868 the first Chinese built steamer, with a length of 185 feet and a beam of 27½ feet, was launched and sent up to Nanking where it was christened Tien Chih (恬吉) by the delighted Viceroy. In the meantime Hart had been urging the authorities to permit Chinese traders to own and operate foreign-style steamers and had so far succeeded that in 1867 the necessary authority was given and the requisite provisional regulations under which Chinese-owned steamers

[1] C.A. I.G. Circ. No. 4 of 1867.

were to ply were drawn up.[1] In this the question of the carriage coastwise of beans, beancake, and bean oil in steamers had played an important part. In 1865 the Acting Governor of Kiangsu had issued a proclamation forbidding foreign steamers to carry these products as the interests of powerful junk guilds were concerned. Wade had protested, and the Acting Governor, on pressure from the Yamên, withdrew the proclamation, although in practice its terms continued in effect till 1867, when Alcock succeeded in having the embargo removed. It was not, however, till towards the close of 1872 that Chinese merchants, under the leadership of Li Hung-chang, began to avail themselves of the permission given by the creation of the Chao Shang Chü (招商局) or China Merchants' Steam Navigation Company, when the regulations of 1867 were put into force. Of these twenty-four regulations the first twelve deal with the formalities to be observed in the purchase of vessels from foreigners or in the construction of vessels of foreign type. Then come four rules stipulating that foreign-style vessels owned by Chinese are to trade only at the same ports as vessels under foreign flags, are to obey the same harbour and Customs regulations and pay the same dues and duties. The next five rules relate to the control of the crews of these Chinese-owned foreign-style vessels, especially of the foreign members of such crews; while the final three rules deal with pains and penalties. Commissioners of Customs were enjoined to assist prospective Chinese purchasers to procure good ships, and to select properly qualified foreigners, when needed, as members of the crew, and to act in consultation with the Superintendent in all cases of breach of Customs regulations or of offences against the revenue. By these regulations the range of control of the foreign Inspectorate of Customs which up till then had been confined to foreign-owned foreign-flag vessels was enlarged so as to include Chinese-owned foreign-style vessels, junks and other native craft remaining as before under the jurisdiction of the original native Custom Houses. To avoid confusion and to secure equality of treatment the goods carried by these Chinese-owned foreign-style vessels were to be subject to the duties levied on similar goods when conveyed in foreign-owned vessels, that is to the rates of the treaty tariff. The growth of Chinese privately owned steam vessels was slow. It received its first impetus in 1877 when the Chao Shang Chü purchased

[1] C.A. I.G. Circ. No. 9 of 1873: Chinese enclosures. F.O. 17/753: Fraser to Derby, desp. No. 39, 17th February, 1877. F.O. 17/477: Alcock to Stanley, desp. No. 167, 1st October, 1867.

the fleet of the American firm Russell & Co.,[1] but ten years after the promulgation of the regulations permitting Chinese to run steamers there were only thirty such vessels under the Chinese flag with a total tonnage of 22,111 tons. By 1892 the number had risen to 123 with a total tonnage of 30,358 tons, while by 1900 the number was 517 and the total tonnage only 18,215 tons. In other words, to judge from these figures, the average tonnage of the Chinese-owned steamer sank from 737 in 1882 to 35 in 1900. The explanation is simple. Between 1890 and 1900 the steam-launch had arrived, and the reason for its arrival was that the Chinese Government, yielding to pressure from the Powers, had at last decided to throw open the inland waters of the country to steam navigation. In 1885 permission had been given for Government registered launches to go inland with Government stores, but that permission was coupled with a prohibition from carrying merchandise and trading.[2] Privately owned launches, which like steam tugs had to be registered at the Customs, were permitted to ply either in treaty port waters or from treaty port to treaty port, and were absolutely forbidden to go inland or visit non-treaty places either with cargo or passengers. Those latter rules were not always and everywhere strictly observed. The wars with France 1884-85 and with Japan 1894-95 did not tend to strengthen the prestige of the Central Government, with the natural result that the provincial authorities felt that they were justified in yielding to the exigencies of the times by allowing in certain cases steam vessels to proceed not only from treaty port to inland places but also from inland place to inland place. Furthermore, the Treaty of Shimonoseki, which terminated the latter war, by stipulating for the opening of Soochow and Hangchow as treaty ports had definitely opened the inland waters leading to those places to steam navigation.[3] Special regulations had to be drawn up for this Soo-Hang-Hu traffic to control the movements of foreign and Chinese steam launches desiring to ply on the specified routes either carrying cargo or as tugs towing laden junks and cargo-boats. The duties leviable were, of course, those of the treaty tariff. To regularize unlicensed steam traffic inland Hart in August 1896[4] proposed a set of regulations to govern the movements of Chinese-owned steamers, which he divided into six

[1] F.O. 17/753: Fraser to Derby, desp. No. 39, 17th February, 1877.
[2] C.A. I.G. Circ. No. 306.
[3] Art. VI; 2.
[4] C.A. I.G. Circ. No. 739.

sections; I. Sea-going steamers between treaty ports; II. Steam launches plying at treaty ports; III. Sea-going steamers between treaty ports and non-treaty ports; IV. Sea-going steamers between non-treaty ports; V. Launches plying from treaty ports to places inland; and VI. Launches trading inland between non-treaty places. These proposed regulations, which be it noted were meant for Chinese flag vessels alone, never became generally effective; but they were put into force at two or three ports and formed the foundation on which two years later (March 1898) Hart planned his regulations for steam navigation inland. That year—1898—it will be remembered was one of dire calamity to the Chinese Government in the matter of concessions extorted from them. Among these concessions was that of permitting foreign-flag vessels to trade to inland places, a concession which the British Minister demanded as part compensation for China's refusal to accept Great Britain's offer of a guaranteed loan.[1] The other Powers also desired this inland steam traffic privilege, but Hart who knew more about internal trade-taxing conditions and provincial governmental arrangements than any of the foreign representatives at Peking, counselled caution. To him the Tsungli Yamên entrusted the drawing up of the regulations, and as soon as the draft was ready it was communicated to the provincial authorities for their criticism and suggestions. June 16th had been fixed as the day on which this privilege of inland steam traffic should become effective, and two months before that date the draft as approved by the Government had been communicated to the Customs for observance. The British Minister protested that he had not been consulted and objected strongly to the regulation which limited the privilege to the waters of the treaty port provinces,[2] and insisted that all the inland waters of China should be thrown open to steam traffic. To make clear what was meant by the term "inland waters" he stipulated that the word "inland" should have the meaning given to it in section 3, paragraph 4 of the Chefoo Convention. He also objected to the proposed restriction of this privilege to small steamers or steam launches, maintaining that the size of the steamers to be used might safely be left to be decided by the necessities of navigation. He was also insistent that all rules necessary for the exhibition of lights, prevention of collisions, inspection of machinery, towing of vessels, as well as any special local rules should be published by the Customs, and that those

[1] B.P.P. *China No. 1 (1899)*, p. 14.
[2] B.P.P. *China No. 1 (1899)*, p. 105, p. 115.

to be enforced on foreign merchants must be in accordance with treaty provisions. Further, he demanded that any foreign merchant, if he felt aggrieved by a penalty inflicted for violation of inland waters regulations should be at liberty to claim to have the case dealt with by the joint investigation rules of 1868. Consideration of these objections and of the alterations in the original draft which should be made in view of them delayed the compiling of the amended draft till July, and as supplementary rules were required to give much-needed guidance on the question of what duties should be levied on cargoes going to or coming from inland places, the issue of the amended draft was still further delayed till these supplementary rules were ready which was in September 1898.[1] These supplementary rules made it clear that while the steamers plying inland were to come under the jurisdiction of the foreign Inspectorate of Customs, all duties on goods carried by such steamers, except those covered by transit passes, were to be collected for provincial account by Chinese officials at the same places and at the same rates as on cargo carried by native craft. At first it was intended that at the treaty ports a special official should be appointed to supervise the collecting of such duties, but in actual practice it was found that such appointments which functioned at the leading treaty ports were fully competent to deal with the collecting of whatever duties were leviable on goods not covered by transit passes. All inland-going steamers and vessels towed by such were required to stop at all trade-taxing stations *en route*, and were to pay whatever dues and duties were by established custom leviable on such vessels and their cargoes. The British Minister declined to give his blessing to these supplementary rules and instructed British Consuls to report to him any instance where enforcement of them infringed treaty rights. In defence of them Hart pointed out that the original intention of the Tsungli Yamên, when they memorialized the Throne for authority to open the inland waters to steam navigation, was simply to permit steamers to engage in inland trade on precisely the same terms as junks and to be subject to the same inland charges; but that the insistence of certain foreign Legations that the privilege should be extended also to foreign-flag steamers had necessitated modification of the original rules. The object of this modification was to secure for the foreigners concerned the application of their treaty benefits and privileges to the inland waters regulations. In other words, the foreign Legations, headed by the British, were not satisfied

[1] C.A. I.G. Circ. No. 846.

that this privilege of steam traffic in China's inland waters should be enjoyed on the same terms as the Chinese Government were willing to allow for their own nationals. The foreigners as usual wanted more. The result, as Hart pointed out, was to create difficulty for the scheme generally, for while the original plan of applying inland local regulations to steamers as well as junks would have protected local revenue and thus ensured the support of the provincial authorities, the introduction of the treaty element, as Hart, indicated, called for an exceptional procedure which would upset long-established practice, render taxation more difficult, tempt Chinese owners to buy foreign protection, and alarm and alienate both the inland authorities responsible for, and the inland administration dependent on, inland revenue. These amended regulations with the supplementary rules were sufficient to set the new procedure going, but as had been expected official interpretations and rulings were soon called for. Some of these rulings were of cardinal importance such as—that while the Customs issued inland waters certificates it was not for the Customs but for the national authorities concerned to determine what national papers should be carried by inland waters vessels;[1] that Chinese goods carried from one treaty port to another *via* an inland place were liable to coast trade duty;[2] that vessels registered for inland trade must in the course of any such inland voyage remain within Chinese territorial waters; that each treaty port was to be regarded as the centre of an inland waters district and that steamers plying inland from any such centre were expected to return to that centre,[3] a ruling which was subsequently radically altered by the Mackay treaty; and that the provincial authorities were to decide at what inland barriers inland waters steam navigation vessels were to report for visé of papers and examination of cargo and to what places in the province such vessels would be allowed to trade.[4] Under this combination of general regulations and special rules inland waters steam navigation took on an ever widening range creating anomalies and raising complications so that the whole subject had once more to be taken under consideration in 1901-1902 at the Mackay treaty negotiations.

[1] C.A. I.G. Circ. Nos. 854; 856.
[2] C.A. I.G. Circ. No. 872.
[3] C.A. I.G. Circ. No. 906.
[4] C.A. I.G. Circ. No. 906.

Agreement for the establishment of a Custom House at Tsingtao.

§ 25. The cession of Kiaochow on lease to Germany in March 1898[1] and the opening of a Custom House at Tsingtau on 1st July, 1899[2] called for special regulations since the area to be temporarily administered as German territory was to be treated as a special area into which foreign and Chinese goods, with the exception of opium, arms, and explosives, could be imported free, but were to become dutiable if re-exported into Chinese territory. Chinese merchandise brought from inland into German territory was, when shipped from Tsingtao, to pay export duty; while produce raised in and manufactures made from produce raised in German territory were when exported to be exempt from duty. Opium could be imported in original chests but had to be stored in the Customs godown. So long as it remained in this godown it was regarded as bonded, and on exportation into Chinese territory it was obliged to pay tariff import duty and *likin*. Opium for consumption in German territory was subject to special regulations. Imports of arms and explosives into German territory were also subject to special regulations. Later on in 1905, with six years' experience to guide them, the German and the Chinese authorities arranged to modify this agreement for the establishment of a Custom House at Tsingtao, the German Government undertaking to facilitate the operations of the Customs in the German leased territory and to aid in safeguarding the revenue, in return for which assistance the Chinese Government agreed to pay the German Government a certain percentage of the import duties on goods, opium included.[3] This alteration and the arrangements for the Customs treatment of manufactures produced in the German territory will be dealt with later.

Revision of Yangtze Regulations in 1898.

§ 26. It was in this fateful year of forced concessions (1898) that foreign merchants seized the opportunity to urge, through their Legations, a revision of the Yangtze Regulations, which had operated successfully without change for almost thirty-six years. They objected to the regulation by which they were obliged to pay on native goods shipped from river ports both export and coast trade duty at the same time, and requested that the duty procedure in this respect be brought into line with that obtaining

[1] Hertslet *op. cit.* Vol. I, p., 351: *Treaties, Conventions, etc.*, Vol. II, p. 209.

[2] C.A I.G. Circ. No. 894.

[3] *Treaties, Conventions, etc.* Vol. II, pp. 221-224.

for similar cargo when shipped from coast ports. They also requested the simplification of the duty-levying procedure on tea, so that when tea should be landed by a river pass steamer the consignee instead of paying coast trade duty might be allowed to deposit a bond for the amount involved, such bond to be cancelled when the tea was reshipped within a year. Since 1862, also, five new treaty ports had been opened on the Yangtze, namely Nanking, Wuhu, Shasi, Ichang, and Chungking, as well as the five ports of call—Tatung, Anking, Hukow, Lukikow and Wusueh where cargo could be shipped and discharged and eight passenger stations where passengers and their baggage could be landed or shipped. The question of a revision of the Yangtze regulations, therefore, to meet altered conditions was laid before the Commissioners at the Yangtze ports[1] and the result of their and the Inspector General's recommendations was embodied in the Yangtze Regulations of 1898.[2] By this revision, vessels trading on the river were divided into three classes—sea-going vessels, river steamers, and small craft. Sea-going vessels proceeding above Chinkiang were to take out a special river pass at either Chinkiang, Woosung or Shanghai; river steamers were to take out a river pass at Shanghai and renew it annually at Shanghai, Hankow or Ichang and were to pay tonnage dues at the issuing or renewing port. Small craft were divided into lorchas, papicos, and chartered Chinese junks; of these, any lorchas with a foreign register and flying a foreign flag was to take out a special river pass, while papicos not provided with foreign registers were to take out Customs registers at the port they belonged to. Junks chartered by foreigners were to be rigidly restricted to the conveying of foreign-owned cargo from one treaty port on the Yangtze to another treaty port on the Yangtze, and were required to take out junk papers in exchange for bonds. All small craft, whether lorchas, papicos, or chartered junks, were to report at the Customs, work cargo and pay duties in the same way as sea-going vessels under special river pass. Cargo certificates were to be carried as before and the vessels concerned were to be responsible for duties on goods entered on the certificates but not landed at the port of discharge. Vessels were not required to anchor in order to exhibit their papers at intermediate ports where they did not trade, but they were to produce them for inspection when called upon to do so by a Customs revenue vessel. The Customs were to be at liberty to seal hatches, and to place

[1] C.A. I.G. Circ. No. 813.
[2] C.A. I.G. Circ. Nos. 826; 868.

Customs officers on board to accompany vessels up or down river. The enforcement of these revised regulations made the conditions of duty payment less onerous, but at the same time tightened up considerably Customs control as the collecting of import and coast trade duties at the port of discharge necessitated what had up till then been more or less neglected, namely examination of all import cargo and of permits to land for river-steamer-borne goods just as for all others, and also required the issue of Customs memos for all imports. It was left to the Customs authorities at each port to decide whether a river steamer—after production of the necessary river pass, manifest, and cargo certificate—should be allowed to discharge its cargo into cargo-boats instead of into a hulk; but in all cases consignees, whether using hulks or cargo-boats for the discharge of their goods from a steamer, were to be obliged to submit their consignments for Customs examination and payment of duties, and to obtain the necessary release permits before they could remove or land the goods in question. The revised regulations went into effect on 1st April, 1899, and another period of thirty-six years was to pass before it was found necessary to submit them to another revision.

Yamên asks for revision of British Treaty in 1899.

§ 27. Forty years had now passed since the signing of the British Treaty of Tientsin, Article XXVII of which provided that at the end of every ten years either of the high contracting parties might demand a revision of the commercial clauses of the treaty and of the attached tariff. As early as April 1898 the Tsungli Yamên notified the British Minister that the Chinese Government desired a revision of the tariff and of the commercial articles of the treaty, and that the Yamên had already memorialized the Emperor who had issued the necessary Decree.[1] This step was not unexpected. The Viceroy Li Hung-chang while visiting England in 1896 had given clear indication that an increase in the import tariff rates would be asked for as the actual duty then collected under a nominal five per cent standard varied from three and a half to four per cent. He did more. He handed, as he had done also in Russia, Germany, and France, to the authorities a copy of a memorandum, prepared by Hart in Chinese, English, French, and German, in which it was pointed out that in 1843, when the treaty tariff was first drawn up, and again in 1858, when it was revised, the Haikwan tael, the special

[1] Tsungli Yamên to MacDonald, 7th April, 1898, enclo. in MacDonald to Salisbury, 15th April, 1898. B.P.P. *China No. 1 (1899)*, p. 101.

silver tael in which duty rates were expressed, and according to which duties were paid, held practically a fixed value in relation to sterling of six shillings and eightpence, or three taels to the pound. During the past twenty years, however, depreciation in the sterling value of silver had proceeded so steadily that now in 1896 six to seven taels were required to purchase a pound sterling. During these twenty years too, "China has established Legations abroad, has been purchasing machinery, building ships, initiating various works involving long and continual expenditure abroad, and has been going to the foreign money market for loans, which have to be expressed in pounds sterling, or the equivalent, and all this while the very same money which China has been receiving for duties, as if three Customs taels still made a pound, had to be paid out to foreigners at the rate of from six to seven taels for every pound! The necessities of the day and considerations of what is fair and right demand that the original value of the Customs tael be re-enunciated and that the value of silver at which China consented to collect duties, viz. three taels to the pound, be observed and adhered to." The memorandum then proceeds to argue that the introduction of a gold basis for the payment of duties "is not one requiring either revision of treaty or disturbance of tariff." All that would be required would be to fix and publish in advance, say for a six months period, the relative value of the Haikwan tael and the pound sterling. For 1937 it was therefore proposed that duties might be paid in gold, or in sycee, or in foreign coins: if paid in gold, one gold pound should remain as at first, the equivalent of three Customs taels, fractions to be calculated accordingly; if paid in sycee, 2,228 taels of Shanghai sycee should, for the time being, be taken as the equivalent of 1,000 Haikwan taels, fractions to be calculated accordingly; and if paid in foreign coins, then as much of such coins as would suffice to buy a proportionate quantity of Shanghai sycee equal to the Haikwan taels payable, fractions to be calculated accordingly. In effect, this would have made the Haikwan tael a gold unit equivalent to six shillings and eightpence sterling. The proposal did not meet with an enthusiastic reception, at any rate in Great Britain. This, however, did not invalidate China's claim to a revision of the tariff. The additional revenue to be collected in consequence of such a revision was urgently required not only for the administrative expenses of the Customs Service, now faced with privation on account of depreciation in silver, but especially for the service of the two gold loans of 1895 and 1896,

secured on the Customs revenue, and raised to pay the indemnity imposed by Japan after the Sino-Japanese war of 1894-1895. Dire, however, as China's necessity then was, it was fated to become immeasurably more grim before she was to be permitted to enjoy what was indubitably hers by right. Other interests more pressing in the eyes of the claimants called for prior attention; China weak and defenceless was an easy victim to be bullied into the granting of privileges; there were railway and mining concessions to be wrangled over; there were leases of—as well as extensions of leased—territory to be secured; there were the disputed terms of the proposed regulations for inland steam navigation to be settled; there were the projected extensions of the International and French Settlements at Shanghai to be negotiated; and there were new ports to be opened. When rich booty of this sort was to be had by dint of persistent pressure and if need be of threats, China's chance of having any attention paid to her just but modest claim for tariff revision was of the slightest. In addition she had special troubles of her own; there were serious riots at various places in the Yangtze valley; there was the death of one of her veteran statesmen Prince Kung; there was an insurrection in Kwangsi; there were serious floods in the Yellow River valley; and above all there was the Emperor's abortive attempt at reform with the subsequent *coup d'état* which meant the practical deposition of the Emperor and the reinstatement of the Empress Dowager in supreme control. Small wonder that amid all this perturbation the tariff issue got shoved into the background, and was not again brought forward till December 1899 when the Tsungli Yamên requested the British Minister to fix a date for the opening of negotiations, stating at the same time that Sheng Hsüan-huai (盛宣懷), the Taotai at Shanghai, Nieh Chi-kuei (聶緝槼) a former Shanghai Taotai, and Sir Robert Hart had been appointed to represent China on the tariff revision commission.[1] The members of this commission met from time to time during the months December 1899 to May 1900 but soon found progress in their deliberations blocked by the inability of the Hu Pu and the unwillingness of the provincial authorities to supply necessary data on *likin* rates. The commission was still endeavouring to surmount this obstacle when it was overwhelmed by the cataclysm of the Boxer uprising.

[1] MacDonald to Salisbury, 5th December, 1899; B.P.P. *China No. 1 (1900)*, p. 383.

CHAPTER V.

FROM THE REVISION OF 1902 TO THE PEKING TARIFF CONFERENCE OF 1925-1926

§ 1 China-Japan war of 1894-1895 turning point in China's modern history, leading to scramble among Powers for leases and concessions § 2 Attempted reforms and Boxer uprising § 3 Drafting of Peace Protocol Pledging of unencumbered balance of Maritime Customs and of Native Customs within 5 *li* of treaty ports for payment of Boxer Indemnity § 4 Importation of arms and ammunition dealt with by Protocol representatives § 5 Chinese treaty and tariff commission Provisional tariff of 5 per cent *ad valorem* § 6 Origin, and abolition, of duty-free list § 7 Revision of treaty begun first with British delegation Sir Robert Hart's suggested gold basis for revised tariff rates Hippisley's suggestion on method of calculating new tariff rates Negotiations for revision of tariff rates Duty on morphia Tariff rules § 8 Revision of British treaty Proposed abolition of *likin* Attitude of Chinese officials Taxation on foreign-style factory products § 9 Removal of limit on size of steamer allowed to ply in China's inland waters § 10 Making of all drawbacks on foreign imports payable in cash § 11 Treaty revision negotiations with United States of America, and with Japan § 12 Treaty revision negotiations with Portugal § 13 Treaty revision negotiations with Germany § 14 Treaty revision negotiations with Italy § 15 Control of Native Customs within 50 *li* of treaty ports by Inspector General § 16 Opening of Customs at Dalny (Dairen) § 17 Opening of Moukden Proposed introduction of railway bonding system in Manchuria § 18 Opening of Harbin, Aigun, Hunchun, and Lungchingtsun § 19 Establishment of a Customs controlled harbour area at Tsingtao Grant of 20 per cent of import duties collected at Kiaochow to Colonial Government § 20 Opening of Kongmoon Privileged Chinese traffic on West River Revision of West River regulations § 21 Equalization of duties on junk-borne and steamer-borne goods at Hongkong Introduction of taxes on spirits and alcohol to offset loss in opium revenue Proposed Customs Agreement with Hongkong, drafts of 1911 and 1916 § 22 Abolition of Tsungli Yamen and creation of Waiwu Pu Position attained by Customs Service under former Creation of Shui-wu Ch'u and placing of Service under that body § 23 Reasons for failure of suggested tariff revision in 1912 § 24 China joins the Allies in the World War of 1914 1918, and secures in return, deferment of Boxer Indemnity for five years, and revision of import tariff Meeting of Tariff Revision Commission of 1918 Failure of proposed provisional tariff Revised Tariff based on average values of goods during years 1912-1916 § 25 China's claims presented at Versailles Peace Conference China's claim for tariff autonomy § 26 Duty treatment of goods from non-treaty States China's National Tariff § 27 Washington Conference to discuss limitation of armaments, and political conditions in the Pacific and Far Eastern areas Chinese delegation asks for restoration of tariff autonomy Discussion of China's customs and tariff problems Nine Power Treaty relating to the Chinese Customs Tariff § 28 Meeting of Tariff Revision Commission of 1922 Revised tariff based on market values for six months October 1921 to March 1922

China-Japan war of 1894-1895 turning point in China's modern history, leading to scramble among Powers for leases and concessions.

§ 1. The China-Japan conflict of 1894-1895 marks the turning point in China's modern history. After that event China lay prostrate. Defeat left her in a state of exhaustion, and of that exhaustion the rest of the world promptly began to take advantage. Foreign Governments and private syndicates, backed by their Governments, were not slow to seize the opportunity of exacting leases of territory and of railway and mining concessions. Spheres of influence were a commonplace topic of conversation, and publicists and politicians openly discussed what the Chinese termed "the dividing of the melon". Germany and France might join with Russia in insisting that Japan should renounce acquisition of the Liaotung peninsula;[1] but Formosa and the Pescadores were ceded to the victors.[2] Then followed a scramble between Russia, France, Germany and Great Britain to advance to China the funds necessary to pay the indemnity due to Japan, with Russia well in the forefront.[3] As part recognition of her financial assistance Russia obtained through the secret Li-Lobanoff treaty of 22nd May 1896[4] the right to construct a railway across north Manchuria towards Vladivostock, the building and operation of which was to be in the hands of a company, formed and financed by the Russo-Chinese (later Russo-Asiatic) Bank.[5] Russia's penetration of Manchuria proceeded swiftly, and on 27th March 1898 she concluded with China a convention leasing to her for twenty-five years the very territory which three years previously she had forced Japan to return to China lest the peace of the Far East should be disturbed.[6] The same convention gave Russia the right to construct the South Manchuria branch of the Chinese Eastern Railway, to establish at Port Arthur, Lu Shun K'ou (旅順口), a fortified naval and military base, making it eventually the not-impregnable Kronstadt or Gibraltar of the Far East, and to convert the fishing village of Ta Lien Wan (大連灣) into the modern city and port of Dalny, to be subsequently rechristened

[1] *Die Grosse Politik der Europäischen Kabinette*, Vol. IX, pp. 269-274; MacMurray *op. cit.* Vol. 1, pp. 51-53.

[2] Treaty of Shimonoseki, Art. 2; MacMurray *op. cit.* Vol 1, p. 19.

[3] Wright: *China's Customs Revenue since the Revolution of 1911*: 3rd edition, pp. 123-124.

[4] Akagi, R. H. *Japan's Foreign Relations, 1542-1936;* Tokyo, 1936, p. 178. MacMurray, *op. cit.* Vol. 1, pp. 81-82.

[5] MacMurray, *op. cit.* Vol. 1, pp. 74-77.

[6] *Ibid.*, Vol. 1, pp. 119-121.

Dairen when the Japanese once more marched in as victors. This Russian advance into Manchuria was a signal and an incitement to the other Powers. Germany, France, and Great Britain joined in the aggression. In November 1894 the Kaiser had actually suggested the seizure of Formosa,[1] and six months later the German Foreign Office was considering the possible exploitation of several places on China's coast.[2] In 1896 Germany had demanded from Li Hung-chang a naval base as a return for her cooperation with Russia in securing the restoration of the Liaotung peninsula to China. At last in November 1897 the long awaited opportunity came. In that month two German missionaries were murdered in Shantung, and the settlement of that affair yielded the rich return of the lease to Germany for ninety-nine years of Kiaochow (膠澳) bay and adjoining territory, and of preferential rights in the development of railways and mines in the province of Shantung.[3] As naval bases could now be had for the asking, provided the asking were done by a nation powerful enough to bully, France demanded and obtained the lease for ninety-nine years of the bay of Kwangchowwan (廣州灣), as well as the right to construct a railway from the Tonkin frontier to Yunnanfu.[4] To keep watch on Russian activities Great Britain, on the suggestion of China, claimed the lease of Weihaiwei (威海衛), and on the evacuation of that port by the Japanese, stepped in on terms similar to those granted to Russia for Port Arthur.[5] Not satisfied with this concession, and on the plea that the colony of Hongkong lacked adequate protection, Great Britain further demanded, and secured, the lease for a term of ninety-nine years of about two hundred square miles of territory on the Kowloon side.[6] Not content with the actual acquisition of territory these land-hungry and concession-hunting Powers proceeded to demarcate spheres of influence. France led the way in March 1897 by securing from China the promise never to alienate or cede the island of Hainan "either as final or temporary cession, or as a naval station or coaling depot"[7] and followed up this success in April 1898 by obtaining the guarantee that China would not

[1] *Grosse Politik;* Vol. IX, pp. 246-247. Brandenburg, E. *Vom Bismarck Zum Weltkriege,* Berlin, 1924, p. 48.

[2] *Grosse Politik;* Vol. XIV, Hollmann to Marschall, 17th April, 1895.

[3] *MacMurray, op. cit.* Vol. 1, pp. 112-118.

[4] *Ibid.,* pp. 124-125, 128-130.

[5] B.P.P. *China No. 1 (1899),* p. 199. U.S.A. *For. Rel.* 1899, p. 190. MacMurray, *op. cit.* Vol. 1, pp. 152-153.

[6] B.P.P. *China No. 1 (1899),* pp. 156-159, 171. MacMurray, *op. cit.* Vol. 1. [pp. 130-131.

[7] MacMurray, *op. cit.* Vol. 1, p. 98.

cede to any other Power all or part of the territory of the provinces bordering on Tonkin either definitely or temporarily or on lease or by any title whatsoever.[1] In February of that year (1898) Great Britain had already secured the promise that China "would never alienate any territory in the provinces adjoining the Yangtze to any other Power, whether under lease, mortgage, or any other designation;"[2] and at the same time had bound China to agree that as long as British trade preponderated the Inspector General of Customs should be of British nationality.[3] Two months later, 26th April 1898, Japan obtained from China the assurance that China would not cede or lease to any other Power any portion of its territory within the province of Fukien.[4] To prevent poaching in these spheres of influence, pacts of mutual recognition were entered into. By an agreement, signed on 30th April 1898, between Great Britain and Germany, the former, in recognition of German interests in Shantung, bound herself not to construct any railroad communication from Weihaiwei.[5] A year later (28th April 1899) Great Britain made a similar contract with Russia, this time binding herself not to seek either for herself or her subjects any railway concession north of the Great Wall of China, Russia reciprocally guaranteeing not to seek any such concessions on her own account, or on behalf of her subjects, in the basin of the Yangtze.[6] This headlong scramble for leases and concessions, born of international jealousy and rapacity, was a direct consequence of the Sino-Japanese conflict of 1894-1895. That conflict had shown that the householder was not the strong man he had been supposed to be, and could no longer keep his goods in safety, and as the goods were eminently desirable the despoilers had no scruple about breaking in and burgling the house.

Attempted reforms and Boxer uprising.

§ 2. Spoliation of this sort naturally bred bitter resentment[7] "What", asked the Chinese patriot, "can the end of all this foreign aggression be?" These strangers from afar, be they French, Russian, British, German, or Japanese demand that trunk rail-

[1] MacMurray, *op. cit.* Vol. 1, p. 123.
[2] B.P.P. *China No. 1 (1899)*, p. 17: MacMurray, *op. cit.* Vol. 1, pp. 104-105.
[3] MacMurray, *op. cit.* Vol. 1, pp. 105-106.
[4] *Ibid.* p. 126.
[5] Hertslet, *op. cit.* Vol. 1, p. 584.
[6] *Ibid.* pp. 586-587.
[7] *vide* Memorial signed by 1,200 Chinese officials and *chin shih* (進士) graduates. N.C.H. 18th April, 1898.

ways be constructed in all directions, and that the building of such railways shall be entrusted to them. They have already secured the coasting trade of our country, and now they insist that all the interior waterways shall be thrown open to their steamers, and then, not satisfied with these measures of peaceful penetration they proceed to carve off for political and commercial purposes slices of territory, which though only leased might easily be lost for good." How could any patriotic Chinese think otherwise than with bitterness of the rape of Kiaochow, Liaotung, Kwangchowwan, Kowloon and Weihaiwei. But feelings of resentment at being victimized could not redeem the day and make good the country's losses. From the statesman's point of view the situation called for constructive measures of reform, and for such measures there sprang up during those five years of disaster (1895-1900) not simply a demand for reform but also a revolutionary movement, which from the outset was steadily anti-dynastic, but which had to pass through many vicissitudes before it reached its climax in the supremacy of the Kuomintang. The protagonist of the constitutional reform movement was K'ang Yu-wei (康有爲), probably the most noted Chinese scholar and publicist of his day, who through the Imperial Grand Tutor, Weng Tung-ho (翁同龢), obtained access to the Emperor and persuaded him, by his enthusiasm and his arguments, drawn not from his experience, for he was not a tried statesman, but from his wide reading in history and political science, to embark in June 1898 on that remarkable but brief campaign in which the young Emperor sought by edict after edict—each vieing with the other in ardour—to reform from top to bottom that outworn administrative system of his vast Empire. Reaction, as all the world knows, followed swiftly. The old Empress Dowager, with the aid of her faithful henchman, Jung Lu (榮祿), resumed sway of the Empire and quickly restored the old regime. All this was not conducive to peace and order. There was much unrest and numerous anti-foreign outbreaks, with murder of missionaries, in various parts of the country. At Peking the persistence of the foreign representatives in reminding the Government that they were accredited to the Emperor and not to the Empress Dowager roused resentment and anti-foreign feeling. The truculent Kansu troops of General Tung Fu-siang (董福祥), which had been brought to the capital through fear of foreign aggression, created several anti-foreign incidents, with the result that the British and the American Legations sent for a guard of marines from each of their fleets. Apprehension

of coming danger continued to grow. All during 1899 agitation and disorder spread in ever-widening circles. By a decree of the 15th March that year missionaries had been accorded official status, a grant which gave rise to further misunderstandings and bitterness. Anti-missionary demonstrations occurred in at least nine provinces. Flood and famine devastated the valley of the Yellow River, while riots and armed uprisings—some anti-dynastic, some anti-foreign—took place in practically every province. German aggression in Shantung—the Holy Land of China—and threatened Italian aggression on the coast of Chekiang fanned the flames of anti-foreign feeling still higher, whilst the forced levies and exactions of the Assistant Grand Secretary, Kang Yi (剛毅), in the provinces of Kiangsu, Chekiang, Anhwei, Kiangsi, and Kwangtung, as High Commissioner to replenish the depleted Imperial exchequer, inevitably aggravated resentment against the throne, as levies forced from high-placed officials were invariably recovered from the farmers and merchants by increased taxation. It was in Shantung, finally, that the conflagration broke out. Yü Hsien (毓賢), a staunch upholder of the dynasty and opponent of Western aggression, had been appointed Governor of Shantung in March 1899, and during his tenure of office he showed clearly that open and even violent enmity to anything foreign, especially Christian missions and their converts, would not be treated as an offence. The popular realization of this attitude was as a match to tinder. The lawless, the dispossessed, and all those who had reason to dislike or distrust the foreigner—and they were not few—began to form themselves into a society under the name of I Ho Chüan (義和拳), or Boxers, with the watchword "Cherish the dynasty and exterminate the foreigner." Raids on mission premises and on villages of Chinese Christians both in Shantung and in Southern Chihli became the order of the day, and unpunished incidents of murder and rapine occurred with alarming frequency. Then came the ambiguous Imperial Decree of 11th January 1900, followed a few days later by the favourable Court reception of Yü Hsien in Peking and by his appointment to the governorship of Shansi. By the beginning of May the Boxers, whose ranks were now swelled by the adherence of thousands of Prince Tuan's troops, were raiding villages and killing and burning converts within 40 miles of Peking; and by the 28th of that month they had burned two stations and destroyed two bridges on the Paotingfu railway line and were burning the station and machine shops of Fengtai, on the

Tientsin line, only 10 miles from Peking. For the Legations and all foreigners in Peking the situation was clearly one of great gravity; but almost at the last moment the Legations succeeded in getting up from the foreign men-of-war at Taku as Legation guards a small force of a little more than 400 men all told. Events now followed quickly. On the 11th June Mr. Sugiyama, of the Japanese Legation, was killed; two days later the Boxers occupied the Tartar city; on the 17th the forts at Taku were taken by an allied force; and on the 20th Baron von Kettler, the German Minister, was killed while on his way to lodge a protest with the Tsungli Yamên against the Imperial order that the envoys and all foreigners were to leave Peking within 24 hours. Then followed the siege and eventual relief of the Legations, and the occupation of North China by the allied foreign troops.

Drafting of Peace Protocol. Pledging of unencumbered balance of Maritime Customs and of Native Customs within 50 *li* of treaty ports for payment of Boxer Indemnity.

§ 3. But what, one may ask, has all this tale of aggression and of China's unsuccessful resistance, got to do with the tariff? Just this, that part of the retribution exacted for the damage done by that resistance required that tariff revision should be carried out, in order that the indemnity claims of the avenging Powers might be satisfied. What by treaty right should have been, but was not, accorded long before to China to provide sorely needed revenue for administrative and other obligations, was now insisted on as a necessary measure in order that China, already over-burdened with foreign debt, might raise more revenue to meet so-called reparations. From the end of October 1900 to the beginning of September 1901 representatives of eleven foreign Powers at Peking wrangled over the terms of what is now known as the Peace Protocol of 1901[1]. Chief among the subjects of dispute was the amount of the indemnity to be imposed, and the sources from which that indemnity could be paid. The amount finally decided upon was the capital sum of Hk. Tls. 450,000,000 to be paid over a term of thirty-nine years, with four per cent interest payable half-yearly on all outstanding capital.[2] To pay this

[1] For detailed record of their proceedings *vide* Livre jaune; *Affaires de Chine, Négociations de Pékin 1900-1902*; *U.S.A. Foreign Relations*, 1901, Appendix; B.P.P. *China No. 1 (1902)*.

[2] U.S.A. *For. Rel.* 1901, Appendix p. 284.

swingeing impost the representatives of the Powers decided that China be called on to hypothecate,—

(a) the unencumbered balance of the Maritime Customs revenue after the import tariff rates had been raised to an effective 5 per cent *ad valorem* standard, all articles hitherto on the duty-free list to be included, with the exception of rice, cereals, flour, gold and silver;

(b) the revenue of the Native Customs establishments at the treaty ports, such establishments to be placed under the control of the Inspector General; and

(c) the unencumbered balance of the Salt Gabelle revenue.[1]

Hart, who had been consulted on the question of China's financial resources and on the best way to meet the indemnity, pointed out once more[2] that the quickest and surest way of raising most of the money necessary for the indemnity payments, and at the same time the fairest way to China, would be to make the Haikwan tael a gold unit equivalent in value to six shillings and eightpence, the value that it had when the treaty tariff first came into operation,[3] and retained till silver began to depreciate thirty years afterwards. The suggestion was unacceptable. Also unacceptable was the proposal put forward by the two Chinese Plenipotentiaries that the Customs tariff be raised one third above the rates then prevailing.[4] The Russian representative, M. de Giers, was in favour of raising the tariff rates to 10 per cent, a proposal favoured also by the French and the German representatives,[5] while the American representative, Mr. Rockhill, supported him, with the proviso that *likin* on foreign imports should be abolished, that in the import tariff schedule specific rates should take the place of all *ad valorem* ones, that the conservancy of the Whangpoo and the Haiho rivers should be taken in hand with financial assistance from China, that the regulations for steam navigation inland should be revised, and that *likin* charges on China's staple articles of export, tea, silk, and raw cotton should be liberally reduced. Sir Ernest Satow was not prepared to accept the elevation of the import duties to 10 per cent, as such an increase would mean penalization of British trade, then greatly preponderent, merely

[1] *Affaires de Chine: op. cit.* 1 ère partie, pp. 226-230. *Treaties and Conventions; op. cit.* Vol. 1, pp. 307-309.

[2] *Antea* Chap. IV, p. 345.

[3] *U.S.A. For. Rel.* 1901; App. pp. 116-119.

[4] *Ibid.*, p. 116. *Affaires de Chine, op. cit.* 1ère partie, p. 206; 11me partie, p. 138.

[5] Satow to Lansdowne, 7th May, 1901; B.P.P. *China No. 1 (1902)*, p. 42.

in order to enable China to pay other countries' indemnity claims;[1] but stated that his Government might consider such an increase provided China gave in return compensatory commercial concessions, such as the abolition of *likin*, the protection of trade marks, and the other desiderata cited by the American representative.[2] In the end it was agreed to recommend that the tariff rates be increased to an effective five per cent standard, such rates to be made specific on the average of the values ruling in the years 1897, 1898 and 1899, that an international commission should be appointed to revise the tariff on this basis, that pending the results of the work of this commission duties should be levied on a five per cent *ad valorem* basis,[3] and that the duty-free list be abolished. As there were seven Treaty Powers not represented at that time at Peking, viz. Portugal, Corea, Sweden, Norway, Denmark, Peru, and Brazil, it was necessary to notify them of this decision in order that they might make arrangements to take part in the work both of treaty and of tariff revision.[4] It should, however, be noted that in the Protocol article dealing with the indemnity and the revision of the tariff (Article VI) no mention is made of this international tariff revision commission, a fact which led John Hay, the U. S. Secretary of State, to maintain "that what the *Protocol required was that China should with as little delay as* possible put in force a tariff calculated, and made specific at 5 per cent *ad valorem* on the values of certain years, . . . that China had a perfect right to make that tariff alone without any consultation with any Powers and put it in force at once. All the Powers had to do with the matter was to object to any item and have it changed, if they made out a good case in favour of change."[5] The Protocol, however, did state (Article XI) that the Chinese Government was prepared to negotiate amendments to the various treaties of commerce and navigation on matters connected with commercial relations and considered useful by the Powers.

Importation of arms and ammunition dealt with by Protocol representatives.

§ 4. Although the foreign Ministers who drafted the Protocol made no specific stipulation on the matter yet they knew that the tariff would have to be arranged by an international commission. There was however, one category of merchandise which these foreign representatives at Peking decided should be

[1] *Affaires de Chine, op. cit.* 1ère partie, p. 228.
[2] *Ibid.* pp. 226-227.
[3] *Ibid.* p. 229.
[4] *Ibid.* 11me partie, p. 189.
[5] C.A.: Bredon to Hart; 1st October, 1902.

left to discussion by that commission, and this was the category of arms and ammunition and materials and machinery for the manufacture of such. The special committee which had been appointed by the Protocol Powers to study this question, consisting of the Russian, the American, and the British representatives submitted their report on the 20th March 1901.[1] In that document the committee gave it as their opinion that it was not enough simply for China to prohibit the importation of arms, but that it was essential that all the Powers in treaty relations with China should agree to forbid the export of arms and munitions to China, that the lists of contraband in this connection should be drawn up by the competent authorities in the countries of export, and that these lists should be communicated by the Governments concerned to their representatives at Peking, who should then see to it that the necessary measures were taken to prevent the clandestine importation of the goods so listed. The committee pointed out that these measures could be effective only if the organs entrusted with their execution were armed with the requisite powers of seizure and of confiscation. These organs were (1) the Customs, (2) the Consular Body, and (3) the officers commanding foreign men-of-war in Chinese waters. The commission were agreed (1) that the Customs should have the right to confiscate both cargo and vessel, foreign or Chinese, engaged in the arms trade in Chinese waters, whether at the open ports or along the coast, and should hand over any such cargo and vessel to the Consul concerned, or, in the case of a Chinese vessel, to the Consular Body; (2) that the Consuls should have the right to confiscate any such cargo and to take action at law against the vessel and all persons implicated; and (3) that the officers commanding the foreign men-of-war in Chinese waters should, like the Customs, have the right of seizure, and should similarly hand over cargo and vessel for judgment either to the Consul concerned or to the Consular Body as the case might be. This Body was to constitute a Consular Court, on the lines of the court existing at Shanghai, which should give orders for the destruction of contraband arms and munitions, and for the confiscation and sale of the vessels, the proceeds of which sales were to be remitted to the Customs. The committee were also of opinion that it was essential for the countries bordering on China to adopt measures for the prevention of the smuggling of arms into China over the land frontiers. Finally, the

[1] *Affaires de Chine; op. cit.* 1ère partie, pp. 154-158; 11me partie, pp. 78-90.

committee urged that an Imperial Edict on this subject should be issued, and that the term of interdiction should be five years, subject to renewal every five years should the Powers consider it advisable. Such was the scheme by which it was hoped to prevent the recurrence of armed uprisings in China. When it came, however, to the drafting of the relative article for the Protocol it was wisely decided to say nothing about the assistance that the Treaty Powers might render towards this desirable end, but to throw the whole onus of prevention on China. Article V, therefore, of the Protocol stipulated that China should prohibit for two years the importation of arms and ammunition and of materials for the manufacture of such, that an Imperial Edict should be issued to this effect, and that should the Powers consider it necessary fresh edicts of prohibition might be issued every two years. The desired edict was procured,[1] and the necessary notification was duly issued by the Customs,[2] but two months later (January 1902) Commissioners of Customs were informed that as the Legations were consulting their home Governments respecting the action to be taken when seizure of arms and munitions are made, any such seizures should in the meantime be retained by the Customs, instead of being handed over to the Chinese authorities.[3] The home Governments thought better of interfering unduly with China's administrative rights, at the same time, no doubt, realizing that the passing of any self-denying ordinance in the way of forbidding the export of arms to China would only play into the hands of unscrupulous merchants, whether nationals of signatory Powers or not, to whom the selling of arms was simply a lucrative trade, too good to be given up for such quixotic reasons as that these arms might be used in support of rebellions or even of war against their own or some other country. It is not surprising, therefore, that the matter was after all left to be dealt with by the representatives of the Powers at Shanghai when elaborating the new tariff. These gentlemen, mindful of rules III and V (5), attached to the British and the French Treaties of Tientsin, drew up an article which was appended as rule III to the new tariff, the Agreement for which was signed on 29th August 1902 by the representatives of eight of the Powers, and later, at various dates, by six others. By this rule it was stipulated that the Customs were to undertake the duty of enforcing the

[1] Peace Protocol 1901, Annex 11.

[2] C.A.: I.G. Circ. No. 987.

[3] C.A.: I.G. Circ. No. 1001.

prohibition, and of permitting the import of arms, ammunition, and munitions of war only at the requisition of the Chinese Government, or for sale to Chinese duly authorized by Government *huchao* to purchase them. It was recognized, in practice, that the permission granted on 7th November 1901 for the free importation of supplies for the use of foreign military and naval forces should cover also the arms and munitions actually required by these forces;[1] but applications for such supplies were to be endorsed as bona fide by the national authorities concerned In spite of all precautions a steady smuggling trade was nevertheless carried on, and there were even cases of abuse of the privilege accorded to the foreign forces. It was not till 1906 and 1907 that detailed regulations for the control of the import of arms were finally drawn up and promulgated.[2] These regulations have from time to time undergone revision and enlargement, but their essential features remain unchanged.[3]

Chinese treaty and tariff commission. Provisional tariff of 5 per cent *ad valorem*.

§ 5. In order that no time should be lost in getting the treaty and tariff commissions to work, the Chinese Government appointed, by Imperial Edict, as their representative Plenipotentiaries Lü Hai-kuan (呂海寰), President of the Board of Public Works, and Sheng Hsüan-huai (盛宣懷), Vice-President of the same Board, Director General of Railways, and Taotai at Shanghai along with Messrs. A. E. Hippisley and F. E. Taylor, both Commissioners in the Customs Service as attachés (隨同), the former at that time Commissioner at Hankow and the latter Statistical Secretary. To these a few months later was added Mr. (afterwards Sir) R. E. Bredon, Deputy Inspector General, as an Assistant Delegate (幫同).[4] As head of the British commission, which was the first to arrive in China, Lord Lansdowne, then Secretary for Foreign Affairs, appointed Sir James Lyle Mackay (afterwards Lord Inchcape), a member of the Council of the Secretary of State for India, and a partner in the Peninsular and Oriental Steamship Company. Sir James, who had enjoyed a wide business experience in India, was essentially a man of action and not versed in the arts and ways of diplomacy. He arrived with his staff in November 1901, but as he wished to become

[1] C.A.: I.G. Circ. No. 984.

[2] C.A.: I.G. Circs. Nos. 1397; 1456; 1520; 1552.

[3] For regulations now in force *vide "Code of Customs Regulations and Procedure"*; 3rd edition; 1937; Chap. XXI, pp. 213-229.

[4] C.A.: I.G. Circs. Nos. 981; 1010.

acquainted at first hand with the conditions prevailing at the treaty ports in the south and along the Yangtze, it was not till well in December that he was ready to commence work. In the meantime it was necessary, in accordance with the terms of the Protocol, to arrange that import duties should provisionally be collected at 5 per cent *ad valorem*, and in order that this should be done as far as possible on the basis prescribed by the Protocol, the Customs at every port had been directed early in January 1901 to prepare lists of all articles or classes of goods, both foreign and native, paying duty *ad valorem*, such lists to give the trade names in English and Chinese, the place of manufacture or origin, and the average value per trade unit.[1] By Article VI of the Protocol it was agreed that the effective 5 per cent *ad valorem* rate should come into force two months after the signature of that instrument. That ceremony took place on 7th September; but as the 11th November happened to be a Monday and the 1st day of the 10th moon it was decided to make a beginning with the 5 per cent rate on that day instead of the 7th.[2] The public was accordingly notified that on and after 11th November 1901 the tariff of import duties hitherto in force and the list of duty-free goods would cease to be operative, and that until further notice all imports, with certain exceptions, would be required to pay an effective 5 per cent *ad valorem* duty.[3] The exceptions were listed under six classes; (1) foreign rice, cereals, and flour, as well as gold and silver, coined and uncoined, which were to be exempt from duty; (2) opium, the duty on which was to remain at Hk. Tls. 30 per picul and the *likin* at Hk. Tls. 80, both payable as before simultaneously; (3) foreign goods on their way to China or which had been despatched to China within ten days after the signature of the Protocol, which were to be treated according to the procedure in force before the introduction of the 5 per cent rate; (4) goods already in bond and goods forming part of cargoes on their way to China, or which had been despatched to China within ten days after the signature of the Protocol, and subsequently bonded were to be treated according to the old tariff and tariff rules; (5) goods imported for the use of the Legations at Peking were to be exempt from import duty; but applications for exemption permits were to be countersigned and sealed by the Consulate of any Legation concerned; and (6) stores shipped or discharged for the use of foreign forces,

[1] D.I.G. Circ. Mem. No 15.
[2] C.A.: I.G. Circ. No. 977.
[3] C.A.: I.G. Circs. Nos. 984 and 992.

military or naval, were also to be exempt from duty; but as in the case of Legation stores applications for exemption were likewise to be countersigned and sealed by the Consulate of the flag concerned. To these six classes of exceptions was subsequently added those foreign goods entering China over land frontiers, which were to continue to enjoy the preferential rates accorded them by treaty.[1] The notification also stated that pending the completion of the new tariff, the duty rates which were to be based on the average values of the three years 1897, 1898, and 1899, and in order to expedite business and minimize trouble, duty would be accepted on the published list of values for the year 1897, and that in cases where the valuation of this list might be questioned, the market value of the day *minus* duty and charges, or where that could not be ascertained, invoice value *plus* 10 per cent would rule instead. It was furthermore to be understood that exports were to continue to pay duty according to the existing tariff, and that coast trade duty was to remain unchanged. Before two months had expired, however, it was found, especially at Shanghai, that the 1897 values, however accurate they may have been when first compiled, were inapplicable and unacceptable in 1901. That list was accordingly withdrawn and the Customs were instructed to be guided by invoice and market value and to deal on that basis with each consignment arriving.[2] To facilitate business and obviate disputes, however, the Shanghai Customs worked out and adopted in agreement with American, British, German, and Japanese Associations at that port a provisional tariff of import duties on textiles and yarn, and these rates were accepted also at other ports.

Origin, and abolition, of duty-free list.

§ 6. This 5 per cent *ad valorem* rate was now made applicable to many classes of goods formerly imported duty-free. This naturally raised many questions and not a little criticism from those who had up till then enjoyed exemption on their goods. The object of the former duty-free rule in the tariff had been to exempt from duty all articles brought in direct for the personal use of foreigners and not for sale to the Chinese.[3] As foreign residents had

[1] C.A.: I.G. Circs. Nos. 1000 and 1003.

[2] C.A.: I.G. Circ. No. 998.

[3] "Rule No. 2 [Treaty of Tientsin, 1858] provides that certain articles which are now admitted at the ports duty-free by custom shall hence-forth be admitted at them duty-free by Treaty. Your Lordship will . . . observe . . . that foreigners at the open ports of China have been, and still are. . . . in the practical enjoyment of exemption from duty payments on all articles

grown in numbers both at the open ports and inland, storekeepers had opened shops to sell what these foreign residents required for use. This was not in keeping with the intention of the old duty-free rule, which was never meant to be a source of profit at the expense of the revenue. Matters grew worse when these stores began to sell to Chinese foreign articles imported duty-free, and to keep in stock for sale various articles not specified in the old duty-free list. To protect the revenue and to give effect to the original purpose of the duty-free rule it was decided in the early seventies of last century to levy duty on all goods, including those on the duty-free list imported for sale to the Chinese, and also on everything imported for sale to the public unless it was expressly exempted by the duty-free rule. Later on, it was further arranged that six months' notice should be given of intention to change or charge duty on any commodity. The tariff had always been strictly adhered to, but the number of new commodities, which resembled and yet were not actually tariff-listed goods, went on increasing, and although every attempt had been made to group such commodities under a convenient general tariff denomination, it had often been found best to make a change and give six months' notice of intention to levy duty. Before discussions on the new treaties and the tariff got under way, the question of what should and what should not appear on the duty free list came frequently to the fore, and had to be referred to the higher authorities at Peking and to the Diplomatic Body. By such references it was settled that, in addition to foreign rice, cereals, flour, gold and silver, coined and uncoined, specified as free in the Protocol itself,[1] and to Legation supplies and passengers' personal baggage which were to continue to be passed duty-free, the former as a courtesy and the latter in accordance with Customs practice,[2] the privilege of duty-free entry into China was to be extended also to the following categories (*a*) official stationery for foreign Consulates coming direct from their home Governments,[3] (*b*) goods required by Chinese authorities, Central and Provincial, when covered by Government Stores Certificates,[4] (*c*) commercial samples in reasonable quantities when certified as not

of foreign produce which are supposed to enter into their consumption." Elgin to Malmesbury, 8th November, 1858; *Correspondence relative to the Earl of Elgin's Special Missions to China and Japan, 1857-1859*; p. 425.

[1] Peace Protocol of 1901. Art. VI (e) 1°: C.A.: I.G. Circ. No. 984.

[2] C.A.: I.G. Circ. No. 979.

[3] C.A.: I.G. Circ. No. 1016.

[4] C.A.: I.G. Circ. No. 1020.

for sale,[1] (*d*) materials for railway construction, maintenance and running, which were to be dealt with according to the agreements concerned, (*e*) coal for ships' bunkers and stores for ships' use, for which drawbacks were to be issued,[2] and (*f*) clothing, books, pictures, furniture already in use when brought in by residents and not for sale.[3] Such was the position of the duty-free list on 31st October 1902 when the new import tariff came into force. Shortly afterwards, the Japanese Minister raised the question of duty on printing paper, which at Shanghai for some time had been classed as stationery and allowed in duty free, but which obviously, not being for private use, was dutiable. The U.S. Minister, too, claimed that stores, clothing, and private effects of members of the Consular body should enjoy duty exemption, but as this was one of the categories in the Shanghai Commissioner's list of taxable articles—a list which had been submitted to and approved by the Diplomatic Body—the Inspector General declined to make any change pending instructions from the Wai-wu Pu (外務部), which had now taken the place of the Tsungli Yamên. Eventually, after much discussion, the Government agreed, as a special privilege, to allow exemption from duty on the effects of any newly appointed Consul, provided application for such exemption were made in the Legation despatch to the Wai-wu Pu reporting the Consul's appointment, and enclosing a detailed list of the articles to be exempted. Subsequent consignments of articles for Consular use, with the exception of office stationery sent out by the home Governments, were to be liable to duty.[4]

Revision of treaty begun first with British delegation. Sir Robert Hart's suggested gold basis for revised tariff rates. Hippisley's suggestion on method of calculating new tariff rates. Negotiations for revision of tariff rates. Duty on morphia. Tariff rules.

§ 7. Negotiations for treaty revision between the Chinese and the British delegates began in January 1902, in which month five meetings were held, and continued with various intermissions and procrastinations till the signing of the completed treaty on 5th September 1902. These delays, which got on Sir James Mackay's nerves, were caused by various illnesses on the part of Sheng Hsüan-huai, but much more by the necessity laid upon the Chinese representatives to consult at every turn, and secure the approval of, both the Wai-wu Pu and the Viceroys of the Liang Hu and the Liang Kiang, Chang Chih-t'ung

[1] C.A.: I.G. Circ. No. 1022.
[2] C.A.: I.G. Circ. No. 1025.
[3] C.A.: I.G. Circ. No. 1026.
[4] C.A.: I.G. Circ. No. 1151.

(張之洞) and Liu K'un-yi (劉坤一) respectively. Some of the proposals brought forward by Sir James and his coadjutors, such as the proposal to abolish *likin*—of which more anon—were of such a revolutionary character, so subversive of the existing financial system of every province, that Sheng was obliged to move with extreme caution, and to grasp at every possible excuse for delay in order to make sure that the course proposed had the approval of the Wai-wu Pu and the Viceroys. While this action to delay action was being fought out, the representatives of the various Treaty Powers at Shanghai began in May 1902 discussions on the revision of the tariff rates with the object of making as many as possible of them specific on a five per cent basis, according to the average of the values ruling in the years 1897, 1898, and 1899. Each delegation came forward with values of their own for the import goods in which their merchants were most interested; but China, armed with detailed and carefully prepared valuation lists, drawn up under the lynx-eyed supervision of Mr. R. H. R. Wade, and based on the Customs records of the leading treaty ports but especially of Shanghai, was ready for all comers. Important, however, as was the question what the specific rate on any given article should be, still more important was the question whether the tariff rates should not be calculated on a gold basis. To reach a decision on this point the Chinese delegation, at a meeting held on 30th May, when American, British, French, German, and Japanese representatives were present, submitted a memorandum, drawn up by Hart, in which he pointed out that in 1895, when the indemnity after the China-Japan war was imposed, the Haikwan tael had a sterling value of 39.8946 pence, and that in 1901 the Peace Protocol had fixed the value of the same tael at 36 pence. Since then, the sterling value of silver had fallen still further, so that at the time of presenting the memorandum the Haikwan tael was worth only 30.078 pence. "At this rate the £2,822,425, which under the terms of the Protocol China has to pay annually down to 1910 on account of the 1901 indemnity, will cost her not Hk. Tls. 18,829,500, as stated in the Protocol, but Hk. Tls. 22,516,804; and the total amount she will have to pay annually on account of both this indemnity and the service of the loans previously contracted (£6,427,370/10) will be not merely Hk. Tls. 42,429,500, as stated in the Protocol, but the enormously increased sum of Hk. Tls. 51,285,622. In view of the fact that the total revenue of the Empire does not exceed 85 million taels,

unless there supervenes an enhancement in the gold value of silver, such as neither experience in the past nor the best expert opinion now available in any way justifies, China after liquidating her foreign indebtedness will be left with a revenue of less than 34 millions of taels with which to defray the cost of administration and defence throughout this vast Empire—a task which is impossible of accomplishment. Under these circumstances, if national bankruptcy, as the result of the burdens laid upon her by the more powerful foreign nations, is to be averted, China sees no course open to her but to fix the Customs tariff in gold, say, in terms of the American gold dollar currency, and to convert the average values of mercantile commodities during the years 1897, 1898, and 1899—which the Protocol specifies as the basis of the new tariff—into that currency at the rate of exchange laid down in the Protocol, namely, one Haikwan tael equals gold $0.742. Any other course, the Government considers, would work serious injustice to China. For not only is the gold cost of production the determining factor in fixing the selling price of foreign goods, but the foreign Powers have admitted in the Protocol that China is entitled to an effective 5 per cent import duty. While making this admission, they stipulated, in converting *ad valorem* into specific rates, that the average values ruling during the years 1897, 1898, and 1899 should be taken as the basis. In view of the fact that during those years prices were abnormally low and decidedly below the level of prices now ruling at the time when the new tariff rates are to be fixed, China, despite the fact that her right to an effective 5 per cent levy has been admitted, is by the limitations imposed deprived of an effective 5 per cent duty even if 5 per cent on the average prices ruling during the years named be levied in gold. If, however, that rate be levied not in gold but in silver, it is calculated that instead of an effective 5 per cent duty China will now receive but 4 per cent or less; and in the event of a further decline in the gold value of silver, she will hereafter be receiving still less, while she is compelled by the terms imposed by the Protocol to pay the foreign Powers not in silver but in gold. It would scarcely be justice were the foreign Powers to insist that China shall pay her indebtedness to them in gold, but that their merchants shall pay their indebtedness to China in depreciated silver."[1] This was the third attempt made by Sir Robert Hart to have the Haikwan tael made a gold unit so far as the rates

[1] Hart's memorandum of 30th May, 1902.

of the import tariff were concerned, and like the two previous attempts it met with but scant courtesy. The foreign delegates at that meeting would have none of it. They considered that the proposal was opposed to the Protocol, and that they had no power to act otherwise than in strict accordance with the letter of the Protocol. They even declined to submit the proposal to their Governments. Sir James Mackay, who had been elected permanent chairman of the International Tariff Revision Commission, a position which, in the opinion of some of those present, he evidently regarded as offering a favourable opportunity for impressing his foreign colleagues with his knowledge of how to deal with Chinese diplomatists, went so far as to declare that negotiations would be broken off unless the proposal was definitely abandoned, and that responsibility for the failure of the negotiations would rest with the Chinese. Foiled here, although subsequently the proposal was characterized by individual foreign delegates as being fair and reasonable, the Chinese representative brought forward a suggestion, elaborated by Hippisley, that in order to ensure that the specific rates now to be determined should be effective in yielding to China the full 5 per cent revenue, to which she was entitled, it should be agreed that "to determine the average value in taels at the time of landing of each article of merchandise imported during the years named [1897, 1898, 1899], to convert that value into sterling at the average rate of exchange ruling during those years and having converted that sterling value into taels at the rate of exchange now ruling, to fix the duty payable at 5 per cent on this latter value." In his supporting memorandum Hippisley pointed out that taking the average values of the three years—1897, 1898 and 1899—specified by the Protocol, and calculating specific rates directly from the average of such values would work injustice to China, and render it practically impossible for her to obtain an effective 5 per cent duty. This was so because 1897 was a year of exceptional commercial depression when prices ruled abnormally low, while in the two following years prices were below the average. Furthermore, since the signing of the Protocol "a serious fall in the gold value of silver has supervened, which has rendered the tael value of goods during three years named altogether unfitted to secure to China the effective 5 per cent import duty to which it has been admitted she is entitled. The gold value of the Haikwan tael has fallen from 2*s.* 11½*d.*—the average value during the years 1897, 1898, and 1899—to 2*s.*

6⁵⁄₆₄*d.* (one tael Shanghai currency=2*s.* 3*d.*), and the best expert opinion available inclines to the probability of a further fall rather than to a rise in this value in the future. Taking, however, the rate named and the average tael prices of foreign goods imported during the years specified in the Protocol, China would on this basis receive, not the effective 5 per cent duty agreed to, but a little less than 4¼ per cent. Any idea that the Powers would take advantage of this unanticipated state of things to withdraw with the left hand what they had given with the right being inadmissible, the only conclusion to be drawn from the Protocol is that China was to secure an *effective* 5 per cent import duty." This proposal met with just as little favour as that for the conversion of the Haikwan tael for import tariff rates into a recognized unit of fixed gold value. In fact, Sir James Mackay took up the position that negotiations could not proceed until both proposals had been withdrawn by Sheng in writing. Eventually, a compromise was reached by which the Chinese delegation agreed to withdraw the two schemes from the current discussions, reserving to their Government the right to bring them forward again at a more suitable opportunity. The position adhered to by the various foreign delegations was that China was entitled only to an effective 5 per cent on the average values for the three years named in the Protocol. Should China find this working injustice to her, she could appeal to the signatory Powers for amendment of the terms of the Protocol. The foreign delegates could not, and would not, go beyond the letter of what they had been appointed to work upon, and had made their calculations accordingly. To consider what might be fairest and best for China was not their affair. The Commission then settled down to the task of hammering out one by one the specific rates to be charged on each article listed. To aid discussions the American, the British, and the German delegates had drawn up, and agreed upon, a tariff containing 269 headings, with suggested rates, including piece goods. The Chinese delegates' tariff which left out, for the nonce, textiles and yarn—the rates on which had been practically settled by the Shanghai provisional tariff referred to above—contained 622 suggested duty rates, of which 62, or one in every ten, were entered as 5 per cent *ad valorem*. The specific rates were based on averages of market prices in all the leading ports of China, less duty and charges, and covered all qualities from all countries. They were therefore, although not above criticism, much more representative than anything that any individual delegation

could bring forward. This, however, did not deter certain of the foreign delegates from acting as if their duty was not to give China as fair a tariff as the limitations imposed would allow, but to cut down the duties on goods in which their countries were interested to the lowest possible figure. Where prices had fallen since the years named in the Protocol there were always some who declined to accept the Customs figures based upon the statistics for those years; but when the Chinese delegates ventured to draw attention to the present high prices of certain articles, they were promptly reminded that the Commission had no authority to go beyond the average values of the three specified years. The chairman, Sir James Mackay, who was feverishly anxious to get the work finished, in order that his departure from China might not be delayed, often, without reference to the justice of the case, pressed the Chinese delegation to give way when they were standing out against some foreign delegation's cutting down of a duty which the Chinese considered called for by the facts. The chief delegate for the United States, Mr. Sharretts, desired to be fair to China, but he did not allow that desire to prejudice American interests. He insisted, for instance, that the duties on ham and on railway sleepers should be left *ad valorem*, refusing to accept Customs figures showing the values upon which duty had actually been paid during the three specified years, as acceptance of such values would have told against trade in American ham and sleepers. He insisted also on an elaborately detailed list of canned goods being inserted in the tariff, some fifty-two items in all, and also that Californian wines should be left *ad valorem* in the mistaken belief that they were stronger in alcoholic content than French clarets. The leading French delegate, M. Ratard, was frankly commercial in his attitude. He came provided with price-lists from France, and statistics supplied by the Tonkin authorities, the figures in which had no relation to the actual market values in China. He professed that his powers were not plenary, and declined to accept certain rates which had been agreed to by everyone else. He presented a long list of articles of trivial odds and ends of trade, such as bonnets and corsets, on which it would have been impossible to fix specific rates, and contended that these articles be included in the tariff after separate negotiations between himself and the Chinese delegation. This latter delegation, however, stood firmly by their well-prepared value lists, and if they could not secure a specific rate on such values, claimed

a 5 per cent *ad valorem* one. Occasionally when obliged to give way on one point, they managed to secure a concession on another, and thus succeeded in obtaining results as favourable as could be hoped for. By the end of July practically all arguing and bargaining over rates had finished, at least so far as the United States of America, Great Britain, Germany, Japan, and Spain were concerned, while Austria-Hungary, Belgium, and the Netherlands were prepared to accept the proposed rates *ad referendum*. The stage was now set for the final act, but three days before the date fixed for the signing of the Tariff Agreement both the American and the British representatives woke up to the fact that the rate proposed on morphia—Hk. Tls. 3 per ounce—exceeded 200 per cent of the market value of the drug. They protested, maintaining that it must be reduced to the 5 per cent level. This the Chinese refused to do, pointing out that their acceptance of such a rate would make them parties to the flooding of their country with poison. Sheng Hsüan-huai and the Viceroy Chang Chih-t'ung, in view of the injury being done to the Chinese people by the growing practice of subcutaneous injection, strongly urged prohibition, or failing that a duty rate of a prohibitive nature. Some of the representatives of other countries were also in favour of prohibition, whereupon Sir James Mackay suggested that the better course would be to make prohibition of the drug a treaty article. This was eventually done by the insertion of Article XI in the Mackay treaty, which agreed to the prohibition of the general importation of morphia into China, on condition that the Chinese Government would allow of its importation, on payment of the tariff import duty and under special permit, by duly qualified medical practitioners, or for the use of hospitals, or by chemists and druggists who were to be permitted to sell it only in small quantities and on receipt of a requisition signed by a duly qualified foreign medical practitioner. Would-be importers were to sign a bond before their Consul, failing which no permit would be issued. This article was not to be operative unless all other Treaty Powers likewise agreed to its conditions. The proposed tariff rate, in spite of all remonstrances, was left unchanged; but the Chinese Government, on representations being made to it, agreed to postpone application of the new rate where contract morphia was concerned. Merchants, therefore, who duly registered their contracts were permitted to import the drug at the former 5 per cent rate up to the end of April 1903.[1]

[1] C.A.: I.G. Circ. No. 1051.

This, of course, did not settle the matter. In May 1905 the Chinese Government decided to enforce prohibition in the terms of Article XI of the Mackay treaty and of Article XVI of the American treaty of 1903, and gave orders accordingly;[1] but five months later, October 1905, the British Minister insisted that the terms of Article XI could not be enforced unless accepted by all the other Powers.[2] The matter remained undecided until the close of 1908 when, with the approval of all the foreign Ministers resident at Peking, morphia regulations were drawn up for enforcement from 1st January[3] 1909. By these regulations the manufacture of morphia and of instruments for its injection by Chinese and by foreigners resident in China was absolutely prohibited. Importation was likewise prohibited except by foreign medical practitioners and foreign druggists for medicinal purposes, and under special restrictions, while the import duty was reduced to the 5 per cent level. To return, however, to the Tariff Revision Commission. The new tariff with its three appended rules was finally ready on 29th August 1902, and on that day the representatives of the United States of America, Great Britain, Germany, Japan, Spain, Austria-Hungary, Belgium and the Netherlands signed the Tariff Agreement—the latter three *ad referendum*—by which they bound their Governments and subjects of their respective countries to abide by the annexed tariff and its appended rules, to come into effect on 31st October 1902, on the understanding that should specific rates on any articles, now omitted, be added thereafter, such rates must be mutually agreed upon by representatives of the various Powers by whom the tariff had been signed, and that in cases of differences of meaning between the Chinese and the English texts the latter should be held as the ruling one.[4] As the remaining seven Treaty Powers had not yet signified their acceptance, it became necessary to extend to merchants of the non-signatory Powers the option of paying on any of their imports the 5 per cent *ad valorem* duty called for by the Protocol or the specific rate laid down in the revised tariff. Should any merchant of a non-signatory Power exercise this option for any commodity, the same option, by the most favoured nation clause, could be claimed by any merchant of a signatory Power.[5] This optional tariff rate system held good

[1] I.G. Circ. No. 1248.
[2] C.A.: I.G. Circ. No. 1291.
[3] C.A.: I.G. Circs. Nos. 1578 and 1590.
[4] *Treaties, Conventions, etc., op. cit.* Vol. 1; pp. 953-956.
[5] C.A.: I.G. Circs. No. 1053 and 1054.

for two years, by which time 6 of the 7 non-signatory Powers had notified their acceptance of the revised tariff, the only power outstanding being Portugal, which at that time (September 1904) was engaged in treaty negotiations with China. The Italian and the Russian representatives signed on 28th March 1903 with effect from 27th April that year;[1] the Danish representative on 23rd March 1904 with effect from 5th May that year, the French and the Norwegian and Swedish representatives on 30th March 1904 with effect from date of signature,[2] and the Portuguese representative on 11th November 1904 with effect from date of signature.[3] In the completed tariff there were 773 entries of which 640 were specific rates, and the remaining 133 5 per cent *ad valorem*. The three rules, appended to the tariff—acceptance of which by the Wai-wu Pu had delayed somewhat the final act of signing—dealt with (1) a board of arbitration to settle disputes on value or classification of goods, (2) the duty-free list, and (3) the import of arms and ammunition. The latter two subjects have already been discussed, as they were in the first instance dealt with by the foreign negotiators of the Protocol at Peking. The first, however, calls for attention. It stipulated that unenumerated articles were to pay duty at 5 per cent *ad valorem* calculated on the market value of the goods in local currency; this value when converted into Haikwan taels was to be considered 12 per cent higher than the amount on which duty was to be calculated. Should, however, the goods have been sold before application to import had been handed to the Customs, the gross cost given on a bona fide contract could be accepted as evidence of the market value, and if the goods had been sold on c.i.f. terms, such terms could be taken as the value for duty paying purposes. In cases of dispute regarding the value or the classification of goods a board of arbitration was to be set up to consist of an official of the Customs, a merchant selected by the Consul of the importer, and a merchant differing in nationality from the importer selected by the Senior Consul. The final finding of the majority of the board was to be binding upon both parties. The merchants serving as arbitrators were each to be entitled to a fee of Hk. Tls. 10 for their services, and these fees were to be paid by the importer if the board sustained the Customs valuation, or found that the goods had been under-

[1] I.G. Circ. No. 1075.
[2] I.G. Circ. No. 1187.
[3] I.G. Circ. No.

valued by the importer to the extent of not less than 7½ per cent. Should the board decide that the correct value of the goods was 20 per cent (or more) higher than that upon which the importer originally claimed to pay duty, the Customs authorities were to retain possession of the goods until full duty had been paid, and might levy an additional duty equal to four times the duty sought to be evaded.

Revision of British treaty. Proposed abolition of *likin*. Attitude of Chinese officials. Taxation on foreign-style factory products.

§ 8. Concurrently with the work of revising the tariff, negotiations were going on for the drafting of the new treaties, British, American, and Japanese; but as the British had been first in the field, the others decided to mark time until it could be seen what the outcome of the Sino-British parleys would be. Mackay had a formidable list of subjects to be discussed, and was in no small hurry that decisions should be reached on them. That list included, abolition of *likin*, inland waters steam navigation, bonding, drawbacks, opening of new ports, protection of foreign trade marks, introduction of a uniform national currency, reform of China's judicial system, the revision of China's mining regulations so as to attract foreign capital for mining enterprises, and the removal of obstructions in the Canton river and in the Yangtze between Ichang and Chungking. Of these by far the most important was the proposed abolition of *likin*. Hart designated it as—"the vital question on which most others depend" and went on to ask "is *likin* to be continued, and if it is to be abolished, will what is to be substituted really make up for what both Central and Provincial Governments lose?"[1] Over that question there raged a long and bitter dispute. Sheng with his inner knowledge of the necessities and workings of Chinese provincial finance, had no intention of accepting a cut and dried scheme merely because it commended itself to the logical commonsense of a foreigner. He would not move a step beyond what the Wai-wu Pu and the Yangtze Viceroys agreed on as possible to concede. This meant slow going, and to Sir James Mackay, a man accustomed to quick action, it seemed to be not the slowness of caution, dictated by circumstances, but the procrastination of obstructive obscurantism. For eight months they bickered, mainly over this subject. Other questions were brought up and settled in turn, but the abolition of *likin* and the substitution for it of a system

[1] Hart to Taylor; 18th October, 1901; desp. to Stat. Sec. No. 42/206.

of increased import duties and of consumption and production taxes was a topic of never-ending dissension. At last, Sir James packed his trunks, and let it be given out that he was preparing to leave for home. That accelerated matters: the text of the much debated *likin* article was finally decided on, and on the 5th September 1902 the plenipotentiaries affixed their signatures to the Mackay treaty. The *likin* article, which had caused so much contention, stipulated that *likin* and transit dues were to be abolished, and that in compensation foreign goods were to pay on importation in addition to the import duty a special surtax of one and a half times the import duty, that payment of import duty and surtax should secure for foreign imports, whether in the hands of Chinese or foreigners and whether in original packages or not, complete immunity from all other taxation, examination or delay. Export duties, also by way of compensation, were to be brought up to an effective 5 per cent standard, and a special surtax of one half the export duty was to be added on all goods exported coastwise or to foreign countries with the sole exception of silk and silk cocoons. In effect this would have meant the raising of import duties to 12½ per cent *ad valorem*, and of export duties to 7½ per cent *ad valorem*, in return for which China was to guarantee complete exemption for such goods from all internal taxation of any nature. To make good the loss of revenue that China would suffer on her purely internal trade by the enforcement of this reform it was stipulated (1) that the Chinese Government should be at liberty to impose a consumption tax, the rate for which might vary with the nature of the goods, on articles of Chinese origin not intended for export, and (2) that all Native Custom Houses whether at the open ports or on the seaboard, or on rivers, waterways, land routes and land frontiers, as enumerated in the Hu Pu and Kung Pu regulations, and in the *Ta Ching Hui Tien* (大清會典), were to remain, that native produce transported from one place to another in the interior should pay at the first Native Custom House passed the export surtax of 2½ per cent—a payment which should free the goods concerned from all further taxation or examination while *en route* that in the case of native produce being taken for local consumption to a place not in a foreign settlement of an open port, the Native Custom House at destination should levy the consumption tax, and that native goods carried by junks or sailing vessels trading to or from open ports should not pay lower duties than the combined duties and surtax on similar

cargoes carried by steamers; in other words the foreign coastwise carrying trade was not to be discriminated against. This same *likin* article further stipulated (1) that the duty and the *likin* on foreign opium were to remain unchanged, but that the name *likin* was to be altered to surtax; (2) that there was no intention to interfere with China's right to tax native opium, but that the duty to be paid on such opium should be levied in one lump sum after payment of which the goods were not to be subject to any further taxation or delay; (3) that *likin* on salt should be abolished, the amount involved to be added to the regular duty on salt, which should be levied either at place of production, or after entering the province where it was to be consumed; (4) that an excise, equivalent to double the import duty, that is to 10 per cent, should be leviable on all machine made yarn and cloth manufactured in China, and also on all factory products of foreign type whether made by foreigners at the open ports or by Chinese anywhere in China; (5) that the supervision of the enforcement of the terms of this article so far as Native Customs affairs, consumption tax, salt and native opium taxes were concerned should be entrusted to foreign members of the Maritime Customs Service selected by the Governor of each province in consultation with the Inspector General; (6) that the arrangements provided for in this article were to come into force on 1st January 1904, by which time all *likin* barriers and officials were to be removed; (7) that all Powers enjoying the most favoured nation treatment in China should enter into the same engagements, and that their assent was neither directly nor indirectly to be made dependent on the granting by China of any political or exclusive commercial concession; and finally (8) that an Imperial Edict should be published setting forth the abolition of all *likin* and internal taxation and tax barriers except as provided for in this *likin* article. It was a bold but ill-advised attempt to deal with the problem of internal trade taxation in China, and that problem was not made simpler by the Protocol stipulation that the Native Customs establishments at the open ports were to come under the Inspector General, and that the revenue collected should be used to meet indemnity payments. The whole scheme savoured too much of undue foreign interference in China's fiscal and administrative rights, and the clause making it a condition that the supervision of the organization necessary to enforce the scheme should be entrusted to foreigners from the Maritime Customs Service only made the proposal more distasteful,

especially to some of the higher provincial authorities, prominent among whom was the Viceroy Chang Chih-t'ung. He was frankly, and on patriotic grounds, opposed to placing more power in the hands of foreigners, even if they were tried servants of the Chinese Government, and viewed with apprehension the proposal that they should supervise not only the Native Customs establishments at the open ports, already yielded by the Peace Protocol, but also all other Native Custom Houses wherever established, and the collection of the consumption tax, and the salt and native opium taxes. To Chang Chih-t'ung and to many other leading Chinese this looked like the selling of the citadel. His Excellency, too, was determined that safeguards should be provided to protect China's rights, in case the *likin* abolition scheme should be attempted, and so insisted that the Native Customs establishments listed in the Kung Pu regulations should be retained, as well as those listed in the Hu Pu regulations advocated by Mackay. This meant that, if necessary, scores of Native Customs stations that had lapsed could be revived, and thus what had been shown out at the front door would, under a discreet change of name, be allowed re-entry at the back. But it was not only the Chinese who were sceptical of the feasibility of this proposed abolition of *likin*. The Japanese were strongly opposed to allowing more than a ten per cent levy on imports in exchange for such abolition, and were also adverse to any taxation upon foreign-style factory products manufactured in China. When finally it came to the negotiating of their treaty, the Japanese delegates omitted the elaborate *likin* article of the Mackay treaty and substituted for it a simple statement that in the event of the abolition of *likin* and the levy of a surtax to compensate for the loss of the *likin* revenue, the Japanese Government would consent to the same surtax as might be agreed upon between China and all the Powers. The American representative, Mr. Sharretts, was equally critical. In fact, at an interview with the Viceroy Liu K'un-yi, he went so far as to denounce this *likin* article and other features of the British treaty, then under negotiation, and to declare that his Government would never agree to such terms. Mr. Sharretts was recalled, and Mr. Goodnow, the American Consul-General at Shanghai, took his place. In the end, the American delegation accepted the *likin* article in its essential features. The article, however, never became effective. *Likin* was not abolished till a generation later, and not till China had recovered her tariff autonomy, leaving her free to charge as

high or as low Customs duties as she might find advisable; the consumption tax was never levied; and the taxation of native opium as well as the supervision of inland taxation generally remained in Chinese hands. The proposed excise tax of 10 per cent on foreign-style factory products made in China never came into force. As far back as 1890, when the Shanghai Cotton Mill Co. was first started, the Government had decided that the products of this mill when sold at place of production should be free of tax, that when sent inland they should pay the rates specified for similar goods in the import tariff, but be free from transit dues, and that when sent coastwise they should pay the rates specified in the export tariff, but be exempt from coast trade duty and transit dues.[1] When more factories were built for the production of foreign-style goods, the same treatment was extended to their products.[2] In 1896, when the Japanese were about to negotiate the Commercial Treaty of that year, they made no secret of their intention to secure exemption from all taxation of foreign-style products manufactured in China, and to counteract this the Chinese Government by an Imperial Edict, issued in July that year, imposed an excise of 10 per cent on all such manufactures.[3] Less than a year later orders were issued that the levy of this excise was to be deferred, and that the duties to be levied on foreign-style factory products were to remain as fixed in 1890. The Mackay treaty intended to change this by reintroducing the 10 per cent excise, but within little over a year from the signing of the treaty Commissioners of Customs had to be notified that until the Mackay treaty came into full operation, through acceptance of its terms by all the Treaty Powers, the single 5 per cent duties arranged in 1890 were to continue.[4]

Removal of limit on size of steamer allowed to ply in China's inland waters.

§ 9. Out of all the changes, affecting directly or indirectly the tariff proposed by the post Protocol treaties only two apart from the opening of Changsha, Wanhsien, Kongmoon, Antung and Moukden worked their way immediately into actual practice. These two were the removal of all limits on the size of steam vessels allowed to ply on China's inland waters[5]

[1] C.A.: I.G. Circ. No. 528.
[2] C.A.: I.G. Circs. Nos. 539, 575 and 597.
[3] C.A.: I.G. Circ. No. 730.
[4] C.A.: I.G. Cic. No. 1113.
[5] Art. 3 Japanese Treaty (1903).

and the making of all drawbacks for duties on foreign imports payable in cash and without delay.[1] The amended inland waters steam navigation regulations of July 1898 and the Supplementary Rules of September of that year, secured as the outcome of pressure exerted by Sir Claude MacDonald, did away with the distinction between large and small vessels,[2] a distinction on which the Chinese Steam Traffic Rules of 1896 had been based,[3] but stipulated that steamers trading under these regulations were not to be "vessels of seagoing type". This latter restriction was now removed, and the privilege of engaging in this inland trade was thrown open to "any . . . steamer capable of navigating the inland waterways". These amended regulations with supplementary rules had also made provision for the duty treatment of foreign and of native goods carried from a treaty port inland by steamer. Foreign goods, not covered by transit pass, were to pay the dues and duties leviable at whatever stations might be passed *en route* to destination. Native goods were to "pay export duty according to the regulations for outgoing cargo shipped in native vessels" and "inland whatever dues and duties are payable by similar goods carried in native vessels." Within four months of the promulgation of these rules the Swatow Commissioner raised the question of the duty treatment of Chinese goods conveyed in a vessel under inland waters steam navigation rules from one treaty port to another—a case not provided for in the regulations—and the decision given was that such goods were liable to coast trade duty.[4] That decision was quite in keeping with the view then held that vessels registered for inland waters trade should not engage in trade between treaty ports, but should use the port at which their inland waters papers had been issued, as the centre of their operations, from which they should proceed on their trips inland, and to which they should regularly return without venturing into the district of another treaty port.[5] This view of the limitation of range of a vessel registered for trade under inland waters steam navigation rules held from 1898 till the signing of the Mackay treaty, which by section 8 of annex C extended the range of such a vessel so as

[1] Art. I Mackay treaty; Art. VIII American treaty (1903).

[2] B.P.P. *China No. 1 (1899)*, MacDonald to Salisbury, 11th June, 1898, Enclo. No. 2; p. 176.

[3] C.A.: I.G. Circ. No. 739.

[4] C.A., I.G. Circ. No. 872; A. No. 194.

[5] C.A., I.G. Circ. No. 906.

to permit it to touch at one or more treaty ports on its registered route. This provision thus opened to an inland waters steam navigation vessel the advantage of trading both to inland places and to treaty ports on the same trip. In other words, it became possible in actual fact for a steamer to be both a coasting and an inland waters vessel at one and the same time, a fact which, when taken with the formerly enunciated principle that no steamer could trade under two sets of regulations at one and the same time, introduced an element of confusion as regards the duty treatment of goods conveyed by these inter-treaty-port inland waters steam navigation vessels. This confusion could have been avoided had it been clearly recognized that the extended range given to these vessels by the Mackay treaty had in effect altered the character of the inland waters steam navigation regulations from being what they had previously been namely a water-tight set of rules complete in themselves, the enforcement of which did not trench upon the province of other regulations. Once, however, it had been admitted that an inland waters steam navigation vessel, instead of being confined to one treaty port as its centre could make inland voyages touching at two or more treaty ports before returning to its centre, it inevitably followed that the inland waters steam navigation procedure encroached upon the sphere of the general shipping regulations governing the movement and treatment of vessels trading from treaty port to treaty port. The proper point of view, therefore, from which to regard the inland waters steam navigation regulations is not as a set of self-contained rules in complete independence of the general shipping regulations, but as subordinate and complementary to these latter regulations which in all matters of inter-treaty-port trade have prior and superior authority. The growth of trade in inland waters by steam vessels during the opening quarter of this century was steady but not phenomenal except in the middle Yangtze. In 1903, the year after the signing of the Mackay treaty, the total number of vessels registered at all the ports in China for inland navigation was 614, of which 180 were at Shanghai, 220 at Canton, and 38 at Hankow. By 1910 the total had risen to 1030, of which 384 were registered at Shanghai, 305 at Canton, and 82 at Hankow. In 1925, the year of the Tariff Conference at Peking, the total number of steamers and steam launches in all China registered for inland waters navigation was 2554 of which 490 were at Shanghai, 754 at Canton, 383 at Hankow, and 125 at Changsha. While the growth at Shanghai from 1903

to 1925 was roughly 60 per cent, at Canton it was over 200 per cent. In the middle Yangtze, however, taking Hankow and Changsha together, the growth was more than eleven fold. Two years after the ratification of the Mackay treaty the question of the procedure to be followed before new inland routes could be opened to steam navigation was definitely settled. To secure the opening of any such route application had first to be made to the nearest Commissioner of Customs who was to report to and await instructions from the Ministry of Commerce, conveyed through the Nan-yang or Pei-yang Ta Ch'en.[1] Since December 1931 such vessels come under the Ministry of Communications, but the principle that new routes require the approval of the higher provincial and central authorities remains unchanged.

Making of all drawbacks on foreign imports payable in cash.

§ 10. The advantage of receiving cash payment for a drawback certificate was, it will be remembered,[2] strictly confined to drawbacks on duty-paid imports re-exported to a foreign country. The concession speedily brought about two consequences. Firstly, it raised the question of the advisability of introducing at the ports a uniform system of recording and accounting for drawbacks issued, both cash and ordinary;[3] and secondly it led to the request, put forward in 1883 by the American Minister, that all drawbacks, not simply those for import duties, might be made payable in cash at the holder's option.[4] The discussion of the accounts treatment of drawbacks —especially in view of this request—and of how the amounts they represented were to be allowed for or deducted, showed that there was no absolute uniformity of practice at the ports in this respect. There was, however, sufficient agreement for the Inspector General to decide that it was not worth while, for mere uniformity's sake, to alter the practice at individual ports seeing that such practice had been years in operation, was well understood, caused no mistakes, and differed from practice at other places merely to the extent that local peculiarities demanded. In view of the American Minister's request the Inspector General was authorized to send out instructions that from 1st January 1884 drawbacks were to be received indiscri-

[1] C.A., I.G. Circs. Nos. 1095; 1117; & 1261.
[2] *Antea* Chap. III, § 14, p. 222.
[3] C.A., I.G. Circs. Nos. 110 & 122.
[4] C.A.; I.G. Circ. No. 216.

minately in payment of all kinds of dues and duties controlled by the Commissioner's office, and might similarly be indiscriminately marked by the Commissioner to be cashed if not desired to be used for paying duties.[1] The circular conveying these instructions also introduced an elaborate system of keeping account of drawbacks used in payment of duty, by which the amount of any drawback so used was to be added to the receiving account and at the same time deducted from the account under which it was originally issued.[2] This new system, however, was speedily withdrawn as it was found to be quite impracticable at the Yangtze ports, where the authorities refused to allow drawbacks on native produce to be cashed. Accordingly, in February 1884, orders were issued that a reversion was to be made to the former practice, namely that the only drawbacks to be cashed were those issued for foreign goods, while all others were to be used in no other way than in making duty payments of their own category.[3] Four years later, however,—1888—as a result of representations made by the Legations the Tsungli Yamên finally agreed that from 1st July 1888 drawbacks issued for Yangtze coast trade duty deposits should be received in payment of all kinds of duty at the respective Custom Houses on the Yangtze.[4] A still further extension of the duty-paying uses of native produce drawbacks, coupled with a limitation, was made in 1901, when the Wai-wu Pu decided that from 1st July that year such drawbacks might be received in payment of duties of all kinds except tonnage dues.[5] The drafting of the Mackay treaty afforded the opportunity of embodying these various privileges in a treaty stipulation, the very first in the treaty, which provides that drawback certificates "shall be valid tender . . . in payment of any duty upon goods imported or exported (transit dues excepted)", and that drawbacks for foreign imports should be payable in cash. The same article also stipulated that thenceforward, to avoid delay, drawbacks were to be issued direct by the Customs without the mediation of the Superintendent. A similar article (VIII) is to be found in the American Commercial Treaty of 1903, with this noticeable difference that the only form of duty which could not be paid with drawback certificates was declared to be tonnage dues,

[1] C.A., I.G. Circ. No. 281.
[2] C.A., I.G. Circs. Nos. 255 & 260.
[3] C.A., I.G. Circ. No. 270.
[4] C.A., I.G. Circ. No. 412.
[5] C.A., I.G. Circ. No. 974.

not transit dues as in the British treaty. The manipulating of drawbacks to the benefit of the manipulator, and to the detriment of the revenue, had been, since their first introduction, especially at Shanghai, an ever-recurring abuse. From now on the brokers who specialized in drawback swindles drove a thriving business, until the Government in 1931 put a sudden end to their activities by the abolition of the drawback system, except for certain special cases.[1]

Treaty revision negotiations with United States of America, and with Japan.

§ 11. Negotiations for treaty revision with representatives of the United States of America and with those of Japan began simultaneously early in September 1902, after the completion of the Mackay treaty, and went on for nearly a year with the usual intervals and interruptions. In the main the American negotiators, Mr. Conger the Minister, Mr. Goodnow, the Consul-General at Shanghai, who had taken Mr. Sharretts' place, and Mr. Seaman, followed the lines of the Mackay treaty, but produced a more logically arranged document. Besides the stipulations dealing with the rights of American officials and citizens, it contained two articles not to be found in the Mackay treaty, the one (Article X) stipulating for the establishment of a patent office, and the other (Article XI) calling for copyright protection. In addition, it contained a full-bodied clause (Article XIV) dealing with the rights of Christian missionaries and their converts, a subject which Sir James Mackay absolutely refused to touch, except in so far as to say that his Government would be willing to join in a commission to consider the question. The article dealing with the abolition of *likin* was much less detailed than its Mackay forerunner, but in its essential features the same. China's right to levy inland dues on opium and salt, and to open Native Customs branch offices within reasonable distance of the head office of any given port, and to levy excise and consumption and production taxes, not in conflict with the provisions of the treaty, were left to be dealt with by annexes and despatches attached to the treaty. Probably the most momentous clause of all was that in Article XII opening Moukden and Antung "as places of international residence and trade." At this time Russia was in firm occupation of south Manchuria, and it looked as if the open door there might at any moment be slammed uncere-

[1] C.A., I.G. Circ. No. 4197.

moniously in the world's face. The Japanese Government was much perturbed over the situation, and was quick to see the advantage of other nations claiming an interest in Manchuria's trade. Japan accordingly joined with the United States in demanding the opening of these two places, substituting, however, for Antung, which lies well up the Yalu, the port of Tatungkow at its mouth, between which place, as well as other places on the Manchurian coast, and Chefoo there was already a brisk trade under inland waters steam navigation rules. The Viceroy Chang Chih-t'ung was strongly opposed to the sanctioning of this trade in Japanese steamers between Chefoo and places on the Manchurian coast, maintaining that the term *nei ti* (內 地) did not, and could not, refer to places on the seaboard. He was obliged to withdraw his opposition on learning that there had been for years a lively trade between Chefoo and unopened places on the Liaotung coast carried on by steamers of the China Merchants Company, of which Sheng Hsuan-huai himself was Director. It was in fact the existence of this trade by sea-going steamers which occasioned the addition of annexes 2 and 3 to the Japanese treaty by which, as well as by Article III, it was agreed that no limit was to be set on the size of steamers plying under inland waters steam navigation rules. The Japanese delegates, Mr. Odagiri, first secretary of Legation, and Mr. Hioki, Consul-General at Shanghai who afterwards became Ambassador and Envoy Plenipotentiary to the Tariff Conference at Peking in 1925, wished China to agree to the export of rice, but the Chinese negotiators, in addition to their traditional prejudice against the export of an essential foodstuff, were suspicious that what Japan really wanted was to sell her own Japanese rice abroad at a high price—Japanese rice being popular in foreign countries—and replace it, at considerable profit, with cheaper Chinese rice for the use of her own people. As already indicated,[1] the Japanese representatives were opposed to allowing more than a ten per cent levy on imports in exchange for the abolition of *likin*. The utmost they would concede was double duty, or ten per cent. This, the Chinese Commissioners maintained, was impossible to accept, as double duty on the then value of commodities would amount to only a little over eight per cent on the value of the goods. Besides, the silver such a levy would bring into the treasury would have only about seventy-five per cent of the indemnity paying-

[1] *Antea* § 8, p. 374.

power it had in 1901, and as the Powers were clamouring for payment of this obligation in gold this was a matter of vital importance. The Japanese were also opposed to materials for factory products being treated more favourably than other raw materials, and to the export duty on silk being made at any lower rate than is charged on other commodities. They were further, to demand that the import surtax, should it come into force was to be levied only on goods going into the interior, and not on those consumed at the treaty ports of entry; a demand which, if acceded to, would have made simultaneous collection of both duty and surtax impossible, and a Customs cordon round each port a necessity. A fresh element of obstruction was introduced into the negotiations when in January 1903 Wu T'ing-fang (伍廷芳) arrived to assist Lü Hai-huan and Sheng Hsüan-huai. He consistently blocked all Japanese demands, on the grounds that they were unreasonable, that the Japanese were simply working for a diplomatic triumph over China-which they would advertise, and that they wanted to tie China's hands. It was suggested to Wu that he should put forward counter proposals, but this he declined to do. In the end, the Japanese treaty took shape as the shortest of the three ratified post-Protocol treaties, giving little but claiming much. It was signed on 8th October 1903, the same day as the United States treaty was signed.

Treaty revision negotiations with Portugal.

§ 12. The next Power to take up treaty revision negotiations was Portugal, whose chief representative Senor Castello Branco had been at Peking during the autumn of 1902 hoping to secure among other gains the delimitation of Portuguese territory at Macao. By Article II of the Roza Treaty of Peking 1887, the Portuguese could claim this delimitation, and by Article 12 of the same instrument they had the right, as their representatives had not signed either the Peace Protocol of 1901 or the International Tariff Agreement of 1902, to continue paying duties according to the tariff of 1858. Thanks mainly to Hart's arguments Senor Branco refrained from pressing the delimitation question, and was able to negotiate with Prince Ch'ing a convention,[1] signed on 15th October 1902 and ratified by China two days later, by which Portugal accepted the new tariff and agreed to the establishment of a Chinese Custom

[1] *Treaties, Conventions*, etc. *op. cit.* Vol. 2, pp. 303-306.

House within the territory of the colony of Macao. In January 1903 an additional convention[1] settling the conditions for the establishment of a Custom House at Macao was signed by Hart and Senor Santos, the Portuguese Chargè d'Affaires, by which it was agreed that the Customs collecting stations of Malowchow and Chienshan outside Macao should be withdrawn, and that products of Macao as well as what the residents might require for their subsistence should be exempt from duty. Although not mentioned in either convention it was understood that the building of a railway from Macao to Samshui or Canton should be considered favourably. Ratification of Senor Branco's convention, however, was refused by the Portuguese Cortes, partly on the ground that by it Portugal was giving everything and receiving nothing—neither delimitation of frontier nor railway—and partly because the establishment of a Chinese Custom House in Macao was objected to, and with that non-ratification, the Custom House convention of January 1903 automatically became a dead letter. Senor Branco returned to Peking in the spring of 1903 and explained orally to the Wai-wu Pu that it had now become desirable to substitute for what had already been signed a new treaty on the lines of those being negotiated at Shanghai. Subsequently the Wai-wu Pu claimed that he had not made clear that the Cortes had definitely refused to ratify the convention of October 1902, a fact which made for no little confusion and misunderstanding. At the opening of the negotiations, during the last week in May 1903, at Shanghai, the Portuguese representatives produced a draft treaty containing the usual articles about the abolition of *likin*, the quicker issue of drawback certificates, prohibition of morphia, opening of mines, joint commercial undertakings, protection of trade marks, reform of China's judicial system, commission on the missionary question, and ten years validity of treaty. In addition there were articles more directly affecting Portuguese and Chinese joint interests. In Article II Portugal accepted the new tariff and reiterated the most favoured nation status of Portuguese subjects, and by Articles III and IV agreed (1) that the cooperation promised by the Convention of 1887 in the collecting of duty and *likin* on opium and the suppression of smuggling should be made effective by the establishment of a special government depot at which all opium imported into Macao should be registered, (2) that

[1] *Treaties, Conventions, etc. op. cit.*, pp. 307-310.

the Portuguese Government would not allow the landing of any opium without satisfactory proof that the importer had paid duty and *likin*, (3) that the amount of opium to be consumed locally should be fixed annually, (4) that duty and *likin* paid on locally consumed opium and on opium exported from Macao to foreign countries should be refunded by drawbacks, (5) that *likin* and duty-paid opium might be conveyed from Macao into any part of China free from all other taxation, and (6) that, without injury to the sovereign rights of either China or Portugal, the Governor of Macao in concert with the Commissioner of Chinese Customs should devise means for the suppression of smuggling in the waters and territory of Macao and of China adjoining Macao. In return for all this, China was asked to agree (1) that all foodstuffs, coming from Macao should be free of export duty, (2) that the embargo on the export of rice from China be lifted to the extent of allowing 600,000 piculs of rice a year to be exported to Macao for the maintenance of the Chinese residents there, (3) that the West River be opened to vessels of all kinds plying direct from Macao, provided that such vessels have paid the duties leviable by the Chinese Government, and (4) that Portuguese wines of all kinds, proved by certificates of origin to have been imported from Portugal, should, when their alcoholic content exceeded 14%, pay the duty leviable according to the new tariff, but that wines passed through the Chinese Customs under the designation "Port Wine" should not be entitled to this benefit unless accompanied by a certificate of origin. The clause relating to the proposed railway concession was eliminated, partly at the request of Sheng Hsüan-huai, partly because the United States and the Japanese Governments objected to a railway concession forming part of a commercial treaty, and partly because the concession was not to the Portuguese Government but to a company. Hart, to whom these proposals were submitted, was of opinion (1) that as Portugal had now withdrawn her offer for the establishment of a Chinese Custom House in Macao itself, the issue of inland waters papers to steamers plying from there should not be allowed, (2) that as Portugal had the right to claim territorial delimitation, her willingness to arrange for a preventive sphere instead should be availed of, and (3) that as Portugal had the right to claim the application of the 1858 tariff, she was entitled to a *quid pro quo* for her acceptance of the new tariff, such as the railway concession and/or the exemption from export duty of whatever

Chinese foodstuffs might be required for the alimentation of Macao. He pointed out, further, that if Portugal should declare the old tariff to be still in force, other Powers might cause serious difficulties for Customs work by claiming most favoured nation treatment. Would it, he asked, be wiser to face such difficulties; or would it be safer to remove their cause. Discussions continued at Shanghai all through the summer and autumn of 1903 and finally ended on 11th November when the treaty, as amended by these negotiations, the International Tariff Agreement of 1902, the various regulations necessary for the implementing of the articles dealing with the improved control of the opium trade and the inland waters steam navigation traffic, and the contract for the railway between Macao and Canton were all duly signed. By these instruments and by an exchange of notes Portugal agreed to recognize the new tariff, to tighten control of the opium trade as indicated above, to limit the amount of the drug for local consumption in Macao to 360 piculs a year, to cooperate in the suppression of smuggling, and in concert with the Chinese Customs to fix a sphere of preventive measures, to establish a hulk in the inner waters of Macao harbour for facilitating Chinese Customs examination of inland waters vessels and their cargoes, such hulk eventually to pass into the possession of the Chinese Customs, to establish an examination shed for the Customs at the terminus in Macao of the proposed Macao-Canton railway, and to accept generally the various arrangements regarding abolition of *likin* etc. made already with Great Britain, the United States and Japan, altering, however, the missionary clause so as to agree with text in the American treaty. In return, China was to grant the privilege of inland waters steam navigation direct from Macao not only to places on the West River but also to places not yet opened in the department of Kwangchowfu, the right of importation into Macao for local consumption of rice, exported duty-free from China, to the extent of 300,000 piculs a year, special treatment for wines, certified of Portuguese origin, having special reference to Port Wine, and the right to construct a railway from Macao to Canton which, if built, was to revert to China after fifty years. Like so many other diplomatic efforts this too was destined to frustration. The Cortes objected to the railway contract, and had no intention of allowing the Chinese Customs to gain a foothold, in order later to entrench themselves in Portuguese territory. They declined,

therefore, to ratify the Convention; but by an *acte dictatorial* the Portuguese Envoy's acceptance of the new tariff was allowed to stand.

Treaty revision negotiations with Germany.

§ 13. The first treaty revision meeting with the German representatives, Dr. Knappe, Dr. Rössler, and Dr. Delius was held on 14th April 1905, at which Dr. Knappe tabled the German text of a proposed treaty in fourteen articles. These articles declared the willingness of the German Government to take part in an international conference to deal with the abolition of *likin*, stipulating at the same time that China should give guarantees that *likin* would actually be abolished; claimed for German subjects and for those under German protection right of residence and of trading, etc., at all open ports, demanded that the privilege of bonding be extended so as to include every warehouse owned by a German merchant; pledged China to allow Germans to participate in the development of mining enterprises in China; called for the speedier issue of drawbacks which might be used in the payment of all kinds of duties, transit dues excepted; promised the same protection to German trademarks in China as was accorded to registered Chinese trademarks in Germany; enunciated the right of Chinese to invest in German commercial enterprises subject to the provisions of the law and the regulations of the company as interpreted by German courts; undertook to allow the introduction of appliances for facilitating the passage of steamers through the rapids between Ichang and Chungking; promised a uniform national coinage; authorized German merchants to take part in the interport carriage of rice under bond; reiterated the right of German subjects in China to the most favoured nation treatment; allowed for revision after lapse of ten years; and claimed for German traders not only all that had been conceded in the inland waters steam navigation regulations annexed to the Mackay treaty, but also the rights of residence at any place inland touched at by steamers under these regulations, and of towage by steamers, even upon the Yangtze, of cargo and passenger boats of all descriptions. By the beginning of June the Chinese version of the proposed treaty was ready for transmission to the higher Chinese authorities. Owing mainly to the ill-health of Sheng Hsüan-huai negotiations were not resumed till the beginning of October, when the Chinese delegates asked for the inclusion of articles dealing

with extraterritoriality, morphia, and missionaries, made clear their objection to any alteration in the regulations for inland waters steam navigation as already agreed upon with the other Powers, and pointed out that with regard to the abolition of *likin* it would be impossible for China to ignore the arrangements already agreed upon with Great Britain and the United States of America. In reply to the question what form the guarantee asked for would take Dr. Knappe replied that the building of railways would probably solve the difficulty. He declined, without his Government's authority, to accept the detailed *likin* abolition scheme of the British and the American treaties, although agreeing to the principle of import and export surtaxes in lieu of *likin*. Active negotiations went on all through October, meetings being held on practically every alternate day, until on the 31st of the month. Dr. Knappe, who on account of illness was about to leave for Germany, summed up as follows the points on which agreement had not then been reached:—(1) that Germans, and those under German protection, should have the right to reside, trade, carry on industry and manufactures etc. in every port or place already opened or hereafter to be opened; (2) that the rules for bonded warehouses should be drawn up in consultation with the Consular Body; (3) that in mining operations conducted or financed by Germans no other taxation should be levied than a percentage on net profits, and a tax in proportion to the area of the mining property; (4) that the inland waters steam navigation rules should be amended so as to permit (*a*) the leasing by German steamship owners of warehouses and jetties at inland places for a term not exceeding 99 years, (*b*) the right of residence of German agents in such inland warehouses, (*c*) permission for steamers under inland waters papers to tow on the Yangtze all types of cargo and passenger-boats, and (*d*) the right of foreigners to be employed in towed vessels; (5) that prohibitions for the interport conveyance of rice should be issued by the Central Government and not by the provincial authorities, and should be published in the *Peking Gazette*: and (6) that the German text of the treaty should be authoritative. The German delegation insisted that if China could not yield on the above points, the German Government would not be able to agree to the inclusion of articles dealing with extraterritoriality, morphia, and missionaries. Shêng pleaded that his instructions were to grant, or refuse, to Germany what had been granted, or refused, to others; to which Dr. Knappe

retorted that there was then little use for Germany to make a treaty, as by the most favoured nation principle she already enjoyed what had been granted to others. Before adjourning *sine die* the commission agreed that the delegates of both sides should report to their Governments at Berlin and Peking on the position of the negotiations, and on the basis of the results of the first reading of the draft treaty, should draw up for mutual information the text which each side considered acceptable, and add to it any further demands to be made by their respective Governments. In transmitting his draft to the Chinese delegation Dr. Knappe expressly declared that it was not to be regarded as binding upon his Government whose decisions he could not anticipate. The scene now shifts to Berlin whither Dr. Knappe had gone, *via* Cairo, to be followed a few months later by Dr. Carl Hemeling of the Customs Service, who had acted during the negotiations as secretary and interpreter for Shêng Hsüan-huai, and who was now deputed to see the authorities of the German Foreign Office privately and explain to them China's position in regard to the proposed treaty. He duly carried out his mission, and found that the German Foreign Office authorities were just as unbending as their representatives in China had been. They had followed closely all the recent negotiations between China and the four Powers who had concluded treaties, and were not favourably impressed by China's attitude which, in their opinion, was not broad-minded but huckstering. They were, therefore, in no hurry to bring their treaty to a conclusion; in fact, they now took very little interest in it.

Treaty revision negotiations with Italy.

§ 14. Austria, Belgium, the Netherlands, and Italy were all prepared to open negotiations with China for treaty revision, but they wished first to see what would come out of the parleyings with the bigger Powers. Of the four, Italy was eventually the only one that came forward, and the first meeting of the Chinese commissioners and the Italian delegation, headed by Major Nerazzini, Italian Consul-General at Shanghai, took place on 18th May 1906. The Italians proposed to present one article at a time in Italian and Chinese, a procedure to which the Chinese commissioners demurred on the ground that it would greatly delay matters as they would have to refer everything to the consideration of the Wai-wu Pu and the Viceroys. The Italians finally agreed to hand in a complete draft, subject

to amendments or additions in case of further instructions, provided the Chinese would do likewise. To facilitate business the chief Italian delegate agreed to accept the Chinese proposals in Chinese and English. The draft of the proposed treaty, handed in by the Italian delegation, contained eleven articles, the first calling for the opening of Shaohsing (紹興) and Wusih (無錫) as places of international residence and trade, the second—adopting a suggestion made ten years previously by Customs Commissioner Rocher[1]—stipulating for the establishing of schools of sericulture and the adoption of the Pasteur system, the third insisting that goods carried by native craft on the Shanghai-Soochow and Shanghai-Hangchow runs should not pay less in duty and *likin* than similar goods conveyed between similar points by steamer or by railway, the fourth claiming that transit certificates for cocoons, brought to Shanghai for spinning, should be valid for two years, while the remaining seven articles dealt, mainly on the lines of the preceding treaties, with inland waters steam navigation, extraterritoriality, Chinese participation in foreign companies, mining enterprises, reform of currency, most favoured nation treatment, and the duration of the treaty, the Italian text of which was to be authoritative. The Chinese claimed the inclusion of articles dealing with the abolition of *likin*, the missionary question, morphia, currency, and extraterritoriality —omitting in the last-named article the reference to Roman Law made in the Italian text. After several meetings, at one of which the Italians withdrew the article calling for the equalizing of taxes on goods carried by native craft or by steamer or railway, the Chinese text of the treaty was amended to the satisfaction of both parties, after which it was referred to the Wai-wu Pu and the Viceroys. On 6th October, at a plenary session, the Chinese objected to the opening of Shaohsing and Wusih on the ground that the volume of foreign trade at these places did not warrant such opening, to which the Italians replied that the object was to remove difficulties in the purchase of cocoons. As they were unable to define precisely what these difficulties were the Chinese commissioners came to conclusion that what was really wanted was the opening of any port so that the treaty should not be a parrot repetition of the preceding treaties. As regarded sericulture, the Chinese agreed in principle that it should be encouraged and developed, but

[1] C.A. Desp. No. 5028, Shanghai Commer. to I.G.

objected to the inclusion of such an article in a formal treaty. They also declined to sanction the extension of time for the validity of transit passes covering silk cocoons. Thereupon the Italian chief delegate broke off negotiations, stating that as the Chinese had refused all the distinctively Italian requirements in the proposed treaty, and would consent only to articles similar to those already included in previous treaties nothing was to be gained by further discussions. Thanks, however, to the intervention of the three Customs representatives on the commission—Hippisley, Taylor, and de Luca—Major Nerazzini agreed to allow a respite of three weeks before informing his Government that negotiations had been broken off, on condition that the Chinese authorities should agree to the opening of branch Custom Houses at Shaohsing and Wusih, and would deal with the question of schools for sericulture by an interchange of notes to be attached to the treaty. The Wai-wu Pu and the Viceroy Chang Chih-t'ung were opposed to making any concession but Yuan Shih-k'ai was willing, in order to prevent a rupture, to allow the opening of a port on the same conditions as Changsha, and to the exchange of notes regarding schools of sericulture, which notes, however, were not to be annexed to the treaty. On this basis Major Nerazzini consented to a further ten days delay provided that the Chinese authorities should agree (1) to the opening of Nanking (南京) as a treaty port within six months of ratification, (2) to the exchange of notes regarding schools of sericulture, and (3) to undertake by exchange of notes—replacing a red letter of 1901 from Prince Ching—that China would not open mines or construct railroads in certain districts of Chekiang, or in the Western Hills near Peking, without first giving Italy the opportunity of providing the necessary funds and technical aid, and that no specially favourable position in Chekiang would be granted to any foreign Power, or the subjects of any foreign Power. On the advice of Mr. de Luca this last named condition was afterwards withdrawn. The reply from the higher Chinese authorities came at the last moment. It was a categorical injunction to the Chinese delegates to avoid compromise and to maintain their position. That ended the negotiations not only with Italy but also with all other Powers. The latter—especially, France, Belgium, and the Netherlands, who had draft treaties ready— realized that it would be mere waste of time to start treaty revision parleys, as China was obviously determined not to yield anything more than had already been

granted to Great Britain, the United States of America, and Japan, and as every nation entitled to most favoured nation treatment was in enjoyment of whatever advantages these three treaties had gained for foreigners without being bound by any promises regarding surtaxes for the abolition of *likin*, or any of the other matters dealt with in those treaties. The Chinese commission lingered on for a few months in a state of inactivity, and finally broke up early in 1907.

Control of Native Customs within 50 *li* of treaty ports by Inspector General.

§ 15. What gave promise of heralding one of the most far-reaching changes was the decision of the negotiators of the Peace Protocol that the Native Customs establishments within 50 *li* of the treaty ports should be placed under the administration of the Inspector General, in order that the revenue collected by these establishments should be devoted to help to pay the indemnity imposed. That meant interference with China's fiscal autonomy, and although the Protocol said nothing about the tariffs of the establishments —for the sufficient reason that the negotiators knew nothing about them—it was understood that the Inspector General should see to it that those tariffs should be made as productive as possible. Control of these Native Customs establishments was to begin on the same day as the introduction of the 5 per cent tariff, namely, 11th November 1901. Hart was more fully aware of the difficulty and danger of this development than the sanguine drafters of the Protocol, and although the proposal was one which fell in with his long-cherished ideal of a single Customs administration for China, controlling all Customs affairs both foreign and domestic, yet he did not allow the opportunity of advancing this ideal a step further towards realization to get the better of his customary caution. With 40 years' experience behind him, he realized that in this matter of taking over the Native Customs it was necessary to walk more warily than ever. He was not as in 1863 given authority to build up a completely new Service with full power of selecting what subordinates he pleased, but instead was entrusted with the task of assuming control over a number of widely scattered, decentralized, and semi-independent trade-taxing establishments, each with its own tariff or tariffs, and each with its own excessive staff, every man of whom had his own vested interests to care for. That staff would have to be dealt with and yet not antagonized. From his experience with the *likin* establish-

ments, placed under his control for the benefit of the Anglo-German Loan of 1898 Hart had learned that to avoid the Scylla of failure to deliver the *likin* instalments on due dates for the service of the loan and the Charybdis of official resentment and perhaps opposition, the wisest course was to leave the staff, organization, and procedure of the collecting establishments undisturbed, and to content himself with receiving from *likin weiyüan* in each district the monthly instalment due. This method, however, could not be pursued in the case of the Native Customs establishments. The terms of the mandate called for assumption of full control. Hart knew, too, that most of these establishments were centuries old and that in the course of their existence they had developed practices, now deeply rooted, similar to those which had flourished in the forties and fifties, and that the eliminating of these practices, essential as it was in revenue interests, would be a long and painful process. In fact, these Native Customs establishments which he was now called on to administer were the original Customs establishments in China, which, in the days prior to the establishment of the foreign-controlled Inspectorate had dealt with all sea and river borne trade both foreign and domestic, but which since then had been restricted to the control of native craft trading inland and coastwise. To reassure the staff Hart accordingly directed the Commissioners at the ports affected to remember that "for whatever work there is to be done old employees ought by preference to be employed, and the guiding principle must be to retain and not to oust the men of the former regime; in due course they will all fall into line, and only those who are indisputably inefficient or unnecessary are to be dispensed with."[1] This retention of redundant staff in the early years of Hart's administration of the Native Customs put a severe strain upon the maintenance allowance, which was fixed by the Government at one-tenth of the revenue collected; but the staff was got under control, put on fixed pay—in lieu of the former system of nominal pay and many perquisites—and became gradually less of an incubus through deaths, resignations, and elimination of those proved to be inefficient or corrupt. The emoluments and prestige of the Superintendents were also affected, so Commissioners were instructed to inform the Superintendents that "the contemplated transfer has not for object the ousting of a native and the introduction of a foreign

[1] I.G. Circular No. 993.

staff, but is forced upon those in authority by the necessities of the situation and the pecuniary difficulties of the Empire, and that the two branches of the revenue department, whether called native or foreign, belong to one and the same family, and must work together harmoniously, honestly and efficiently in the general interests of officials and people."[1] Commissioners were enjoined to make a thorough study of the working of the Native Customs offices entrusted to them, and to devise plans for re-organizing them, paying special attention to the interests of revenue and the encouraging of trade; Customs procedure, therefore, was to be as liberal as possible, and traders were to be made to feel "that conformity with, and not departure from, regulations is not merely their duty as law-abiding people, but is also what helps trade most."[2] Investigation soon showed that, of the 35 ports open to foreign trade in 1901, only 19 had "*douanes indigènes*"—Native Customs,—which the Diplomatic Body, the framers of the Protocol, defined as including every domestic trade-taxing office exclusive of *likin* and the Salt Gabelle. Considerable difficulty was experienced at various ports in getting the local authorities to acknowledge the validity of this definition, as, for instance, at Shanghai, where the Taotai insisted on retaining his hold over all non-sea-going junks and their cargoes. Difficulties were also experienced at some ports in agreeing upon what was to be included within the 50-*li* radius, as, for instance, at Kiukiang, where the Taotai at first refused to acknowledge that Kutang (姑塘), at the entrance of the Poyang Lake, was within such a radius, and at Amoy, where the Hai-fang-t'ing (海防廳) successfully resisted for years the inclusion of Chiobe (Shihma) (石碼) within this radius. At two of the ports affected, namely, Newchwang and Tientsin—the Taotais having disappeared during the Boxer trouble,—the Native Customs establishments had already come under foreign supervision other than that of the Maritime Customs. Ever since August 1900 the Russians had held the Native Customs establishment at Newchwang,[3] had reorganized it; and devoted the revenue to defraying the expenses of the military administration.[4] This control lasted till the Japanese ousted Russia from South Manchuria in the war of 1904-05 and placed the Native

[1] C.A.: I.G. Circ. No. 986

[2] C.A.: I.G. Circ. No. 968.

[3] B.P.P. *China No. 2 (1904)* No. 37, Inclosure, Extract from the Russian *Messages Official* p. 19.

[4] *Ibid.* No. 43, Inclosure Memorandum by Mr. Tower, p. 31.

Customs at Newchwang under their own administration with, however, a Japanese Commissioner lent to them by Hart to act as head of the establishment. The Japanese administration continued the Russian practice of appropriating this Native Customs revenue for their local expenses. This arrangement continued till the spring of 1907, when, in accordance with agreement, the Japanese authorities in Newchwang handed over control to the Taotai, and the Native Customs came at last under the Commissioner's supervision. At Tientsin, in the absence of all Chinese authorities, the allied commanders had formed in July 1900 a Provisional Government, to which was entrusted the civil government and policing of the Chinese city of Tientsin and its suburbs, excluding, of course, the foreign concessions, arsenals, camps, railways, etc., already in the occupation of the allied troops. This Provisional Government consisted of a Council of Administration, on which at first there were three councillors, a number later on increased by international jealousies to seven. The various necessary departments, such as police, justice, sanitation and public works, and finance, were created, and an efficient administration was soon in full working order. The head of the finance department was the treasurer, Mr. C. Rump, a man of considerable financial skill and knowledge of Chinese fiscal conditions. The main source of the Council's income was the revenue formerly appertaining to the Native Customs. This establishment was taken over by the Council under Mr. Rump, and thoroughly reorganized with a mixed staff of foreigners and Chinese. The Provisional Government was dissolved on the 15th August 1902, when its records, accounts, bank balances, contracts, and works were handed over to the Viceroy Yüan Shih-k'ai. In the transference of the Native Customs to the Commissioner's control it was arranged that the terms on which the staff was taken over should not be continued beyond the end of 1903. As the Wai-wu Pu delayed in deciding what should be done with this staff, Hart gave Detring instructions to place the Deputy Commissioner, Mr. F. W. Mayers, in charge, and called on the latter to report in detail on the working of the establishment and on the qualifications and record of each member of the staff. Eventually, in the autumn of 1904, most of the staff was incorporated in the Customs Service, and the Tientsin Native Customs, with its very considerable revenue, came under the conditions laid down in the Protocol. Long before this, however, a radical change had taken place in the disposal of the

Native Customs revenue from all ports. "The diverting of this revenue from its previously fixed uses created practical difficulties, and Li Hsing-jui (李興銳), Governor of Kiangsi, was only acting as a representative spokesman for many of his fellow Governors when, early in 1902, in a Memorial to the Throne, he pointed out that if the financial stipulations of the Protocol as regards the Native Customs revenue were carried out literally, then the remittances usually made from that revenue to the Imperial Household, as well as to various Government Boards and other objects, would have to cease. The Emperor ordered the Hu Pu to consider the matter. The Hu Pu referred it to the newly created Wai-wu Pu, and the decision affecting all Native Customs establishments was that the Indemnity payments were to be provided for out of provincial quotas, that the ordinary appropriations of the various Native Customs collectorates were to remain in force, and that only the surplus of these collections should be remitted to Shanghai. This decision, as the Inspector General pointed out, was not in accordance with the terms of the Protocol. At the same time he expressed the opinion that, so long as there was no default, the procedure would probably meet with no objection from the signatory Powers.[1] From that date till the Revolution in 1911 there was no default; but the shock of that upheaval rapidly brought on general paralysis in trade and business, and the provincial quotas for the indemnity service automatically ceased. This naturally led to the assertion of complete control by the Inspector General over the Native Customs establishments within 50 *li* of the treaty ports, a control which up till then it had not been necessary to insist upon. The stoppage of the provincial quotas and the general uncertainty caused by widespread political disorder convinced the Peking authorities that the safeguarding of their own interests, as well as those of the Boxer Indemnity demanded a strict adherence to the terms of the Protocol regarding Native Customs administration."[2] The drafters of the Protocol had reckoned on a collection of Hk. Tls. 5,000,000 a year, but this expectation was not realized, due partly to over-estimate but largely to the fact that, owing to the Government's action on the representation made by Governor Li, the work of carrying out thorough-going reform was not pressed forward as quickly as otherwise it would have been. In 1905 the total Native Customs

[1] C.A. I.G. Circular No. 1040: enclosed Chinese correspondence.

[2] *China's Customs Revenue since the Revolution of 1911*, pp. 181, 182.

collection from these intra-50-*li* collectorates was Hk. Tls. 3,628,937, and in 1910 it stood at Hk. Tls. 2,976,571. Thorough going reform came in the years after the Revolution, and its effects were soon seen on the revenue, which from then on was actually collected and remitted by the Inspector General's staff. In 1912 the intra-50-*li* Native Customs collection stood at Hk. Tls. 2,545,016, in 1920 at Hk. Tls. 4,385,535, and in 1929 at Hk. Tls. 4,567,403. The explanation of the increase of more than 72 per cent in the 1920 collection over the figure for 1912 will be found in the efforts made from 1912 on to acquire a firmer hold over the collecting staff, and to assimilate Native Customs administrative methods more closely to those of the Maritime Customs. Early in 1914 the Government decided that as control had by then been well established, and as more revenue was needed, a uniform Native Customs tariff should be drawn up for enforcement, if possible, throughout the whole country.[1] The proposal was that the rates of this tariff might as in the tariffs in force at the Tientsin and the Newchwang Native Customs, be equal to half Maritime Customs rates, that is, for Chinese goods half of the rates given in the 1858 general tariff, and for foreign goods half of the rates in the revised import tariff of 1902.[2] The investigation then made, and the tables prepared, showed that such a uniform tariff was impracticable. There were too many deeply rooted diversities of tariff practice, both in the average weight of the rates levied, and in the rates charged on the same classes of goods in different districts. In some places, indeed, Kiukiang for instance, the tariff was of the simplest nature, consisting mainly of a levy graded on the carrying capacity of a junk irrespective of the goods carried, except in the cases of tea, timber, and salt on which special duties were charged; while at other places many of the tariff rates in force—even with the addition of irregular levies and fees—were much lower than the rates proposed by the Government. There was nothing surprising in this as the greater part of the Native Customs trade was purely a local trade having no bearing on the foreign trade of the country. To wipe out all this long established diversity, and to substitute for it a uniform tariff, which in the main would have borne much more heavily on native, and especially local native trade, than the existing tariffs would have been to

[1] C.A.: I.G. Circ. No. 2206.
[2] C.A.: I.G. Circ. No. 2240.

court disorder and disaster. The Government decided to leave well, or ill, alone. The addition of the extra-50-*li* collectorates at Wuhu, Fengyang (鳳陽), and Yangyu (揚由) from the 16th June 1929 brought the total revenue from Native Customs sources actually collected by the Customs Service in 1930 to Hk. Tls. 6,605,540. On the 31st December 1930 all extra-50-*li* Native Customs establishments and levies were abolished,[1] and on the 1st June 1931 the same fate was meted out to all intra-50-*li* Native Customs.[2]

Opening of Customs at Dalny (Dairen).

§ 16. Manchuria, home of China's reigning dynasty, had loomed large during the Boxer trouble, and as Russia made no secret of her designs in that region, and as such designs clashed with Japanese interests, it was clear that whether China liked it or not[3] these two rivals were bound sooner or later to settle their differences by fighting on Chinese territory. Before that fight broke out, however, the American and the Japanese treaties of 1903, by calling for the opening to trade of Antung, Tatungkow, and Moukden, had made it clear that the trade of that vast and rich area was not then to be made a close preserve for any one country. During the whole of 1903, and up to the outbreak of the Russo-Japanese War in 1904, Hart, had been negotiating with M. Pokotilow, the Russian Minister, and his successor M. Posdneef for the establishing of a Chinese Custom House at Dalny, on lines similar to those obtaining at Kiaochow. The negotiations were necessary for a determined attempt was being made to russify the Chinese Customs establishments in Manchuria. To forestall threatened compromising action Hart had already in 1903 appointed a Russian, Mr. N. A. Konovaloff, to be Commissioner at Newchwang, and was ready on certain terms to appoint a Russian Commissioner at Dalny also; but the would-be builders of Russia's Asiatic Empire wanted more. They demanded a Russian Inspector General of Customs for Manchuria alone, and Russian Commissioners also at Moukden and Antung.[4] They went further, Early in January 1904 Mr. Protassieff, the Chief of Financial Affairs at Port Arthur, who expected to be Commissioner at Dalny, appointed his own nominee to be in charge of the Native

[1] C.A.: I.G. Circ. No. 4158.
[2] C.A.: I.G. Circ. No. 4240.
[3] U.S. For. Rel. 1905, p. 818.
[4] B.P.P. *China No. 2 (1904)*, Sir E. Satow to the Marquis of Landsdowne, 28th September, 1903, p. 95.

Customs at Newchwang, ousting thereby the Maritime Customs assistant who was then supervising that establishment under the direction of the Maritime Customs Commissioner at Newchwang. Ever since the diplomatic wrangle over a guaranteed loan to China in 1898, when Great Britain had proposed the opening of Dalny (Talienwan) as a treaty port,[1] Russia had been suspicious of suggestions for the control of trade by the Chinese Customs within the leased Liaotung territory. In May 1903 a project of agreement had been handed to Hart by the Russian Minister. To this project Hart objected, as it proposed that the Commissioner at Dalny should be appointed, transferred and dismissed by agreement between the Chinese Eastern Railway authorities and the Inspector General. Hart pointed out that, as the railway company's rights were dormant, the Russian Legation should be the consulting authority, with whom an understanding should be reached in the case of appointing a new Commissioner. Transfer and dismissal were, of course, matters which concerned only the Service. Further, he wished a clause to be inserted providing for the levy of full and a half duty on all Chinese goods, and of full import duty on all foreign goods, passing through Dalny if not provided with a duty-paid certificate. The project also provided for the issuing of permits to vessels to ply from Dalny to non-opened ports, to which Hart pointed out that this proposal was not in accord with the Inland Waters Steam Navigation Regulations, as Dalny was a foreign and not a treaty port. Hart also declined to entertain the suggestion, embodied in the project, that the Customs should repay to the railway company all the expenses connected with the preliminary work of establishing a Custom House at Dalny. Before the Hart-Pokotilow negotiations, however, could reach a conclusion the Russo-Japanese War had broken out, and on the 30th May 1904 Dalny —thenceforward to be known as Dairen—was occupied by the Japanese. By the Treaty of Portsmouth, signed on the 5th September 1905,[2] it was agreed (Article III) that both Russia and Japan should evacuate Manchuria, which was to be restored to Chinese administration. An exception was made, however, of the leased territory in the Liaotung Peninsula, which was to be transferred to Japan. Hart was now free to resume negotiations for the opening of a Chinese Custom House in

[1] B.P.P. *China No. 1 (1898)*, pp. 11, 16, 21.
[2] For text, *vide* MacMurray, *op. cit.*, Vol. 1, pp. 522-526.

Dairen, this time with the Japanese Minister, Mr. Y. Uchida, and later with Mr. G. Hayashi. These negotiations resulted finally in an agreement, signed on the 30th May 1907,[1] by which it was arranged that a Chinese Custom House should be established in Dairen under a Japanese Commissioner, and with a staff as far as possible composed of Japanese, to control goods passing in and out of the leased territory. By this agreement goods imported for consumption in the leased territory were to be free of duty, as were also exports raised in, or manufactured from produce raised in, the leased territory. Articles manufactured in the leased territory from materials brought there from the interior of China were to pay the same duty as was in force for similar articles made in the Kiaochow leased territory. Chinese goods from treaty ports were to enter the leased territory free of duty, but on leaving that territory they were to pay according to existing treaties. Duty-paid Japanese, or other foreign, goods on being re-exported from a treaty port to Dairen were to have such duty refunded by drawback on re-export, and were to be exempt from duty as long as they did not pass the Japanese frontier into the interior of China: such goods if sent to foreign countries direct from Dairen were to be free of export duty. This Custom House at Dairen was also —in the absence of a Customs Taotai—authorized to issue transit passes, inwards and outwards, and to levy the recognized transit dues. It was likewise empowered to issue inland waters steam navigation papers for steamers plying to inland places outside the leased territory. This agreement has never been abrogated formally, but the installation on 17th February 1932 of the Manchoukuo règime at Changchun threatened its continued operation, a threat which became action when during June of that year the Chinese Custom House in the leased territory of Dairen shared the fate of the other Chinese Custom Houses at the treaty ports of Manchuria, and passed under Manchoukuo administration. Antung and Tatungkow were opened to trade on the 14th March 1907, and later on in 1911 an agreement was reached for the Customs control of railway traffic over the Yalu river. Proximity to Corea, an extended river frontage and the existence of a large Japanese concession at Antung in which, it was maintained, the Chinese Customs could function only by courtesy, afforded plenty of opportunities to Corean hooligans to carry on extensive smuggling operations both into the Japanese concession and into and from Chinese

[1] *Treaties, Conventions*, etc., *op. cit.*, Vol. 1, pp. 634-637.

territory. This smuggling was intensified by the greatly increased rates of the first national import tariff of 1929, and became so rampant and so recklessly brutal that the Customs finally were obliged to organize a guard for the protection of Customs examiners and tidewaiters in the discharge of their duty. The Japanese authorities, as a rule, did what they could to cooperate in the suppression of this evil.

Opening of Moukden. Proposed introduction of railway bonding system in Manchuria.

§ 17. The opening of Shengyang, or Moukden as it was then usually called, as a place of international residence and trade was provided for by both the Amercian and the Japanese treaties of 1903. Owing to the Russian occupation and to the subsequent Russo-Japanese war nothing could then be done to give effect to these provisions. Even upon the close of the war no official opening could be held until after the evacuation of the Japanese army of occupation which took place in 1906. As soon as the foreign Consuls took up their residence in Moukden, a controversy at once arose between the Treaty Powers and the Chinese Government on the exact interpretation to be placed on the treaty terms opening Moukden as a place of international residence and trade. The Chinese text contains the expression 由中國自行開埠通商 and on the strength of it the Chinese maintained that Moukden and the other Manchurian marts were not treaty ports in the usual sense, but simply inland cities, in specified areas of which foreign trade and residence would be permitted under regulations to be drawn up by China herself. Foreign goods might be brought into these areas on the payment of the tariff import duties, but if moved out again, except abroad or to a treaty port, would be liable to the *likin* taxation of the province. The foreign Governments concerned refused to accept this view, claiming that the term "inland mart" connoted the whole of each open city and its suburbs, within any part of which foreign goods might be delivered upon payment of duty. This controversy was never decisively settled, the Chinese Government consistently refusing to recognize Moukden as having the status of a treaty port. In order, however, to enable foreign goods to reach their destinations without being mulcted for *likin* or other inland charges while *en route* the system of Manchurian Special Exemption Certificates was introduced on the advice of the Inspector General.

The regulations for these certificates were first promulgated in December 1907, and, with later amplifications, provided for the payment of tariff import duty on foreign goods declared for these marts, such duty to be levied on entry at certain specified treaty portz, viz. Tientsin, Newchwang, Antung, Dairen and Chinwangtao. Such certificates were also to be valid for similar goods when sent by rail from Harbin, Sutfenho, Manchouli and Aigun. These certificates freed the goods covered from further taxation *en route* to their destination, the exact area covered by that destination being left undefined. For twenty years these Special Exemption Certificates continued to be issued but in October 1926 the Fengtien authorities, looking round for additional revenue, requested the Peking Government that the issue of these certificates be abolished, on the ground that their use defrauded the provincial treasury. In December of that year the Government decided to accede to this request, and accordingly instructed the Inspector General to cease issuing Manchurian Special Exemption Certificates as from 16th January 1927. The Inspector General pointed out the difficulties of enforcing such an order, but the Government stood firm. By November 1927 Antung and Newchwang were no longer issuing such certificates, but Dairen still continued doing so. Early in 1920 the Japanese Chamber of Commerce at Moukden petitioned the Japanese Consul General that in view of the trade development that was then taking place it would be a decided advantage if bonded warehouses could be established at Moukden and Customs facilities there be so extended that all Customs requirements could be complied with on the spot. The idea of the petitioners was that the introduction of the bonding system at Moukden would enable them to receive their imports in sealed bonded cars, free from examination and payment of import duty at port of entry, to store these goods in a bonded warehouse, and to withdraw them from bond as required. Similarly, they desired to be able to condition and pack their exports ready for shipment abroad, to pay export duty on such at Moukden, and to have them sent in bonded cars to port of shipment, whence they could be despatched abroad without further examination. On hearing of this action the American Minister at once requested the Chinese Government to authorize the establishment of bonded godowns at Moukden for the use of merchants of all nationalities, and to permit any American merchant, who might so desire, to establish a private bonded godown according to treaty stipulations. By way of

reply, the Shui-wu Ch'u instructed the Inspector General to proceed with the matter and to draw up the necessary regulations. A preliminary investigation was accordingly made by the Moukden Commissioner, who also drew up and submitted a set of bonding regulations; but discussions with the Provincial Treasurer soon showed that the local financial authorities were apprehensive that the proposed innovation would affect adversely the provincial revenue. Furthermore, the Provincial Treasurer contended that before a bonding system could be established and put into operation the status of Moukden would have to be clearly defined. As yet it was not a treaty port but only a trade mart, and a trade mart too of undefined area. Negotiations, however, with the South Manchuria Railway in regard to proposed transport regulations for goods in bond were continued, and in November 1921 two delegates from the head office of the Railway at Dairen visited Moukden and discussed suggested amendments of these regulations with the Commissioner in the presence of the Japanese Consul-General. By March of the year following (1922) the regulations were in so acceptable a form that the Inspector General ordered their submission to the Harbin, Antung, Dairen, Newchwang, and Tientsin Commissioners for comment. By July complete agreement had been reached between the South Manchuria Railway and the Moukden Commissioner in regard to these transport regulations for goods in bond, and the Railway requested that they be put into force at once without waiting for similar agreement with the Peking-Moukden and the Chinese Eastern lines. When placing these suggested transport regulations before the Shui-wu Ch'u the Inspector General reminded them of the Government's instructions that bonding regulations for Moukden were to be drawn up, and pointed out that to do this necessitated agreeing upon transport regulations with the South Manchuria Railway to secure proper Customs control of goods in transit, and expressed the hope that the regulations now submitted would be approved. He also pointed out that before going further with regulations for the bonding of godowns in Moukden, it was essential that the status of Moukden and the mart should be clearly defined; for, if bonded godowns were to be established merchants would be entitled to pay import duty there and to apply also for the issue of transit passes and exemption certificates. While the Government was deliberating what further action should be taken, the Harbin Commissioner widened the area of discussion by putting forward a draft of suggested regulations for the

transportation in bond by rail of foreign goods from treaty ports in north Manchuria to treaty ports in south Manchuria and China proper, with transhipment at Changchun and if necessary also at Moukden. These regulations were subsequently discussed at a conference held at Changchun in July 1923, at which representatives of the South Manchuria Railway, of the Chinese Eastern Railway, and of the Chinese Customs were present. By July 1924 both the railways had reached agreement on the regulations for this bonded rail traffic from north to south Manchuria, and the Inspector General submitted them to the Shui-wu Ch'u with the request that they be approved as early as possible. This approval was given, as was also the approval of the Moukden Superintendent in June 1925, and that of the Harbin Superintendent in the same month. In August of that year the Antung Superindendent was instructed to facilitate their enforcement at this port, and in the same month the Dairen Commissioner was instructed to lay a copy of the proposed regulations before the Kwantung Government, and to point out at the same time that they had already been submitted by the South Manchuria Railway to the Japanese authorities in Tokyo concerned with South Manchuria Railway interests, by whom they had been approved. This submission of the regulations to the Kwantung authorities was necessary, as the Dairen Commissioner had pointed out that the proposed procedure for transportation in bond would have to be adjusted to the terms of the Agreement concerning the Establishment of a Maritime Customs Office at Dairen and the Provisional Customs Regulations for the Leased Territory of Kwantung. Article V of this Agreement reads thus:—

> "On merchandise brought by sea to Dairen no import duty shall be levied. Import duty, according to existing treaties, shall be levied by the Maritime Customs Office on all merchandise or products passing the Japanese frontier of the leased territory into the interior of China."

The interpretation placed on this was not simply that import duty is payable on such goods, but that it shall be paid in Dairen and nowhere else. This was naturally a matter of very considerable importance to Japan in case at any future time the import trade passing through the Kwantung leased territory should be placed on precisely the same status as that at Kiaochow, and made to contribute a quota to the Colonial Government. Early in September 1925 the Governor of

Kwantung, Count Kodama, referred the matter to his Foreign Minister at Tokyo; but to this day the reply to that reference has not been made public. What we do know is that the proposed regulations for the transportation of goods in bond over Manchurian railways were never put into effect, and the reasons for this were:—

(1) Lack of official approval from the Kwantung authorities and the Japanese Foreign Office;

(2) The serious political disorder which upset the whole of Manchuria and north China during the autumn and winter of 1925 and the spring and early summer of 1926;

(3) The holding of the Tariff Conference at Peking from October 1925 to July 1926, a conference which was expected to discuss and give decisions on all the main outstanding tariff and Customs questions;

(4) The summoning of the Sino-Soviet conference in August 1925, committee No. 3 of which had to deal solely with the problems of the Chinese Eastern Railway; and

(5) The serious dispute which occurred in February 1926 over the Chinese Eastern Railway, and which led to a change in administration.

The question of the status of Moukden was raised once more in the summer of 1929 by the Kuomintang Government, but tension between Marshal Chang Hsüeh-liang (張學良), then Governor of Manchuria, and the Japanese authorities precluded a decision. The Moukden incident of September 1931 and its consequences relegated the question to the limbo of impractical politics.

Opening of Harbin, Aigun, Hunchun, and Lungchingtsun.

§ 18. So long as her sway in Manchuria was not seriously threatened, Russia was strongly opposed to the opening of a Chinese Custom House in Harbin, the chief nerve centre in Russia's railway system in Manchuria, a town which in a few years had grown with mushroom rapidity from a petty Chinese village into a bustling modern town with extensive railway works and yards, a commodious railway station, a branch of the Russo-Asiatic Bank, barracks, a hospital, a cathedral, a hotel, flour mills, shops, warehouses, and residences, and a foreign population of over 35,000. The decision of the war with Japan altered the Russian attitude towards the opening of a Chinese Custom House at Harbin. Accordingly early in 1907 Mr. N. A. Konovaloff was sent there as the first Commissioner of Customs,

and at the same time a mixed commission of Chinese and Russian officials was appointed to draw up provisional regulations for Customs control and assessment of duty on merchandise entering and leaving China by the Chinese Eastern Railway. This commission commenced its duties on 10th March 1907, but it was not till January 1908 that, as a result of its labours, the Chinese and the Russian Governments reached the understanding that collection of duty might begin at the frontier stations of Manchouli (滿洲里) and Suifenho (綏芬河) although the provisional regulations were not finally settled, provided that the articles still in dispute would be applied according to the interpretation of the Russian delegates. Commencement of Chinese Customs work took place at Manchouli on 5th February, 1908 and at Suifenho on the 11th of the same month. When work began at these frontier stations it quickly became evident that the handling of goods *en route* in the absence of owners, agents, or experienced packers only led to frequent, and sometimes acrimonious, disputes. The merchants were the first to advocate the removal of Customs work to Harbin, and in this they were supported by the Chamber of Commerce, but opposed by the higher Russian authorities. In December 1917, however, in consequence of the conditions of potential disorder engendered by the Russian revolution Chinese troops occupied Harbin, and the whole district reverted to Chinese control. In these circumstances the Commissioner had no difficulty in arranging that goods entering Chinese territory through Manchouli or Suifenho could be examined at Harbin provided they arrived there in cars duly sealed by the Customs at these frontier stations. Shortly after Customs work had been started at Manchouli and Suifenho the question arose regarding the establishment of Custom Houses at Sansing (三姓) on the Sungari and at Aigun (愛琿) on the Amur, both of which places China had agreed to open by the Manchurian Convention of 1905 with Japan. Control of Trade on the Sungari from Harbin to the Amur was essential, and the Chinese authorities decided that this should be taken in hand as quickly as possible. An understanding was accordingly reached with the Russian authorities, and the River Customs at Harbin, Sansing, and Lahasusu commenced operations on 1st July 1909. As the regulations then put into force proved unacceptable to the Russian authorities, negotiations took place both at Harbin and Peking. Eventually, the regulations were accepted provisionally by the Russian Legation, with the proviso that the points to which objections had been raised should be modified later. In

December 1909 a Russo-Chinese commission took up the discussion of the Sungari regulations, and six months later the matter was referred once more to Peking, where on the 23rd August 1910 the Provisional Customs Regulations for the Control of Vessels' Movements Import and Export of Goods on the Sungari River were signed. Under these regulations duties on exports and imports were to be levied in full according to the rates of the general tariff of 1858 and the revised import tariff of 1902 respectively. Provision was also made that in lieu of tonnage dues a system of river dues should be introduced and that such dues were to be levied according to the nature and quantity of cargo and the distance over which it was carried. The Aigun Custom House as a branch office of the Harbin Customs was opened on 1st August 1909 and continued to function in that capacity till the 1st October 1921 when it was raised to the status of a separate port independent of Harbin and under its own Commissioner.[1] The influx into the Chientao (間島) of Corean farmers, hunters, and trappers had long been a burning question before the Governments of China and Japan finally agreed by the Chientao Convention of 1909 or China-Corean Frontier Agreement to recognize the Tumen river as the boundary between Corea and China, and to open Lungchingtsun (龍井村) along with three other places to foreign residence and trade. A Chinese Custom House was accordingly opened here on 1st January 1910, but was made subordinate to the Hunchun (琿春) Customs.[2] It remained in this subordinate position till July 1924 when the head office was transferred to Lungchingtsun,[3] while Hunchun—at which in accordance with the Manchurian Convention of 1905 a Custom House had been opened on 27th December 1909—fell into the position of a branch office. The reason for this deposition of Hunchun was the advent in 1923 of the T'ien T'u (天圖) light railway which running through Lungchingtsun to Yen Chi Fu (延吉府) connected both places with the frontier district of Kaishantun, and thence through Kainei (Hui Ning 會寧) to the Corean port of Seishin. This and the political antagonism between China and Russia which finally in March 1923 killed the formerly flourishing land trade between Hunchun and the Primorsk definitely displaced Hunchun from its position of leadership.

[1] C.A., I.G. Circ. No. 3203.
[2] C.A., I.G. Circ. No. 1857.
[3] C.A., I.G. Circ. No. 3514.

Establishment of a Customs controlled harbour area at Tsingtao. Grant of 20 per cent of import duties collected at Kiaochow to Colonial Government.

§ 19. We have already noticed[1] that the original agreement of 17th April 1899 for the establishment of a Maritime Customs Office at Tsingtau[2] was not altogether a success. Its aim had been to provide a Customs procedure which should attract Chinese merchants to the leased territory, at that time inhabited only by fishermen with a petty junk trade. It soon become clear, however, that if this object were to be attained the conventional method of the Customs functioning only at the frontier would have to be modified, seeing that Chinese merchants preferred to be near to the Chinese Custom House, on Chinese territory, and under Chinese laws and regulations with which they were familiar. The German Colonial authorities naturally did not wish to see a Chinese town springing up on their frontier to the detriment of their port, nor did German merchants welcome the loss of time and increased expense it would involve in having either to establish branch offices at this frontier town, or to go there every time they wished to carry out trading transactions. For the Chinese authorities, too, this frontier method was objectionable as, in order to prevent smuggling on a large scale especially in arms and opium, it would be necessary to create an expensive preventive service both ashore and afloat, and with the experience of Hongkong behind them they knew what that meant. It was in these circumstances that both parties decided to try the experiment of a free harbour area, within which the Chinese Customs should function under the conditions laid down in the 1899 Agreement, examining imports and exports and charging duty on all dutiable goods leaving or entering the area. In return for this concession the Chinese Government agreed to allow the German Colonial Government 20 per cent of the import duties collected. To regularize this it was necessary to draw up an amendment to the 1899 Agreement, and this amendment—having the same force as the original agreement—was duly signed on 1st December 1905.[3] To implement this amendment the Colonial Government on the following day passed an ordinance regulating procedure in Customs matters in Kiaochow territory.[4] This experiment was a success. It gave the Customs

[1] *Antea* Chap. IV, §25, p. 342.
[2] *Treaties, Conventions,* etc. *op. cit.* Vol. 2, pp. 215-218.
[3] *Treaties, Conventions,* etc., *op. cit.* Vol. 2, pp. 221-224.
[4] *Ibid.*, pp. 225-236.

(*a*) the goodwill and assistance of the Colonial Government, (*b*) complete control of the entire shipping, foreign and Chinese, at Tsingtao and at the junk anchorages in the Kiaochow district, (*c*) control of imports of arms, munitions, and opium all of which were stored in a Customs godown, (*d*) release from necessity of providing an expensive preventive service, and (*e*) increase in trade and revenue arising from facilities possible under a Custom House functioning within the harbour area and not at the frontier. On the other hand, the German Colonial Government gained by it (*a*) cordial relations with the Chinese provincial authorities, due largely to the absence of questions regarding violation of the frontier by smuggling operations, (*b*) a considerable influx of Chinese merchants with consequent development of the town, trade, and port of Tsingtau, (*c*) free trade between the leased territory and the hinterland, nothing paying duty except what passed in or out of the Customs controlled area at the harbour, (*d*) facility for merchants to sort, recondition, and pack their export goods before payment of duty, (*e*) free exportation of produce raised in the Colony and of goods manufactured therefrom, (*f*) duty-free treatment of stores and articles required by the Colonial Government, and by the German naval and military authorities, of machinery, implements and tools required for manufacturing, industrial, and agricultural purposes, of building materials for official works, and of passengers' luggage, and, last but not least, (*g*) a contribution to the Colonial Government, paid quarterly, of 20 per cent of the import duties collected, which was interpreted to include a similar percentage of the coast trade duty and of the junk trade import duties, to which was added later 50 per cent of the duties on junk-borne fruit less a collection fee of 2½ per cent. The success of the experiment was beyond question. All parties were satisfied, and it undoubtedly aided Tsingtau to rise from being a mere fishing village, with no trade worth mentioning, to the proud position of one of the premier ports on the China coast. By 1921 in the value of its foreign import trade it stood seventh among all the treaty ports, and sixth both in the value of its export of Chinese produce to foreign countries and in the amount of revenue collected on foreign trade. In the spring of 1907 it was decided that there should be an agreement on a more detailed procedure than that outlined in section IV of the amendment regarding the duty treatment of goods manufactured in the German territory. The outbreak of the Great War prevented this procedure and the resulting Colonial

Ordinance[1] from being fully utilized. Beyond a well-known brewery no factories worth mentioning were established. From the 31st October 1914, when the fortunes of war left the Japanese in possession of Kiaochow, to 1st June 1922, when the place was restored by the Japanese to China, the Japanese administration, as the residuary legatee of the previous German administration, received the 20 per cent deductions from the import duties. During the negotiations for the rendition of the district to China the funds from these percentages were up to 31st January 1923 used for the maintenance of the Commission for the Rehabilitation of Shantung Rights, and from that date till 31st January 1930 they were handed to the Kiaochow Municipality to maintain the public services of the town. For two years after this—1st February 1930 to 31st January 1932—the Municipality received from the Ministry of Finance, in lieu of these percentages, a fixed appropriation of $50,000 a month.

Opening of Kongmoon. Privileged Chinese traffic on West River. Revision of West River regulations.

§ 20. It's a far cry from Manchuria and Kiaochow to the West River, Canton, and Hongkong, but the same treaties which called for the opening of Antung and Moukden called also for the opening of Kongmoon and for the establishing of ten passenger stages on the West River, as well as for a sweeping extension of steam navigation in inland waters. This foreboded complications in the Customs control over shipping on the West River,—a waterway which for generations had held an unenviable reputation for lawlessness. The delta was an ancient haunt of pirates, while the whole district through which the West River flowed was famous as the nursing home of brigands. The ink was hardly dry on the Mackay treaty before the Viceroy of the Liang Kwang Ts'en Ch'un Hsüan (岑春煊) had to conduct a punitive expedition into Kwangsi to curb the freebooting activities of some of his subjects, an operation which he was obliged to repeat within less than two years, this time with drastic severity. Canton—to whose inhabitants defiance of authority was a cherished tradition—had been a treaty port for over sixty years, and during those sixty odd years had given ample proof that however admirable Customs regulations in themselves might be, they could always be circumvented.

[1] *Treaties, Conventions, etc., op. cit.* Vol. 2, pp. 237-247.

Samshui (三水) and Wuchow (梧州) as treaty ports had been opened since 1897, with the right of direct trade from Hongkong to Wuchow *via* Samshui, while at the same time Kongmoon (江門), Komchuck (甘竹), Shiuhing (肇慶), and Takhing (德慶) were declared to be ports of call under conditions similar to those obtaining for such ports on the Yangtze.[1] In the year following (1898) the inland waters of China were thrown open to steam navigation,[2] and a situation which, under general regulations and port of call rules, had been simple and susceptible of control now rapidly developed into one of complexity, confusion and irregularities, made all the more so by the fact that the Native Customs establishments along the river, at which Chinese steam launches with their tows could enter and clear paying Native Customs rates, still functioned under the provincial authorities.[3] In the mind of merchants and shipowners there was no doubt that they could now enjoy complete freedom of steam navigation, and this opinion was seemingly confirmed by the action of the Canton Commissioner in at first, for about six months, permitting steamers on the Canton-Wuchow run to trade not only at the treaty ports and ports of call but at other inland places as well. In practice this meant that steamers on the West River were trading under the general regulations and the special inland waters regulations at one and the same time. This bred confusion and led to much discussion in regard to the duty treatment of Chinese produce when carried between treaty port and an inland place *via* another treaty port. Then came the amended and supplementary inland waters regulations with the ruling that in such a case such produce was liable to Maritime Customs export and coast trade duties as well as to the levies charged by the provincial taxing authorities on the produce when *en route* between the treaty port and the inland place. At the same time it was also laid down that a steamer taking out an inland waters certificate could proceed to the inland places specified, but was to return to the treaty port for cancellation of the certificate and resumption of her status as a trading vessel under general regulations. Foreign, especially British,[4] mer-

[1] Burma Frontier and Trade Convention, Special Article, *Treaties, Conventions, etc., op. cit.* Vol. 1, p. 538.

[2] *Antea* Chap. IV, 24, p. 359.

[3] B.P.P. *China No. 1 (1900)*; Memorandum of 8th August, 1899 by Consul G. Jamieson, p. 233.

[4] Letters of 28th March, 1899 and of 5th February, 1901 from Messrs. Jardine, Matheson & Co., Messrs. Butterfield & Swire, and the Hongkong, Macao and Canton Steamship Co. to H.B.M. Minister, Sir E. Satow.

chants protested strongly against these restrictive measures, alleging at the same time that Chinese steamers on the West River evaded them by towing junks and lighters between Canton and Wuchow, which made a regular practice of stopping to trade at ports of call and inland places *en route*. As the Native Customs establishments at the treaty ports were not yet under the Inspector General this procedure was both possible and legitimate. The merchants pointed out that cassis, which was brought in large quantities from up-country above Wuchow and which, having paid a tax of $0.78 per picul to the provincial authorities, was freed from all other taxation, clear through to Canton, if shipped by Chinese junk or lighter—even when towed—but which, if shipped by foreign steamer, would have to pay in addition export and coast trade duties at the Maritime Customs. There was also the question of direct trade between Hongkong and the West River ports, and here merchants desired that some arrangement might be made whereby duty leviable on cargo carried by foreign vessels from Hongkong to the West River ports could be paid at the first Customs station outside Hongkong. It was clear, then, that a revision of the West River regulations was urgently called for, and the opening of Kongmoon (江門) as a treaty port, which was fixed for 7th March 1904, not only afforded the occasion but also an additional reason for such revision. Accordingly, the Canton Commissioner, Mr. R. de Luca, after conferring with his colleague Mr. F. W. Maze, the Commissioner designate to Kongmoon, drew up a set of provisional regulations for the control of trade on the West River, and published them on 1st March in the Hongkong and Macao papers. This first draft of provisional regulations, consequent on the opening of Kongmoon, announced that the West River regulations of 1897 were still to remain in force where not affected by the new provisional rules, enumerated the six ports of call at which shipment and discharge of goods and passengers would be allowed, and the ten passenger stations at which steamers might land and ship passengers and their baggage; classified West River steamers into categories (*a*) local river steamers plying from Canton or Kongmoon to ports on the river without leaving Liang Kwang waters, and (*b*) foreign-going steamers from and to Hongkong and Macao, trading for the voyage up and down river; stipulated that vessels of the first class were to deposit their registers etc. with the relevant authorities at Canton or Kongmoon and take out a River Pass valid for a year, while vessels of the latter class were to enter

the West River either *via* Kongmoon or *via* Canton, if *via* Kongmoon they were to take the Motomoon (磨刀門), Broadway, route and report at the Mingchao station of the Lappa Customs to take out a Kongmoon Pass, which document along with their ships' papers they were to surrender at Kongmoon, if bound further up-river, taking out instead a Special River Pass entitling them to trade at any treaty port or port of call and to touch at any passenger station on the river; on the return journey they were to reverse this process. Steamers entering *via* Canton were to deposit their papers and take out a Special River Pass there. As regards duty treatment this first draft of provisional regulations provided that cargo from or for a foreign port for or from a treaty port was to pay duty at port of shipment, but if for or from a port of call it was to be reported and pay duty at either Kongmoon or Canton, while native produce shipped coastwise along the river if from a port of call to a treaty port, or *vice versa*, without passing another treaty port was to pay a full duty at port of discharge or shipment, but if passing another treaty port *en route* was to pay full and half duty on discharge or shipment. Native produce from a port of call to a port of call passing a treaty port *en route* was to pay a full duty at the treaty port passed. The Samshui Commissioner raised objections to these regulations on the ground that they affected adversely the collection of duty at Samshui on port of call trade; whereupon the three Commissioners at Canton, Kongmoon, and Samshui were instructed to cooperate in devising a procedure which would least obstruct trade and most protect revenue. Accordingly, after considerable correspondence, the three Commissioners met on 9th July 1904 at Canton and drew up a much fuller set of regulations. These differed from their forerunner in (1) abrogating all previous West River regulations, (2) specifying the four treaty ports on the West River at which merchant vessels of the Treaty Powers were authorized to trade, (3) stipulating that every vessel trading on the river must be provided with an arms certificate, (4) adding to the classes of trading vessels—inland waters steamers plying to permitted inland places, and small craft, lorchas, papicos, junks, etc., (5) according to Samshui the status of a port of entry, (6) adding Wangmoon (橫門) as a recognized channel of entrance to the river, (7) directing that any steamer entering by Wangmoon was to obtain there a Kongmoon-Samshui Pass and was to proceed without anchoring, landing or shipping cargo or passengers, direct to the treaty port indicated on this pass, where it

was then to deposit its register and receive a Special River Pass, (8) prohibiting under penalty the shipment and discharge of cargo by River Pass or Special River Pass steamers at places other than the recognized treaty ports of all, (9) calling for the payment of tonnage dues every four months, (10) laying down penalties for vessels taking other than the prescribed routes, for failing to surrender the Kongmoon-Samshui Pass on exit, and for infringement of river port regulations, and (11) detailing the procedure for lorchas and papicos owned by foreigners and for chartered junks. After having been approved by the Consuls concerned these amplified and amended regulations were put into force in the spring of 1905,[1] and with certain slight modifications, necessitated by altered conditions, have remained in force ever since. It is worthy of note, however, that interport duty —the modern successor of the abolished coast trade duty—is not levied on native goods carried by steamers plying between any of the treaty ports on the West River, these four ports being considered as inland places so far as this trade is concerned.[2]

Equalization of duties on junk-borne and steamer-borne goods at Hongkong. Introduction of taxes on spirits and alcohol to offset loss in opium revenue. Proposed Customs Agreement with Hongkong; drafts of 1911 and 1916.

§ 21. When passing through Hongkong *en route* to Shanghai for treaty negotiations Sir James Mackay was waylaid by the Hongkong merchants and enlightened by them as to what should be done in the interests of British trade, especially that of south China. They knew that there was to be a revision of the import tariff to bring the rates up to an effective 5 per cent duty, and had heard that other tariff changes might be arranged for especially in regard to the levy of *likin*. They were apprehensive that their growing trade might be adversely affected by such changes. In the years preceding the Opium Agreement of 1886, it will be remembered, Hongkong merchants and officials were indignant that the Chinese authorities levied higher duties on junk-borne cargoes to and from Hongkong—a foreign place—than they did on such cargoes to and from Macao, which at that time the Chinese treated as being still their territory. China, although within her rights in making such levies, had removed the grievance by granting the desired concession in the Agreement of 1886, and Hongkong trade had benefited accord-

[1] C.A., I.G. Circ. No. 1235.
[2] C.A., I.G. Circ. No. 5429.

ingly. Having reaped the advantage of the lowered junk rates the Hongkong merchants were now afraid that these lower rates might affect adversely the carrying trade in foreign steamers between Hongkong and the treaty ports in the province of Canton, when a higher import tariff on foreign goods going into China and possible alteration in the *likin* procedure were to be put into force. Accordingly an article was inserted in the Mackay treaty to the effect that "duties and *likin* combined levied on goods carried by junks from Hongkong to the treaty ports in the Canton province and *vice versa* shall together not be less than the duties charged by the Imperial Maritime Customs on similar goods carried by steamer." This article, though designed for application in a specified area, was in effect a recognition of the principle that the amount of taxation to be levied on goods should not vary with the mode of conveyance, a principle which in these days of greatly increased Maritime Customs rates has a wider significance than perhaps was envisaged by the framers of the article. But any attempt at equalization of duty rates so as to place steamers and junks on the same tax footing was bound to arouse opposition. A change of this nature—apart from the abolition of *likin*—would have meant the sweeping away of all Native Customs surcharges such as cancellation fees (銷號) and examination fees (驗頭), and as two-fifths of the latter went to the Hoppo and three-fifths to the staff some form of compensation was indicated. This proposed equalization also meant that if it was to be made effective throughout the Liang Kwang all the Native Customs establishments in these two provinces—not simply those within the 50 *li* radius of the treaty ports—would have to come under the Inspector General's supervision. At Canton at that time the rates of the import tariff in force at the Native Customs were much lower than the corresponding rates of the Maritime Customs, while the export rates—although nominally the same as those of the Maritime Customs—were also, even with the addition of fees, lower on account of the time-honoured reductions allowed on *ad valorem* goods. These special reductions, made to attract trade to junks, were even greater at other Native Customs offices in the Liang Kwang. This was especially true of Ch'en Ts'un (陳村) to which place the greater part of the Canton junk trade had already been attracted. As the famous *likin* and Native Customs article of the Mackay treaty never became effective the enforcement of equal and uniform duty treatment of all goods, no matter how carried, remained

an unattained ideal. While treaty revision negotiations were petering out at Shanghai, an event took place which was destined to affect vitally the relations between the Colony of Hongkong and the Chinese Customs. This was the issue of the Imperial Edict of 20th September 1906 ordering that within a period of ten years the evils arising in China from both foreign and native opium were to be completely eradicated.[1] This led to domestic coercive measures on the part of the Chinese Government for the suppression of the production and use of the home-grown article and to an agreement with the British Government for the gradual reduction and eventual extinction of the import of the drug from India.[2] Such an arrangement could not but have an adverse reaction on the Colony's revenue. Happily the relations between the Chinese Customs and the Hongkong Government had lost much of their former official stiffness, so that when the Colonial authorities decided to tax alcohol and spirits[3] in order, if possible, to make good the revenue that was being, or about to be, forfeited by the cessation of the opium trade it was felt to be natural that the Colony should seek China's assistance in the matter. Hongkong's necessity became China's opportunity. Through the Kowloon Commissioner, Mr. A. H. Harris, the Hongkong Government towards the close of 1909 requested the help of the Chinese Customs in organizing and getting into working order a scheme for the checking of imports of alcohol and spirits brought into Hongkong by native craft, as well as a system of bonding spirituous liquors to be controlled by the Hongkong Office of Imports and Exports. In this the Inspector General acquiesced, and Mr. D. Percebois, an officer of the Indoor Staff, was seconded for service with the Hongkong Government. Mr. Percebois' work brought him into close touch not only with the Imports and Exports Office but also with the Junk Office of the Hongkong Harbour Department, and by this, aided with the knowledge and experience of the Commissioner, he was able to make practical suggestions for the simplification and strengthening of the Colony's control of junk shipping, a control to which the Chinese Customs contributed by its system of junk pass books. This laid the basis for a policy of cooperation in the control of junks, the Chinese Customs agreeing to check and visé at their stations the junk licence books issued by the Colony

[1] B.P.P. *China No. 1 (1908)*, p. 1.

[2] B.P.P. *China No. 1 (1908)*, pp. 14; 17; 21; 29; 45; 47; 48. **MacMurray** *op. cit.* Vol. 1, pp. 861-866.

[3] Hongkong Ordinances No. 27 of 1909 and No. 9 of 1911.

and the Hongkong Government reciprocating by a similar check in Hongkong waters of the junk pass books issued by the Chinese Customs. This led naturally to a proposal, made by Mr. Harris, that a fuller measure of cooperation of benefit both to Hongkong and to China would be obtained by an agreement or convention dealing solely with Customs matters. The Colonial Government was ready for the suggestion, the way having been prepared, partly by numerous private conversations on this subject between Mr. Harris and some of the leading officials of the Colony, and partly by a memorandum submitted by Mr. (afterwards Sir) A. G. M. Fletcher, who during the opening months of 1909 held the post of Acting Assistant Colonial Secretary, and who in the course of an inquiry into a case of infraction of the territorial rights of the Colony, arising out of a salt smuggling affair in Deep Bay, had come to realize the impossible nature of the Colony's land boundary from the point of view of China's preventive service. Accordingly, in January 1910, Mr. Harris, with the approval of the Inspector General, submitted to the Hongkong Government the draft of a proposed Customs agreement, and suggested that a small confidential committee should be appointed to examine the question in detail. The result of this committee's discussions with Mr. Harris was agreement in April 1910 on a tentative draft which was passed confidentially through the Hongkong Legislature, was forwarded to London on the 30th of that month, and received the British Government's general approval both of it and of the principles involved. By February 1911 the convention was in such shape that the Commissioner then considered the moment opportune to prepare and submit a Chinese version to the Canton Viceroy Chang Ming-ch'i (張鳴岐), and at the same time to lay the whole matter officially before the authorities in Peking. This convention contained articles dealing with control of junks by the Colonial authorities in the waters of the Colony, the importation of salt, sulphur, and saltpetre and the storing of these articles in licensed warehouses, the prohibiting of keeping dynamite or other explosives except by licence, permission to the Customs to maintain a sub-office at Shamshuipo, the terms on which steam launches would be allowed to trade between Hongkong and non-open places in the Liang Kwang provinces under inland waters steam navigation rules, the granting of towing privileges to such steam launches, the sealing of lighters towed inland, the payment at the Customs sub-office of import duty and transit dues on goods conveyed by inland-going steam launches

and their tows, the limiting of goods traffic across the land frontier to specified places of entry to be chosen by the Hongkong Government, the cooperation of the Chinese Customs in preventing the illicit entry into the Colony of liquor, opium, and morphine, the publication by the Hongkong Government of statistics of imports and exports; the providing of the Customs with office and godown accommodation at the Kowloon terminus for the examination and storage of goods carried by the Kowloon-Canton Railway and for the payment of duties thereon; and the agreeing that both Governments should pass the necessary legislation to give effect to the terms of the convention. That this convention did not then become more than a draft was chiefly due to the delay on the part of the Canton Viceroy in taking it up, who had been misled as to its nature by some of his subordinates, and also to the outbreak of the Revolution in November 1911. The latter event definitely relegated it to the background, as more vital matters claimed prior attention. One of its articles, however, namely Article XIII, dealing with Chinese Customs control of traffic on the Kowloon-Canton Railway, opened on 4th October 1911, was incorporated as schedule D in the Canton-Kowloon Railway Working Agreement of 1911, and under its terms the Chinese Customs administration has ever since examined goods and collected duty, both import and export, in buildings provided by the railway at the Kowloon terminus. This was a long step forward in practical cooperation, the Hongkong Government conceding for the first time to the Chinese Customs the privilege of examining goods and collecting Chinese duties on British Colonial territory, and the Chinese Government reciprocating by waiving its right to stop all inward and outward bound trains on the frontier for the carrying out of all necessary Customs formalities. The arrangement was obviously one of great convenience to merchants and the travelling public generally. Early in 1916, Sir Francis May, then Governor of Hongkong, proposed the reopening of negotiations for ratification of the convention, suggesting at the same time that its basis might be altered and made similar to the Kiaochow Customs agreement, by which in return for freedom to operate in Colonial territory, the Chinese Customs paid 20 per cent of the import duties collected there to the Colonial Government. In effect, the Governor's suggestion was that the Hongkong Government would be willing to undertake the collecting of duties on cargo leaving the Colony for import into China in return for a commission on

the revenue so collected. The suggestion was not acceptable, but in April of that year, on the reappointment of Mr. Harris to Kowloon, the Hongkong Government immediately took up with him the question of revising the 1911 draft of the convention and of getting it put into effect. Revision was necessary as the Colonial Government intended to tax salt, wished to have a definition of the term "non-open port" inserted, and proposed to give punitive powers to the Commissioner. A draft, embodying these alterations and certain verbal changes was submitted to the Inspector General in the early autumn of 1916, and he in turn forwarded it to the Chinese Government. It came in for criticism in several particulars, especially the article which dealt with the proposed arrangement for the control of salt. Early in 1917, Sir Richard Dane, Associate Chief Inspector of the Chinese Government Salt Revenue Administration visited Hongkong, and on his representations several amendments were introduced into the salt article in order to bring it into line with the recognized procedure of the Chinese Salt Inspectorate. These changes were accepted by the Hongkong Government, and a revised printed draft of the convention was forwarded to the Inspectorate in April 1917. At the same time Sir Richard Dane submitted the revised salt article to the Chinese Government and in the autumn of that year the Government sent to the Inspector General its approved Chinese version of the convention. This version, along with an unauthorized English translation of it, was inadvertently published in the *Peking Gazette* on 19th—21st September 1917. The British Legation now appeared on the scene with the result that correspondence ensued between the Legation and the Wai-chiao Pu, more particularly on the proposed addition of a postal clause, and between the Legation and the Hongkong Government. On comparing the Chinese version of the convention forwarded by the Hongkong Government with that approved by the Chinese Government the Legation found differences which it considered prejudicial to British interests. On applying to the Inspector General, Sir Francis Aglen, the British Minister discovered further that the Chinese Government had instructed the Inspector General to endeavour to secure through the Legation a number of alterations in the Hongkong version of the text. These instructions the Inspector General had decided to ignore on the ground that some of these alterations were not acceptable to the Customs, and that all of them were certain to be rejected by the British Government. The Inspector General also had not

been informed of the proposed postal clause, but he recognized the differences in the Chinese Government's text as corresponding to the alterations he had been asked to secure. As a way out of this tangle the British Minister stated that he intended to take his stand on a written statement made by the Wai-chiao Pu on 12th December 1917 that the Chinese Government was prepared to accept the convention with the sole addition of the postal clause, and accordingly in September 1918 he requested officially the Chinese Minister of Foreign Affairs to make arrangements for the signing of the convention. Negotiations proceeded on this basis, and by the following year, thanks to the efforts of the British Minister and of the Inspector General, the Chinese Government declared its willingness to sign the agreement with the single addition of the postal clause. The British Minister had likewise received instructions authorizing him to sign; but at the last moment the Hongkong authorities stopped all further progress as they had in the meantime come to the conclusion that it would be highly inadvisable to levy any tax on salt in the Colony, or to restrict unduly its movements within the Colony. Further negotiations for the time being were ruled out, while the ever-increasing paralysis of the Central Government at Peking, which became accentuated during 1919 and 1920, and the declared independence of the Canton Government, with complete severance of relations with Peking, soon brought about a condition of affairs in which it was hopeless to expect a ratification of the proposed agreement.

Abolition of Tsungli Yamên and creation of Wai-wu Pu. Position attained by Customs Service under former. Creation of Shui-wu Ch'u and placing of Service under that body.

§ 22. Part of the aftermath of the cataclysm of 1900 was a complete reshaping of the Government's foreign office. As a first step in this direction the former Tsungli Yamên disappeared, and its place was taken by a Ministry of Foreign Affairs under the title Wai-wu Pu (外務部), a title which the Revolution changed on 1st April 1912 to Wai-chiao Pu (外交部).[1] This change was one which closely concerned the Customs Service. The old-time Tsungli Yamên in its nature, personnel, and functions had been as much, if not more, a Cabinet Council as a Board of Foreign Affairs. Foreign Legations carried on their correspondence and negotiations with

[1] B.P.P. *China No. 2 (1918)*, p. 24, Sir J. Jordan to Sir Edward Grey, 8th April, 1912; Enclo. No. 3.

the Ministers of the Yamên, and it was with the Yamên that the Inspector General conferred and corresponded, and it was from the Yamên that he took his instructions. This was the only arrangement practicable at that time, as Customs affairs were so closely bound up with the treaties, and as trade was so much a dominant interest in the relations of China with foreign states. It was this direct relation between the ministers of the Yamên—usually comprising some of the foremost statesmen of the Empire—and their Inspector General of Customs that enabled the former to consult the latter on matters, strictly speaking, outside the Customs sphere but bearing on the wider issues of China's international relations and the economic development of the country. Again and again Hart's advice had been sought on such questions, and so often was that advice found to be sound and in China's best interest that Hart, in his position as Inspector General, gradually acquired an advisory influence as commanding in matters outside the Service as his authority was within the Service and in matters directly concerned with it. The position was one of great delicacy; but in a world of flux it was not a position that could last indefinitely. Even if the holder were with the passing of the years to grow more cautious and circumspect, more adroit in the handling of men and of situations, more replete with the wisdom of experience, and more resourceful in devising ways and means, yet circumstances were sure to arise, not coming within his control, which would set in motion influences that must inevitably lead to a new integration. It was so in Hart's case. As we have already seen, it was in 1895 that the Customs revenue in its entirety became pledged to meet the service of foreign loans raised to pay the war indemnity to Japan, leaving practically nothing for the use of the Government in the administration of the country. From this point of view the Service, in the eyes of many Chinese officials, had been transformed into a debt-collecting agency for the benefit of foreign money-lenders, while the position of the Inspector General and of his foreign subordinates in the Service, instead of being left, as before, to rest broad-based on the free choice of the Chinese authorities, was being safeguarded, again for foreign interests, by an exchange of notes and by special clauses in loan agreements. This, in the opinion of the critics, was going much beyond the letter and the spirit of the tenth of the Rules of Trade attached to the 1858 Treaty of Tientsin. They regarded this development as incompatible with the full sovereignty of the

State. It tied the Government's hands in their future selection of an occupant of the Inspector General's position, and it tended to perpetuate the tenure of that position by a foreigner. Further, through the opium agreements with Hongkong and Macao in the eighties, and through the Anglo-German loan agreement of 1898, the Service had been made use of to take over, in the one instance, and to interfere with, in the other, special trade-taxing establishments which thitherto had remained as preserves of the provincial authorities. This no doubt was a strengthening of the Central Government, but it meant serious financial embarrassment to the provincial treasuries concerned, an embarrassment all the more resented by the knowledge that in both cases the additional revenue remitted to the Imperial exchequer was remitted there only to flow abroad to cover foreign obligations. The fact, too, that the task of organizing and administering the national Post Office had been entrusted to the Service did not naturally make for its popularity, at any rate among those officials and private individuals who saw their interests threatened thereby. Again, the prominent part necessarily played by the Service in the peace settlement arrangements after 1900, although all to China's advantage, was regarded by many as a dangerous extension of the Inspector General's authority at the dictation of foreign interests. The placing of the Native Customs establishments within the 50-*li* radius of the open ports under the administration of the Inspector General was the adding of fresh territory to his domain at the expense of the provincial authorities; and the same could be said in even more marked degree of the scheme outlined in the Mackay treaty, by which it was proposed that the Customs should supervize the fiscal arrangements to be made on the abolition of *likin*. Finally, there was Hart's own proposal that, if China's land tax were taken in hand, and reformed, collected, and administered by the Central Government, there would be ample revenue for all requirements. The land tax proposals had been submitted to the Viceroys and Governors for their comments, and while they were ready to admit in general the validity of the argument, they were not in favour of any action being taken by the Government, lest once more the Customs Service be used to intervene in the collecting of a tax which in no way concerned that Service. Small wonder, then, that many of the leading officials in the Government were perturbed at the position into which the Customs Service, largely through force of circumstance, had been pushed. Among these

officials were men who had been educated abroad, mainly in American universities, and who were well versed in Western theories and forms of government. Prior to the Boxer uprising they had not been afforded much opportunity of placing their knowledge at the service of their country, as they had not graduated under the old-time examination system. When the Peace Protocol settlement took place a clean sweep was made of the former examination system, and at once a demand sprang up for men trained on Western lines. Yüan Shih-k'ai, the new and progressive Viceroy of Chihli, saw to it that picked men from among these returned students were given Government posts where they could exercise their ability and training to the best advantage. As yet very few of these men had had any practical experience in Customs administration, but one at least, who afterwards rose to great eminence, Tang Shao-yi, had held a minor post in the Corean Customs under von Möllendorff, and had been created Customs Taotai at Tientsin under Yüan Shih-k'ai. Men of his training and capacity saw clearly that some means would have to be devised to demonstrate that, in spite of loan agreements, exchange of notes and protocols, the Service still remained essentially a Chinese institution, taking its orders from the Government and supervized by a nominee of the Government holding their commission. They also saw that as Sir Robert Hart was now in his seventy-second year the question of his successor was rapidly becoming urgent, and that if any steps were to be taken to safeguard China's interests in the matter there was no time to lose. They acted swiftly. Like a bolt from the blue, on the 9th May 1906 came an Imperial Decree appointing Tieh Liang (鐵良), President of the Ministry of Finance, and Tang Shao-yi (唐紹儀), Vice-President of the Ministry of Foreign Affairs, to control Customs business and Customs Staff.[1] Previous to 1900 the Viceroy of Chihli and the Viceroy of the Liang Kiang had *ex officio* acted also as Peiyang and Nanyang Ta-ch'ên respectively, or High Commissioners superintending Northern and Southern Trade and Trade Matters. This arrangement had ceased after the Boxer trouble, so that in itself the Imperial Decree of 9th May 1906 appointing two high Ministers to superintend Customs affairs should not have occasioned much comment. What was noted, however, was that these two high officials were not Viceroys resident in the maritime provinces, but ministers domiciled in Peking, and that they

[1] C.A.: I.G. Circ. No. 1339.

were given control of Customs Staff as well as of Customs business. On 22nd July 1906 a new bureau or department was created, to be known as the Shui-wu Ch'u (税務處), of which the two Ministers were to be the heads.[1] To carry on the routine work of the new bureau a certain number of senior and experienced Chinese clerks were detached from the Customs Service, and their knowledge and training were invaluable to the Government in getting the new bureau into working order. Among foreigners this move on the part of the Chinese Government created considerable perturbation, and all manner of dire consequences were predicted by diplomats, merchants, and bondholders. Representations on the subject were made by the leading Legations, and the question asked in what way the creation of this bureau affected the position of the Inspector General.[2] On the authority both of the Wai-wu Pu and of the newly constituted Shui-wu Ch'u, Hart notified the Service[3] that the relations between the port Commissioners and their staff were to remain unchanged, as were also those between the Inspector General and his port Commissioners: the only difference was that, while his duties as Inspector General continued as before, he no longer reported direct to a Ministry—the Wai-wu Pu—but to a bureau, having affiliations with two Ministries. Hart's quiet and loyal acceptance of the change—a change in the making of which he had not been consulted in any way—reassured the Service; but it was clear that the old order had changed, yielding place to the new. The Government had taken a step forward towards tariff and Customs autonomy and had demonstrated to all whom it might concern that their Customs Service, on which the foreign Powers were relying for the effecting of their policies in China, was neither a super-board nor an instrument simply to subserve foreign interests, but a Chinese Governmental department, directly subordinated not to a Ministry but to a special bureau.

Reasons for failure of suggested tariff revision in 1912.

§ 23. In 1912 the ten year period of validity for the revised import tariff of 1902 elapsed; but as the new Republic had not yet been formally recognized by the Powers the circular note sent

[1] C.A.: I.G. Circ. No. 1361.

[2] B.P.P. *China Nos. 1 and 2 (1906)*. *U.S. Foreign Relations*, 1906, p. 280.

[3] C.A.: I.G. Circ. No. 1369, 1381.

out to them by the Wai-wu Pu, reminding them of the lapse of the ten year period and requesting tariff revision passed officially unheeded All during that year the attention of the Chinese Government was so much devoted to the more weighty political and other issues raised by the Revolution as to leave no time for pressing the question of tariff revision Prominent among these other issues were the arrangements, necessitated by the Revolution, to be made for the collecting, safekeeping, and disposal of the Customs revenue,[1] but once that had been dealt with satisfactorily, and once recognition of the Republic by the Powers had been obtained, and the newly elected President Yuan Shih-k'ai, duly inaugurated,[2] the Government felt free to turn its attention once more to tariff revision Accordingly, just about the time of the inauguration, the Wai-wu Pu again came forward with a proposal to the Powers that a commission be appointed to revise the tariff and bring its rates up to the 5 per cent *ad valorem* basis The Inspector General was instructed to get ready tables showing the average value for each of the five years 1909 to 1913 of all foreign imports of sufficient consequence to be worth enumerating in a specific tariff and of sufficient homogeneity to render enumeration practicable[3] The values to be given on these tables were the duty-paying, not the market, values The latter were to be considered as 12 per cent higher than the former The ports specially affected in the compilation of these statistics were Canton, Shanghai, Tientsin, Dairen, Antung, and Harbin, but any port having foreign goods in its import trade not largely imported at any of the ports cited was to prepare special tables for such goods These tables were never completed, although a considerable amount of valuable work on them was carried out at Shanghai Great Britain, The United States, and the Netherlands were in favour of tariff revision, but Italy, Russia, and Japan demurred, and as the Chinese Government could not overcome the objections of the three dissenting Powers and could not persuade any of the remaining Powers to declare in favour of the proposal, tariff revision had to be dropped till a more convenient season This refusal to allow China to enjoy what was no more than her rightful due was a

[1] Wright *China s Customs Revenue since the Revolution of 1911* 3rd ed Shanghai 1935, Chap I *passim*

[2] The election of Yuan Shih kai as President took place on 6th October, 1913 and his inauguration on 10th of the same month B P P *China No 1 (1914)* pp 57 & 59

[3] C A I G Circ No 2109

cause of most serious embarrassment to the newly-formed Republican Government. Funds with which to establish a stable administration and to meet accumulated indebtedness were an absolute necessity, and the Government naturally turned to what in any other country would have been recognized as the natural source of increased revenue. Foiled here, the Government was forced to fall back on the tender mercy of the foreign money-lender. Hence originated the so-called Reorganization Loan of 1913 for £25,000,000,[1] to secure which China had to pledge both Salt and Customs revenues, and to submit to the placing of her entire Salt Administration under foreign supervision. Thus, although the Powers could not agree to allow China to enjoy what she was entitled to, viz. a full 5 per cent revenue on her foreign trade, yet five of their number, including two who had objected to a revision of the tariff rates, were willing to support financiers of their nations in issuing a large loan to the new Government in return for further international control in China's internal affairs, a control which incidentally afforded foreign representatives at Peking opportunities for securing for their nationals well-paid positions with the Chinese Government.

China joins the Allies in the World War of 1914-1918, and secures in return, deferment of Boxer Indemnity for five years, and revision of import tariff. Revised Tariff based on average values of goods during years 1912-1916.

§ 24. The Great War of 1914-1918, which has proved to be the turning-point in the modern development of so many nations and institutions, was not without effect on China's tariff. For the first two and a half years of the war China had remained neutral, although, on account of her natural interest in the fate of Kiaochow, she had made several attempts to throw in her lot with the Allies, attempts which had been frustrated by Japan.[2] In February 1917, however, the decision of the United States Government to break off diplomatic relations with Germany, and the suggestion from that Government that China should associate herself with such action,[3] gave China the opportunity she had long awaited. The young China party, headed by Dr. C. T. Wang (王正廷) and Dr. Wang Ch'ung-hui (王寵惠), and

[1] Wright: *op. cit.* p. 154 *et seq.*

[2] T. E. Millard: *Democracy and the Eastern Question*; New York, 1919; pp. 95, 97-100. *The Claim of China submitting for Abrogation the Treaties and Notes made and exchanged by and between China and Japan on May 25, 1915*; Paris, 1919.

[3] MacMurray; *op. cit.* Vol. II; p. 1868.

supported by Mr. Liang Ch'i-ch'ao (梁啓超) were enthusiastic for immediate action, recognizing that association with the United States meant a strengthening of China's international position, but the President Li Yüan-hung (黎元洪) hesitated as he feared that going to war would only increase the power of the Chinese militarists while the Premier Tuan Chi-jui (段祺瑞), faced with an empty treasury, wished to have an assurance that the United States would extend financial assistance to enable China to take the measures appropriate to the situation.[1] The American Minister at Peking gave that assurance.[2] This, and the growing conviction that participation would secure for China a seat at the peace conference and an opportunity to have disabilities removed, brought China nearer to the point of consent. Japan, not wishing to lose her desired position of leadership in Chinese affairs, and having first secured pledges from Great Britain, France, and Russia of support in her Shantung policy, was now willing that China should join the Allies, and despatched Mr. K. Nishihara to China with a confidential memorandum in which it was proposed (1) that the Allied Powers should agree to the deferment of the Boxer Indemnity payments for three years, (2) that the German portion of the Indemnity should be cancelled, (3) that China's tariff rates on manufactured goods might be raised to seven and a half per cent *ad valorem*, (4) that this latter concession should be consequent on China agreeing to abolish *likin* within ten years, (5) that the export of such raw materials as cotton, wool, iron ores, and iron should be allowed duty-free, and (6) that the Allied Powers should undertake to support China when negotiations on these matters took place between China and other Powers.[3] The next step was taken by China herself. On 26th February Mr. Lu Cheng-hsiang (陸徵祥) the personal representative of the Premier, informed each of the Allied Ministers that if China were to throw in her lot with the Allies she would require financial assistance, and that such assistance could most easily be rendered (1) by a revision of the tariff to bring it up to an effective 5 per cent standard, and (2) by a deferment of the Boxer Indemnity payments due to the Allied Powers. The representatives of the Powers concerned, through the French Minister M. Conty, notified the Wai-chiao Pu that as soon as

[1] Reinsch: *An American Diplomat in China*, 1922: p. 249.

[2] *Ibid.*, pp. 249-250.

[3] C. Chang: *Inside History of China's Declaration of War*; Millard's Review: V; 17th August, 1918.

China severed her relations with Germany and Austria-Hungary their Governments would be willing to consider favourably these two proposals.[1] The Chinese Minister of Foreign Affairs, Dr. Wu Ting-fang (伍廷芳), then presented to the Ministers representing the Allies a memorandum proposing (1) that the Allied Powers should agree to a ten year period of suspension of Boxer Indemnity payments, (2) that the existing import duties be immediately increased by two and a half per cent, (3) that tariff revision should take place so as to bring the import tariff rates up to an effective seven and a half per cent *ad valorem* standard, (4) that on the abolition of *likin* this standard should be raised to a twelve and a half per cent level, and (5) that the terms of the Peace Protocol of 1901 which forbade the stationing of Chinese troops within a 21 *li* radius of Tientsin, and which stipulated for the presence of foreign troops in the Legation Quarter and along the railway should be annulled. In return for all this China was prepared to join the Allies, to provide raw materials, and to furnish labour battalions.[2] The question was referred by the President to Parliament, the ultimate outcome of which reference was the dissolution of that body, open rupture between the North and the South, and the establishing at Peking of a military oligarchy. With the northern militarists in control the Cabinet early in August passed a resolution in favour of immediate action, and on the 14th of that month the President issued a proclamation announcing that a state of war existed between China and the two central European Powers.[3] This action brought its reward. On 8th September the Ministers of the Allied Powers sent to the Chinese Government a collective note in which they declared their willingness to agree (1) that the Boxer Indemnity payments due to their Governments might be deferred for a period of five years, 1st December 1917 to 30th November 1922, (2) that the Indemnity payments due to Germany and to Austria-Hungary should be regarded as cancelled, (3) that a revision of the import tariff should be made in order to bring the rates up to an effective 5 per cent level, and (4) that Chinese troops might temporarily be given access to the reserved zone at Tientsin to the extent necessary to exercise surveillance over Germans and Austrians there.[4] The neutral Powers were now approached with the result that re-

[1] N.C.H., 3rd March, 1917. *Far Eastern Review*, April, 1917.
[2] *Far Eastern Review*, April, 1917.
[3] MacMurray, *op. cit.*, Vol. II, pp. 1361-1362.
[4] *Ibid.*, pp. 1375-1376.

presentatives of no fewer than fourteen States were able to meet in conference at Shanghai for the work of tariff revision. The leading Chinese delegates were Tseng Shu-chi (曾述啓), as President of the conference, and Messrs. Li Ch'ing-ming (李景銘) and L. A. Lyall as Vice-Presidents, while the various Powers were represented by their Consuls General, Commercial Attachés, and Consuls resident at Shanghai. The first meeting of the Commission was held on 5th January 1918, and the twelfth, and final, one on 20th December of the same year, three meetings being held in January, two each in February and March, one each in June, July and November, and two in December. The second and the third meetings were taken up with discussion of the rules of procedure, settling such details as the appointing of a secretary, the keeping and publishing of official minutes, the deciding of questions by a majority vote—each delegation to vote as a whole, and the appointing of committees for the discussion of special matters. At the second meeting, too, the Chinese delegation submitted a proposed measure to be temporarily enforced by mutual agreement pending the revision of the Customs tariff schedule. This proposal was that an effective 5 per cent tariff should be enforced forthwith, either by levying a 5 per cent *ad valorem* rate on all commodities listed in the tariff schedule, with the exception of those on the duty-free list, or by adding a surtax of 88 per cent on the values—would bring those rates to the level which would ensure China's receiving a full 5 per cent revenue. This proposal for a provisional tariff came in for a good deal of discussion, but at the fifth meeting a committee consisting of the delegations of Belgium, China, France, Great Britain, Japan, Russia and the United States was appointed "to consider and recommend to the Commission the basis of the proposed temporary tariff and the time when such tariff shall become operative.[1] This committee held four formal meetings, but the members had between the acts much informal discussion. Complete unanimity was not reached; but at the sixth meeting of the full Commission, the chairman of the committee—M. Siffert, the Consul General for Belgium—reported that six out of seven delegations had approved of the following resolution:—"That all the goods enumerated in the Customs Returns of 1916, Part 1, under the headings Cotton goods, Woollen goods, Wool and

[1] Minutes of Tariff Revision Commission meeting held on 15th February, 1918.

Cotton unions, Miscellaneous piece goods, and Metals and Minerals, now paying a specific duty shall pay a surcharge of 40 per cent on the present specific duties, and that all goods enumerated in the Customs Returns for 1916, Part 1 under the heading Sundries, now paying a specific duty, shall pay a surcharge of 25 per cent on present specific duties. In every case the merchant shall have the option of paying 5 per cent *ad valorem* calculated according to present market rates. This provisional tariff shall remain in force for not more than six months from the date of its first enforcement. One month's notice shall be given of the introduction of this provisional tariff. Foreign goods on the way to China or which shall have been despatched before the expiry of this one month are to pay import duty according to the present Tariff."[1] Mr. Ariyoshi, chief of the Japanese delegation, gave three reasons why his Government could not see their way to accept the surcharge proposals of the provisional tariff. These reasons were:—"(1) The flat surcharge results in unfairness as to burden of duties on commodities, and especially so in respect of Japanese merchandise. (2) Consequent upon the surcharge proposal the provisional tariff in the case of a number of Japanese commodities would outstep the proposed revised tariff if the Returns value of any year or years preceding and including 1916 be taken as a basis of valuation. This would evidently contradict the principle upheld by the Japanese delegates that the provisional tariff should not exceed the coming revised tariff. It is believed that the contrary is the case with commodities from other countries. (3) The provisional tariff, being also a tariff, should be based on the value of commodities, whereas the surcharge has no bearing on values." Mr. Ariyoshi therefore proposed as an amendment that the following proviso be added to the committee's resolution:—"That importers may exercise the option of paying either 5 per cent *ad valorem* on the present prices or 5 per cent *ad valorem* on the average Shanghai returns values for the years 1913 and 1915."[2] Should this proviso not be accepted, he said that the Japanese Government would decline to be bound by the decision of the majority. Mr. Tseng, head of the Chinese delegation, expressed the hope that the Japanese Government would reconsider its attitude, and proposed as an

[1] Minutes of the Tariff Revision Commission meeting held on 20th March, 1918.

[2] Minutes of the Tariff Revision Commission meeting held on 20th March, 1918.

amendment to the Committee's resolution that the surtax rate on Sundries be raised from 25 to 30 per cent, the latter rate being the one approved by the Chinese Government. At the following meeting, eight days later, the Chinese delegation put forward a lengthy refutation of the argument advanced by the Japanese in favour of their proposed amendment, acceptance of which, they pointed out, would mean that China would receive much less than an effective 5 per cent. Mr. Fox claimed that the idea of a surtax had originated with the British delegation, who had at first been in favour of a uniform surtax of 33⅓ per cent. In his opinion a surtax was the most practicable of all the suggestions put forward and could be put into operation at once, while a provisional tariff based on the average values of certain years would take time to construct and discuss and delay inconveniently the main business of the Commission. The resolution, with alteration of 25 to 30 per cent on Sundries, was then put to the vote with the result that the committee's resolution was accepted by all the delegations with the single exception of Japan, fourteen votes against one. The Japanese chief delegate pointed out that the application of any provisional tariff to the land frontier trade of China was a matter to be specially arranged between the Powers interested and China, a reservation with which the chief delegate for Russia desired to associate himself. Mr. Sague, for the American delegation, wished to put it on record that in "no circumstances whatever would the American delegation agree to Customs values being made the basis of any tariff whether permament, temporary, or provisional."[1] It was then decided that the resolution regarding the provisional tariff should be transmitted to the Ministers at Peking together with the recommendation that as the Commission was now ready to proceed with its main business, namely, the revision of the tariff, it should be informed as quickly as possible whether the basis of valuation of the revised tariff was to be decided in Peking or by the Commission. A majority of the Commission were in favour of the latter course. To expedite matters it was also suggested that any decision arrived at in Peking between the Chinese Government and the representatives of the Foreign Powers affecting the work of the Commission should, after confirmation by the doyen of the Diplomatic Body, be telegraphed

[1] Minutes of the Tariff Revision Commission meeting held on 28th March, 1918.

immediately to the chairman of the Commission in Shanghai. Mr. Lyall, on whom fell the bulk of the work in defence of China's interests at the Commission, now had tables prepared, based on the statistics for the gross imports into Shanghai in 1917, grouping cotton goods by nationality, and showing for each item the quantity imported in duty-paying units, the present tariff duty rate, the amount of duty actually collected, the proposed surcharge duty rate, the amount of duty that would have been collected under such, the 1913 and the 1915 values duty rates, as suggested by the Japanese delegation, and the amounts of duty that would have been collected under such rates. These tables showed also similar detailed figures for piece goods not enumerated by nationality, for metals, and for eighty of the sundries figuring most prominently among China's imports. The summaries of all these carefully compiled figures showed clearly that had Japan accepted the committee's proposed surcharges for the provisional tariff her trade would not have been penalized. Japan's inability to agree to the proposed surcharges had the effect of preventing the introduction of a provisional tariff, and thereby deprived China of several taels of much-needed revenue. After its seventh meeting on 28th March the Commission had to mark time for three months while the Higher authorities at Peking were coming to a decision on (1) which years' values they wished to have adopted as the basis for the revised tariff, and (2) whether it should be agreed that a further revision should take place two years after the war. In the interim the Chinese delegation, with the experienced aid of the Shanghai Customs, proceeded with the preparation of schedules of rates based on the values of imports during the previous seven years, and on the average values of various combinations of these years. As a basis for the revised tariff the Japanese delegation at first were in favour of the average values from the Customs returns for the six years 1911 to 1916, the United States delegation for the average values (not based solely on Customs return) of goods for the six years 1912 to 1917, and the British for the average values of goods for the three pre-war years 1911 to 1913 *plus* a surcharge of about ten per cent. Of these three proposals the American was the most generous, the British the most practicable, and the Japanese best calculated to yield China the lowest return. Customs values at that time, when no proper appraising department existed, were notoriously unreliable. These

values were compiled from import applications, and in the case of goods paying specific duties such import application values were seldom questioned by the Customs and just as seldom compared with actual market values. For revenue purposes, in the case of goods paying specific rates, it was not necessary for the Customs to check the values given, and to have attempted to do so, without the requisite staff and machinery, would only have hampered trade by putting merchants to considerable delay, inconvenience, and expense. The essential figures in Customs returns were those for quantities of goods imported and exported. The values of such goods were recorded merely to allow general comparisons to be made between the total values of trade of different years. To base a tariff on such values would be to put a premium on fraud. Dishonest merchants consistently undervalued their goods, and honest men, to protect themselves, were forced to follow suit. If such values were to be used as the basis for a tariff, there was no need for a tariff revision commission, the requisite tariff could be drawn up in a few hours by half a dozen clerks using simple arithmetical calculations. By May the Japanese had so far changed their attitude as to propose that the values of goods for the years 1912 to 1916 be taken as the basis of the revised tariff, and that the values of goods given in the Customs returns for these years be accepted as correct values unless they could be proved to be wrong. Even that proposal, in the end, did not prove fascinating. The Commission resumed work on the 26th June when the new chairman, Admiral Ts'ai T'ing-kan (蔡廷幹), informed the members that his Government and the representatives of the foreign Powers at Peking had agreed;—(1) "That a tariff be prepared on the basis of an effective 5 per cent of the average values of merchandise during the years 1912-1916, the determination of these values being left to the Conference, which will seek guidance from the valuations in the Returns of the Chinese Customs authorities and all other available evidence;" and (2) "That this tariff be subject to revision, in whole or in part, two years after the war."[1] He also stated that it was hoped the work of revision might be completed within a period of three months. After much discussion at this and the subsequent meeting it was decided to form a committee to deal with the reclassification and the valuation of goods. This committee was to be composed of such delegations as announced in writing

[1] Minutes of Tariff Revision Commission meeting held on 26th June, 1918.

their wish to be represented on it; but any delegation on giving notice should have the right to attend any meetings of the committee and to speak and vote at such meetings. All the delegations, with the exception of that for the Netherlands, notified their intention of serving on the committee. From 10th July, when this committee held its first meeting, to 1st November, when the Commission reassembled as such, the work of reclassification and valuation was carried out by numerous sub-committees, each sub-committee dealing with a specified category of goods. Of these sub-committees there were nine for piece goods, two for metals, and nineteen for sundries, each sub-committee consisting of a representative, or representatives, from those delegations interested in the goods included in the category dealt with. By the latter date the work on reclassification and valuation of cotton piece goods, yarn, silk piece goods, woollen goods, and woollen and cotton unions was completed, and the resultant tariff on these goods was presented to the Commission and received its approval. The most important changes introduced were the differentiations of the duty on grey cotton yarn of various counts, and on grey cotton shirtings with over or under 110 threads to the square inch. This, thanks to the representations of the American delegates, was the first introduction in China's import tariff of the principle that cloth should be distinguished by the fineness of the count of the yarn and the number of threads to the inch. At the eleventh meeting of the Commission, held on 11th December 1918, transit pass administration, Customs returns, the prohibited goods list, examination and appraisement of goods, and a fixed exchange rate for the Haikwan tael were submitted for the consideration of the Chinese Government. The chief British delegate, Mr. Fox, claimed that goods covered by inward transit passes did not receive the full measure of protection from additional taxation to which they were entitled by treaty. Ignoring, or oblivious of, the British Government's declaration, as given by Lord Clarendon on 28th February 1870, that such passes did not protect goods from further taxation once they had reached their destination,[1] Mr. Fox once more put forward the mildewed argument that the payment of transit dues should, according to treaty, exempt the goods concerned from all other duties and taxes whatsoever. He wished the Commission to record "their

[1] B.P.P. *China No. 6 (1870)*, p. 3: *vide* also Alcock's Memorandum of 3rd May, 1870, B.P.P. *China No. 10 (1870)*, p. 3; *antea* Chap. III, p. 255.

conviction that the present system of taxation of merchandise was in urgent need of revision and reform, and their hope that . . . . the Chinese Government would, on the coming into force of the revised tariff, take steps to conserve goods covered by Transit Pass freedom from interference, delay, and unauthorized taxation."[1] Mr. Ariyoshi brought forward the question of the prohibited goods list, pointing out that quite a number of the articles on this list could be used for industrial as well as military purposes, but that the industrial purposes preponderated. After discussion it was decided to recommend the Chinese Government—"To obtain the consent of the foreign Powers to the removal of the following articles from the prohibited list, namely sulphur, saltpetre, and spelter; and to remove from the list of prohibited articles issued from time to time by the Customs the following articles;—soda nitrate, nitric acid, hydrochloric acid, sulphuric acid, potassium salts, phosphorus, microscopes, surveying and drawing instruments, and iron pans; to simplify as far as possible the procedure of obtaining special permission from the Chinese authorities for prohibited articles, and to publish a list of prohibited articles prior to the enforcement of the prohibition."[2] Mr. Ariyoshi then moved that a fixed rate of exchange be established for the Haikwan tael, a proposal to which Mr. Lyall demurred on the ground that if a fixed rate of exchange were established between Haikwan taels and dollars the Chinese Government would invariably be the loser "for when exchange was against them the merchants would buy at other banks, and when in their favour with the fixed rate." Both the Japanese and the American delegations brought forward the question of reforming the procedure of fixing the duty-paying values of *ad valorem* goods. Mr. Arnold, for the latter delegation, moved that the term "market value" should be understood as a reasonable wholesale market price, that duties should be assessed on the actual wholesale selling value at the port of importation, and that there should be created at Shanghai an office for a Chief Appraiser of Customs, who should rank with a Commissioner and have full control and jurisdiction over all matters pertaining to the appraisement of merchandise declared at the Customs for payment of duty, and that this Chief Appraiser should be assisted by Deputy Appraisers stationed at such ports as Hankow, Canton, and Tientsin. The Com-

[1] Minutes of the Tariff Revision Commission meeting held on 11th December, 1918.

mission were sympathetic, but not feeling justified in going into detailed suggestions, passed the resolution that the Chinese Government be recommended—"To reform the procedure of fixing duty-paying values of the *ad valorem* duty goods, and in particular to improve the Appraising Department in the principal ports by raising the status of the Appraisers."[1] The Japanese delegation also wished to suggest improvements in the Customs returns and the rearrangement of the present tariff schedule on the group system. As regards Customs returns the Commission decided to recommend (1) that in the annual returns more detailed information should be supplied regarding imports and exports, and that there should be included a summary, classified by countries showing the import and the export trade done by China with each country; (2) that semi-annual returns be also published; (3) that the quarterly returns should be discontinued, and (4) that the daily returns of the ports issuing such should be on the lines of those published for Shanghai, and that such reports should be issued more promptly. The suggestion that the printed tariff should be arranged on the group system with every article numbered and alphabetically indexed was likewise adopted unanimously. At the final meeting of the Commission the draft tariff, as submitted by the committee on reclassification and valuation, was unanimously approved, with a few insignificant alterations. The date on which this new tariff should come into force was settled thus:—"This Commission would recommend that from the date of the public notification of the approval of the revised tariff by the Governments concerned a period of one month's notice shall be given, and that all shipments made prior to the expiration of that period shall continue to pay duty in accordance with the old tariff."[2] On the subject of the application of the revised tariff to land frontier trade the Russian delegate handed in a letter stating that the only instructions the Russian Minister had received from his Government were that the Russian Government could not permit the revised tariff to be put into force on the Siberian frontier. This was an unfortunate setback as the Japanese Government had expressed their willingness to have the new tariff applied on the China-Corea frontier; but could not naturally consent to its being enforced on that

[1] Minutes of the Tariff Revision Commission meeting held on 11th December, 1918.

[2] Minutes of the Tariff Revision Commission meeting held on 20th December, 1918.

frontier only. Rule I, appended to the tariff was altered by the insertion of the word "wholesale" before the words "market value"; while the following, taken from Shanghai Customs notifications, was added as Rule IV:—"The importation of Opium and Poppy Seeds is absolutely prohibited. The importation of the following articles is prohibited except under bond by qualified medical practitioners, druggists, and chemists: Morphia and Cocaine and Hypodermic Syringes, Anti-opium pills containing Morphia, Opium or Cocaine, Novocaine, Stovaine, Heroin, Thebaine, Ghanja, Hashish, Bhang, Cannabis indica, Tincture of Opium, Laudanum, Codeine, Dionin, and all other derivatives of Opium and Cocaine." After much desultory discussion about the practice which had sprung up in Shanghai of labelling American dyes with imitation German labels, and sending them out of Shanghai as German dyes, the following resolution was passed:—"This Commission would recommend that the Customs authorities be instructed to require from importers or re-exporters of foreign goods a declaration as to their country of origin, and shall be entitled to detain such goods in cases where a declaration can be shown to be deliberately false."[1] This, so far as China's import trade is concerned, was the first formal declaration in favour of certificates of origin, made by official representatives of the foreign traders concerned. It remained little better than a pious hope till June 1932 when the Government promulgated their first set of regulations for the issue of Consular Invoices to accompany all importations of foreign goods into China,[2] to be followed in January 1933 by regulations that all foreign goods imported into China should be marked clearly with the name of the country of origin.[3] The system of Consular Invoices has proved to be in the main a serviceable substitute for certificates of origin; but the enforcement of the regulations calling for the marking of goods with the name of the country of origin had to be postponed on account of considerable opposition, and was finally frustrated by the refusal of a certain Power to recognize these regulations, as acceptance of them would have facilitated a boycott of her products, and put a stop to the practice of landing such products in Hongkong to be marked there as of British or American manufacture, and exported thence to China. Besides the revised

[1] Minutes of the Tariff Revision Commission meeting held on 20th December, 1918.

[2] C.A.: I.G. Circ. No. 4470.

[3] C.A.: I.G. Circ. No. 4558.

tariff, which was accepted by the Powers and put into effect on 1st August 1919,[1] the other outstanding benefit arising from the Commission's labours, but more especially from the representations of the American delegation, was the decision of the Inspector General that the determining of the value of goods, whether paying specific or *ad valorem* duties, should no longer be left to haphazard methods or to the facile acceptance of merchants' declarations. Mr. Lyall urged the creation of an Appraising Department under an Appraising Commissioner directly responsible to the Inspector General. Such an office, he suggested, should not only collect accurate and reliable data on the values of goods, which would be of inestimable service in future revisions of the tariff, but should also put an end to the constant complaints made by chambers of commerce and merchants on the differential treatment accorded to *ad valorem* articles, not necessarily at different ports but at the same port where one merchant would pay on contract values, another on invoice values, and yet a third on values settled by himself with the Customs. A beginning was made in June 1920 at Shanghai when a Deputy Commissioner was placed in charge of the newly created Appraising Department, and so successful was the experiment that two and a half years later the Inspector General was able to make use of it as an agency for insuring uniformity of duty treatment at all the ports for both foreign and native goods. To prevent the confusion arising from local rulings, he gave orders that any decision made by a Port Commissioner on the duty treatment of any article was to be regarded as provisional until approved by himself, and in order that such provisional decisions might come to him with as full particulars as possible Commissioners had to submit them on a special form which was to be transmitted through the Shanghai Commissioner in order that the Shanghai practice, and the reasons for that practice, might be recorded on it.[2]

China's claims presented at Versailles Peace Conference. China's claim for tariff autonomy.

§ 25. Some months before this revised tariff came into force, representatives of the Allied Powers had assembled at Versailles to draw up conditions for the reestablishment of peace. For China this was too good an opportunity to be let slip. Her delegation was not directly interested in the re-drawing of the map of Europe, or in the

[1] C.A.: I.G. Circ. No. 2952.
[2] C.A.: I.G. Circ. No. 3484.

indemnities to be imposed on the vanquished, but it was vitally interested in the disposal of the former German Colony of Kiaochow, with which was bound up the fate of Shantung,[1] in the abrogation of Japan's twenty-one demands of 1915,[2] in the renunciation of spheres of influence, the withdrawal of foreign troops and police and of foreign post and telegraph offices, the abolition of Consular jurisdiction, the relinquishment of the leased territories, the restoration of foreign concessions, and last but not least the restitution of tariff autonomy.[3] It was an ambitious programme, of which even the part realization was to cause China some bitter disillusionment. A full decade was to pass and a revolution to take place before the final restoration of tariff autonomy, but the argument the Chinese delegation put forward for a consideration of China's claim in this vital economic issue was irrefutable. China's spokesmen pointed out how this uniform 5 per cent conventional tariff, together with the most favoured nation clause, bound China hand and foot, how it robbed China of any reciprocal advantages, each signatory Power being entitled to claim all the rights and privileges granted to another Power while China was debarred from any reciprocity benefit, how the rigid uniformity of the tariff rate prevented any differentiation between luxuries and necessities, which meant that luxuries such as tobacco and spirits could be imported into China for next to nothing, while countries such as Great Britain, the United States of America, France, and Japan were free to levy duties running up to 200 per cent in the case of spirits and to 355 per cent in the case of tobacco: such a system encouraged the import of luxuries and discouraged the bringing in of the raw materials and machinery necessary for China's industrial development. Yet another injustice wrought by this rigid 5 per cent treaty tariff was that it deprived China of much needed revenue. This fixed rate had always been nominal, for the periodical revision provided for by the treaties had never been carried out in due time,

[1] *The Claim of China for Direct Restitution to Herself of the Leased Territory of Kiaochow, the Tsingtao-Chinan Railway and other German Rights in respect of Shantung Province*: Paris, February, 1919.

[2] *The Claim of China submitting for Abrogation by the Peace Conference the Treaties and Notes made and exchanged by and between China and Japan on May 25, 1915, as a Transaction arising out of and connected with the War between the Allied and Associated States and the Central Powers*: Paris, April, 1919.

[3] *Questions for Readjustment submitted by China to the Peace Conference*: Paris, April, 1919.

and when it had been carried out the basis of valuation adopted was always lower than the actual at the time; in 1902 the average prices of 1897-1899 had been taken, and in 1918 those of 1912-1916. This inaccurate basis of valuation and the steady increase in the values of commodities imported inevitably resulted in the actual duties paid at any given time being lower than current prices would have demanded. The unproductiveness of the Customs revenue forced the Chinese Government to raise money by other means and this necessitated the retention of modes of taxation, such as *likin*, which were admittedly harmful. As China's tariff for more than half a century had undergone no modification in the revenue rate China urgently desired that the right "to revise the existing tariff conventions should be recognized and agreed to by the friendly Powers." She also desired the Conference to agree in principle "that the present tariff should be superseded two years hence by the general tariff which is applied to the trade of non-Treaty Powers." In the meantime, China was willing "to negotiate with the Treaty Powers with a view to arranging new conventional rates for those articles in which they are specially interested, under the following conditions:—

1. Any favourable treatment thus arranged must be reciprocal.

2. A differential scale must be established so that luxuries should pay more and raw materials less than necessaries.

3. The basis of the new conventional rate for necessaries must not be less than 12½ per cent in order to cover the loss of revenue resulting from the abolition of *likin* as provided for in the commercial treaties of 1902-1903.

4. At the end of a definite period to be fixed by new treaties China must be at liberty not only to revise the basis of valuation but also the duty rate itself."[1]

In return for such concessions China was willing to abolish *likin*, and to renounce once and for all that hindrance to the development of trade. In their demands for fiscal independence the Chinese delegation had the whole-hearted support of Chinese commercial and industrial circles. The Chinese Chambers of Commerce not only at Peking and Shanghai but at all the leading business centres sent emphatic telegrams of

[1] *Questions for Readjustment*: *op. cit.*, pp. 29-30.

support,[1] while Mr. Chang Ch'ien (張謇), China's most prominent industrialist, organized a society for the promotion of tariff reciprocity.[2] At the Conference China's plea was given a tepidly sympathetic hearing. Of the allied statesmen President Wilson was the only one who showed himself willing to aid China in securing a revision of her import tariff. He expressed the hope that the Powers might forgo the special position they had acquired in China, and that China should be put on the same footing as other nations.[3] Neither Lloyd George nor Clemenceau would hold out any hope of immediate action. They were preoccupied with what they considered larger issues, and were perhaps also hampered by their Governments' committments to Japan. On 14th May, 1919, however, M. Clemenceau, on behalf of the Supreme Council, announced that the Powers were not unaware of the importance of the questions raised by the Chinese delegation, but that as the immediate object of the Conference was to formulate terms of peace no official action on the Chinese proposals could then be taken. To deaden this blow the Supreme Council expressed the opinion that China's claims should be laid before the Council of the League of Nations as soon as that body had got into working order.[4]

Duty treatment of goods from non-Treaty States. China's National Tariff.

§ 26. The enforcement of the revised tariff on 1st August 1919, and the fact that there were a number of States who had either forfeited, or had never been in, treaty relations with China raised the question of what duty treatment should be accorded to the goods imported by the nationals of such States. After the declaration of war on Germany and Austria the Chinese Government had foreseen that this question would arise, and already in December 1917, had dealt with it by a Presidential Mandate decreeing that the import duty rates to be paid by the subjects of non-treaty nations were to be:—

Luxuries,	30	to	100	per cent	*ad valorem.*
Useless goods,	20	to	30	,,	,,
Useful goods,	10	to	20	,,	,,
Necessary goods,	5	to	10	,,	,, [5]

[1] N.C.H. 14th December, 1918; 25th January, 1919.
[2] *Millard's Review*; 28th December, 1918.
[3] R. S. Baker: *Woodrow Wilson and World Settlement*: Garden City, 1922, Vol. II, p. 252.
[4] Baker: *op. cit.*, Vol. III, pp. 315-316.
[5] *Far Eastern Review*: February, 1918.

Practical steps to enforce this tariff on non-Treaty Power trade were not taken till September 1919, a month after the putting into force of the revised tariff, when the Shanghai Superintendent was instructed not to apply this revised tariff when dealing with the imports of non-treaty countries, or from countries with which China had broken off treaty relations.[1] A few months later instructions were issued by the Peking authorities that pending the promulgation of a National Import Tariff German and Austrian goods were to pay according to the new revised tariff except in the case of enamelware; lace and trimmings; soap; stationery; stoves and grates; sugar candy; motor cars, beer and porter; figured and plain cotton Italians; medium cloth; buttons, brass and fancy; chinaware, coarse and fine; clothing; hats, boots, shoes and gloves, all of which were to pay 20 per cent *ad valorem*, and of electrical materials, and fittings, lamps, and lampware; needles; paper; telegraph and telephone materials; cotton blankets; woollen and cotton mixtures: woollen and worsted yarn and cord; iron and steel manufactures; llama braid, all of which were to pay 10 per cent *ad valorem*.[2] At the same time it was stipulated that non-Treaty Power subjects were not to be permitted to enjoy the privilege of bringing down to port native goods under outwards transit passes.[3] But even this restricted attempt to regain a modicum of tariff autonomy was doomed to frustration. The representatives of the Treaty Powers at Peking objected to the application of this new national tariff to goods imported by their nationals from non-treaty or from ex-treaty States. They contended that under the most favoured nation clause only the rates specified in the treaty tariff were chargeable on goods brought in by their nationals, and that in their case the question of provenance did not arise, but that China was free to apply the rates of the new national tariff to goods manufactured in non-treaty or ex-treaty countries and imported thence into China by non-treaty or ex-treaty subjects.[4] It was labour lost for the Chinese Government to protest that this was taking an unfair advantage rendering nugatory the national tariff and depriving China of revenue morally due to her. Tariff autonomy for China, even as a puny half strangled infant, was not a

[1] N.C.H., 20th September, 1919.
[2] C.A.: I.G. Circ. No. 3007.
[3] C.A.: I.G. Circ. No. 2998.
[4] M.T.Z. Tyau: *China Awakened*: London; 1922; p. 283. C.A.: I.G. Circ. No. 3016.

welcome arrival in the Peking diplomatic nursery. The only practical result of this effect on China's part was that it stimulated certain countries to seek commercial treaties with China in order to secure for their nationals the privileges of the treaty tariff. In 1919 Czecho-Slovakia, Greece, Bolivia, and Siam sought such agreements, and in the following year Chile, Poland and Lithuania followed suit. By the Agreement of 20th May 1921 between China and Germany[1] the latter country recovered for her nationals the right to the same privileges of residence and trade and of Customs duty treatment as might be enjoyed by the nationals of other Treaty Powers.

Washington Conference to discuss limitation of armaments, and political conditions in the Pacific and Far Eastern areas. Chinese delegation asks for restoration of tariff *autonomy*. Discussion of China's Customs and tariff problems. Nine Power Treaty relating to the Chinese Customs Tariff.

§ 27. By August 1921 this revised tariff had been in force for two years, and, according to agreement, was then due for revision. On 15th June that year the Wai-chiao Pu sent an identic note to the various Legations calling their attention to this fact, and three weeks later the Diplomatic Body met to discuss the matter. The British Minister was of opinion that the uncertainty and the abnormal condition of prices of goods, still prevailing as an effect of the Great War, was such as to render revision at that moment inadvisable. This opinion was shared by other foreign representatives; but on the instructions of his Government, the Japanese Minister suggested that if revision were to be postponed for another two years the Chinese Government might be compensated by the temporary imposition of a reasonable surtax, say 25 per cent of the existing tariff rates. While this proposal was still being bandied about between the various Legations, between each Legation and its national chambers of commerce at the ports, and between the Legations and their home Governments, President Harding issued on 11th August 1921 a formal invitation to the Governments of Great Britain, France, Italy, and Japan to attend a conference to be convened at Washington (1) to consider the taking of common action in order to reduce existing, and to limit future, armaments, and (2) to discuss the existing political conditions in the Pacific and Far Eastern areas in order that, as far as possible, possibilities

[1] *Treaties and Agreements with and concerning China 1919-1929*; Washington 1929, pp. 47-53. C.A.: I.G. Circ. No. 3183.

or probabilities of international controversies or of war might be removed. On the same day an invitation was sent to China, but in her case the paragraph referring to the limitation of armaments was omitted, and shortly afterwards similar invitations were sent to Belgium, the Netherlands, and Portugal, so that when the Conference assembled on 12th November 1921 it was a Conference of five Powers so far as the limitation of armaments was concerned, and one of nine Powers on the problems of the Pacific and the Far East, which, in effect, meant the problem of China. There were seven plenary sessions attended by representatives of all the delegations, but as the Conference had two purposes, as stated above, it was divided into two committees, one consisting of the delegates of the five Powers discussing the limitation of armaments, and the other of the delegates of all nine Powers discussing Far Eastern problems. It was only with the latter committee of the whole that China was concerned. The Chinese delegation was animated by high hopes that this conference, convened on the initiative of China's staunch friend, the Government of the United States, would mean for their country relief from treaty bonds which fettered the full use of her sovereign powers, and the putting to an end of acts violating her territorial sovereignty and administrative integrity. Those hopes, however, were tempered by fears. They were not blind to the political disorder prevailing in China, the powerlessness and the impecuniosity of the Peking Government, the separatism of Canton which refused to recognize the legal legitimacy of the Peking Government, and the truculent independence of some of the provincial *tuchuns* and their troops, and they feared that the Powers might take advantage of this weakness and disorder to impose further restraints upon their Government's administrative powers, and to obtain for themselves additional special rights. These fears proved groundless. Instead, the Powers, at an early stage of the Conference unanimously agreed to Senator Elihu Root's resolutions assuring China that they would (1) "respect the sovereignty, the independence, and the territorial and administrative integrity of China:" (2) "provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government, overcoming the difficulties incident to the change from the old and long-continued imperial form of government;" (3) "safeguard for the world, so far as it is within our power, the principle of equal opportunity for the commerce and in-

dustry of all nations throughout the territory of China;" and (4) "refrain from taking advantage of the present conditions in order to seek special rights or privileges which would abridge the rights of the subjects or citizens of friendly States and from countenancing action inimical to the security of such States."[1] With these fundamental principles laid down the Chinese delegates could now enter with a sense of relief on the discussion of the concrete instances of interference with China's administrative rights for which they desired redress. Prominent among these was the question of the conventional tariff with its inexorably rigid and uneconomic uniform rate. This was first brought forward on 22nd November at the fourth meeting of the committee of the whole on Pacific and Far Eastern questions,[2] when Senator Underwood raised a discussion on the subject of China's Customs dues by pointing out that as the Conference had agreed to the principle of the sovereignty and the integrity of China, it was incumbent to reach an understanding about China's Customs dues, which would be the main source of a revenue sufficient to ensure the stability of a Government powerful enough to exercise its sovereignty and to maintain the integrity of the country. On the following day Dr. Wellington Koo made an explanatory statement of China's tariff position, giving a historical resume of the origin of the 5 per cent tariff, emphasizing its infringement of China's sovereign rights, pointing out how it failed to take into consideration the economic, social, and fiscal needs of the Chinese people, how difficult it was to secure a revision of it, and how by far the greater part of the revenue raised by it was devoted to the service of foreign obligations, and asking in view of all this that the Powers should agree to the restoration of tariff autonomy to China. "In making this request the Chinese Government entertained no desire to interfere with the present administration of the Maritime Customs, which was generally considered to be efficient and satisfactory, nor to interfere with the devotion of the funds of the Maritime Customs to the liquidation of foreign loans secured thereon."[3] China desired especially

[1] *Conference on the Limitation of Armaments*: U.S.A. Senate Document, No. 126, 67th Congress; Washington 1922, pp. 890, 900. Embodied, with slight verbal alterations, in the draft treaty at the sixth plenary session on 4th February, 1922.

[2] Henceforward referred to simply as the committee.

[3] *Conference*, *op. cit.*, quoted in W. W. Willoughby; *China at the Conference: A Report* Baltimore, 1922, p. 58.

the right to introduce differentiating rates between luxuries and necessities. Dr. Koo suggested that tariff autonomy should come into force only after a period to be agreed upon but that in the meantime, as China needed immediate relief, the import tariff rate should be raised to a maximum of 12½ per cent within which maximum China should be at liberty to institute rates varying according to her economic and social needs. Senator Root thereupon drew attention to the fact that the 12½ per cent import tariff rate provided for in the treaties of 1902 and 1903 was contingent upon the abolition of *likin*, and asked what steps China proposed to take in this regard. To this Dr. Koo replied that the Government would be prepared to abolish *likin* if tariff autonomy were granted: he considered that the increase to 12½ per cent was hardly sufficient then in view of the great increase in public expenses. Senator Underwood was not in favour of fixing an arbitrary rate of 12½ per cent, but preferred that such changes should be made as to ensure a revenue that would keep China out of debt. A sub-committee was then appointed to take the matter into detailed consideration. Members of this sub-committee were Senator Underwood for the United States, Baron de Cartier for Belgium, Sir Robert Borden for the British Empire, Dr. Wellington Koo for China, M. Sarraut for France, Senator Albertini for Italy, M. Hanihara for Japan, Jonkheer Beelaerts van Blokland for the Netherlands, and Captain Vasoncellos for Portugal. At the first meeting of the sub-committee, held on 29th November Dr. Koo proposed (1) that the present import rate of 5 per cent be immediately increased to 12½ per cent, (2) that on China's agreement to abolish *likin* as from 1st January 1924 the Powers would agree to the enforcement of the surtaxes provided for in the treaties of 1902 and 1903 and of an additional surtax on luxuries over and above the 12½ per cent rate, (3) that within five years from date of agreement, a maximum rate of 25 per cent should be negotiated by treaty, within which rate China should arrange her import tariff schedule; (4) that the reduced duties on land frontier trade be abolished; (5) that all treaty provisions between China and the Powers regarding Customs duties, transit dues, etc., be abrogated at the end of ten years from date of agreement; and (6) that "China voluntarily declares that she is not contemplating to effect any fundamental changes in the present system of Customs administration, or to disturb the devotion of the Customs revenue to the services of

the foreign loans secured thereon."[1] In defence of these proposals Dr. Koo drew attention to the facts that as Chinese industries were as yet in their infancy, and that as the country was predominantly agricultural the Government found itself in the position of having to depend for its revenue mainly upon the receipts from the Maritime Customs. Unfortunately the larger portion of these receipts was earmarked for the service of foreign loans, and the Government was therefore hard pressed to find adequate funds for administrative purposes, for education, hygiene, and public works. Subsequent discussion brought out clearly how difficult it would be to grant China an immediate considerable increase in her Customs rates. Any such increase was bound up with the abolition of *likin*, and that consummation, in the prevailing political conditions in China, was clearly beyond the power of the Central Government. Further, the question arose, whether it would be to the benefit of China to allow her a largely increased revenue to be appropriated by semi-independent provincial *tuchuns*. Hence came the suggestion that if an increased revenue were granted, China should guarantee that such increase would be devoted to specific purposes. The Japanese delegation insisted that from this increase provision should be made for the payment of debts in arrear to foreign financial interests, while the British wished to see it devoted to productive enterprises. Yet a third proposal was that the increase might be divided into allotments and devoted to debt adjustment, education, productive enterprises, and government administrative expenses. As for tariff autonomy the Chinese delegation soon realized that the domestic conditions of China forbade the Powers from giving any promise in this connection. At the second meeting of the sub-committee Sir Robert Borden proposed that China's import tariff be immediately increased to an effective 5 per cent, and that after a general revision of the valuations of imports into China had been made the rate should be raised to 7½ per cent. The Japanese delegation objected to this 7½ per cent standard on the ground that it would tell unfairly against Japanese trade and industry: they admitted that the present tariff rate was only about 3½ per cent, but they were willing that revision should take place to raise that rate to an effective 5 per cent, and in order that China should not suffer by the delay incident to such

[1] Minutes of sub-committee of committee of the whole on Pacific and Far Eastern questions held on 29th November, 1921; quoted in Willoughby, *op. cit.*, pp. 60 and 61.

revision they were willing that a surtax of 30 per cent on the existing rates should be levied on import, export, and coastwise trade. Dr. Koo demurred to the smallness of the 7½ per cent rate, but finally professed his willingness to accept it provided that the surtax to be immediately applied should, in conjunction with the existing rates, yield a revenue equivalent to an effective 7½ per cent. In the end all the delegations, with the exception of the Japanese, gave their approval to the proposal that China should have the right to an effective 7½ per cent tariff. The third and the fourth meetings of the sub-committee were taken up with discussions on the draft of an agreement on the Chinese tariff, submitted by Sir Robert Borden. At the fifth meeting this draft agreement in nine articles was submitted to the sub-committee and received its approval: appended to that draft was a statement from the Chinese delegation which it was unanimously decided should form part of the agreement. This statement read:—"The Chinese delegation has the honour to inform the Committee on the Far Eastern Questions of the Conference on the Limitation of Armaments that the Chinese Government have no intention to effect any change which may disturb the present administration of the Chinese Maritime Customs." Article VI of this draft agreement stipulated for the abolition of the reduced duties on China's land frontier trade, but the French delegation was unwilling to accept this, claiming that the special terms which China had given to imports from Indo-China were outweighed by the civil and commercial privileges which France had accorded to the 400,000 Chinese residing in Tonkin. The British delegation was prepared to accept the principle of equality of treatment indicated in Article VI, but if this were carried out the Government of India would claim the right of imposing import duties on Chinese goods entering Burmah and export duties on Burmese goods and British manufactures exported overland into China. The text of Article VI was accordingly modified to safeguard these reservations. This terminated the work of the sub-committee, which presented its report on 5th January 1922 at the seventeenth meeting of the committee of the whole. On that occasion Senator Underwood pointed out that the draft agreement now presented went much deeper than the mere question of money. Trade conditions were often a source of irritation and of difference between nations, and were thus possible engenderers of war. This draft agreement, therefore, should be welcomed as it was intended to wipe

out discriminations and provide equal opportunity of trade to all. He drew attention to the fact that this agreement related to two distinct phases of tariff readjustment, the one dealing with an immediate revision of the present tariff to bring its rates up to an effective 5 per cent standard, and the other dealing with subjects to be discussed at a special conference which would be charged with taking measures for the speedy abolition of *likin*, the application of surtaxes, and the realization of equality of duty treatment on all frontiers whether land or maritime. For the first a tariff revision commission was to meet forthwith at Shanghai and the tariff resulting from its labours was to come into force two months after publication without further ratification. For the second, immediate steps were to be taken for the summoning of a Special Conference at which the representatives of China and the Powers should arrange for the abolition of *likin* and the putting into effect of the surtaxes provided for in the 1902 and 1903 treaties. This Special Conference was to arrange also for the immediate imposition of a surtax of 2½ per cent *ad valorem* on all ordinary goods and of 5 per cent on luxuries. With these measures effected, namely 5 per cent effective and surtaxes of 2½ and 5 per cent it was estimated that China would enjoy a total additional revenue of over $46,000,000. With the abolition of *likin*, however, and the application of the higher surtaxes provided for in the 1902 and 1903 treaties the additional revenue should amount to $156,000,000. The agreement also provides for future revisions of the tariff: following the immediate revision there was to be a second revision in four years and subsequent revisions every seven years. Dr. Wellington Koo, while expressing China's gratitude for what the sub-committee under the leadership of Senator Underwood had accomplished, once more entered an eloquent plea for the restoration to China of tariff autonomy. He reiterated the arguments that the existing system was an infringement of China's sovereignty and a restriction of her administrative rights, that its maintenance involved a continued and most serious loss of revenue to the Government and made it impossible for China to develop and maintain an effective and stable Government, that under this system the import of luxuries was encouraged and the import of necessities discouraged thereby constituting a hindrance to China's economic development, that by it China was robbed of the advantage of reciprocity enjoyed by other nations in their trade relations with

each other, that its cumbersome dependence upon the unanimous consent of more than a dozen Treaty Powers worked great injustice to China as the dissent of even one Power could block revision, and that this meant sacrificing the well-being of China to the interests of the Treaty Powers. He ended with these significant words:—"In view of the inherent difficulty and injustice of the present régime, and of the wholesome and desirable effect which restoration of tariff autonomy is sure to have upon the trade and economic development of China, as well as upon the evolution of her fiscal system, the Chinese delegation feel in duty bound to declare that though this committee does not see its way to consider China's claim for the restoration of her tariff autonomy, it is not their desire in assenting to the agreement now before you to relinquish their claim; on the contrary, it is their intention to bring the question up again for consideration on all appropriate occasions in the future." Before having the agreement submitted to the sub-committee on drafting Senator Underwood wished to make it clear that the reason why the members of the sub-committee did not vote for the full restoration to China of tariff autonomy was not because they selfishly wished to defend their countries' interests at China's expense, or to impair China's sovereignty, but because they believed that such restoration in existing circumstances would probably work to China's detriment and to the injury of the world: the establishing of a Government in China free from military domination and with full control over all the provinces would at once give China the right to expect the realization of the great ideals her delegates had been advocating at the Conference. At the following, the eighteenth, session of the committee of the whole the sub-committee on drafting submitted its report. This report fell into two sections the one embodying a proposed resolution dealing with the revision of the tariff so as to bring its rates up to an effective 5 per cent standard, and the other proposing the terms of a new treaty. The resolution stipulated that the rates of the existing import tariff should be revised so as to bring them up to an effective 5 per cent standard, that a commission for this purpose should meet at Shanghai at the earliest possible date, that this commission should be composed of representatives of all nations having treaty relations with China, that this revision should be completed if possible within four months from the adoption of this resolution by the Conference, that the revised tariff should become effective

not earlier than two months after its publication by the revision commission, and that the U. S. Government should communicate the terms of this resolution to the Powers not represented at the Conference but who took part in the revision of 1918. The absence of an internationally recognized Government in Russia, it was agreed, precluded Russia from participation in the revision commission; but Finland and Poland, States which had formerly been part of the Russian Empire, had been recognized. After Dr. Koo had explained the position of the non-Treaty Powers and of the tariff applicable to the trade of such Powers, the resolution was put to the committee and passed unanimously. The second section of the report from the sub-committee on drafting gave the terms of the proposed treaty dealing with the special conference which was to meet at Shanghai within three months after the date of the ratification of the treaty to arrange for the abolition of *likin* and the imposition of the surtaxes specified in the treaties of 1902 and 1903. Pending the abolition of *likin* and the fulfilment of the conditions laid down in the articles of these treaties this special conference was to authorize the levying of interim surtaxes of 2½ per cent *ad valorem* on ordinary goods and of rates varying up to 5 per cent *ad valorem* on articles of luxury. The treaty also provided for future revisions of the tariff, for equality of treatment and of opportunity for all Powers parties to the treaty, for uniformity in the rate of Customs duties at all the land and maritime frontiers of China, and for the inviting of non-signatory Powers, who had treaties with China providing for a 5 per cent *ad valorem* tariff, to adhere to the present treaty which should then be regarded as overriding "all stipulations of treaties between China and the respective contracting Powers which are inconsistent therewith, other than stipulations according most favoured nation treatment." The draft treaty was then put to the committee and passed unanimously. Before it was submitted to a plenary session of the Conference, Senator Underwood at a subsequent meeting of the committee seized the opportunity to give his opinion in regard to China's obligations under her tariff treaties. "His opinion was that no one Power in the world enjoying a 5 per cent treaty tariff had the right, as against the sentiments expressed by the nine Powers at the table and against the desires of China to take the position that China must stand by her 5 per cent treaty tariff and he believed that in the high courts of national morality the Chinese Government would be

entirely justified in denouncing such treaty or agreement." At the twenty-ninth meeting of the committee, held on 1st February 1922 the question of the banking of the Customs revenue was brought up for discussion. Senator Underwood, after making a not altogether accurate statement regarding the banking of this revenue in the past, stated that concern had been expressed on the banking of the revenue balance over and above that yielded by the application of a 5 per cent tariff. In this connectin he read the following statement submitted by Mr. Odagiri on behalf of the Japanese Government:—"Japan not only has no objection to, but welcomes the proposal that the existing Customs system of China should not be disturbed. In the meantime she must express the hope, in view of the important position which her Chinese trade occupies in the entire foreign trade of China and Japan's resulting large contribution to the Chinese Customs revenues, that a fair and suitable adjustment may be effected with the above fact in view in regard to the future operations of the Customs system; that is to say concerning such matters as the custodian banks and the proportion of foreign nationals to be employed in the Customs staff. We desire to make it clear, however, that this is not proposed as a condition of our acceptance of this agreement, but only as a frank expression of our desire. It is hoped that such special conference as is mentioned above in its deliberations upon the conditions involving questions such as custody and supervision of tariff revenue should take into consideration the above expressed desire of Japan." The delegations of France, Italy, Belgium, and the Netherlands associated themselves with this Japanese declaration. Dr. Koo also endorsed this view, and hoped that when it came to the distribution of surplus revenue the claim of the Chinese banks would not be overlooked. The final act as regards the proposed treaty was taken at the sixth plenary session held on 4th February 1922. In presenting the treaty for the approval of the Conference Senator Underwood once more drew attention to the two main conclusions embodied in it, the first being an agreement that there should be an immediate revision of the tariff, and the second being the treaty proper providing for the special conference empowered to levy surtaxes. He prefaced his remarks with a historical statement tracing the origin of the treaty tariff and its development up to date. In the course of that statement he referred to the Chinese Customs Service, and remarked that at the sub-committee it was

the unanimous opinion of all the delegations "that on account of the disturbed conditions in China today, unsettled governmental conditions, it was desirable, if it met with the approval of China, that there should be no disturbance at this time of the present administration of the Customs system. It was in response to that sentiment that Dr. Koo had made the declaration already quoted. The treaty in its entirety was then placed before the Conference for discussion, and was finally adopted unanimously.[1] Mr. Sze expressed the thanks of China for all that Mr. Underwood had said and done, and requested that the statements made by Dr. Koo on 5th January, 16th January, and 3rd February be entered on the records of this plenary session. The statement of 5th January regarding the maintenance of the Chinese Customs Service has already been quoted; that of 16th January dealt with China's national tariff to be enforced on non-Treaty Power trade; and that of 3rd February was an endorsement and amplification of what had been said on 5th January. In this last mentioned statement Dr. Koo had emphasized the voluntary nature of the declaration of 5th January, that his delegation did not wish it to be made a treaty obligation, and that it "could not be reasonably construed to preclude the Chinese people from realizing a legitimate aspiration to make the Chinese Maritime Customs Service an institution more national in character. . . . The services of the present Maritime Customs administration had been valuable and efficient, as had been often testified to by Chinese officials in many ways, but there was nevertheless a very general feeling on the part of the Chinese people that more Chinese should be trained to assume the functions of the more responsible posts in the Service." Three days later, 6th February 1922, the treaty was signed by the representatives of all nine Powers. That, however, did not end the matter. A little more than a month later the treaty came up for discussion in the United States Senate, to many of whose members it appeared to be another instance of joint compulsion on China to accept an utterly inadequate tariff. Senator Underwood defended it on the ground that it met the wishes of the Chinese delegation, and that it was the best that could be done for China in the circumstances. Nevertheless, the fact remained that China had claimed tariff autonomy and had accepted the treaty

[1] *Treaties and Agreements with and concerning China; 1919-1929*: Washington, 1929; pp. 93-97.

as a *pis aller*. Tariff autonomy was to come, not through conferences, but by way of revolution.

Meeting of Tariff Revision Commission of 1922. Revised tariff based on market values for six months October 1921 to March 1922.

§ 28. To represent her on the Tariff Revision Commission, called for by the Washington treaty, China appointed Admiral Ts'ai T'ing-kan (蔡廷幹) as delegate, and Messrs. Chou Ch'uan-ching (周傳經), L. A. Lyall, Shih Pi (施肇) and Chou Tien (周典) as vice-delegates.[1] The first meeting, at which no business was transacted, was held on 31st March 1922, and the second, at which all the delegates representing thirteen foreign States were present, took place on 20th April. After adopting the rules of procedure, the Chinese delegation proposed that—"The Shanghai market values for the six months, October 1921 to March 1922, be taken as the basis for the new tariff. That in computing these values, goods imported from countries not entitled to a vote at the Tariff Revision Commission be left out of account."[2] The reason for selecting this period was, as Mr. Lyall stated, to get as closely as possible to a full 5 per cent tariff; China did not desire more, and he was sure the Powers did not wish to give less. This proposal met the approval of the American, the French, the Italian, and the Netherlands delegates, who also welcomed the suggestion of the British delegate, Mr. Fox, that, as six months was too short a period to permit of fair average valuations for seasonal trades, the system of index numbers in the case of piece goods should be adopted, taking the values decided on at the last revision as the basis. The Japanese chief delegate Mr. Fumatsu brought forward a counter proposal to the effect—"That the four years 1917, 1918, 1919, and 1920 shall be taken as the basis for the new tariff, and Customs values of foreign goods imported into China in the said years, which are given in the respective Customs Returns, shall be deemed the most authentic and reliable basis for computing the new tariff rates. In cases, however, where such Customs Returns values be considered unreasonable, adjustments will be made by other fair and justifiable means." At the third meeting, held on 9th May, the Japanese delegation withdrew their proposal to take

[1] C.A.: I.G. Circ. No. 3274.

[2] Tariff Revision Commission, Minutes of second meeting held on 20th April, 1922.

the values for the four years 1917-1920 as the basis of the new tariff, and accepted in principle the Chinese proposal that the Shanghai market values for the six months October 1921 to March 1922 should be accepted as the basis, with the reservation regarding index numbers submitted by the British delegation. In accepting the Chinese proposal, however, Mr. Fumatsu pointed out that the system of index numbers when applied to piece goods might have undesirable results such as to inflict on certain goods and countries of origin unfair increases in tariff rates, or to disregard the special market conditions prevailing in other open ports which might be quite different from those in Shanghai. He therefore proposed certain modifications regarding the application of index numbers. Standard goods, he suggested should be classified first into groups according to the nature of the goods or to the classification in the tariff schedule, and after the respective index number for each item in the various groups has been ascertained, the average index number of each group should be computed by taking into consideration the total quantity of each item imported. He also suggested that cotton yarn should be included in the index system, and that the market prices of such ports as Dairen, Tientsin, Hankow, and Canton should also be taken into consideration as well as those of Shanghai. To clarify the discussion Mr. Lyall then suggested—"That for cotton piece goods and cotton yarn a uniform surtax be charged on the present tariff. That the amount of this surtax be determined by comparing the average duty-paying values of a chosen number of cotton goods during the six months ending 31st March 1922 with their duty-paying values according to the present tariff. That a sub-committee be appointed to determine which cotton goods shall be chosen for this comparison of values, which goods are to be included in the term cotton piece goods as well as any other questions that may arise in connection with this reservation."[1] After much discussion the question of the British reservation and of the various suggested modifications was referred to a sub-committee consisting of the Belgian, the British, the Dutch, the Japanese, the American, and the Chinese delegations. The chairman, Admiral Ts'ai then thanked the commission for having accepted the six months' period for the fixing of valuations: the 1902 revision had taken a three year period and the result was a tariff which gave China an average of 3.2 per cent, while the 1918 revision,

[1] Tariff Revision Commission, Minutes of third meeting held on 9th May, 1922.

which was based on a four year period, yielded 8.6 per cent. The six months' period now chosen was closer to actual conditions and would probably prove more equitable to China. At the fourth meeting, held on 30th May, on the recommendation of the sub-committee, the following resolution was put forward for discussion:—"That the Shanghai market values for the six months October 1921 to March 1922 be taken as the basis for the new tariff. That in computing these values, goods imported from countries not entitled to a vote at the Tariff Revision Commission be left out of account. That the quantities of goods imported be taken from the Customs returns for 1920. That in determining the new duty rates, the market value shall be considered to exceed the duty-paying value by the present duty on the goods *plus* 7 per cent. That the first sentence of this resolution is subject to the reservation that for cotton piece goods and yarn a uniform percentage of increase over the present tariff rates be applied. That the amount of this increase is to be determined by a comparison of the Shanghai market value of each article during the six months above mentioned with the present tariff duty rate on the same article multiplied by 20, that in calculating the average increase in value of all these goods the quantity of each kind imported shall be taken into account. That if this system of a uniform increase of duty on cotton piece goods and yarn be found to be inequitable it may, at the discretion of the committee appointed to consider the question be modified in the following manner:—When the amount of the average increase of value of cotton piece goods and yarn has been determined, and the increase in value during the same period of each separate article has been ascertained, the increase of duty on each article shall be the average of these two increases." The chief British delegate objected to the sentence determining that "the market value shall be considered to exceed the duty-paying value by the present duty on the goods *plus* 7 per cent."[1] In view of the increased cost during recent years of financing, storing, and general expenses connected with selling goods he was of opinion that this in the case of goods paying specific rates was too small a deduction to be made when determining duty-paying value. He was in favour of a uniform 12 per cent being deducted in the case of all goods. The Belgian delegate, Mr. van Haute, drew

[1] Tariff Revision Commission, Minutes of fourth meeting, held on 30th May, 1922.

attention to the wording of Tariff Rule No. 1, appended to the Revised Import Tariff of 1902, and endorsed by the tariff revision commission of 1918 with the addition of the word "wholesale" before the word "market": this rule stated clearly that the deduction to be made when ascertaining the duty-paying value should be 12 per cent Mr. Lyall admitted that although this contention was correct, *yet in* actual practice the 1918 tariff revision commission did not follow this rule but deducted instead the actual duty *plus* 7 per cent. The resolution with the omission of the sentence dealing with the deduction of the duty *plus* 7 per cent, was then put to the Commission and passed unanimously. As in the case of the 1918 commission thirty committees were appointed to deal with the reclassification and valuation of goods. At the fifth meeting, held on 2nd June, the British delegate begged to withdraw his objection to the clause in the Chinese resolution, submitted at the previous meeting, regarding the method of computing duty-paying values, on the understanding that later on the Commission should have a full and free discussion of Tariff Rule No. 1 with the object of agreeing on some alteration in a rule the working of which in the past had not been satisfactory. The American and the Japanese delegates associated themselves with the British in this declaration. The sub-committees now got to work and by the 25th September the draft schedule was completed and ready for presentation to the commission. On that date the seventh meeting was held, when, after considerable discussion, three resolutions were passed. The first was "Subject to the approval of the Governments concerned the Tariff Commission unanimously adopts the schedules of the revised tariff as presented by the various committees."[1] Although the Washington treaty contained the stipulation that the tariff to be drawn up by this commission could be put into effect without further ratification, the delegates considered that they were not empowered to take such a step more particularly as several of the Powers had not yet ratified the Washington treaty. The second resolution was that—"The delegations agree to recommend to their Governments that publication of the revised tariff be authorized as from 1st October 1922"; and the third was that—"The delegations agree to recommend to their Governments that the new tariff come into force two months after publication, i.e. on

[1] Tariff Revision Commission, minutes of the seventh meeting held on 25th September, 1922.

the 1st December 1922, provided that goods shipped to China before that date shall pay duty under the 1919 tariff." Mr. Knight wished to draw the attention of the Commission to the duty treatment of German sparkling wines. At the 1918 commission he had arranged with the Chinese delegation, and with the approval of the Commission, that if Germany were again to benefit by the conventional tariff, sparkling wines from that country should be made to pay the same rate as champagne, and this arrangement had been confirmed by an exchange of notes between the French Minister and the Chinese Minister of Foreign Affairs. That arrangement had not been kept. German sparkling wines had been, and were, admitted at a rate 40 per cent less than that charged for champagne. In explanation, the chairman stated that when the Wai-chiao Pu was making a commercial treaty with Germany they overlooked the point that German sparkling wines were to pay the same rate as champagne, and allowed them to continue to be imported at the lower rate. As soon, however, as the attention of the Government had been drawn to this, champagne was likewise permitted to come in at the lower rate. The chairman could assure the Commission that there was no intention on the part of the Wai-chiao Pu to make an unauthorized change in an accepted tariff rate, and that in future German sparkling wines would be made to pay the same rate as champagne. As it was necessary to publish the tariff and as it was also necessary to secure the approval of the various Governments, it was decided at the eighth meeting held on 26th September to issue it as the tariff adopted by the Tariff Revision Commission subject to the approval of the Governments concerned. Mr. Arnold, the chief American delegate, then brought forward a suggested modification of Tariff Rule No. 1 providing for a Board of Arbitration in cases of dispute between merchants and the Customs on questions regarding the value or the classification of imported goods. Mr. Arnold also brought forward resolutions dealing with statistics of imports, drawbacks for goods repacked under Customs supervision, and with examination and appraisement of imports. Mr. Fox proposed a complete re-wording of Tariff Rule No. 1, according to which the value to be taken for goods paying *ad valorem* should be the c.i.f. cost. Mr. Blackwood of the American delegation objected as his delegation considered it necessary to have a standard of value for comparison with the c.i.f. cost. Mr. Lyall pointed out that acceptance of the

c.i.f. value would mean that the basis of valuation would be the valuation of the goods in the country from which they are exported, and that this would be unsatisfactory for the Chinese Government as it had no agency for checking such values in each country: he favoured a re-wording of the rule in such a way as to,make it clear that the basis of valuation is the landing value of the goods in China, though for Customs purposes it is necessary in cases of dispute to ascertain that landing value from the wholesale market value. Further discussion of Rule No. 1 was postponed to give the Commission time to consider it. It was at first intended that the resolution regarding satistics of import should be given the status of a Tariff Rule, but on discussion it was decided to make it a recommendation from the Commission to the Chinese Government. The American and the British delegates held the view that imports which arrived in China after having been merged in the trade of a country not the country of origin, should be statistically credited as coming from the country in the trade of which they had been merged: this, of course, did not apply to goods which had been merely transhipped *en route* to China. The French and the Japanese delegates, on the other hand, were of opinion that imports should be statistically recorded according to their actual country of origin. In the end the following resolution, proposed by Mr. Arnold, was accepted by all, including the delegate for France, who, however, entered the reservation that in his opinion the clause "the country from which the merchandise was originally exported" *means* the country of *production*. "The Commission recommends that the Customs shall provide by general regulations that for statistical purposes all imports shall be treated as coming from the original country of export. To this end, the country from whence the merchandise was originally exported for transmission to China, whether imported directly or *via* another country, shall be, as far as possible, specified in the invoice, or in the Application to pay duty, or other Customs entry. Exports from China shall be considered in a similar manner as specifying as far as possible the country of destination." A final resolution was passed, on the proposal of the American delegate, recommending the Government to develop still further the methods and personnel of the Appraising Department at the ports of entry, so as to keep pace with the expanding commerce of the country, and also to establish at Shanghai a Customs Import Valuation Bureau to investigate

domestic and foreign wholesale market values, and in an advisory capacity to assist in securing uniformity in this matter at the various ports of entry. . . . In commenting afterwards on the recommendation regarding the statistical treatment of imports the Statistical Secretary stated that, in his opinion, the Commission's debate on the matter was a work of superogation as the plan recommended was precisely what was in operation.[1] The ninth, and final, meeting was held on 28th September, when there was a full dress debate on the British delegate's proposal that Tariff Rule No. 1 should be altered so that the basis for the valuation of *ad valorem* goods should be the c.i.f. cost. The debate showed a majority in favour of the proposal, but the American, the Japanese, and the Chinese delegations voted against it. Mr. Arnold proposed that Tariff Rule No. 1 should be amplified so that in cases of dispute regarding classification or value of goods the merchant, on deposit of the duty, might be permitted to take delivery pending a final decision either by the Commissioner or by a Board of Arbitration. This proposal was passed unanimously. In view of the fact that the forthcoming special tariff conference at Peking would deal with lists of prohibited articles, munitions of war, transit passes, etc., Mr. Yokotake withdrew certain recommendations he had made on these matters, and a similar action was taken by Mr. Arnold in regard to a proposal he had made about drawbacks. That terminated the work of the Commission. The chief result of

[1] In 1904 the Statistical Secretary, writing to the Port Commissioners, had remarked —"In assigning cargo to its provenance or destination, the provenance or destination of the carrying ship must, in general, rule, but where there is documentary proof, such as an invoice or a through bill of lading, the true provenance or destination is to be recorded The rule must be that we do what lies in our power to assign goods to the proper country, but cannot go beyond the documents submitted to us" C.A., Printed Note No. 308; 20th September, 1904 Again, six months later —"For Imports will be given, as far as the information in our official possession will allow, the countries from which they come, and the farthest point under the jurisdiction of the Maritime Customs to which they reach *for Exports* will be given the first point at which they come under our jurisdiction and the country to which as far as we officially know, they are ultimately shipped." C.A., Printed Note, No. 319, 30th March, 1905 And again, in the same year — "*Provenance of Foreign Imports.* Some Commissioners seem to have understood that they are to get at the "country of origin". This we cannot do; merchants will not help us, and, in fact, it is not they, but Foreign Consuls and Boards of Trade who wish this information. The most we can do is to give the "country of provenance", i.e. the country from which the goods come to us The same is the case with exports to foreign countries; except with positive proof, we do not give the "real destination" but the direct destination" C.A., Printed Note, No 321, 25th May, 1905.

their labours, the Revised Import Tariff of 1922, was put into effect on 1st December that year except for shipments to China made prior to that date.[1]

[1] C.A.: I.G. Circ. No. 3340.

CHAPTER VI.

THE PEKING TARIFF CONFERENCE OF 1925-1926.

§ 1. Settlement of Gold Franc controversy and subsequent ratification of Washington treaty enable China to issue invitations to Powers to Tariff Conference at Peking. Political conditions in China at end of 1925. § 2. First Plenary Session, 26th October, 1925. Dr. C. T. Wang puts forward China's claim to tariff autonomy. § 3. Agenda of the Conference. Omission of heading on disposal of proceeds of surtaxes. § 4. Discussion by Tariff Autonomy Committee of China's claim. Views of Powers. Question linked with abolition of *likin*. § 5. Declaration of British delegation on tariff autonomy. Programmes for the realization of tariff autonomy suggested by the Japanese and the American delegations. China's declaration on abolition of *likin*. § 6. Proposals of Chinese Government on rates of interim surtaxes. Explanation of American proposed programme. § 7. Chinese view of points of agreement and disagreement. Programme proposed by British delegation. Conference agrees to take it up for discussion. § 8. Suggested versions of new treaty preamble recognizing China's right to tariff autonomy. § 9. Sub-committee agrees on text of tariff autonomy clause. § 10. Preamble accepted. China's opinion on purposes to which proceeds of surtaxes should be devoted, and on rates of surtaxes. Appointment of two sub-committees, one on purposes and one on rates. § 11. Sub-committee on purposes divides into committees on *likin* and on other purposes. Discussion on meaning of *likin*. § 12. Consideration of China's inadequately secured foreign debts by committee on purposes other than the abolition of *likin*. § 13. Discussion by sub-committee on rates of surtaxes on list of B grade luxuries submitted by the Chinese delegation. § 14. Chinese delegation submits revised list of luxuries and tables of revenue derivable therefrom. § 15. Chinese delegation's statements on basis of valuation for calculation of duties, on the levying of duties and taxes on foreigners residing in China, and on the abolition of export and coast trade duties on native goods moved between treaty ports. § 16. Revised list of B grade luxuries in fifteen groups. § 17. Plan of Japanese delegation for consolidation of China's unsecured and inadequately secured foreign and domestic loans. § 18. British delegation's proposals on *likin* compensation tax. § 19. Objections of Chinese experts to this proposal. § 20. Table submitted by American experts showing estimated Customs revenue and surplus available. § 21. Memorandum from Netherlands delegation on principal sources of revenue mortgaged for service of Chinese loans. § 22. Italian delegation's plan for consolidation loan. § 23. Belgian delegation's proposals. § 24. Memorandum from French delegation on China's inadequately secured external and internal debts. § 25. Resumption of Conference on 18th February, 1926, after eight weeks recess. Chinese delegation's proposed resolutions on estimated amount required from certain surtaxes, and on immediate levy of 2½ per cent surtax. § 26. Discussion on drafts of resolution on the levying of interim surtaxes suggested by the Chinese and the American delegations. §27. Further discussion on wording of resolution on the levying of interim surtaxes. Opposition of foreign delegations to specifying of figure of $90,000,000 as sum to be raised by surtaxes. Draft of resolution proposed by the Japanese delegation. § 28. List of luxury articles submitted by Chinese delegation. American delegation's list. Reservations made by various countries. § 29. Continued discussion on list of luxuries. Withdrawal of many reservations. § 30. Revised Chinese draft of resolution on

levying of surtaxes. Debate on date of enforcement of surtaxes. Chinese and Japanese wish to fix it according to date of landing of goods in China. Other delegations in favour of fixing according to date of shipment from abroad. § 31. British delegation agree to accept landing date if three months notice allowed. Discussion on Japanese proviso that conditions and purposes of surtaxes be agreed upon before their enforcement. § 32. Chinese amendment to Japanese proviso specifying certain purposes to which proceeds of surtaxes should be devoted. Chinese decline to accept Japanese proviso. § 33. Revised final list of luxuries presented by Chinese delegation. Dispute whether re-arranged list did not include some articles not previously agreed on as luxuries. § 34. Seven classes of surtax ranging from 27½ to 2½ per cent proposed by Chinese delegation. French delegation's proposal. § 35. Political unrest in China leads to dissolution of Conference. § 36. Foreign delegations hold discussions on custodian banks and revision of Agreement of January 1912. § 37. Official announcement of foreign delegations desiring to resume Conference at earliest possible date. § 38. Results of Conference

Settlement of Gold Franc controversy and subsequent ratification of Washington treaty enable China to issue invitations to Powers to Tariff Conference at Peking. Political conditions in China at end of 1925.

§ 1. The Shanghai incident of the 30th May, 1925 and the shooting affray at Shameen (Canton) on the 23rd June of the same year let loose a flood of patriotic agitation, which manifested itself in labour strikes at Hongkong, Swatow, Shanghai and Tientsin, in lively demonstrations by student organizations in all sections of the country, in the strengthening of the influence of the more extreme elements in the Kuomintang, and in a state of growing tension in the relations between China and the great Powers. It was in this atmosphere of tension that President Calvin Coolidge expressed the hope that it would be possible to hold a conference for the discussion of extraterritorial rights in China and of the Chinese Customs issue, declaring at the same time that it was the aim of his Administration to promote conditions favourable to the holding of such a conference.[1] Great Britain and Japan had also come to realize the necessity of quick action in order to convince the Chinese that their attitude was one of genuine sympathy, and accordingly gave the United States Government their cordial support in its negotiations with the other six signatories to the Washington treaties in regard to the policy and procedure for such a conference. As the gold franc controversy had at last been settled[2] and as the French Chamber in consequence had on 7th July ratified the Washington treaties, it became possible for

[1] *The Times* (London), 15th July, 1925.

[2] *China's Customs Revenue since the Revolution of 1911*; *op. cit*, pp. 216-220; 222-229.

the representatives of all the nine Powers, signatory to those treaties, to meet at Washington on 5th August, 1925 and there to exchange ratifications of the treaties signed on 6th February, 1922.[1] A fortnight later—18th August—the Peking Government sent an invitation to the Powers to attend a Special Tariff Conference to be held at Peking, beginning on 2nd October, a date which was subsequently altered to 26th October.[2] In the light of circumstances prevailing at the time and of after events, it should be recorded that China's invitation contained the following clear indication that she intended to claim not simply the limited surtaxes authorized by the Washington treaty, but the right to exercise full tariff autonomy:— "In connexion with the said treaty it may be recalled that on January 5, 1922 at the 17th meeting of the Committee on Pacific and Far Eastern questions of the Washington Conference the Chinese delegation in giving assent thereto declared that it was their intention to bring up again the question of the restoration to China of tariff autonomy for consideration on all appropriate occasions in the future. In pursuance of the above declaration the Chinese Government proposes that the said question be also brought up at the forthcoming Conference, and expects that some arrangement will be made to remove the tariff restrictions hitherto imposed upon China."[3] The Powers accepted China's invitation, but as there had been unceasing and widespread denunciation of the so-called "unequal" treaties and of the privileges they conferred upon foreigners, the Legations at Peking took the opportunity in presenting identic notes on the 4th September to the Chinese Government to point out in these notes that in their origin the tariff and extraterritorial privileges conferred by these treaties had not been extorted *malice prepense* to undermine China's sovereignty, but were simply arrangements agreed upon by both parties at the time as those best fitted to remove fertile sources of friction. These notes were in effect an official international endorsement of the views expressed by Mr. Kellogg, United States Secretary of State, in his speech at Detroit on 2nd September before the annual meeting of the American Bar Association, a speech devoted entirely to Chinese questions, making clear the origin of China's treaty tariff and of the

[1] *The Times* (London); 6th August, 1925.

[2] *The Chinese Social and Political Science Review*; Vol. IX, No. 4, pp. 840-841.

[3] *Ibid.* 20th August, 1925; *The Special Conference on the Chinese Customs Tariff* (October 1925—April 1926), Peking, 1926, p. 1.

existence of extraterritoriality in China, and of how far the United States Government was prepared to go in the removal of these disabilities. The announcement of the forthcoming meeting of the Tariff Conference was, however, most unwelcome news to all those militarists who were in opposition to the Peking Government, and who saw in that conference not only an immediate strengthening of that Government, but also, should the conference succeed, a prolonging of its life by the increased revenues that a new tariff or authorized surtaxes would ensure. To secure, if possible, the maintenance of peace and the sinking of domestic differences during the sitting of the conference, the Minister of War made personal visits to Marshal Feng Yü-hsiang at Kalgan as well as to other leading militarists. Events, however, soon showed that Marshal Chang Tso-lin and Tuan Chi-jui, Provincial Chief Executive and head of the Anfu party, would not be allowed to reap the benefits of the Conference unchallenged. General Wu Pei-fu (吳佩孚), the acknowledged leader of the Chihli party, headed the opposition and sent messages to the Legations denouncing the Peking Government and urging that the Conference be postponed. His ally General Sun Chuan-fang (孫傳芳), *tuchun* of Chekiang, began to mass his troops round Shanghai, thereby causing Chang Tso-lin's men to withdraw hastily northwards. This left Shanghai and the rich Yangtze valley in the occupation of forces in active rebellion against a Government with which the Powers were about to hold important discussions and perhaps enter into still more important agreements. The possibility of the establishment of an opposition government in Nanking or Hankow loomed large, a government which could claim "to be just as representative of China as the Peking Government, if not indeed more so." Were such a government to be established, it would be more than likely to repudiate any arrangements that might be made at the Tariff Conference. More than this; early in July a Chinese Soviet Government had been established at Canton, and by the 20th October it had enormously strengthened its position by General Chiang Kai-shek's capture of Waichow and defeat of General Ch'en Ch'iung-ming (陳炯明). The attitude of this Government towards the Tariff Conference needed no defining. As the creation of the extreme Nationalist element, under Bolshevist tutelage, it was fiercely opposed to any compromise with foreign Powers, and was loud in its demands for the unconditional abrogation of all unequal treaties. It was in this atmosphere of strikes, riots, bitter anti-foreign agitation, political disruption,

and civil strife that the delegates of twelve Powers[1] assembled at Peking to discuss with Chinese representatives the question of China's tariff and of what arrangements could and should be made to relieve China of the disabilities imposed on her by the tariff and trade clauses in her existing treaties.

First Plenary Session, 26th October 1925. Dr. C. T. Wang puts forward China's claim to tariff autonomy.

§ 2. The first plenary session of the Special Conference on Chinese Customs, or as it came to be called the Tariff Conference, was held at Peking on the 26th October, 1925 in the Chü Jen T'ang (居仁堂), Chung Hai (中海) Winter Palace. The Chief Executive of the Republic, Tuan Chi-jui (段祺瑞), in welcoming the delegates expressed the hope that their discussions and resolutions would be guided by the spirit of the Washington Conference of 1922 and of the Nine Power Treaty, emanating from that Conference, by which the signatories agreed to respect the sovereignty, the independence and the territorial and administrative integrity of China. He pointed out that the existing tariff régime in China was not only contrary to economic principles, but was also a violation of that spirit of equality and mutuality without which there could be no permanent establishment of international goodwill and prosperity. He hinted clearly that what China expected was the restoration of tariff autonomy: such restoration by improving China's financial conditions would benefit China in helping her to develop her infant industries and by increasing her purchasing power would be a source of benefit to the nations trading with her. The Chairman of the Conference, Mr. Shen Jui-lin (沈瑞麟), Minister for Foreign Affairs, in his opening address referred to the many international conferences which had been held since the close of the Great War, singling out for special note the Washington Conference of 1921 and the Locarno Conference of 1925. He drew special attention to the accepted principle in international practice that while the *sanctity of a treaty must be scrupulously observed, it is no less* true that changed and changing conditions may from time to time call for the revision of any specific treaty. He hoped that this doctrine of *rebus sic stantibus* would not be overlooked by the delegates present, and that they would share with him the opinion that the treaty tariff régime, inaugurated in China some

[1] In addition to the nine Powers including China whose representatives had attended the Washington Conference, Denmark, Sweden, Norway, and Spain had also signified their adherence to the Nine Power tariff treaty.

eighty years ago, was entirely out of keeping with present-day conditions and should not be allowed to continue. He felt confident, therefore, that this Conference would result in a re-adjustment of Chinese Customs questions so that China at an early date would be enabled to resume her sovereign right of tariff autonomy.

Dr. C. T. Wang, who was then called upon by the Chairman to lay before the Conference the proposals of the Chinese Government, pointed out that the question of tariff autonomy had been raised by the Chinese delegation at the Paris Peace Conference of 1919, but was not discussed, as it did not come within the competence of that body. It had again been raised at the Washington Conference in 1921 at the fifth meeting of the Committee on Pacific and Far Eastern questions when the Chinese delegates had submitted that "the existing treaty tariff régime in China constituted an infringement of her sovereign rights and ran counter to the principle of equality and mutuality."[1] As the proposals then made by the Chinese delegates had not been accepted *in toto*, they accordingly declared at the seventeenth meeting of the Committee on Pacific and Far Eastern Questions, held on 5th February, 1922, that "it was their intention to bring up the question of tariff autonomy again for consideration on all appropriate occasions in the future.— Relying, therefore, on the spirit of the Nine Power Treaty to respect the sovereignty and integrity of China, and with a view to improving the relations between friendly nations, the Chinese Government hereby makes the following proposals for the removal of the restrictions imposed by the existing treaties affecting the Customs tariff so that the Chinese National Tariff Law may be carried into effect and tariff autonomy established:—

(1) The participating Powers formally declare to the Government of the Republic of China their respect for its tariff autonomy and agree to the removal of all the tariff restrictions contained in existing treaties.

(2) The Government of the Republic of China agrees to the abolition of *likin* simultaneously with the enforcement of the National Tariff Law, which shall take effect not later than the 1st day of January in the 18th year of the Republic of China, (1929).

[1] The quotations throughout this chapter, unless otherwise indicated, are from the mimeographed official minutes of the Conference. These minutes were subsequently edited by Dr. M. T. Z. Tyau, and published by the Wai-chiao Pu under the title—"*The Special Conference on the Chinese Customs Tariff, (October 1925—April 1926).*" Peking 1926.

(3) Previous to the enforcement of the Chinese National Tariff Law, an interim surtax of 5 per cent on ordinary goods, 30 per cent on A grade luxuries (namely Wine and Tobacco), and 20 per cent on B grade luxuries shall be levied in addition to the present Customs tariff of 5 per cent *ad valorem*.

(4) The collection of the above-mentioned interim surtaxes shall begin three months from the date of signature.

(5) The decisions relative to the above four articles shall be carried into effect from the date of signature."

Then followed speeches from the delegates, all of them sympathetic but most of them non-committal on the programme thus put forward. The chief British delegate, however, Sir Ronald Macleay, intimated that although the scope and objects of this Conference had been clearly defined and laid down in the Washington Nine Power Treaty, yet he was "authorized to state that this delegation is prepared to discuss the question of tariff autonomy, either at this Conference or, if that cannot be arranged, at a later date." Mr. Hioki, chief of the Japanese delegation, drew a comparison between China and Japan in her struggle for the abolition of all unilateral restrictions upon her freedom of action in matters of fiscal and judicial administration. In the conviction that Japan's experience would be of benefit in the present circumstance he outlined the history of Japan's struggle for tariff autonomy, lasting for fifty-three years from 1858 to 1911, a struggle in which from the very outset Japan realized the futility of all attempts to remove the effect without removing the cause, namely the weakness of her own Government. China could, therefore, rest assured of Japan's complete sympathy, and as a further proof of this Mr. Hioki stated that the Japanese delegation was also prepared to consider the question of tariff autonomy as now put forward by China. He pointed out, however, that the primary business of this Conference, according to the provisions of the Washington treaty of 1922, was (1) to take steps for the speedy abolition of *likin* with a view to the levy of a surtax provided for in existing treaties between China and other Powers; and (2) to consider certain interim provisions prior to the abolition of *likin*, and to authorize the levy of a surtax at a general rate of 2½ per cent *ad valorem*, which in the cases of certain articles of luxury might be increased to a rate not exceeding 5 per cent *ad valorem*. Any alteration of these terms obviously entailed modification of the provisions of the Washington treaty. The Japanese delegation

was of opinion that the carrying out of these terms would provide China with the funds required for her administrative expenditure, but while holding this opinion would not be opposed to the considering of any proposal for the levying of a reasonable surtax higher than 2½ per cent, as such a proposal might be considered as falling within Article II of the Washington treaty. Returning to the question of tariff autonomy, Mr. Hioki, on the supposition that China did not contemplate the immediate and unconditional surrender by the Powers of their existing treaty rights, suggested, as an intermediate step, alternative plans which might be adopted for a period to be agreed upon. The first plan was "that a statutory tariff on a fair and reasonable basis be established for general application, subject to the provisions of a special conventional tariff on certain specified articles to be agreed upon separately between China and each of the Powers directly interested." The second plan was "that a graduated tariff, so devised as to be acceptable to the Powers concerned, be established at an average rate of not more than 12½ per cent *ad valorem*, and generally in a manner consistent with the provisions of Article II of the Washington treaty." The first plenary session closed with the appointment of Dr. Hawkling Yen to be Secretary General of the Conference, and of a Committee on Programme and Procedure consisting of Dr. C. T. Wang and the chiefs of the various delegations.

Agenda of the Conference. Omission of heading on disposal of proceeds of surtaxes.

§ 3. The first meeting of this Committee on Programme and Procedure was held on the following day, and was attended by representatives of all the participating Powers, namely, China, the United States of America, Belgium, Denmark, France, Great Britain, Italy, Japan, the Netherlands, Norway, Portugal, Spain, and Sweden. In the meantime, the agenda for the Conference had been circulated to all the delegations. It ran as follows:—

"A. *Tariff Autonomy*:

1. Adoption by the Chinese Government of the Chinese General Customs Tariff.
   (For practical convenience a period is to be agreed upon within which to make preparations for the coming into force of tariff autonomy, and application of the Chinese General Customs Tariff.)
2. Abolition of *likin*.

B. *Provisional measures to be taken during the interim period*:

1. Levy of an interim surtax.

2. Levy of a surtax on articles of luxury.
3. Arrangements to unify the rates of Customs duties at the land and maritime frontiers.
4. Valuation of commodities.

C. *Related Matters*:

1. Arrangement to ascertain the country of origin of imported goods or produce.
2. The depositing of Customs revenues."

Dr. C. T. Wang, the chairman of the Committee, suggested that it would simplify the work of the Conference if three different committees were appointed to deal with these three sets of questions, and that as business proceeded a fourth committee for drafting purposes would be necessary. This proposal was approved in general, but considerable discussion ensued on the omission from the agenda of any heading dealing with the disposal of the proceeds of the surtaxes. Sir Ronald Macleay pointing out that Article III of the Washington treaty stipulated that the present Conference "should authorize the levying of surtaxes for such purposes and subject to such conditions as it might determine, and that, therefore, the purposes must be discussed." Dr. Wang disclaimed any intention of shelving such discussion, opportunity for which would be given in Committee B under headings 1 and 2, but, at the same time, pointed out that the specific inclusion of any such item in the agenda was out of the question, as that agenda had been handed to him by the Minister of Foreign Affairs as having been accepted by all the delegations concerned. This drew forth an explanation from Mr. Oudendijk, Dean of the Diplomatic Body, who made it clear that the agenda, as it now stood, had been submitted to him as provisional, that he had laid it before his colleagues, who had after discussion modified it so that under A stood simply the heading Tariff Autonomy, with a reference to the Chinese declaration made at the Washington Conference; under B, Abolition of *Likin;* under C, Provisional Measures; and under D, Related Matters with the inclusion of the subject of the Board of Reference which had been mentioned in a resolution of the Washington Conference. The agenda thus slightly altered had been telegraphed home by most of his colleagues and had received the approval of the Governments concerned. This approval Mr. Oudendijk had communicated to the Minister of Foreign Affairs, but was informed a few days later that the Chinese Committee of the Conference considered that the time was too short to make alterations, and that the matter had been

allowed to remain as it was. To protests from the Italian, the French and the British chief delegates that the agenda could now be discussed and altered, the Chairman replied that there was no necessity to alter the agenda, as the Chinese Government was not opposed to the discussion of the questions raised. The proposal of the chief Italian delegate that a special committee be appointed for the purpose of discussing the disposal of the proceeds of the surtaxes was ruled out by the Chairman on the ground that it was a proposal to which his Government could not agree. He accepted, however, the suggestion of the chief Belgian delegate that it should be recorded in the minutes that the question of the disposal of the proceeds of the surtaxes would be discussed under Section B, as well as the further suggestion of the chief Portuguese delegate that it should also be recorded in the minutes that should the committee dealing with Section B appoint a sub-committee to deal with this question or compose itself into a financial committee for that purpose, it would be for that committee to decide. A final solution of this debate was reached by the unanimous acceptance of a resolution proposed by Sir Ronald Macleay that—"It is understood that the question of the disposal of the proceeds from the surtaxes as provided in items 1 and 2 under B (Provisional Measures to be taken during the interim period) as well as the questions of the date of enforcement and of the conditions subject to which they are to be imposed, will be dealt with by the Committee on Section B." The question whether the French language also should be used both at the meetings and in the minutes was settled by the Chairman's decision that if there was no objection Chinese, English and French would be used, and that when the minutes were printed, a French version would be added to the English one. The Chief of the American delegation, Mr. J. van A. MacMurray, pointed out that the agenda contained no mention of the Board of Reference provided for by one of the resolutions of the Washington Conference, and expressed the opinion that provision should be made for the discussion of this matter. To this the Chairman replied that the question referred to was not in the treaty itself, but was only a resolution passed by the Washington Conference, and as the Board of Reference was a matter to which the Chinese people seriously objected, he hoped that Mr. MacMurray would withdraw his suggestion in order that the business of the Conference might not be delayed or hindered from being brought to a successful issue. Mr. MacMurray replied that while he would not insist on an

immediate discussion, he wished at the same time to make it clear that as the American delegation was under instructions to fulfil its duties under the provisions of the Washington Conference, it must make a "reservation of the right that was at any time appropriate during the Conference to discuss and dispose of all the questions which by the treaty or by that resolution were imposed upon them as their duty at this Conference." The Chief of the British delegation thereupon made a similar reservation in the same terms. The Chairman, having made note of this reservation, then proceeded to read out the Rules of Procedure, which after discussion and alteration were finally passed.

Discussion by Tariff Autonomy Committee of China's claim. Views of Powers. Question linked with abolition of *likin*.

§ 4. The first meeting of the Tariff Autonomy Committee—(Committee A)—was held on 30th October. Dr. C. T. Wang, who had been elected as chairman also of this Committee, read once more the statement embodying the five proposals for the removal of the restrictions on China's tariff autonomy, which he had previously presented at the first plenary session, and to these proposals he now added, as suitable to the occasion, part of a statement submitted by the Chinese delegation at the Paris Conference in 1921:—

> "What the Chinese Government desires to be agreed to by the Conference in principle is that the present tariff should be superseded two years hence by the general tariff which is applied to the trade of non-Treaty Powers, but in the meantime China is willing to negotiate with the Treaty Powers with a view to arranging the new conventional rates for those articles in which they are specially interested under the following conditions:—
>
> 1. Any favourable treatment thus arranged must be reciprocal.
> 2. A differential scale must be established, so that luxuries should pay more and raw materials less than necessaries.
> 3. The basis of the new conventional tariff rate for necessaries must not be less than twelve and one half per cent. in order to cover the loss of revenue resulting from the abolition of *likin* as provided for in the commercial treaties of 1902-1903.
> 4. At the end of a definite period to be fixed by new treaties China must be at liberty not only to revise the basis of valuation, but also the duty rate itself.
>
> In return for such concessions, China is willing to abolish

the undesirable tax of *likin*, so that anything that tends to hinder the development of trade may be removed once for all.

The Chinese Government do not intend to adopt a system of protective tariff nor to overtax trade, but simply demand the revision of the present tariff because it is unfair, unscientific, out of date, and does not meet China's economic needs. The prolonged unfavourable balance of trade, and the constant increase of national debt have created a serious financial and economic stress, which can only be relieved by consolidating the system of taxation and encouraging the export trade, which will in turn benefit the importers by increasing the people's purchasing power. This reform has long been overdue, and in placing China's case before the Peace Conference the Chinese Government have behind them the voice of the whole country. It is to be hoped that the friendly Powers will restore to China the same fiscal right as is enjoyed by all independent nations, so that the Chinese people may develop their natural resources, become better consumers of the world's commodities, and contribute their share to the progress and civilization of mankind."

In urging that the proposals put forward by China both at the Versailles and the Washington Conferences should now be considered, Dr. Wang pointed out that conditions had changed since those two Conferences, and that although China had entered into a treaty with the various Powers at Washington, yet both the Government and the people felt that it was now difficult to accept the conditions of that treaty. He therefore urged that China had the right to full tariff autonomy as a sovereign state. A strong central Government was a necessity, but such a Government could not function properly without funds, and it was impossible to raise the funds necessary unless China could exercise her right to increase her revenue from Customs levies, without being bound hand and foot to a tariff based on unilateral treaties. He alluded to the fear that funds so raised might be squandered, but he wished to point out "that no portion of the Customs funds had ever been squandered, and that certainly the people would not wish to see any such sum squandered." China also desired to meet her obligations to her creditors, and this could not be done without revenue. Money, too, was needed to replace the loss of revenue to the provinces from the abolition of *likin*, as well as for the development of the country; especially for railway construction.

Mr. Hioki, Chief of the Japanese delegation, took the

opportunity of presenting once more, but in fuller outline, the proposals he had put forward at the first plenary session. His first proposal was that China might inaugurate a "statutory tariff for general application, together with special tariffs on certain limited articles which are to be agreed upon by treaty separately between China and interested Powers." China should be left free to draw up such a tariff, and the drawing up of such a tariff on fair and reasonable lines "should reduce to the minimum the number of those countries requiring separate arrangements with regard to special tariffs." As Dr. Wang had indicated at the opening session that it was the determination of the Chinese Government to abolish *likin* and to enforce a national tariff law within a period of three years, that is, not later than the 1st of January, 1929, it would be possible for China within that preparatory period to conclude with other Powers treaties which should become operative simultaneously with the enforcement of China's national tariff law. These treaties would supersede existing ones and remove all unilateral restrictions now imposed upon China with regard to her Customs tariff. If this proposal should be approved, it was the intention of the Japanese delegation to suggest that during the period prior to the enforcement of the Chinese statutory tariff an interim surtax should be levied in accordance with the provisions of Article III of the Washington treaty. In case this plan should not be acceptable, the Japanese delegation would propose the adoption of a tariff régime consistent with the terms of the 1902-03 treaties between China and various Powers. This would mean the introduction of a graduated tariff, since a uniform tariff at the rate provided for by these treaties would be unreasonable and unscientific, and work to the detriment of China's foreign trade. Of these two plans, the Japanese delegation decidedly preferred the first, as the steps to be taken for its introduction could be definitely decided upon at this Conference, and would be "by far the simpler and more practicable means to set China on the direct road to tariff autonomy." The adoption of the second plan, based as it was on twenty-year-old treaties, would not be in harmony with present economic conditions. For one thing it would entail an increase in export duty rates, and that was undesirable. Furthermore, on account of the complicated and conflicting interests of the Powers, it would be exceedingly difficult, and perhaps impossible, within the time at the disposal of the Conference, to draw up a schedule of tariff acceptable to all concerned.

Sir Ronald Macleay then suggested that the Chairman might state the views of the Chinese delegation on the question of the abolition of *likin*, which he took to mean the abolition also of all forms of provincial taxes lately imposed on trade. He drew attention to Article VIII of the Mackay treaty, which had never come into effect, and remarked that while it might be admitted that tariff autonomy was a sovereign right, it could not be admitted that "it was also a sovereign right to exercise now complete autonomy." Mr. S. H. Strawn, of the American delegation, in supporting the remarks of the chief British delegate, stated that he "assumed that each of the Powers recognized the sovereign right of any republic, China included, to enjoy tariff autonomy, when it was in a condition to enjoy tariff autonomy, coincident with the rights of its citizens and with the rights of the citizens of the foreign Powers with whom it had treaties." He further assumed "that when Article II of the Chinese proposals was put after Article I, it was contemplated that the realization to China of tariff autonomy would be coincident with the abolition of *likin*, and therefore his delegation would like the Chairman to explain the method by which it was expected to abolish *likin*." Lastly, he assumed "that the delegates of all the Powers represented had come with the expectation of doing what they could immediately for the relief of China under the Washington treaty of February 6, 1922," adding "that his delegation would be very glad to act immediately upon anything which came within that treaty, but that they could not, consistent with the constitution of the United States, go beyond the power authorized in the Washington treaty without referring the matter to their Government."

Dr. Wang waived aside for the nonce any discussion of the *likin* question until "the Powers represented at this Conference would declare to the Government of the Republic of China their respect for its tariff autonomy. After such agreement by the Powers the Chinese Government would on its part agree to the abolition of *likin*." Mr. Strawn renewed his objection that the questions of tariff autonomy and of *likin* were indissolul y linked, and that the mere statement by the delegations that they recognized China's right to tariff autonomy would not advance the business of the Conference, unless the delegations were informed when and by what method *likin* was to be abolished. In spite of these objections, however, the Chairman proceeded to call upon the heads of the delegations for an expression of opinion on the question of China's right to tariff autonomy. The

chief Belgian delegate, M. le Maire de Warzée d'Hermalle, declared that Belgium was willing to recognize, in principle, China's right to tariff autonomy; but that a transition period would be necessary before actual autonomy should come into operation. The chief delegate for France, M. le Comte Damien de Martel, took his stand on Articles II and III of the Washington treaty; but was willing to discuss and submit to his Government any reasonable proposal which might be put forward. The chief delegate for the Netherlands, M. W. J. Oudendijk, believed "that the right of tariff autonomy was an inherent right, which belonged to the right of sovereignty." The chief of the Italian delegation, M. V. Cerrutti, was in full sympathy with China's desire for tariff autonomy, but considered "that the abolition of *likin* and tariff autonomy were connected questions and—that the abolition of *likin* must precede full tariff autonomy." The chief of the Portuguese delegation, Senhor J. A. de Bianchi, was of the opinion that items 1 and 2 of the agenda were really one, and suggested that it would greatly facilitate the work of the Conference if Dr. Wang would submit for consideration his proposals regarding the abolition of *likin*. Dr. Wang remarked that he was quite willing to adopt this suggestion, but that before doing so he desired on behalf of the Chinese Government to have a declaration from all the delegations on the subject of tariff autonomy. The chief of the Danish delegation, Herr Henrik de Kauffmann, endorsed Mr. Strawn's remarks, stating at the same time that he believed "that tariff autonomy was a part of the sovereign right of any country, but that this right did not mean that treaties made with other countries were to be disregarded." The chief of the Norwegian delegation, Herr Johan Michelet, was prepared to give his consent to the recognition of China's right to tariff autonomy, but such declaration was to be taken as referring only to the principle itself. The chief of the Spanish delegation, M. Garrido y Cisneros, declared himself willing to support all the resolutions favourable to China which might be adopted at the Conference. The chief of the Swedish delegation, Herr Oscar Ewerlöf, stood by the stipulations of the Washington treaty, and while willing to discuss the proposals of the Chinese Government concerning tariff autonomy, he begged to point out that he had not the necessary authority to accept such proposals and would have to ask for instructions from his Government. Sir Ronald Macleay, on being asked by the Chairman whether he had any further remarks to make, stated that his position was the same as that of Mr. Ewerlof.

The Chairman, before proceeding to hand out copies of a Memorandum on the Abolition of *Likin*, thanked the delegates for their declarations, "agreeing to accept the proposals of the Chinese Government that the principle of China's sovereign right to exercise tariff autonomy be acknowledged", and requested the two delegates, who had expressed their desire to refer back to their Governments for instructions on the question of tariff autonomy, to send in their replies as early as possible.

The Memorandum on the Abolition of *Likin*, submitted by the Chairman, consisted of two sections, one headed—Measures leading to the abolition of *likin*, and the dates—and the other—Means for the compensation of the abolition of *likin* and the fund for the same purpose—. To these was attached a schedule outlining the Preparatory Measures to be taken in the interim period before the exercise of the right of tariff autonomy (Dec. 1st, 1925 to Feb. 29th, 1928). The first section points out that as this Conference, in the spirit of the Washington Conference in its respect for China's sovereignty, is aiming at tariff autonomy, there should be a determination to abolish *likin* as prejudicial to the economic life of China. As *likin*, however, and other duties partaking of the nature of *likin*, constitute the main source of revenue for the provinces, it will be necessary first for the authorities of the Central Government to examine carefully all the details concerning *likin* in the various provinces, and to carry out this examination it was proposed that the provinces should be called on to prepare detailed reports on their *likin* procedure, which reports should be ready within the six months period 1st December 1925 to 31st May 1926, and that, at the same time, commissions should be sent to the provinces to carry out investigations. Then should follow a period of six months, 1st June 1926 to 30th November 1926, for discussion of and decision on these reports and investigations by the Ministry of Finance and the Commission for the Reorganization of Finance. After this there should ensue a period of one year and two months, 1st January 1927 to 29th February 1928, during which all internal taxes on trade in transit be gradually abolished. The second section of the Memorandum deals with the creation of a special fund to compensate the provincial treasuries for the losses which would be incurred by the abolition of *likin*—losses estimated at silver $70,000,000 annually. These compensatory adjustments, it was proposed, should be drawn at first from the increased revenue derived from the surtaxes, and later on when tariff autonomy should be in force from the regular Customs revenue

itself. The schedule, attached to the Memorandum, outlining the preparatory measures to be taken during the interim period was as follows:—

"Preparatory Measures to be taken in the Interim Period before the exercise of the right of Tariff Autonomy.

(December 1st, 1925 to February 29th, 1928.)

Measures to be taken.	*Dates when the measures should begin to be taken.*	*Time limit when the measures should be completed.*
(1) Disposal of the Surtax		
(A) Readjustment of debts	April 1st, 1926	Four months (July 31st, 1926)
(B) Issuance of bonds (for the compensation of *likin* abolition, readjustment of debts, and constructive purposes	August 1st, 1926	Four months (November 30th, 1926)
(C) Distribution between the Central Government and the various Provinces as compensation.	December 1st, 1926	Fifteen months (February 29th, 1928)
(2) Abolition of inland transit dues		
(A) Period of investigation	December 1st, 1925	Six months (May 31st, 1926)
(B) Period of discussion and decision	June 1st, 1926	Six months (November 30th, 1926)
(C) Period of actual abolition		
(I) Dues on freight carried by railways	January 1st, 1927	Two months (February 28th, 1927)
(II) Duties levied by Native Custom Houses (outside of 50 *li* from treaty ports and in the interior)	March 1st, 1927	Four months (June 30th, 1927)
(III) *Likin*, (all taxes, charges, and fees partaking of the nature of transit dues)	July 1st, 1927	Eight months (February 29th, 1928)"

The Chairman enlarged on various points in the Memorandum and the schedule, pointing out that from the financial aspect the abolition of *likin* was not so simple a matter as might be supposed. Certain provinces had already mortgaged or earmarked this revenue for repayment of advances made to their treasuries. In such cases bonds would have to be issued in order to enable such provinces to meet their financial obligations. Compensation, too, would have to be provided for the very large number of

employees engaged in all the provincial trade-taxing establishments which should be abolished. To carry out the task completely might take longer than the time set in the schedule, but the Government was determined that the work should be completed at any rate not later than 1st January, 1929.

Declaration of British delegation on Tariff Autonomy. Programmes for the realization of Tariff Autonomy suggested by the Japanese and the American delegations. China's declaration on abolition of *likin*.

§ 5. At the second meeting of the Tariff Autonomy Committee which was held on the 3rd of November, Dr. Wang asked if Great Britain and Sweden had received instructions from their home governments regarding the question of tariff autonomy. Sir Ronald Macleay pointed out that, while his Government was willing to recognize the principle that China as a sovereign state had an inherent right to tariff autonomy, and was prepared to discuss the question at the Conference, he was not in a position to agree to the wording of the statement as made by Dr. Wang, which would have implied recognition of China's right to remove forthwith all tariff restrictions contained in existing treaties. He could not agree to an off-hand renunciation of their present tariff position. He therefore begged to submit the following statement: "The British delegation, recognizing the inherent right of all independent and sovereign states to tariff autonomy, and considering that the fulfilment of the provision of the Treaty of Washington of February 6th, 1922, will constitute a step towards the attainment by China of such autonomy, formally declare that in addition to the carrying out of the terms of that treaty, they are willing to submit to the ratification of their Government such further measures as may be devised and agreed upon at this Conference, with a view to ensuring within a reasonable period the full realization of China's claim to complete liberty of action in matters relating to her tariff."

The Chief of the Swedish delegation, who had not yet heard from his Government, said that he could also agree to the declaration now made.

Mr. Hioki then read a statement summarizing the views of the Japanese delegation expressed at previous meetings. His delegation was firmly convinced that the best plan for China would be (1) to "enforce a national tariff law within a certain period and upon the abolition of *likin*", and (2) within that preparatory period to "conclude with interested Powers new treaties, which will supersede the existing ones, and will take

effect simultaneously with the enforcement of the national tariff law." He therefore begged to submit seven propositions to form the basis of a new treaty to be drawn up and signed at the Conference:—

"1) The contracting Powers, other than China, hereby solemnly declare their recognition of the principle that, as an inherent right of a sovereign state, China is to enjoy full autonomy with respect to Customs tariff.

2) China shall recover the exercise of her tariff autonomy in the manner indicated in the following paragraphs.

3) China shall establish immediately a national tariff law with a schedule appertaining thereto, to be put into force within a period of three years and upon the abolition of *likin* by China, as declared by her.

4) During the interim period mentioned in the preceding paragraph, China may levy on articles of import a surtax as authorized in paragraph 2 of Article II of the Washington treaty.

5) During the same interim period, China on the one hand, and the other Contracting Powers on the other, shall conclude severally treaties, which may incorporate reciprocal conventional tariffs to be applied on certain special articles if so desired by both parties. The new treaties so concluded shall continue in force for a certain definite period.

6) The national tariff law mentioned in paragraph 3 shall become operative, so far as the Treaty Powers are concerned, simultaneously with the enforcement of the treaties above mentioned.

7) The new treaties to be concluded shall supersede the existing treaties between China and the other Contracting Powers in matters relating to Customs tariff."

The Chief of the American delegation, Mr. MacMurray, then read a statement in which he declared that his delegation

(1) was prepared in accordance with the provisions of the Washington treaty to authorize at once the levy of the surtax of 2½ per cent, and as soon as the requisite schedules could be got ready to authorize the levy of a surtax of 5 per cent on luxuries;

(2) was prepared to proceed at once with the negotiation of whatever agreement or agreements might be necessary for the making effective of other provisions of the Washington treaty; and

(3) was willing to affirm its acceptance of the principle of respect for China's tariff autonomy, and was prepared to negotiate a new treaty which shall give effect to that principle, and which shall "make provision for the abolition of *likin*, for the removal of tariff restrictions, contained in existing treaties, and for putting into effect the Chinese National Tariff Law."

To carry out the provisions of the Washington treaty, and at the same time proceed with the larger programme contemplated the American delegation suggested:—

"(I) That the Powers, other than China, authorize the levying of a surtax of 2½ per cent to be effective on all goods on February 1, 1926, and that there be prepared immediately a schedule of luxuries upon which a rate of 5 per cent shall be authorized to be effective not later than July 1, 1926. The increased revenues thus derived shall be held by the Customs Administration subject to such disposition as may be agreed upon by this Conference.

(II) That provision shall be made for the levying of the full amount of these surtaxes at the land frontiers.

(III) That a new treaty be made which shall provide:—

1) Three months after the treaty here concluded shall come into force the Chinese Government shall be at liberty, as an interim measure, and until tariff autonomy shall become effective, to impose a new and uniformly enforced schedule of duties at rates from 5 per cent (the present rate) to 12½ per cent on imports, and from 5 per cent (the present rate) to 7½ per cent on exports.

2) That from the same date, the rates of duty levied at all land frontiers shall be the same as those levied at the maritime frontiers.

3) That the increase of the Customs revenue derived from putting into effect these provisions shall be accumulated by the Customs Administration and applied for the purposes hereinafter specified.

4) That *likin* and related internal taxes which may be agreed upon shall be abolished.

5) That for the purpose of abolishing *likin*, funds from the Customs revenue shall be apportioned among the provinces in lieu of *likin*.

6) That if *likin* be collected anywhere in violation of agreements entered into for its abolition, the taxpayer shall be entitled to a refund from the Customs Administration of the full amount which he paid as *likin*.

7) That the increase in the Customs revenue derived from the increase in rates of duty shall be devoted to the following purposes:—
   (*a*) compensation to the provinces in lieu of *likin;*
   (*b*) payment of rebate charges;
   (*c*) refunding of the unsecured debts;
   (*d*) administrative expenses of the Central Government.

8) That, subject to the fulfilment of the provisions of Articles 4, 5, 6 and 7 above, present treaty restrictions on the Chinese tariff shall cease to be effective and the Chinese National Tariff Law shall come into force on January 1, 1929, as suggested by the Chinese delegation.

9) That an effort be made to devise a plan whereby it may be reasonably expected that this treaty will go into force at an early date after signature.

10) That if proposed by a majority of the Contracting Powers before January 1, 1928, China shall convene on May 1, 1928 a Conference of representatives of the Contracting Powers, for the purpose of declaring whether *likin* has been abolished and of negotiating any further agreements that may need to be arrived at with regard to the subject matter of this treaty."

Considerable discussion followed on whether or not these two plans should not be discussed together, as they were in many respects similar. The Chairman, however, objected to this, on the ground that the Chinese delegation had not yet had time to study in detail the American proposals, some of which he thought would not be acceptable to the Chinese Government. He, therefore, proposed that the Committee should proceed with the discussion of the Japanese proposals, and wished at the same time to point out that in the opinion of the Chinese Government the amount of revenue to be derived from a 2½ per cent surtax on ordinary articles and a 5 per cent surtax on luxuries would not be sufficient to meet the purposes the Chinese Government had in mind. On Mr. Hioki's replying that the matter of the surtax rates was one which concerned Committee B, (i.e. the Committee on Provisional Measures) Mr. Strawn pointed out that

this raised the question whether the personnel of Committees A and B was identical or not, and suggested that as the proposals of the Japanese and the American delegations fell in line with the Chinese proposals, Committee A should stand adjourned and Committee B meet forthwith. Before adjourning Committee A, however, the Chairman begged to lay before the delegates China's declaration for the abolition of *likin*:—

"Declaration of the Government of the Republic of China regarding the abolition of the *likin* system.

There is no greater detriment to the economic development of China than the *likin* system, since it constitutes a great obstacle to the wide distribution of goods and the expansion of commerce, and results in diminishing the productive power of the country and impoverishing the people. The sources of revenue and the purchasing power of a nation are both dependent upon the productiveness of its people. In China, this productiveness is now so seriously affected by this obnoxious *likin* tax that her sources of revenue are exhausted, her revenue decreased, her purchasing power weakened, and her international trade crippled.

In the history of economics, development began with the family and passed on to the community; then it extended to the nation and thence to the entire world. To-day this development has reached the national stage, and it is gradually approaching the international phase. Unfortunately, in China, owing to the existence of this obnoxious tax, the output of raw materials and manufactured articles is insufficient to meet the demands of the nation and of the world—a state of things which is much to be deplored.

The Chinese people have for years been clamouring for the abolition of this tax, and the Central Government has created a Financial Rehabilitation Commission composed of representatives of the military and civil authorities of the whole country. It is fully recognized that no half-way measures would meet the situation, and that, if the problem is not thoroughly dealt with, there would be no possibility of improving the welfare of the nation.

After mature consideration, it has been decided to abolish the *likin* system, so that the economic welfare of the people as well as foreign commerce may alike be benefited, the foundations of national finance firmly established, and

the international relations of the country likewise strengthened.

The Chinese Government hereby declares that the abolition of *likin* will be completely carried out not later than the first day of the first month of the 18th year of the Republic (1929)."

Proposals of Chinese Government on rates of interim surtaxes. Explanation of American proposed programme.

§ 6. The first Meeting of the Committee on Provisional Measures (Committee B) took place three days later—6th November. Dr. Wang, who was unanimously elected Chairman, opened the proceedings by making a statement of the progress already made, *viz.*—

(*a*) Recognition by all the Powers of China's right to tariff autonomy.

(*b*) Agreement by all the Powers to negotiate and conclude new treaties for the removal of all tariff restrictions found in existing treaties; and

(*c*) Declaration by the Chinese Government of its determination to abolish *likin* not later than 1st January, 1929.

As the 2½ per cent surtax on ordinary articles and the 5 per cent on luxuries even for the interim period would not be sufficient to enable the Government to carry out its scheme for abolition of *likin*, it was necessary that the matter of increasing these surtaxes for the purpose indicated should now be discussed.

Dr. W. W. Yen, after a few introductory remarks on the purpose set before the Committee, proceeded to read a statement embodying the proposals of the Chinese Government on the rates of the interim surtaxes to be levied on dutiable commodities imported into China. This statement was prefaced by a *verbatim* quotation of Article III of the Nine Power Treaty signed at Washington in 1922, allowing for a 2½ per cent *ad valorem* surtax on ordinary dutiable imports and a 5 per cent *ad valorem* surtax on articles of luxury. In view of the fact that China's tariff rate, as fixed by treaty, is on so low a basis as 5 per cent *ad valorem*, and as the revenue derivable from so low a rate is very meagre, and as it is only from the Customs that the Government can expect to derive the sums that will be necessary to carry out the abolition of *likin* and to effect other reforms China therefore proposes "that an interim surtax of 5 per cent on ordinary imports—30 per cent on A Grade luxuries (namely, Wine and Tobacco—), and 20 per cent on B Grade

luxuries—be imposed." Admiral Ts'ai Ting-kan then stated the reasons for these proposed increases, defending the 30 per cent surtax on Wine and Tobacco by citing the rates levied on these articles in other countries. In the B Grade luxuries he included such articles as Silk goods, Woollen goods, Flax Hemp and Jute goods, fine Cotton goods, Leather and Skins, Sugar, Fishery products, superior quality Beverages and Comestibles, Papers of certain kinds, Scented Woods, India-rubber, Chinaware, Glassware, Drugs and Medicines, Pearls and Precious Stones, Vehicles, Arms and Ammunition, Mats, Carpets; Fans, Gramophones and Musical Instruments, Electric Materials, Toys and Games, Toilet Requisites, Clocks and Watches, Lacquered ware, Indigo—all of which, from the point of view of Chinese national taste and habits, could fairly be classified as luxuries.

Mr. Yoshizawa, speaking on behalf of the Japanese delegation, submitted a statement divided into six sections. The first reiterated that according to the Washington treaty only a 2½ per cent surtax was leviable, that the levy of a higher rate would require a further agreement, and that the levy of a high rate would seriously disturb the trade relations between China and other countries. The second section suggested that the funds derived from this authorized surtax should be used (*a*) to replace the income from *likin*, (*b*) to rehabilitate the financial credit of the Chinese Government, and (*c*) to assist in meeting the administrative expenses of the Chinese Government. The third section stated that in the opinion of the Japanese delegation the funds derivable from this 2½ per cent surtax would be sufficient to cover the items indicated above. Section four expresses the hope that China may be able to carry out her determination to abolish *likin* by the 1st January, 1929. The fifth section suggests that the rehabilitation of China's credit will call for the consolidation of the various outstanding debts unsecured or insufficiently secured, and that this funding, both for internal and external loans, should be effected by the issue of consolidation bonds secured on the Customs revenue; while the sixth section announces Japan's willingness in case of necessity to allow a moratorium during the interim period of three years on the interest and amortization service of the new consolidation bonds.

Mr. Strawn then took the opportunity of elaborating the American proposals submitted to the Tariff Autonomy Committee, again pointing out that at this Conference the American delegation could do no more than carry out the provisions of

the Washington treaty, but that they were quite prepared to recommend to their Government the negotiating of a new treaty to afford China the relief to which they considered she was entitled. Referring to the first proposition under section III of the American proposals, Mr. Strawn made clear that his delegation recognized that the surtax rates agreed on at Washington would not be sufficient to bring in the funds China now required, and that was why the American delegation proposed that, prior to the coming into effect of tariff autonomy, China should be allowed to put into force a schedule of import duties at rates varying from 5 per cent to 12½ per cent and of export duties at rates varying from 5 per cent to 7½ per cent. It was intended that China should be left perfectly free to draw up these schedules herself, and that she would not be bound to levy a uniform 7½ per cent rate on necessities, but could, if she so desired, levy as low a rate as the present 5 per cent on some, while on luxuries she would be free to levy rates up to as high as 12½ per cent. Schedules drawn on these lines, it was estimated, would bring in to China an additional hundred million dollars annually. As regarded the safekeeping of the additional revenue thus obtained, he begged to point out that the American delegation regarded it as very important "that the increase of the Customs revenue derived from putting into effect these provisions should be accumulated by the Customs Administration and applied for the purpose thereinafter specified. He understood that the Customs Administration had been for many years a satisfactory machine which China had for the collection of revenue. It put the revenue beyond the reach of any local influence or seizure, and ensured to the Powers and to the Chinese Government that the same would be available when it might be required. He might say in passing that from his experience in the last thirty years in helping to set up financial projects and consummating financial agreements on a basis on which loans might be had, he felt that if, as would likely be the case, China should want to re-finance her unsecured debts after the conclusion of this new treaty, the financiers would require the stability of the Customs Administration as a condition precedent to the refunding of the unsecured debts, which stability, therefore, would be a very valuable asset to China in her negotiations for re-financing." In reply to questions from Dr. W. W. Yen and Admiral Ts'ai, Mr. Strawn said that the functions of the Customs Administration in this matter should be both the custody and the distribution of the surtax proceeds. The

ordinary Customs Revenue was already provided for in this respect; but if the abolition of *likin* was to be carried out as the Chinese Government intended, it was necessary that the surtax funds for this purpose should be kept intact and paid out for the object indicated. It was also intended as a safeguard in case any province in violation of its agreement with the Central Government should continue to levy *likin* then the amount so levied would be made good by the Customs out of surtax funds, while the amount involved would be deducted from the surtax quota due to the province in question. Mr. Strawn was of opinion that in regard to claims on surtax funds for the service of unsecured debts, both Chinese and foreigners stood on an equal footing. He understood, further, that proposition 10 of section III of the American proposals had caused some misgiving. He wished, therefore, to make clear that the purpose of this proposition was purely financial. His delegation had every confidence in the determination of the present Chinese Government to abolish *likin*, but it was just possible that conditions might be so radically changed between the present negotiations and the time when *likin* would be abolished that it would not be feasible to carry out the abolition. The American delegation, however, was quite willing to change the wording of the proposition so as to read—"If requested by a majority of the Contracting Powers before January 1, 1928, China shall convene on May 1, 1928 a Conference of the representatives of the Contracting Powers for the purpose of declaring that *likin* has been abolished and of negotiating any further agreements that may need to be arrived at with regard to the subject matter of this treaty."

Comte de Martel, Chief of the French delegation, raised the question whether the American proposal regarding the levying of full Customs rates at both the land and the maritime frontiers referred solely to the surtax rates or to the regular Customs duties as well. In reply, it was pointed out that according to Article VI of the Washington treaty that was a matter for this Conference to discuss and decide on. The Comte reserved the right to make further statements on this point.

Colonel Peel, of the British delegation, after praising the clearness and completeness of the American proposals, suggested that the Chinese delegation might put their proposals in a similar form, so that, if possible, the two sets of proposals be welded into one. He added that, as the Conference was based on the principles of mutuality and reciprocity, it was under-

stood that no one delegation meant to stand by its proposals to the last letter. Any proposal put forward by any delegation was meant for discussion, for alteration if necessary, before acceptance, or for rejection. So far as the British delegation was concerned, they did not intend to put forward any detailed plan. Three such plans were already before the Conference, of which only the American, however, could be regarded as complete. The British delegation wished to work in with the ideas of the Chinese delegation, if possible, but in order to do that it was essential that the Chinese proposals should be as clear and as complete as possible.

Dr. W. W. Yen pointed out that both the American and the British delegations were agreed that the 2½ per cent surtax was insufficient for the purposes contemplated at the Washington Conference, and suggested that before going into the details of the American plan, or before formulating the Chinese proposals afresh, it would be advisable to ascertain whether any of the other delegations had proposals to put forward. On being asked by the Chairman, the heads of the Danish, the Norwegian, the Belgian, the French, the Portuguese, the Spanish, and the Swedish delegations replied that they had no separate plans to propose. The head of the Italian delegation, while refraining from bringing forward any definite plan, read a statement embodying the ideas of his delegation to the effect that they sympathized with China in her desire to free herself from her financial embarrassments, that measures should be taken to enable China to consolidate her unsecured debts, that it is hoped that the Chinese Government will submit a detailed statement of its financial requirements for the maintenance of its civil administration, that the abolition of *likin* as planned by the Chinese Government is a reform greatly to be desired, but that its execution will probably take longer than anticipated, and, finally, that in order to meet the financial obligations indicated above, the Italian delegation was willing to agree to a surtax higher than that of 2½ per cent provided for by the Washington treaty.

After some discussion between Dr. W. W. Yen and Mr. Hioki regarding certain points in the Japanese proposals, the latter put forward the suggestion, which was supported by Mr. Strawn, that the Chinese delegation might coördinate the three plans now before the Conference and then submit them to the delegations in advance of the next meeting. This coordination could best be done by a clear and complete statement of what the

Chinese delegation wanted, followed by the corresponding features of the Japanese and the American proposals under which should be put "the queries that the Chinese would like to ask as to why the American proposals or the Japanese proposals did not accord with the Chinese views."

Chinese view of points of agreement and disagreement. Programme proposed by British delegation. Conference agrees to take it up for discussion.

§ 7. The second meeting of the Committee on Provisional Measures was held on the 13th November. The Chairman tabled five documents which had been prepared by the Chinese delegation and had been circulated among the other delegations two days beforehand. These five documents were, (1) a table showing the proposals of the Chinese delegation side by side with those of the Japanese and the American delegations; (2) a declaration by the Chinese delegation of the purposes to which the proceeds from the interim surtaxes are to be devoted; (3) a table of estimated revenue from the proposed surtaxes; (4) a set of regulations governing the establishment of a commission for the interim Customs Surtax Sinking Fund, and (5) general observations of the Chinese delegation on the American and the Japanese proposals. The second document declared the purposes to which the proceeds from the interim surtaxes were to be devoted to be (*a*) a special fund for the abolition of *likin* for which $70,000,000 would be required; (*b*) consolidation of inadequately secured debts, both domestic and foreign; (*c*) constructive projects, and (*d*) urgent administrative expenses, for the last three of which no specific sums were quoted. The surtaxes, however, as proposed by the Chinese delegation were estimated to bring in a revenue of $102,000,000 as follows:—

Kinds of Goods	*Proposed Rates of Surtax*	*Estimated Revenue in Silver Dollars*
1 Luxuries A		
(*a*) Wine	30%	3,000,000
(*b*) Tobacco	30%	19,000,000
2 Luxuries B	20%	50,000,000
3 Ordinary Goods	5%	30,000,000
TOTAL:		102,000,000

The fourth document was a set of 23 proposed regulations governing the constitution of a Commission for the Interim Customs Surtax Sinking Fund, and laying down rules controlling

its functions and activities. There were to be seven members of this Commission, all appointed by the Chinese Government, but it was to be provided with an ample secretariat, and was to have ten expert advisers, some of whom could be foreigners. The proceeds from the surtaxes were to be handed from time to time to the Commission by the Shui-wu Ch'u for safe custody in the National Treasury. From the sinking fund thus formed the Commission was authorized to make payments for the purposes specified on receiving from the Ministry of Finance duly certified pay-orders. The fifth document, which was read by the Chairman *in extenso*, contained general observations of the Chinese delegation on the American and the Japanese proposals. The document fell into two sections, the first containing five points on which, in the Chairman's opinion, the Conference was in unison, while the second section contained three points on which as yet full agreement had not been reached. The five points of agreement were:—

(1) that the Powers had "declared in this Conference their recognition of the principle of tariff autonomy" and had agreed "to the removal of all the tariff restrictions contained in existing treaties, simultaneously with the enforcement of the Chinese National Tariff Law;"

(2) that the Chinese Government had declared that *likin* should be completely abolished not later than 1st January, 1929, and that the Chinese National Tariff Law—which was promulgated on 24th October, 1925[1]—would be enforced simultaneously with the abolition of *likin*;

(3) that the proceeds of the surtaxes should be used for the four purposes already specified;

(4) that as the Chinese Government will require at least $100,000,000 a year for these purposes, the rates of the surtaxes will have to be higher than those specified in the Washington treaty; and

(5) that the new treaty now to be drafted should be carried into effect within a stated time.

The three points on which agreement had not yet been reached related to:—

(1) the abolition of *likin*;

(2) actual rates of surtaxes to be levied; and

(3) reciprocal treaties.

In regard to the first of these points, it was the view of the Chinese delegation that as the abolition of *likin* was

[1] *Vide* Appendix E.

essentially an internal problem, the American proposals on this matter were liable to create misunderstanding on the part of the Chinese people. The suggestion that a taxpayer, forced to pay *likin* after its declared abolition, should be entitled to a refund through the Customs Administration was objectionable, as such a practice would encourage a local authority to disregard the national authority. As regards the surtax rates the Chinese delegation regretted that the Japanese proposal to adhere strictly to the Washington treaty rates was not consonant with Japan's expressed desire to help China in the carrying out of her programme to abolish *likin*, while the rates proposed by the American delegation were not considered high enough to bring in a revenue sufficient to cover the needs indicated. Finally, concerning reciprocal treaties, the Chinese delegation pointed out that Article V of the National Tariff Law provided that in the case of an agreement existing between a foreign Power and China, on terms of reciprocity, regarding import duties on specified articles the new tariff rates on such articles shall be in accordance with that agreement. After reading these general observations of the Chinese delegation, the Chairman suggested that the work of the Conference would be greatly expedited if the points of agreement, which he had just indicated, were now referred to the Drafting Committee. Sir Ronald Macleay observed that what was really required in order to get ahead quickly with the work of the Conference was a pertinent scheme of procedure. Such a scheme, co-ordinating the main principles of the Chinese, the American, and the Japanese into an outline which might serve as an agenda paper for the Committee, had been elaborated by the British delegation, and he now begged leave to table it. In doing so he wished to make it quite clear that this document was nothing more than a suggested method of procedure, acceptance of which as an agenda paper would make for the discussion of business in orderly sequence but would not commit any delegation to accept any of the points in the individual schemes. The outline proposed was as follows:—

I

"The Powers shall immediately authorize a Customs surtax of 2½ per cent to be levied on all imports shipped from the port of export on or after . . . 1926, and shall furthermore authorize an increase of this surtax up to 5 per cent to be levied on such articles of luxury shipped on or after . . . 1926, as will be specified in a schedule of luxuries

to be prepared forthwith. The resulting increases of revenue shall be held by the Customs Administration subject to such disposition as may be agreed upon by the Conference.

These surtaxes shall be levied in full amount uniformly at all frontiers, and arrangements shall immediately be made to give practical effect to the principle that the rates of duty levied on the land frontiers shall be the same as those levied on the maritime frontiers, in fulfilment of Article VI of the China Customs Treaty signed at Washington on February 6th, 1922.

(It is suggested that the Chinese and foreign delegations concerned should, if possible, come to a direct understanding outside the Conference on the subject of the equitable adjustments referred to in the above article of the Washington treaty, so that it will merely be necessary for the Conference to confirm any arrangements so made).

Provision having thus been made for the enforcement at the earliest possible date of these measures as contemplated in the Washington treaty, the Conference shall proceed to negotiate a new treaty based on the following main principles.

II.

The Powers shall declare their recognition of the principle of China's right to enjoy tariff autonomy, and China shall declare her intention to abolish *likin* and other forms of internal taxation.

The objects of the new treaty referred to in the above declarations, namely, the recovery by China of her tariff autonomy, and the abolition of *likin* and other forms of internal taxation, shall be accomplished in the stages and in the manner indicated in the following paragraphs.

III.

Arrangements shall be made for the Chinese National Tariff Law (the duty schedules of which shall be immediately promulgated) to come into force, *likin* and other forms of internal taxation having been abolished, on. . . . .

IV.

Three months after the new treaty has come into force, China shall be at liberty, as an interim measure, until tariff autonomy shall have become effective upon the abolition of *likin*, to draw up and impose a new and uniformly enforced

schedule of duties at rates ranging from 5 per cent up to per cent on ordinary imports, up to per cent on imported wine and tobacco and tobacco products and such other commodities as may be agreed upon at this Conference, and up to per cent on exports. It is understood that this tariff of duties will be imposed as an interim measure and that it will supersede the present tariffs and the tariffs of surtaxes on imports referred to in paragraph I above.

V.

Arrangements shall be made for the protection of foreign imports and exports against internal taxation during the above interim period after the raising of the tariff and before the completion of the abolition of *likin*. These arrangements shall include a system of refunds by the Customs Administration on account of any taxation levied in violation of the engagements of the Central Government, and shall provide for the allocation to the provinces on a *pro rata* basis of a portion of the increased Customs revenue, with the object of securing the good will and coöperation of the provinces and of compensating them for the loss of revenue resulting from the abolition of internal taxation to be effected during this interim period.

VI.

The Conference shall consider the proposal for the conclusion during the same interim period of separate treaties between China and individual Powers incorporating reciprocal conventional tariffs.

VII.

Consideration shall be given to the question of guarantees against the levy, after the introduction of tariff autonomy, of irregular internal taxation in violation of the engagements of the Chinese Government.

VIII.

From the date of the coming into force of the new treaty the Customs revenues shall be accumulated by the Customs Administration and applied, after due provision has been made for all prior charges, to the following purposes:—

(*a*) Compensation to the provinces, in lieu of *likin* and other forms of internal taxation according to the

measure in which such taxation is abolished; and payment of rebate charges on account of any taxation levied in violation of the engagement of the Chinese Government.

(*b*) Debt consolidation.

(*c*) The expenses of the Central Government.

IX.

Arrangements having been made to give effect to the principle that after the introduction of tariff autonomy no taxation of goods shall be levied other than Customs duty and excise, steps shall be taken to regularize the collection of excise.

X.

Opportunity will be taken by the Conference to seek a solution of a number of outstanding questions affecting Customs procedure and commerce generally, with a view to removing all possible hindrances to the foreign and internal trade of China.

XI.

Arrangements shall be made that the provisions of the new treaty shall override all stipulations of treaties between China and the respective contracting Powers which are inconsistent therewith, other than stipulations according most favoured nation treatment.

XII.

The Conference will devise a plan whereby it may reasonably be expected that the new treaty will go into force at an early date after signature.

XIII.

Provision shall be made that, if asked to do so, by a majority of the contracting Powers before. . . . China shall convene on . . . a conference of representatives of the contracting Powers for the purpose of negotiating any further agreements that may need to be arrived at with regard to the subject matter of this treaty."

The Chairman stated that this outline might be used for reference, but could not be used as an agenda, as the Committee on Programme and Procedure had already adopted an agenda. In Mr. Oudendijk's opinion, however, there would be nothing inconsistent in fitting in the British outline into the general

agenda already adopted as a picture into a frame. He thought that the British outline was simply a way of systematizing the discussions. "It did not do away with the Chinese proposals; on the contrary, in its framework it gave full evidence to all the proposals that the Chinese delegation had made." He thought that things had been declared as adopted, which he was sure some of his colleagues would like to discuss more thoroughly. He therefore suggested that sub-committees might be appointed to thrash out in minute detail the three main subjects before this Committee—namely, interim taxes, consolidation of debts, and the terms of the new treaty. M. de Warzée expressed agreement with Mr. Oudendijk's suggestion. Comte de Martel rose to make several reservations in regard to statements in the documents submitted by the Chinese delegation. In the first place, he wished to reiterate that his delegation could not agree to anything beyond what was contained in the Washington treaty without the express sanction of his Government. It was, therefore, premature to state that all the Powers represented at this Conference had agreed "to the removal of all tariff restrictions contained in existing treaties simultaneously with the enforcement of the Chinese National Tariff Law." Again, the question of the rates of the surtax and the uses to which the proceeds should be put could not be regarded as settled by a unilateral statement from the Chinese delegation. It was, therefore, not correct to say that—"It is recognized by all delegations that surtaxes higher than the Washington terms are necessary in order to meet the needs of the Chinese Government." Further, he wished to point out that the enforcement of the new treaty, to be drafted at this Conference would be "subject in most constitutional countries and especially in France to ratification by Parliament." He also wished to point out that while the abolition of *likin* was entirely a matter for China to effect, yet the allocation of surtax funds for this purpose was a question which the Powers had, according to the Washington treaty, a full right to discuss. Lastly, he enumerated the reasons why it would be advisable to have the coöperation of foreigners both in the custody and the management of the surtax funds. Mr. Ewerlöf, chief of the Swedish delegation, also disclaimed that he had committed his Government to the removal of all tariff restrictions contained in existing treaties, and Mr. de Kauffmann followed suit by declaring that he fully agreed with the remarks of Comte de Martel and Mr. Ewerlöf. Mr. MacMurray, in endorsing the reservations made by his colleagues, stated

that—"He thought it was well to avoid any misunderstanding by making it clear, as some of his colleagues had already done—and as he felt it was necessary for him to do on behalf of the American delegation—that beyond the immediate provisions of the Washington treaty there was nothing to which they could agree with finality, there was nothing to which they could set their signatures, which was was not subject to the approval and ratification of their Government, so that the words to the effect that they had agreed upon this or that, would, in the case of the American delegation, and he assumed in the case of most of the other delegations, mean that they agreed provisionally and tentatively for the purposes of the Conference." So far, he continued, there had only been proposals put forward in relation to the principles which they were prepared to admit as governing their action. These proposals called for full discussion, and required as a basis some scheme carefully coördinating the three concrete plans that had thus far been submitted. He, therefore, was strongly in favour of proceeding along the lines of the scheme suggested by the British delegation, a scheme which, in his opinion, harmonized with the agenda already adopted by the Conference. He was likewise in favour of Mr. Oudendijk's suggestion that sub-committees should be appointed for the consideration of particular subjects. Mr. Bianchi, for the Portuguese delegation, made the same reservations as had already been made by his colleagues and supported the British scheme as a method of procedure. Apart from the general agenda, of the Committee on Programme and Procedure, the Chinese Delegation had not, he submitted, as yet outlined any specific agenda for this Committee. Further discussion on this point revealed that Dr. W. W. Yen was not in favour of sub-committees and, while refraining from supporting the British scheme, suggested that the Chinese delegation might try once more to present a harmonious whole of the three different schemes suggested at the previous meeting of this Committee. Mr. Strawn, on the other hand, was strongly in favour of the British scheme. In his opinion, "It arrived at no conclusions and asserted no personal viewpoints. In other words, it simply attempted to state in an orderly way the suggestions that had been put before the Conference by the three countries which had spoken. It seemed to him that they had floundered around long enough dealing in generalities, and it was about time they got down to business and dealt with concrete facts. If there was any overlapping of the duties of the several committees, he

concurred in the suggestion made by the Netherlands delegate that ultimately they would have to have sub-committees." Comte de Martel was ready to accept the suggestion made by Dr. Yen, and acquiesced in by the Japanese delegation, namely, that it might be premature to appoint sub-committees just then, and that they should go on with a general discussion subject by subject. On the Chairman enquiring what subject should be discussed at this committee meeting, Mr. Strawn pointed out that it seemed to him their obvious duty was to discuss whether they wanted to effectuate the Washington treaty as soon as possible, and that was the first proposition on the suggested British scheme. Colonel Peel, of the British delegation, pointed out that agreement on this first proposition would mean that the Conference had carried out the first duty laid upon it by the Washington treaty, and thought that the Drafting Committee might be empowered to draw up a protocol embodying the imposition of a surtax of 2½ per cent on ordinary goods and 5 per cent on luxuries. A sub-committee might be appointed to draw up the necessary list of luxuries. Mr. MacMurray was fully in accord with Colonel Peel's proposal and begged to submit a draft, covering the points of Colonel Peel's proposal, for the consideration of the Drafting Committee. As this draft stipulated that levy of the surtax should be "at all frontiers," it at once raised the question of the land frontier rates, and as neither the Chinese nor the French delegation was prepared to discuss that point just then, the question of referring the American draft to the Drafting Committee was dropped. The Chairman then stated that, speaking not as Chairman but as a member of the Chinese delegation, "he did not wish to impede the work of the Conference by insisting on the Chinese position, but he wanted to make it very clear that the one great point that the Chinese desired was that the principle of tariff autonomy should be recognized, and that the nations represented at the Conference would agree to revise the treaties with a view to doing away with the unilateral privileges hitherto enjoyed by the Powers. It seemed to the Chinese delegation that without settling that question definitely to the satisfaction of the Chinese Government and the Chinese people, it would be impossible to bring about a satisfactory arrangement." He enquired, therefore, whether this one question could not be referred immediately to the Drafting Committee. In reply to this Mr. Strawn pointed out that the delegates had already indicated that they "were not all in accord with the views of the Chinese delegation

that tariff autonomy should be granted as stated in the Chinese proposal presented at that meeting." He submitted that the first step was to effectuate the Washington treaty, and pointed out that the question the consideration of which China most desired, namely, tariff autonomy, stood immediately after in the British scheme. In his opinion, items I, II, III, and IV of the British agenda were so closely inter-related that they could well be discussed together. Further discussion took place between the Chairman and Mr. Strawn on the position taken by China in regard to the abolition of *likin*, the former maintaining that as such abolition was purely an internal measure "a solemn declaration on the part of the Chinese Government to abolish *likin* would be sufficient," while the latter maintained that Article II of the Washington treaty clearly stipulated that one of the duties of this Conference was to discuss measures for the assistance of China in this object. Colonel Peel supported Mr. Strawn's view by pointing out that as the abolition of *likin* could be rendered possible only by increased surtaxes—to be discussed at this Conference—the question, therefore, of such abolition obviously came within the purview of the Conference. In reply to the Chairman's contention that the "Chinese proposal presented at the plenary session did not say that tariff autonomy was to be enjoyed by China as a result of the abolition of *likin*," Mr. Strawn protested that if China exercised full tariff autonomy prior to the abolition of *likin* it would simply pile *likin* on the top of the new tariff rates. "He did not understand the Chinese delegation—to say that it was arbitrarily going to take the position that China was going to abolish *likin* in her own way and let them pay the surtaxes in such an amount as China thought would enable her to do it without the other Powers having anything to say about the machine whereby China was to effectuate these results." Finally, it was agreed that points I, II, III, and IV of the British programme should be taken up for discussion at the next meeting of the Committee.

Suggested versions of new treaty preamble recognizing China's right to Tariff Autonomy.

§ 8. The third meeting of the Committee on Provisional Measures for the discussion of points I to I of the British programme took place the following day, 14th November, when the Chairman, on behalf of the Chinese delegation, submitted for discussion and action the following suggested resolution:—

"The Contracting Powers other than China hereby declare their recognition of China's right to enjoy tariff autonomy.

China hereby declares her intention to abolish *likin* and further declares that the Chinese National Tariff Law will come into force upon the abolition of *likin*."

Colonel Peel, while expressing full sympathy for the Chinese delegation in the difficult position in which they found themselves, pointed out that such a declaration as a resolution of the Conference was one which many of the foreign delegations present had not the authority to agree to without the necessary ratification from their respective Governments. He reminded the Conference that both the British and the American delegations were in favour of putting into force immediately the surtaxes authorized by the Washington Conference, and while the Chinese delegation and some others were not desirous of such immediate levy, he wished to make clear that at any rate the British and American delegations "wanted to show their willingnes to act entirely up to the spirit and letter of what they had promised at Washington." As he now understood the situation, it would be necessary to have a diplomatic instrument authorizing the levy of such surtaxes, but in the meantime as an attempt to reconcile conflicting views, he begged to suggest that the following declaration might be embodied in the preamble to this diplomatic instrument:—

"The Delegations of the Contracting Powers, other than China, having declared their intention to recommend to their respective Governments the immediate adoption of a treaty which shall recognize the principle of China's right to enjoy tariff autonomy, and China having declared her intention to abolish *likin*, it is agreed that the treaties shall provide that China's National Tariff Law shall come into effect upon the abolition of *likin*."

Copies of Colonel Peel's suggested preamble having been circulated, Mr. Bianchi stated that under the instructions he had he could give his adherence to the Chinese declaration only in the form the British delegation had proposed. Mr. MacMurray, speaking for the American delegation, pointed out that it would be beyond the powers of his delegation to accept the resolution as drafted by the Chinese delegation. Acceptance "would assume a power which could be exercised only by the President, by and with the advice and consent of the Senate." His delegation,

therefore, was "entirely disposed to accept the British proposal, which embodied the same purport, but in a manner which fell within the powers of the delegates to the Conference as negotiators to accept." He suggested that the matter be referred to the Drafting Committee. To this latter suggestion the Chairman objected as premature, but thought it would be better either to refer the matter to a small sub-committee which should endeavour to compose the different ideas, and bring its conclusions before this Committee for decision, or to adjourn the meeting *sine die* to give the delegates more time for consideration. Mr. MacMurray declared his acceptance of the suggested small sub-committee. Mr. Oudendijk deprecated the adjournment of the Committee *sine die*, and begged to suggest the following formula which he thought reconciled differences and at the same time did not go beyond what any delegation was authorized to grant:—

> "The Delegations of the Contracting Powers, other than China, declare that China's sovereign right implies the right to enjoy tariff autonomy. With this end in view, this Conference declares its readiness to proceed immediately to the elaboration of a treaty by which China shall abolish *likin*, upon which abolition, the Chinese National Tariff will come into force."

Sir Ronald Macleay, Mr. Hioki, Mr. de Kauffmann and Mr. Strawn having declared their approval of referring the matter to a small sub-committee, the Chairman announced that this sub-committee would consist of Mr. Oudendijk, Mr. Strawn, Mr. Hioki, Colonel Peel and himself.

Sub-committee agrees on text of tariff autonomy clause.

§ 9. This sub-committee met three days later, 17th November, and proceeded to discuss the terms of a draft which the Chinese delegation desired to have incorporated, not as a preamble, but as an article or articles of a treaty between China and the Powers. This draft read as follows:—

> "The Contracting Powers, other than China, hereby recognize China's right to enjoy tariff autonomy, agree to remove the tariff restrictions which are contained in existing treaties between themselves respectively and China, and consent to the going into effect of the Chinese National Tariff Law on January 1st, 1929.
>
> The Government of the Republic of China declares that *likin* shall be abolished simultaneously with the enforcement

of the Chinese National Tariff Law and further declares that the abolition of *likin* shall be effectively carried out by the first day of the first month of the eighteenth year of the Republic of China (January 1st, 1929)."

Mr. Strawn pointed out the differences between this draft and the one submitted by the American delegation, which had also been circulated. The main differences were that when speaking of the abolition of *likin*, the Chinese used the word "effectively" instead of the "completely" of the American, that the latter had inserted the words "sovereign state" when speaking of China, and lastly that the American draft was in the form of a preamble to the treaty—not a separate article of the treaty—affecting the treaty as a whole, and clearly stipulating that the going into effect of the Chinese National Tariff Law would be "subject to the carrying out of the provisions hereinafter agreed upon."

The full text of the American draft was as follows:—

"For Preamble to

A Treaty between the Thirteen Powers relating to China's Tariff Autonomy."

"The Contracting Powers, other than China, recognize the right of China as a sovereign state to tariff autonomy, requiring for its full enjoyment the removal of tariff restrictions contained in existing treaties between themselves respectively and China, and consent to the going into effect of the Chinese National Tariff Law, subject to the carrying out of the provisions hereinafter agreed upon, on January 1, 1929.

The Government of the Republic of China agrees that *likin* shall be abolished simultaneously with the enforcement of the Chinese National Tariff Law, and declares that the abolition of *likin* shall be completely carried out by the first day of the first month of the eighteenth year of the Republic of China, January 1, 1929."

Mr. Hioki remarked that before going into any discussion of the question he wished once more to make Japan's position quite clear. Japan was prepared to assist China in realizing her aspiration to enjoy tariff autonomy, but at the same time Japan was bound to safeguard her special economic interests in and trade relations with China. It was on account of these special interests and relations that Japan wished to conclude a conventional tariff, and he now ventured to ask if the Chinese delegation was in a position to make a definite declaration of China's

readiness to enter into an agreement with Japan in the matter of a conventional tariff. The Chairman replied that this question had already been answered in Article V of the Chinese National Tariff Law and in the General Observations submitted at the third meeting of the Committee on Provisional Measures. He reiterated that "China was prepared to enter into a reciprocal tariff agreement with Japan, or with any other Power which desired to enter into a reciprocal conventional tariff," and added that if any country desired to enter into such an agreement it might do so either before or after the enforcement of the National Tariff Law. In reply to Mr. Oudendijk he pointed out that such a reciprocal treaty could be concluded on the basis of the most favoured nation clause "provided there were things for exchange for reciprocity." The Chairman then took up the differences between the Chinese and the American drafts, asked whether the sub-committee would not agree to altering the phrase in the American draft—"requiring for its full enjoyment the removal of tariff restrictions" into the phrase—"agree to the removal of tariff restrictions," and further suggested that the phrase—"subject to the carrying out of the provisions hereinafter agreed upon"—be deleted as unnecessary. Mr. Strawn defended the inclusion of this latter phrase unless they were going to agree upon a complete set of provisions embracing all the different elements of the proposed treaty, in which case he would have no objection to its deletion. Mr. Hioki was of opinion that the issue depended on whether the draft was to be regarded as a preamble to a treaty or as a treaty article, and suggested that all they required to do was to have the principles established in a clear-cut way, ready to be put into a preamble or an article. He therefore proposed that the difficulty now in the way of the sub-committee would be removed by placing the following statement before the draft article submitted by the Chinese delegation:—

> "The Representatives of the Powers assembled at this Conference have resolved to adopt the following provisions relating to tariff autonomy with a view to incorporating them, together with the other provisions or related matters to be hereinafter agreed upon, in the treaty which is to be signed at this Conference."

Mr. Strawn expressed his willingness to accept this as a preamble, and to the withdrawal of the clause—"subject to the carrying out of the provisions hereinafter agreed upon"—from

the American draft. Discussion then took place on the wording of Mr. Hioki's suggested preamble and it was finally agreed to alter it as follows:—

> "The Delegates of the Powers assembled at this Conference resolve to adopt the following proposed article relating to tariff autonomy, with a view to incorporating it, together with other matters to be hereafter agreed upon, in a treaty which is to be signed at this Conference."

It was then agreed that this preamble, together with the draft article, proposed by the Chinese delegation, should be submitted to the full Committee on Provisional Measures as the unanimous recommendation of the sub-committee. Before the sub-committee dispersed, Colonel Peel raised once more the question of the exact meaning of the word *likin*. The Chairman's reply that the term "included all taxes of a transit nature" did not appear to be quite satisfactory either to Colonel Peel or to Mr. Strawn; Mr. Teichman, on being appealed to by the latter, whether he had a definition, replied that the British delegation accepted the one contained in the opening sentence of Article VIII of the Mackay treaty—"which referred to *likin* and other dues on goods at the place of production, in transit and at destination." In reply to Mr. Oudendijk, the Chairman maintained that the *lo-ti-shui* (落地稅), or destination tax, was not of a transit nature, Colonel Peel, Mr. Strawn, and Mr. Oudendijk were all of opinion that the term *likin* should be so precisely defined as to leave no doubt as to its meaning, and further thought that if taxes on goods at the beginning of their journey were regarded as transit taxes, then logically the taxes levied on goods at the end of their journey should also be regarded as transit taxes. They all desired to enter a reservation on this point.

Preamble accepted. China's opinion on purposes to which proceeds of surtaxes should be devoted, and on rates of surtaxes. Appointment of two sub-committees, one on purposes and one on rates.

§ 10. The fourth meeting of the Committee on Provisional Measures, which took place on 19th November, was opened by the Chairman reading the full text of the proposed resolution on tariff autonomy which had been unanimously agreed upon by the sub-committee appointed at the third meeting. Mr. Strawn formally moved the adoption of the resolution, whereupon those delegates who had not been members of the sub-committee, namely, the Belgian, the French, the Italian, the Portuguese, the Spanish, the Swedish, the Norwegian, and the Danish, one after the other

expressed their acceptance of the resolution; the Belgian, the French, the Italian, and the Swedish delegates making at the same time the express reservation that such acceptance was subject to the ratification of their respective Governments. The Chairman then declared the resolution adopted, adding that as the personnel of this Committee was the same as that of the Committee on Tariff Autonomy, the resolution might be considered as having been adopted by the latter Committee also.

The Chairman, after intimating that the subjects which came next for discussion were (*a*) the purposes to which the proceeds of the surtaxes are to be devoted, and (*b*) the rates of these surtaxes, called upon Dr. W. W. Yen to open the discussion on the first of these subjects. Dr. Yen thereupon reminded the Committee that the Chinese delegation had already circulated statements showing that for China's purposes the rates of the surtaxes would have to be higher than those provided for in the Washington treaty. In order to remove possible misunderstanding, he wished to point out that at the Washington Conference the Chinese delegation had indicated the need of their Government for additional revenue "for constructive purposes such as education, public utilities, road building and other reforms intended to promote the welfare of the nation." In mentioning these needs, the delegation did not intend to open up for discussion the question whether the Chinese Government knew these needs better than other Powers, and certainly did not wish to place the Powers in a position where they might be criticized as interfering with the domestic affairs of China. Various suggestions had, of course, been made by different delegations "as to the purposes to which the proceeds of the surtaxes could be most advantageously employed, but it was understood that all was done in a spirit of helpfulness, and in no wise meant that China should not take the initiative in the question of purposes, or that the Powers had exceptional knowledge of China's needs." Dr. Yen then proceeded to explain seriatim the four purposes outlined in the Chinese declaration. As regards the abolition of *likin*—the first purpose to which surtax proceeds should be devoted—he desired to point out that through an oversight an item of $16,000,000—collected by Native Customs establishments—and another item $4,000,000—collected on the Tientsin-Pukow railway—had been omitted from the original estimate of $70,000,000 as the amount required for the abolition of *likin*. If only a 2½ per cent surtax were imposed it would take three years' collection to cover this total figure of $90,000,000

alone. The second purpose was the liquidation of unsecured debts, and here he wished to point out that at the time of the Washington Conference the foreign unsecured debts of China amounted to only $260,000,000 and the domestic debts to about $100,000,000. These latter had since been consolidated and covered by the so-called $96,000,000 loan of 1922. The debt question, therefore, at the time of the Washington Conference was not acute, but since then, owing to fall in the exchange rates, the accumulations of unpaid interest, and the raising of the rates of interest on term-extended loans, the actual amount now due was $800,000,000 of which about one-third was domestic and two-thirds foreign. The postponement of the present Conference for three years beyond its time was partly responsible for this unfortunate debt position. The third purpose to which surtax proceeds should be devoted was that of public utilities. As it was the Chinese consumers who in the end paid the increased duties, it was only right that the Chinese people should have a share in the increased revenues. The Chinese Government regretted that for a number of years past it had not been in a position to undertake constructive work, but the present time was a good opportunity to embark on a constructive programme. "From the standpoint of intelligent and patriotic Chinese, the Conference would be considered successful only when something was done for the social and economic welfare of the Chinese people." Details could be left to a sub-committee, but he would say in general that as constructive purposes the Chinese Government had in view such objects as railway construction, national road building, conservancy, industrial development, and the fostering of the main staples of China's export trade such as tea, cotton, silk, etc. On the fourth purpose, namely, administrative expenses, Dr. Yen thought that it was unnecessary to say anything, as the inclusion of this item had met with a very cordial reception at the Washington Conference. He would, however, once more emphasize the importance of avoiding "any semblance of the purposes not having been adopted at the initiative of the Chinese Government," and in conclusion begged to suggest a discussion of the rates. Mr. Hioki then rose to say that, in his opinion, they had reached a stage where the work could be more effectively done by sub-committees, and begged to propose the appointment of two such, one to investigate the question of *likin* and the other to deal with the three remaining questions in the Chinese declaration. His delegation was also of the opinion that before discussing surtax rates it was essential

to determine clearly the amount of new revenue required; rates should be adjusted according to needs. It seemed to him, therefore, that they should first discuss the question of purposes. The Chairman, however, thought that a statement on surtax rates would be helpful at this stage and called upon Admiral Ts'ai to present the question. The Admiral then read the following table:—

"Estimated revenue from proposed surtaxes on foreign imports according to the Customs returns of 1924 and the revised import tariff of 1922.

Kinds of Goods	*Proposed rates of Surtax*	*Estimated revenue in silver dollars*
1. Luxuries A		
(*a*) Wine	30%	3,000,000
(*b*) Tobacco	30%	19,000,000
2. Luxuries B	20%	50,000,000
3. Ordinary Goods	5%	30,000,000
TOTAL:		102,000,000

These rates, the Admiral desired to point out, were only suggestions, and the figures showing the revenue derivable from their application were only estimates. It would be for the sub-committee to thrash out all details, but the minimum new revenue desired was $100,000,000. Comte de Martel objected that some of the estimated yields in the Admiral's table were incorrect, more especially the figures for wine and tobacco revenue, which according to the calculations of the French experts—working on the basis indicated by the Chinese statement—would be about $2,230,000 for wine and $23,760,000 for tobacco. To prevent misunderstandings, he suggested that the Chinese delegation should submit a detailed list of the articles included under the heading Luxuries B. Mr. Cerutti supported this request, as did also Mr. Michelet, who at the same time pointed out the difficulty of drawing up a list of luxuries which would be clearly recognized as such by all concerned. Admiral Ts'ai undertook that all the information desired would be supplied by the Chinese experts in the sub-committees instead of at a full committee meeting. Sir Ronald Macleay supported the appointment of sub-committees, and endorsed Mr. Hioki's view that it was necessary first to know how much money was needed before they could tackle the questions of rates of surtax, and of lists of luxuries. Considerable discussion then took place as to how many sub-committees should be appointed, and how many members should

be on each. The Chinese delegation was in favour of two sub-committees, one on purposes and one on rates of surtax, the former of which might have a sub-committee of experts on *likin* and the latter a sub-committee of experts on luxuries. The personnel of each of these sub-committees could be settled by each delegation signifying whether it desired to participate in either one of these sub-committees or in both of them. Finally, in view of the importance of the issues involved and of the desire of each delegation to take part in the work of each of these sub-committees, it was decided on the suggestion of Colonel Peel that the full Committee on Provisional Measures should resolve itself into the sub-committee on purposes and appoint two sub-committees under it.

Sub-committee on purposes divides into committee on *likin* and on other purposes. Discussion on meaning of *likin*.

§ 11. By agreement the sub-committee on purposes divided into two technical committees, one for the discussion of *likin* and the other for the consideration of the other purposes to which the proceeds from the proposed surtaxes should be devoted. The former of these technical committees held its first meeting on the morning of 21st November, and the second on the afternoon of the same day. Mr. T. K. Tseng acted as Chairman to both. Proceedings of the *likin* technical committee were opened by Mr. Tyndall Wei, who read a statement describing the various types of *likin*, and kindred levies. Of *likin* there were three types—(*a*) *likin* proper, which was the direct continuation of the original *likin*, or transit due of one per mille, inaugurated during the Taiping Rebellion. This tax under this name still obtained in the provinces of Shantung, Honan, Yunnan, Kweichow, Shensi, Hunan, Anhui, and Fukien, as well as in the special districts of Chahar, Jehol, and Suiyuan. Each of these provinces had its own independent organization, levying its own rates, which in all cases now exceeded the original levy of one per mille, rising in some cases as high as five per cent. (*b*) The second type of *likin* was known as *t'ung ch'üan* (統捐) or *t'ung shui* (統稅), which simply means that all the formerly separate *likin* levies within a given province had been consolidated into a single tax, which, when paid, entitled the goods concerned to free passage within the confines of that province. This form of *likin* was in force in the Three Eastern Provinces (Fengtien, Kirin and Heilungchiang), Chihli, Shansi, Chekiang, Kansu, Szechuan, Kwangsi, and Sinkiang. (*c*) In the province of

Kiangsu *likin* levies were also consolidated like *t'ung shui* but were known as transit dues on goods. Besides these *likin* levies there were also taxes levied on goods transported by railway, and the duties collected by Native Customs establishments situated in the interior and outside the 50-*li* limit of the treaty ports. Compensation for the abolition of all these various taxes would require approximately the sum of $90,000,000, thus:—

1.	*Likin* collected by the Provinces and special districts:	$72,800,000
2.	Revenue collected by the Native Customs ($16,000,000) of which the portion to be abolished is approximately:	$ 6,000,000
3.	Railway goods tax:	$ 1,420,000
4.	Compensation to discharged *likin* employees:	$10,000,000
		$90,220,000

In reply to queries from Mr. Stewart, who wished merely to get a clear idea of the Chinese plan, the Chairman stated that it was the intention of the Central Government to pay the provinces annuities in lieu of *likin;* (2) that the estimated sum to be provided annually for this purpose was about $70,000,000 with an additional sum of $10,000,000 as compensation for employees discharged; and (3) that the payment of these annuities to the provinces was to take precedence over appropriations for any other purpose, such as debt consolidation, administrative expenses, etc. Mr. Stewart then pointed out that this additional first charge of $80,000,000 on the Customs revenue would mean that the import duties, which at that moment brought in about $50,000,000 a year, would have to be raised so as to bring in an additional $130,000,000 before money could be had for any other purpose. Import duties, he said, were not elastic to an unlimited degree, and an undue increase in them would have a disastrous effect both on trade and revenue. In reply, the Chairman stated that it was not the intention of the Chinese Government to press tariff autonomy unduly for the raising of revenue, and that trade would naturally flourish and revenue increase when taxes now unfavourable to trade were removed. Mr. Stewart admitted the force of this contention, and remarked that as the figures presented showing

the amounts of *likin*, etc. collected by each province had been taken from previous records, they were really subject to investigation, and that investigation would be difficult of accomplishment as some of the provinces were not on the best possible terms with the Central Government. Mr. MacMurray raised the question of what would be the alternative if at the end of three years it should be found impossible to effectuate the abolition of *likin*. This drew from the Chairman the emphatic declaration that as the Government was fully determined to abolish *likin* before that date, no alternative plan was contemplated. Mr. Strawn then raised the question of the meaning of the term *likin*, to which the Chairman replied that the Chinese delegation had always understood it to be a tax on goods in transit. Mr. Strawn, in pointing out the vagueness of this definition, referred to the treaty between the United States and China of 8th October, 1903, and stated that, in his opinion, there was no doubt "that the intention of the wording of the 1903 treaty was to cover the abolition, not only of *likin* but of all other taxes on foreign goods, and the terms of the treaty if carried out would, as stated, provide for foreign goods, after payment of the authorized import duty, complete immunity from all other taxation." He reminded the Committee that in the proposals put forward by the American delegation it had been suggested "that if *likin* should be wrongfully collected in violation of the new arrangement, the tax-payer from whom *likin* was wrongfully collected would have recourse to the Customs for a refund. In other words, if the provinces wrongfully collected *likin*, they would have that much deducted from their distributed portion of Customs revenue when the distribution was made." In his opinion, therefore, *likin* should be so defined as to include destination taxes, consumption taxes, excise or license fees, examination fees or protection fees, or any other tax of whatever nature levied directly or indirectly on the conveyance or handling of foreign duty-paid imports. Mr. Stewart supported Mr. Strawn, and referred to the preamble to Article VIII of the Mackay treaty of 1902 between Great Britain and China, which he interpreted as meaning that at that time the Chinese Government recognized that the *likin* system covered not simply transit levies, but also all other levies at place of production or of destination. As an illustration of what he meant he cited the prevailing 20 per cent consumption tax charged on cigarettes in many provinces. If that could be charged on cigarettes, had they any guarantee that a similar tax would not be imposed on any other article the local

authorities pleased. To this the Chairman replied that the provinces would be compensated for the abolition of all taxation in the nature of transit dues, but that the destination tax was not a transit or a barrier tax. Sir Ronald Macleay raised objection to this statement, maintaining that *lo-ti-shui* (落地稅), or destination tax, was essentially a transit due levied on goods when entering a city. This elicited from Mr. Tyndall Wei the statement that when the Chinese delegation drew up the tables, which had been submitted, they took the stand that *likin* referred solely to transit taxes and not to taxes levied on or after destination. Whether the Chinese Government would or would not levy taxes on goods on or after destination, he was not in a position to state, but he could say informally that it was not the intention of the Government to levy such taxes. Mr. Strawn admitted that it would be out of place to insist that all foreign goods after they had reached their destination should be immune for all time from any additional tax, but he was strongly of opinion that any such tax should not in any way be associated with the movement of goods, and that if a consumption tax on goods should be authorized there should be no discrimination against foreign goods as such. Mr. Stewart endorsed this attitude, and asked if it was the intention of the Chinese Government not to levy a destination tax at the city gates, and if a consumption tax were levied not to discriminate against foreign imports. The Chairman replied in the affirmative, but excepted the Peking octroi. Mr. Stewart agreed that the time-honoured Peking octroi might be excepted provided, of course, that the rates be definitely fixed, and thought that "the abolition of *likin* might be defined as the abolition of all taxes on goods from the point of import where they pay import duty, or from the point of production, where goods might possibly be required to pay excise, up to the point of consumption in the shop." In reply to this Mr. Tyndall Wei pointed out that *lo-ti-shui*, as devised and levied by various provincial authorities, had two distinctive characteristics. In the first place, it was a compensatory tax to bring up the levies on foreign imports to the same level as the charges on domestic goods, and in the second place, it was a destination—not a transit tax, as the goods on which it was levied were foreign imports, which had reached the destination indicated on their transit pass, and which as the transit pass had been surrendered were no longer entitled to further protection by that document. The Government, however, expected that on the abolition of *likin*, *lo-ti-shui*, which prevailed only in three or four provinces, would

also vanish. "If any new tax should be levied, it would be a consumption tax levied on an entirely different principle." On the strength of this statement, Mr. Strawn asked that in the definition of the term *likin, lo-ti-shui* should be included. He disclaimed any intention of invading local taxation privileges and the rights of China, but "the purpose of an import tax, as he understood it, was to put the foreign goods on a parity with native goods, and he wished to know whether the Chinese delegation were going to cover that at the point of entry, or leave it open to the local provinces to put on more taxation." Sir Ronald Macleay suggested that a condensed summary of their discussion thus far would be:

(*a*) "that the abolition of *likin* was the abolition of all taxes on goods from the point of import or production up to the point of consumption in the shop,"

(*b*) "that there would be no barrier at the city gates,"

(*c*) "that any tax levied in shops on goods would be moderate," and

(*d*) "that no discrimination would be made between native and foreign goods."

He fully recognized that China was at present on a unilateral basis as regarded her Customs tariff. China, however, was now demanding complete tariff autonomy as a sovereign right, but when the Powers recognized that, it did not mean that they recognized it to be the sovereign right of each individual province also to have tariff autonomy and to impose any additional tax it pleased. Mr. MacMurray was of opinion that it was narrowing the definition of *likin* too much if such definition covered only transit dues. "It seemed to him that the definition should take into account the principle that no taxation should be levied in connection with the movement of goods, whether it be levied while the goods were still in transit or after they had surrendered the transit pass which was their protection, or after they had in one way or another ceased to be protected." The Chairman replied that all these considerations would be carefully considered by the Chinese delegation.

Discussion then arose on a point raised by Mr. Yoshizawa whether the figure of $72,000,000 given as the total *likin* revenue of the country did or did not include also the cost of administration. If it did, and if this sum was to be made good annually to the provinces, it seemed to him that the additional item of $10,000,000 as compensation to discharged employees called for

some explanation. The Chairman admitted that the annual cost of administration—about $6,000,000—was included in the total of $72,000,000. Sir Ronald Macleay suggested that as the provincial authorities would be receiving also the cost of administration it should be an easy matter for them to create a fund for the superannuation of discharged employees. Mr. Tyndall Wei explained that this matter had been very carefully considered by the Chinese delegation, and in view of the large number of people to be discharged, about 150,000 in all, they were convinced that an additional sum of $10,000,000 at least would be necessary for the Central Government to have with which to assist the provinces in pensioning off these employees.

Consideration of China's inadequately secured foreign debts by committee on purposes other than the abolition of *likin*.

§ 12. The second technical committee, formed by members of the Committee on Provisional Measures, was for the consideration of purposes, other than the abolition of *likin*, to which the proceeds from the proposed surtaxes should be devoted. This technical committee held its first meeting on the 21st November, when it proceeded to discuss the question of the consolidation of China's debts and to consider the tables of inadequately secured foreign loans as compiled by the Commission for the Readjustment of Finance. In presenting these tables the Chairman—Mr. T. K. Tseng—pointed out that they referred only to the loans under the control of the Ministry of Finance, and that similar tables for loans contracted by the Ministry of Communications would be submitted later. The tables were eight in number. The first showed the total amounts of inadequately secured foreign loans of the Ministry of Finance as on 31st December, 1925, expressed in Chinese dollar currency at the rates of—one Yen=$0.76, one Gold Dollar=$1.80, one Pound=$8.80, and one Franc=$0.10. The second table was of a *similar nature, taking the rates of exchange at one Yen*=$1.00, one Gold Dollar=$2, one Pound=$10 and one Franc=1/7th of $1. The third table gave full details of all the Yen loans taken into account in the first two tables, the fourth was a similar table for the Pound sterling loans, the fifth for the Franc loans, the sixth for those in Gold Dollars, and the seventh and eighth for those in Chinese taels and Chinese dollars respectively. A summary of the totals given in these tables may be expressed *thus*:—

Total amounts of inadequately secured foreign loans of the Ministry of Finance as on 31st December, 1925.

	Principal	*Interest*	*Compound Interest*	*Total of Cols. 1-3*	*In Chinese Dollars At Table 1 rates*	*At Table 2 rates*
Yen Loans:	238,311,031.60	14,246,015.48	899,959.09	253,457,006.12	192,627,324.64	253,457,006.12
Sterling Loans:	5,474,264. 7. 2	2,482,157. 16. 7	669,146. 17. 2	9,235,277. 2. 5[1]	81,270,438.65	92,352,771.20
Franc Loans:	4,483,180.00	3,081,627.44	1,060,407.61	8,625,215.05	862,521.51	1,232,173.58
Gold $ Loans:	12,288,697.92	4,017,362.60	347,084.83	16,675,375.89[2]	30,015,676.60	33,350,751.78
Chinese Tael Loans: T'sin.	1,928,558.57	490,290.93	—	2,418,849.50	@ 686 =	3,526,019.68
Pkg.	213,000.00	76,680.00	—	289,680.00	@ .712 =	406,853.93
S'hai.	2,164.45	1,539.90	651.12	4,355.47	@ .726 =	5,999.27
H'kow.	130,243.38	—	—	130,243.38	@ .709 =	183,700.11
Chinese Dollar Loans:	1,812,866.12	1,402,685.56	458,537.84	3,683,298.47[3]		3,683,298.47
					312,581,832.86	388,198,574.14

[1] Including a sum of £609,708 1. 6 for commissions and Income Tax.

[2] Including a sum of Gold $22,230.54 for commission.

[3] Including a sum of $9,208.95 for insurance.

Mr. T. H. Yih read a number of explanatory notes dealing with these tables, and pointed out that the figure adopted by the Commission for the Readjustment of Finance as expressing in Chinese currency the total amount of those inadequately secured foreign loans indicated in the tables was $350,000,000, which was the average of the two dollar grand totals given in tables one and two. Mr. Tripier of the French delegation asked whether it was the intention of the Chinese Government to devise a scheme of consolidation on the basis only of the loans dealt with in these tables. He thought that it would give a clearer idea of China's real financial situation if the Chinese delegation would submit lists of all internal and external debts including the debts of the Ministry of Communications. Mr. Yih replied that the total amount of all such debts had been given in the plenary session at $800,000,000, that he and his colleagues on this committee were empowered to discuss only the outstanding inadequately secured obligation of the Ministry of Finance, and similar obligations of the Ministry of Communications would have to be dealt with by other experts. The Chairman supplemented this statement by adding that it was the intention of his delegation to secure lists both of the loans made by the Ministry of Communications and of internal loans, and on completion to submit these lists to members of this sub-committee. He requested the delegations to inform the Ministry of Finance if they knew of any outstanding loans not included in the lists now submitted. Colonel Peel remarked that it was the object of this committee to try and arrive at some kind of a total of the Chinese Government debts which required to be consolidated and secured. The delegations could not distinguish between the different departments of the Chinese Government which had contracted these debts. They dealt with the Chinese Government as a whole. He therefore suggested that each delegation should consult separately with the Chinese delegation and present a complete list of unsecured debts owing to their nationals. In this way they would be able to arrive at reliable maximum and minimum figures for the debts owing to each country, the former being that presented by each delegation and the latter being that admitted by the Chinese Government. In reply, Dr. Y. T. Tsur stated that this committee was not concerned with the question of consolidation, as the Chinese Government intended to delegate this work to a special commission. Colonel Peel protested that consolidation of China's unsecured debts was one of the questions this committee had

to consider, as otherwise the Conference would not be able to arrive at some kind of estimate of how much they were going to be asked to secure on the increased Customs revenue. Mr. Hioki remarked that "he would like to have a complete list of all the loans that were to be consolidated by the Conference. . . . He was of the opinion that the presentation of the complete list would enable them to proceed with the Conference." The Chairman undertook that complete lists both of the inadequately secured loans under the Ministry of Communications and of the inadequately secured loans under the Ministry of Finance would be circulated to the members of this sub-committee at least two days before the next meeting. Dr. Y. T. Tsur again wished to emphasize that the consolidation of China's unsecured debts was not the purpose of the Conference, much less the purpose of this technical committee. "Later on there was going to be a special organ for consolidating these debts that would meet with the creditors of the different nations." Mr. Hioki thereupon enquired what kind of an organization would be formed for this purpose, and whether the work was to be done only by the Governmental authorities of China. Dr. Tsur replied that this special organization would be "a part of the Government" and "that the same organization was going to be a commission to deal with the readjustment of finance, and that the proposal had been made by the Ministry of Finance and had been approved by the Cabinet." Mr. Hioki remarked that as this was the first time he had been informed of the special organization for the consolidation of China's unsecured debts, and as he did not know the relation of that organization with the conference, he would reserve his opinion about it. Dr. Tsur hereupon added that what he had said about this organization had been stated informally, as he had not been instructed to give any formal information about it.

Discussion by sub-committee on rates of surtaxes on list of B grade luxuries submitted by the Chinese delegation.

§ 13. The first meeting of the sub-committee on rates of surtaxes, a sub-committee of the Committee on Provisional Measures, took place on the 23rd November. Admiral Ts'ai Ting-kan, who was elected chairman, stated that the purpose of this meeting was to present to the delegates for study and criticism a revised version of the list of B grade luxuries on which the Chinese delegation had worked when estimating possible receipts from that source. This list was divided into seventeen groups containing in all one hundred and fifty-two items, but as it was

subsequently again revised and presented to the sub-committee, its final form will be dealt with later.

In presenting this list Admiral Ts'ai stated that the figure for the revenue derivable from these grade B luxuries, as estimated by the Chinese delegation, had been obtained by taking the 1924 figures for the foreign trade of China, and calculating on these, 20 per cent on the total value in the case of those goods paying duty *ad valorem*, and in the case of goods paying specific duties by multiplying the quantities of net imports in 1924 with the specific duty rates in the Revised Import Tariff of 1922. As some of the headings in the Customs returns covered both grade B luxuries and ordinary goods combined, a reasonable division had been made before making the estimate. Mr. Strawn remarked that before they could come to any understanding on rates of surtax they must first know clearly not only to what purposes the revenue derivable from the enforcement of these rates would be devoted, but also the amount that would be required for these purposes. As the committee on purposes had not yet reported, he was of opinion that they were not in a position to discuss rates. "They had no definite information as to how much money was needed, especially for the consolidation of debts. While the delegates were not in China as a debt-collecting commission, many of them were in duty bound to see what could be done toward recovering some of the debts of their nationals, which were long overdue." Dr. W. W. Yen, while agreeing with Mr. Strawn, felt that the important thing for the committee was to decide on certain principles. The terms of the Washington treaty, it was true, were not entirely to be set aside, but they had got beyond those terms and were negotiating a new treaty. He therefore thought that the first principle for this committee to decide upon was a formal expression of agreement that to meet China's immediate financial needs the 2½ per cent of surtax must be exceeded during the interim period. The American delegation in the proposals it had submitted had practically admitted this, and it was desirable that the other delegations should also formally express their acceptance of this view. The figure of $100,000,000 as the amount of additional revenue China now required had been carefully estimated by the Chinese delegation, and afforded a basis for this committee to work on. Mr. Strawn, speaking for the American delegation, said that it was their desire to give China the Washington Surtaxes of 2½ per cent and 5 per cent at the earliest possible moment. They were also willing to negotiate

a new treaty; but whatever other money China might need—above what the Washington surtaxes would bring in—was a matter for negotiation. It seemed to him, therefore, "that they should know how much money China would require, and what she was going to do with it. They had had general statements as to how much she thought she would require, but no concrete statement as to the exact amount." He was as eager as anyone to get on with the work of the Conference, but he thought that time was being lost by too much sub-division of topics to different committees. The amount of fresh revenue required, the purposes to which it was to be devoted, and the rates of surtax by which that amount could be raised were all closely related topics and should be considered together. Mr. Hioki strongly supported this view. "They could not," he said, "work further unless they knew the purposes and how much money was needed, which was the condition precedent to proper consideration." As to rates, the Japanese delegation had not the authority to go beyond the 2½ per cent rate of the Washington treaty, but they were willing to consider China's needs, and in order to do that "they would like to know how much the real and minimum necessity of China was." The Belgian, the French, and the Danish delegates also endorsed Mr. Strawn's statement. Mr. Oudendijk asked whether it was not so that the list of goods now submitted by the Chinese delegation "was simply for the purpose of deciding, in accordance with Article III of the Washington treaty, what were luxuries, irrespective of which one of the three entirely different proposals before them was going to be accepted ultimately." The Chairman replied that the list had been very carefully drawn up after an examination of similar lists of other nations. Dr. W. W. Yen thought that details should be left to experts to thrash out, so that the delegates might be free to spend more time on the discussion of general principles. The principal object of this committee was to decide on the means of raising money. The amount to be raised, while of prime importance, was really the second step, the first step being the way of procedure towards reaching the amount to be raised. Three methods of procedure had been suggested, the Chinese, the American, and the Japanese. He thought that these methods should be compared and discussed. Mr. Strawn hereupon pointed out that the only purpose of the American plan was "to suggest a minimum and a maximum whereby certain revenue might be raised. Before the American delegation could adjust its plan, or any other plan, to the requirements of China,

they had to know what those requirements were. . . . The Japanese plan was a little different from that of his delegation, but there also it was necessary to know how much money was to be raised in order to get effectiveness. . . . His delegation had its own ideas about how much revenue would be needed, but it did not know anything about what the real requirements of China were." Mr. Stewart, speaking for the British delegation, demurred to the discussion even of principles such as Dr. Yen had suggested. In his opinion, this committee had not sufficient information of the work and discussions of the other committees to enable them to consider profitably such principles. The list submitted by the Chinese delegation was valuable, as it gave them an idea of what its drafters considered to be luxuries, and gave the committee a basis for investigation. He suggested that the meeting should be postponed until the delegates "should express themselves ready to discuss further the principles based on the proposals made by the Chinese, the American and the Japanese delegations." Mr. Hioki rose to say that he had discovered that the Japanese scheme was not fully understood either by the Chinese delegation or by the rest of the delegations. Later on he would give a full explanation of their scheme. The Chairman suggested that instead of postponing this meeting till some unsettled date, he thought that each delegation might give its ideas of B grade luxuries, and thus be able to record some progress, even if they did not reach a final agreement. Mr. Oudendijk supported the Chairman's suggestion, and proposed that the various delegations "could take the paper home and work it out in detail, as far as the Customs returns would allow them to do so, and ask for more information at the next meeting, . . . when the Chinese delegation might reply to the American and Japanese questions, and lay on the table the exact figures of the amounts that were needed." This proposal was unanimously accepted and the meeting adjourned.

Chinese delegation submits revised list of luxuries and tables of revenue derivable therefrom.

§ 14. The second meeting of the sub-committee on rates of surtaxes took place on 30th November, a week after the first meeting. During that week considerable informal discussion took place among the various delegations on the rates that China proposed to levy and on the list of luxuries she had submitted. Most, if not all, of the delegations saw that if China's most pressing needs were to be properly cared for, the rates of surtax authorized by the

Washington treaty could not bring in sufficient additional revenue to meet these needs. They recognized the fact, but on the one hand they had not the authority of themselves to sanction higher rates than the Washington ones, and on the other hand they lacked sufficient and precise information of those needs to enable them to work out detailed proposals for recommendation to their respective Governments. Each delegation, however, through its Legation, had command of sufficient data to enable it to discuss informally with other delegations the import of the Chinese proposals. Of these proposals the one that least commended itself was the levying of a uniform 20 per cent without variation, on all so-called luxuries, apart from wines and tobacco. The feeling was that articles of luxury are such in varying degree and that the surtax to be levied should take cognizance not only of this variability, but also of the volume of trade carried on in each luxury and of the amount of increased duty that trade could bear without detriment. Accordingly, the idea was gaining ground that if the rates of surtax were to be raised above the Washington treaty level, they should be graded according to the nature of the goods, and that to this end all articles of import should be classified into groups, each group to have its specific rate of surtax ranging from 2½ per cent to 17½ per cent. Schedules on these lines were drawn up by the American delegation, but in the meantime the Chinese delegation had worked through its proposals once more, and was ready to submit them in full detail at the second meeting of the sub-committee on rates. At this meeting accordingly, the Chairman, Admiral Ts'ai, submitted:—

(1) a detailed statement explanatory of the list of B grade luxuries;

(2) an explanatory statement on the estimated revenue from the proposed surtaxes on foreign imports;

(3) a table—submitted previously at other meetings—showing the estimated revenue from proposed surtaxes on foreign goods, based on the Customs Returns of 1924 and the Revised Import Tariff of 1922, and in support of this table;

(4) a table showing item by item, according to the Customs Returns numbers, the estimated revenue derivable from a 30 per cent surtax on Wines, Beer, Spirits, etc., and Tobacco;

(5) a table showing item by item, and giving the Returns and the Tariff numbers for easy identification, as well

as the figures for value and quantity, the estimated revenue derivable from a 20 per cent surtax on the B grade list of luxuries; and

(6) a table on lines similar to that for the B grade luxuries, showing item by item the estimated revenue derivable from a 5 per cent surtax on ordinary goods.

In the last named table an allowance was made for goods exempted from duty. Strictly speaking, an allowance should also have been made in the table of B grade luxuries, but for sake of convenience the sum of Hk. Tls. 6,500,000—to cover both ordinary goods and B grade luxuries—was deducted from the estimated revenue on the ordinary goods. This figure allowed Hk. Tls. 1,500,000 for Chinese Government stores imported free under *Huchao* from abroad, Hk. Tls. 1,000,000 for railway materials, Hk. Tls. 1,000,000 for goods imported and consumed in Dairen, and Hk. Tls. 3,000,000 for goods used by foreign Legations and Consulates in China, and for other goods specially exempted from duty.

Chinese delegation's statements on basis of valuation for calculation of duties, on the levying of duties and taxes on foreigners residing in China, and on the abolition of export and coast trade duties on native goods moved between treaty ports.

§ 15. Ten days elapsed before any further committee meeting of any kind was held, but during that interval the experts of the various delegations were busily engaged in discussing data and proposals relative to the work of the two sub-committees on purposes and on rates. The experts at work on the latter subject soon found that no agreement on specific rates was possible until a decision had been reached on the basis of valuation for the calculation of such rates. The question was one of vital importance to China, not only for its own sake, but also because bound up with it was the further question of the constitution and personnel of the Tariff Revision Commission which should be empowered to settle such valuation questions. The Chinese delegation accordingly prepared statements on this subject and summoned a meeting, the fifth of the Provisional Measures Committee, on 10th December for their submission. At this meeting Admiral Ts'ai pointed out that "in the past, because the Chinese treaty tariff was the result of an international agreement, whenever the Governments of China and the interested Powers appointed representatives to revise the tariff, the valuation of commodities was also the result of an international agreement." At the

Washington Conference the Chinese Government had suggested that the rights of independent valuation of commodities for fixing of rates and of periodical automatic revision of such rates be restored to China. The Nine Power Treaty accordingly had provided that this Special Conference should prescribe rules by which further tariff revisions are to be effected. As the Conference had recognized that tariff autonomy should be restored to China as from 1st January, 1929, it followed that from that date the valuation of commodities for the determination of tariff rates shall be according to the laws to be promulgated by the Chinese Government. For the interim period, however, the Chinese Government had drawn up a set of regulations to govern procedure in regard to the valuation of commodities, and these draft regulations were now submitted to the delegations for their careful consideration. The proposal of the Chinese delegation concerning the revision of the Customs tariff schedule was based on Article IV of the Nine Power Treaty concerning the Chinese Customs Tariff, signed at the Washington Conference, on the necessity of avoiding delays such as had attended previous tariff revisions, and on the facts that the Chinese Government had paid special attention to commodity prices, and that in spite of three revisions China had never enjoyed an effective 5 per cent tariff. As an interim measure, pending China's exercise of tariff autonomy the Chinese delegation proposed the following rules.

"A. Pending the exercise of the right of tariff autonomy, the tariff schedules shall during the interim period be revised at the expiration of four years (1926) following the last revision in 1922, such revision to be based upon the average wholesale market prices of the most recent year as ascertained by the Chinese Government. In computing the basic price for duties on imports, the market price shall be considered as higher than the duty-paying value by the amount of the duty on the goods and seven per cent of the duty-paying value of the goods. If necessary, the Chinese Government may use the price index numbers of imported goods for reference.

B. Seven months before the expiry of the import tariff schedule at present in force, the Chinese Government shall communicate the draft of the new import tariff schedule to the various Legations of the Powers participating in the present Conference. If any Power cannot agree to any part of the draft tariff schedule, it may, within four months, present its views for revision, to be decided within one month by the Tariff Commission instituted by

the Chinese Government. This draft tariff is then to be promulgated and to come into force two months thereafter.

C. If, after the promulgation of the revised schedule and during the period of its operation, the market price of any commodity which is imported in large quantities exceeds, owing to special circumstances, the market price adopted at the time of revision by twenty per cent or more, the Chinese Government shall levy a "price-adjusting-surtax" in order that the duty paid on such commodity shall conform strictly to the *ad valorem* tariff as provided in the agreement for the interim period. If importers are unwilling to pay this surtax, they may pay instead an *ad valorem* duty on the commodity.

D. If the market price of the commodity which is imported in large quantities falls below the price adopted at the time of revision to the extent of twenty per cent or more, so that the actual rate is higher than the rate provided for in the agreement for the interim period, the importer may, upon producing authentic proof, pay an *ad valorem* duty instead.

E. The foregoing rules shall be adopted as a provisional measure for the interim period pending the exercise of the right of tariff autonomy. They shall remain in force for a period of two years. Beginning from the third year when the Chinese national tariff shall come into force, the foregoing rules and the treaty stipulation in regard to periodical revision shall become null and void. Thenceforth the Chinese Government shall independently adopt the measures concerning the revision of the tariff schedule in accordance with the procedure prescribed in the present national tariff law as well as those that may be promulgated in the future."

Colonel Peel pointed out that this proposal raised two distinct questions, the one was the constitution of the commission for the revision of the tariff rates in order to bring them up to an effective 5 per cent *ad valorem*, which commission according to the Washington treaty was to be an international one, and the other question was that of the rules which were to guide this commission "regardless of the fact whether it was to be an international commission or a commission appointed by the Chinese Government." Speaking for his delegation, he wished to express their sympathy with the Chinese Government's preference for a Tariff Revision Commission appointed entirely by themselves to an international commission. His delegation, however—and he thought other delegations were in the same position—was not authorized, without reference to the home

government, to accept any other form of tariff revision commission than that stipulated in the Washington treaty, namely an international one, "but they would be very glad to recommend to their Government for its consideration the Chinese proposal and to put before them the reasons which lead the Chinese Government to that conclusion." As regards the proposed rules for the guidance of the Tariff Revision Commission, they would be very pleased to discuss them no matter what kind of commission should finally be set up. The whole question was of secondary importance, but "it would facilitate the work of the British delegation in communicating with their Government if they knew exactly what sort of commission the Chinese delegates proposed to institute." Admiral Ts'ai replied that it was the intention of his Government to appoint a commission composed of Chinese experts and of experts drawn from the foreign staff of the Chinese Customs Service. To guide this commission, they had up-to-date price data from all the leading ports of China, such as Shanghai, Hankow, Canton, Tientsin, and Dairen. He recalled that the Tariff Revision Commission at Shanghai in 1918 had taken as a basis the prices prevailing during a five year period, (1912-1916), that was two and a half years before the Great War and two and a half years during that war, while the Tariff Revision Commission of 1922 had used the prices prevailing during the period extending from three months before January 1922 to three months after 1st January, 1922. "It was the intention of the Chinese delegates to be as fair as possible, and the proof of this was the stipulation that after these rules were drawn up and schedules of rates or valuations in order, the result would be presented to the delegates for further consideration." As the delegates wished to have further time for the consideration of these rules, he then proceeded to lay before the committee two declarations, the one dealing with the levying of duties and taxes on foreigners residing in China[1]—a question not directly concerning the tariff conference as such—and the other—the text of which follows below—on the abolition of the export duty and coast trade duty on native goods not destined for exportation to foreign countries.

> "Declaration of the Government of the Republic of China regarding the Abolition of the Export Duty and Coast Trade Duty on Native Goods not destined for exportation to foreign countries.

[1] *Vide* Appendix G.

The Coast Trade Duty in the Chinese Customs is the 2½ per cent levy on native goods shipped from one port to another. Inasmuch as native goods exported from the port of origin are the same as goods shipped to foreign countries, they pay the export duty of 5 per cent and the Coast Trade Duty of one-half the amount of the export duty whether specific or *ad valorem*.

It may be pointed out that for the past three years the revenue derived from the Coast Trade Duty averaged Haikwan Taels 2,400,000 a year. As the proceeds collected therefrom formed one of the sources of provincial revenue, the Chinese Government insisted on the incorporation in the treaties between China and Great Britain and between China and the United States of America of a provision for the collection of this duty.[1] To such a provision the Powers concerned gave their assent.

As the Customs revenue is now in the control of the Central Government, the Chinese Government, with a view to ameliorating the conditions of the merchants and to promoting commerce, hereby declares that it is prepared, three months after the close of this Conference, to relinquish the right to levy the existing export duty on native goods not destined for exportation to foreign countries and Coast Trade Duty, provided in the treaties, as an initial step towards the ultimate abolition of *likin*; and that thereafter no export duty will be levied on native goods shipped from one Chinese port to another. In order, however, to prevent such goods from being fraudulently shipped to a foreign port, the exporter will be required to pay the regular export duty at the first port and secure a Drawback Certificate on the production of which the amount paid will be refunded to him upon re-importation of the said goods into the second port, it being understood that this arrangement does not apply to native goods exempt from export duty."

Sir Ronald Macleay seized the opportunity to say how warmly the British delegation appreciated this second declaration as a "practical demonstration of the intention of the Chinese Government to make early progress with her plans for the abolition of *likin*."

Revised list of B grade luxuries in fifteen groups.

§ 16. The third meeting of the sub-committee on the rates of surtaxes was held on 23rd December, when Admiral Ts'ai presented the list of B grade luxuries in the form finally ap-

[1] No Coast Trade Duty clause was inserted either in the American or the British Treaty of Tientsin.

proved by the Chinese delegation. In tabling this list the Admiral pointed out that the 152 items of the list submitted previously to this sub-committee had been regrouped in a new classification of items divided into fifteen groups. These fifteen groups were as follows:—

> Silk; Wool; Cotton; Miscellaneous (Piece Goods); Clothing; Skins (Furs) and Leather; Beverages and Comestibles; Paper; Timber and Woodware; Chinaware, Glass and Enamelled Ware; Drugs and Medicines; Feathers, Tusks; Pearls, Jade, and Precious Stones; Vehicles; and Miscellaneous.

Mr. H. H. Fox, speaking for the British delegation, suggested that time be given to compare the new list with the one formerly submitted, and asked whether the new classification would make any difference in the amount of estimated revenue, Mr. Hioki, referring to Rule 4 at the end of the list, asked for information regarding the Board of Revenue there mentioned. The Chairman explained that this Board was yet to be created and "would consist of representatives of the Shui-wu Ch'u, the Ministry of Finance, and the Ministry of Agriculture and Commerce, and would also include technical advisers, something like the Board of Trade in England."

This was the last formal meeting of any of the sub-committees or committees of the Tariff Conference for the year 1925. The members of the Conference remained in Peking, but the Conference itself went into recess for a period of eight weeks. During that period, however, although there were no formal activities yet a considerable amount of discussion and negotiation went on informally between members of the delegations themselves, and between the foreign and Chinese experts.

Plan of Japanese delegation for consolidation of China's unsecured and inadequately secured foreign and domestic loans.

§ 17. By the beginning of December the Japanese experts had worked out an outline plan for the consolidation of Chinese unsecured and inadequately secured foreign and domestic loans. In this plan they included not only the loans incurred by the Ministries of Finance and of Communications, but also all loans the repayment of which had been guaranteed by the Central Government as well as those which had been merely authorized by that Government. The inclusion of loans only officially authorized meant that the treasury of the Central Government would be

made responsible for scores of purely provincial commitments —a procedure unheard of elsewhere—and that the total of unsecured debt would be raised to such a fantastic height as to make a completely comprehensive consolidation impossible and financial stabilization of the Government hopeless. The Japanese estimated the total indebtedness to be $1,000,000,000 and suggested that a fund sufficient for the service of a consolidation loan of that amount at 7 per cent interest should be set aside from the Customs surplus after the 2½ and 5 per cent surtaxes had been put into operation. As the proceeds from such surtaxes would obviously be insufficient to carry the service of such a consolidated debt, as well as provide funds for the abolition of *likin* and for the Government's administrative expenses, the Japanese delegation accordingly proposed that the service of both interest and capital of the consolidation bonds should be suspended during the interim period of 1926-1928. In order that such suspension should not throw an unwieldy burden on the debt service at the close of the suspension period, it was suggested that the accumulated interest should be paid to the creditors in loan bonds. All loans, irrespective of original terms whether external or internal, to be consolidated were to be treated equally, and creditors were to be given consolidation bonds to the full face value of their original holdings. Bonds might be expressed either in the currency of the original contract or in silver dollars converted at a proper rate of exchange. The rate of interest was to be 5 per cent for the years 1929 to 1934 and 7 per cent from 1935 to the final redemption in 1952. Redemption was to begin in the seventh year. In order of priority this consolidation loan was to rank as a charge on the Customs revenue immediately after the Domestic loans included in the 1921 consolidation scheme. The Japanese delegation's plan also allowed for a committee of experts from the various countries concerned whose duty should be to examine and fix the total amount of the loans to be included in the consolidated debt, to formulate the exact terms and conditions under which the new bonds should be issued, and to work out a concrete plan. The Chinese realized that the advantage of an international committee for this purpose would be that it would prevent any one country from pressing its own interests to the detriment of those of others. The Japanese delegation supported their proposed plan of a consolidation loan by a detailed study, with relevant tables, of the estimated revenue derivable during the interim period 1926-1928 from the 2½ and the

5 per cent surtaxes, of the probable revenue of the Government during the same period derivable from Customs surplus, Salt surplus, Tobacco and Wine tax, Stamp tax, and Peking octroi, and of how the combined revenue from these sources could be used for the abolition of *likin*, the service of the proposed consolidation loan, and the administrative expenses of the Government. This Japanese plan had the advantage of being the first well considered scheme of financial readjustment to be laid before the Conference.

British delegation's proposal on *likin* compensation tax.

§ 18. Next in the field was the British plan, which also appeared in December. In it it was suggested:—

(1) that provided satisfactory arrangements could be made regarding the *likin* abolition scheme generally, a *Likin* Compensation Tax of 2½ per cent *ad valorem* might be imposed on all foreign imports (with possibly higher rates on certain articles of luxury), it being understood that the payment of this *Likin* Compensation Tax should free the goods from all further taxation and that its proceeds should be allocated by the Customs to the provinces in lieu of *likin*;

(2) that the rates of the Customs import surtaxes to be levied from the date of the ratification of the treaty, should, after notice being given, be 2½ per cent *ad valorem* on ordinary goods, 7½ per cent on B grade luxuries, and 17½ per cent on A grade luxuries;

(3) that pending the working out of a scheme for the consolidation of China's unsecured debts, which could be done during the years 1927 and 1928, the sum of $40,000,000 a year for each of these two years should be set aside from the Customs revenue as increased by the surtaxes to serve as a basis for the service of the new consolidated bonds; and

(4) that out of the remaining Customs surplus revenue a maximum sum of $10,000,000 a year should be earmarked for the service of Chinese Government Railway bonds in default, other than those specifically secured on the Customs revenue.

Under the above scheme foreign imports would pay as follows:—

	Import Duty	*Import Surtax*	*Likin Compensation Tax*	*Total*
Ordinary Goods:	5%	2½%	2½%	10%
B grade Luxuries:	5%	7½%	2½%	15%
A grade Luxuries:	5%	17½%	2½%	25%

Working on this basis and assuming that the natural increase of import duty would be $2,000,000 a year, and that the natural increase of export duty, when made an effective 5 per cent rate, on goods going abroad would be $800,000 a year, the British experts elaborated a table showing that in the year 1927 a total Customs revenue of $157,900,000 could be expected, and that by the year 1940 this revenue would have grown to $218,600,000. Basing their calculations for the foreign and domestic charges on the Customs revenue on the calculations made by M. Georges Padoux[1] and allowing $18,500,000 per annum for Customs administrative expenses, the British experts showed that the Chinese Government could expect a surplus increasing gradually from $58,550,000 in 1927 to $141,800,000 in 1940. The proposed *Likin* Compensation Tax to be levied for the purpose of financing the abolition of *likin* was a matter to which the British experts had devoted a considerable amount of thought. Their proposal was that in order to finance the abolition of *likin* the foreign Powers should agree to the imposition of a special *Likin* Compensation Tax on all foreign imports and on Chinese and foreign local manufactures and products paying excise, the proceeds of which would be allocated to the provinces in lieu of *likin*, while China should agree:—

(1) to impose the tax impartially on the categories of goods specified,
(2) to allocate the proceeds to the provinces in lieu of *likin*, and
(3) to free all goods paying the tax from *likin* and all other internal taxation.

The carrying out of such a proposal argued, of course, the coöperation of the Provincial authorities concerned and the understanding that goods manufactured by foreigners in China should be on exactly the same tax footing as Chinese factory products. The rate at first proposed for this *Likin* Compensa-

[1] G. Padoux: *The Consolidation of China's Unsecured Indebtedness and the Creation of a Chinese Consolidated Budget.* Tientsin. 1925.

tion Tax was one-quarter of the total sum of the import duty and the Tax combined, and it was also suggested that in fixing the surtax rates that were to fill the interim between the Conference and the exercise of tariff autonomy the *Likin* Compensation Tax should be included in such rates, thus if an Interim Surtax rate were 10 per cent, one-quarter of this, *i.e.*, 2½ per cent should be *Likin* Compensation Tax, and the remaining 7½ per cent import duty. The collecting of the Tax was to be entrusted to the Maritime Customs Service, was to be levied at the same time as the import duty or the excise, and was to be lodged in banks in Shanghai to be designated by the Chinese Government. The disposal of the proceeds was to lie in the hands of a *Likin* Compensation Committee, which was to consist of members of the Central Government's administrations collecting the tax, and of representatives of the Provincial treasuries, as well as of the Provincial Assemblies and of the National Association of Chambers of Commerce. Imported goods and local manufactures having paid import duty or excise and *Likin* Compensation Tax were to be allowed to pass free into consumption at the place of importation or production, including the walled city at the port or mart, as well as the surrounding country within a radius of one hundred *li* from the port. Furthermore, such goods, if transported inland, whether by water or otherwise, were to be entitled to free transit passes exempting them from all transit dues, destination taxes, and other forms of internal taxation, including taxes and fees levied on means of conveyance, but falling directly on the goods themselves. Chinese goods were likewise to be entitled to the protection of transit passes, at the option of the owners, and on payment of the *Likin* Compensation Tax. The proceeds of the Tax paid on account of goods sent inland under inward transit pass were to be allocated to the authorities of the provinces traversed by the goods in proportion to the quantities destined for consumption in the provinces concerned. Similarly, outward transit passes were to be issued free to exempt native goods from all taxation when *en route* from the interior to the port or mart at which the pass is issued where *Likin* Compensation Tax at the rate of one half of the export duty was to be levied. This system was to hold good irrespective of the nationality of the applicant and no matter whether the goods concerned were for export abroad or for domestic consumption. The proceeds of the Tax paid on account of goods under outward transit pass were to be allocated to the authorities of the provinces from which the

goods emanated. As for the proceeds of the Tax from imports or local manufactures consumed at ports of entry or place of manufacture, it was proposed that such proceeds should be allocated to the provinces by the *Likin* Compensation Committee in the measure in which the provinces complete the abolition of *likin*, but that a substantial portion should be reserved for the local authorities in compensation for the abolition of all internal taxation within a radius of one hundred *li* of the port.

Objections of Chinese experts to this proposal.

§ 19. The Chinese experts naturally raised objections to this proposed scheme. In the first place, they thought that native goods should be removed from the scheme entirely, and their treatment left to the Government, who proposed to levy a production tax on such goods instead of *likin*. In the second place, if tax-free areas were created round the treaty ports, they doubted whether sufficient funds would be available to compensate the Provincial authorities for the taxation abolished, and they suggested, therefore, that the Native Customs should be retained in these areas. Thirdly, they suggested that the treaty to be drawn up as a result of the Conference should refer only to *likin*, but that the Chinese Government should issue a mandate announcing their intention ultimately to abolish not only *likin*, but also other direct taxation on goods, and declaring that from the date of the enforcement of the *Likin* Compensation Tax all goods, whether native or foreign, which had paid that tax should thereafter be free from all taxes whatsoever. Fourthly, the Chinese Government wished to levy a stamp tax at a flat rate on all transit passes. Fifthly, the experts declared that it was the intention of the Chinese Government to develop a system of excise on native manufactures at rates corresponding to, but lower than, the import duties, and as this matter was one which concerned China's internal administration, any arrangements made would be kept entirely out of the treaty. The excise rates, however, would be the same for both Chinese and foreigners, and the excise at the ports would be collected by the Maritime Customs. Sixthly, the Government was willing to abolish the Coast Trade Duty if the Powers would agree to the enforcement in the foreign settlements of the Stamp Tax and the Wine and Tobacco Sales Taxes on Chinese and foreigners alike. This matter, it was finally agreed, should be kept outside of the treaty and would be regularized by an exchange of notes. Seventhly, the Chinese experts emphasized the great difficulty there would be in proving the place of consumption of goods sent.

inland under transit pass in order that payment of the *Likin* Compensation Tax might be made to the Provincial authorities concerned accordingly. They agreed, however, that in the case of outward transit passes there should be no restrictions on the nationality of the owner of the goods, nor in connection with their ultimate disposal whether by export abroad or otherwise. Finally, the Chinese experts maintained that the details of a suitable transit pass procedure should not be embodied in the treaty, but that the Customs authorities could be instructed to devise such a procedure which would be promulgated by the Chinese Government.

Table submitted by American experts showing estimated Customs revenue and surplus available.

§ 20. Late in December the experts of the American delegation produced an elaborately worked out table in fourteen columns showing year by year from 1924 to 1946 the total income that would be derived from

(*a*) the basic net Customs revenue *plus* an annual allowance of 4 per cent natural increase;

(*b*) the interim increase on import duties taken at an average of 5 per cent plus an annual allowance of 4 per cent for natural increase; and

(*c*) the Chinese Import Tariff of 1929, allowing a further average increase of 2½ per cent making a total average duty of 12½ per cent, *plus* an annual allowance of 4 per cent for natural increase.

This table showed that from the Customs alone a revenue could be expected ranging from $122,360,000 in 1926 to $272,835,000 in the year 1935. Against this estimated income the table showed year by year:

(*a*) the total of existing charges on the Customs revenue;
(*b*) the surplus that would be available on the deduction of these charges, running from $32,835,000 in 1926 to $213,484,000 in 1935; and
(*c*) the total cost of such charges as the service of the consolidation of foreign unsecured, or badly secured debts, the abolition of *likin* and other administrative expenses.

The table was constructed on conservative lines, but in the absence of exact statistics it was naturally based on certain assumptions as to tariff rates, dates on which they would become

effective, abolition of export and coast trade duties, growth of trade, extent of unsecured debt, rate of interest to be paid on this debt, and above all that it was not required to construct a table which should provide from Customs revenue alone all the expenditure to be incurred by the Government in administrative and in constructive enterprises.

Memorandum from Netherlands delegation on principal sources of revenue mortgaged for service of Chinese loans.

§ 21. The Netherlands delegation submitted a memorandum in which, after briefly reviewing the three principal sources of revenue hitherto mortgaged for the service of Chinese loans, namely the Customs revenue, the Salt revenue, and the Railways revenue, they expressed the belief that it was only the surtaxes to be placed on the Customs revenue which could provide a basis strong enough on which to build a reliable loan consolidation scheme. They pointed out that at the time of writing China's total indebtedness probably did not exceed £250,000,000, which was about the same as the national debt of Holland or one half of that of Japan. Considering the area and the population of China this debt, they thought, was far from excessive, and as more than half of it was already secured on the Customs and the Salt revenues, it was necessary for the sake of China's credit to place the balance on a sound footing. The delegation were of opinion that the defaulted railway loans should be placed as a first charge on the increased Customs revenue, that inadequately secured loans had a claim prior to those that had been floated without security, and that debts contracted for materials supplied were entitled to more consideration than unsecured short term loans and advances. As regards the mode of consolidation they thought that stress should be laid on the importance of fully protecting all loans that had been issued to private investors, and that while redemption might in certain cases be deferred, payment of interest should be made promptly and regularly. Consolidation was, of course, a matter for the Chinese Government to arrange with its creditors; all the Conference could do would be to prepare a scheme by which the Government would be enabled to offer attractive terms to those of its creditors who prefer a good security at moderate interest to an unsecured claim. Failing the possibility of floating a new loan, the unsecured creditors, except the holders of railway bonds, should be given the option of converting their claims into consolidation bonds, of which there might be two issues, one in Chinese silver dollars and the other in a gold currency. The

delegation suggested that these bonds should bear interest at six per cent and have an amortization schedule of twenty years. To ensure that the security for these bonds be above all suspicion, a separate fund for their service should be created from the proceeds of the new surtaxes on the same lines as the separate fund for the abolition of *likin* as proposed by the British delegation. The requirements of this special fund would be for each of the years 1927 and 1928 $45,000,000. Of this $5,000,000 would be devoted to the service of the Hukwang and the Tientsin-Pukow supplementary loans, $10,000,000 primarily for the service of other Government railway loans as may be in default, and $30,000,000 for the interest service of the new six per cent consolidated loan of $500,000,000. Redemption of this loan might begin in 1929 with an amortization payment of one per cent of the loan. With an increase of a half per cent in each succeeding year the loan would be extinguished in 1947. The surtaxes proposed by the British delegation would provide ample funds for the three purposes specified above, and leave at the same time a balance for constructive enterprises and general expenses of the Government. On the introduction of tariff autonomy in 1929 China would be at liberty to raise as much Customs revenue as might be deemed expedient, but in order that the bonds of the new consolidation loan should be considered a good security it was important that the Government should make a declaration that the special fund would continue till the extinction of all the loans secured on it, that every month 40 per cent of the Customs revenue should be allocated to that fund with a maximum of one twelfth part of the annual requirements and until 1946 with a mimimum of $4,000,000.

Italian delegation's plan for consolidation loan.

§ 22. The Italian experts were of opinion that although China was deeply in debt yet she could not be considered a bankrupt. Financial security, however they believed, was to be attained only by means of the Customs revenue, and to fulfil this purpose that revenue obviously would have to be increased. Four delegations had already submitted projects based approximately on the same rates of surtaxes, and approaching to a certain extent the project of the Chinese delegation. On the assumption that all the delegations would finally agree on the rates of surtaxes, that the net yield of the increased Customs revenue required would be Mexican $90,000,000 a year, and that the total amount of the debts to be consolidated could be fixed approxi-

mately at Mexican $11,000,000,000, the Italian experts considered that a new contract for the consolidation of these debts should be entered into between the Chinese Government and its creditors, and that $50,000,000 of the increased Customs revenue should be set aside for the service of the interest and principal of the new consolidated debt, while of the balance $30,000,000 should be devoted to the abolition of *likin*, and the remaining $10,000,000 to the administrative needs of the Government. Taking from table 10 of the Japanese delegation's memorandum the amount of unsecured debt as $98,800,000, the Italian experts submitted two tables, the one providing for amortization in 19 years with interest at 5 per cent for the first eleven years, at 6 per cent for the following five, and at 7 per cent for the last three years, while the other provided for amortization in 20 years with interest at 4 per cent for the first eleven years, 6 per cent for the following six years, and 8 per cent for the last three years.

Belgian delegation's proposals.

§ 23. The proposals put forward by the Belgian experts were substantially similar to those of the British delegation. They suggested that no alteration should be made in the existing mode of disposal of the proceeds of the prevailing import duties, that for the abolition of *likin* an additional 2½ per cent levy should be charged on all imports so that the basic import duty should be regarded as 7½ per cent, that to provide funds for other purposes an additional 2½ per cent should be put on all ordinary goods, 5 per cent on B grade luxuries and 15 per cent on A grade luxuries. This scheme should produce

$28,500,000 at least for the abolition of *likin*,
$40,000,000 for debt consolidation,
$10,000,000 as contingent railway loan security,
$ 8,717,000 for administrative expenses.

Under this scheme, therefore, ordinary goods would be called on to pay 10 per cent, "B" grade luxuries 15 per cent, and "A" grade luxuries 25 per cent.

Memorandum from French delegation on China's inadequately secured external and internal debts.

§ 24. The French delegation embodied their ideas in a *Memorandum au Sujet de la Consolidation des Dettes Extérieures et Intérieures du Gouvernement Chinois insuffisamment garanties.* This process of consolidation was to cover all inadequately secured debts contracted by any and every department of the Chinese Government. Such an opera-

tion, however, was intimately connected with the financial reorganization of the Chinese Government, to enable that Government to depend upon regular revenue instead of being obliged to meet daily expenditure by contracting fresh loans. For the drawing up of any such scheme it was essential that the Chinese delegation should supply the following data:—

1. List of debts and loans.
   (*a*) Secured debts.
   (*b*) Inadequately secured debts:
   Domestic debts of the Ministry of Finance and other Departments;
   Foreign debts of the Ministry of Finance and other Departments;
   Domestic debts of the Ministry of Communications;
   Foreign debts of the Ministry of Communications.
   (*c*) Loans:
   Inadequately secured long-term loans of the Ministry of Finance and other Departments.
   Inadequately secured long-term loans of the Ministry of Communications.
2. Budget of administrative expenses of the Central Government.
3. General resources of the Central Government:
   (*a*) Customs.
   (*b*) Salt Gabelle.
   (*c*) Wine and Tobacco.
   (*d*) Stamp Duty.
   (*e*) Peking Octroi.
4. The Consolidation scheme of the Central Government.

After the Chinese estimates had been compared with those prepared by the Legations representing various foreign creditors there should be formed a Sino-Foreign Arbitral Commission, the business of which would be to investigate and establish the amount of contentious liabilities. Claimants not willing to submit to arbitration would be precluded from benefiting by the consolidation scheme. Once the debts had been unified the scheme of consolidation would be as follows:—

(1) The issue of silver dollar bonds for debts in Chinese currency and of gold dollar bonds for debts in foreign currencies, each type of bond bearing interest at x per cent and redeemable by drawings spread over x years. These bonds were to be effectively guaranteed in a manner to be laid down by the Conference.

(2) The exchange on a basis to be determined (*e.g.*, their value on 31st December, 1925) of the existing liabilities for these new bonds.

Then follows an investigation of the funds required for financial reorganization and consolidation, in the course of which the suggestion was thrown out that the abolition of *likin* by means of a system of transit passes might be effected separately by imposing a maximum surtax of 2½ per cent in addition to the Washington surtaxes. To the French experts it seemed that for the year 1926 China might count on an income of $146,340,000 for administrative expenses and for debt consolidation made up as follows:—

Customs surplus available after service of secured debts:	$45,000,000
Washington Surtaxes, based on Imports valued at $1,300,000,000 on which the annual yield would be $65,000,000 at 5 per cent *ad valorem* of this total value 40 per cent would bear a surtax of 2½ per cent .. .. .. =	$13,000,000
While the remaining 60 per cent would bear a surtax of 5 per cent .. =	$39,000,000
Salt Gabelle:	$45,000,000
Wine & Tobacco Taxes:	$ 1,300,000
Stamp Duty:	$ 340,000
Peking Octroi:	$ 2,700,000
	$146,340,000

Whether this sum would be sufficient to meet the purposes indicated could be ascertained only when the Chinese Government should state the amount of its administrative expenses and the total amount of the debts to be consolidated. As machinery to give effect to their scheme, the French experts proposed the formation of a Central Administration of Chinese Finance, the duties of which would be:—

(1) to effect the consolidation and to maintain the service of interest on the consolidation debt;

(2) to receive and distribute among various Chinese and foreign banks revenues derived by the Chinese Government from different administrations;

(3) to ensure the regular payment to departments of sums budgeted for their administrative expenses; and

(4) to place any available surplus at the free disposal of the Chinese Government.

This Administration, it was suggested, should have foreign technical advisers attached to it, and for the carrying out of its functions it should make use of existing Chinese departments and of a Sino-Foreign Banking group. In regard to constructive works the French experts drew special attention to the resolution adopted at the Washington Conference on 1st February, 1922 regarding the development of railways in China and the unification of these railways into a railway system under Chinese control with such foreign financial and technical assistance as may prove necessary in the interest of that system. In view of China's acceptance of this resolution, the French experts were of opinion that the object desired might be effected by uniting Chinese and international interests in one Sino-Foreign group, which should be entrusted with the negotiation of a series of loans, each loan comprising a silver issue for the Chinese market and a gold issue for the foreign market. A loan of this type, secured on the property and revenues of the railways should be issued each year to enable the Railway Consultative Committee to take in hand the execution of an annual programme for the repair and maintenance of existing lines and the construction of new lines. This programme should first be submitted to a Chief Railway Committee including delegates from the Sino-Foreign group. The combined receipts of the various lines should be placed under the control of a Central Railway Administration, which would divide these receipts between the different banks representing Chinese and foreign groups, and which, in co-operation with foreign technical advisers, should be entrusted with defraying the expenses of the various lines and with maintaining the service of the Chinese Government railway loans. The French Memorandum concludes with the remark that no consolidation scheme which does not take into account the reforms indicated above can provide a remedy for the present state of affairs in China.

Resumption of Conference on 18th February 1926 after eight weeks recess. Chinese delegation's proposed resolutions on estimated amount required from certain surtaxes, and on immediate levy of 2½ per cent surtax.

§ 25. After an interval of eight weeks, formal meetings of the Conference were resumed on 18th February 1926 with the sixth meeting of the committee on Provisional Measures. In opening the meeting Dr. Yen pointed out that during the interval the members of the Conference had not been idle as there had been frequent informal exchanges of views and time for making a careful and thorough study of the requirements of the Chinese Government. If they had not reached unanimity on the question how the funds required should be made use of, they were, he thought, all agreed that the sum required to accomplish what they meant to do would be between ninety and one hundred million dollars Chinese currency. Dr. Yen then presented two resolutions, known as documents 70 and 71, reading the former but leaving the latter unread, a proceeding which occasioned some confusion in the subsequent discussion. Document 70 was as follows:—

"*Resolution regarding the estimated amount of Customs Revenue derivable from the Interim Surtaxes.*

Whereas the Chinese Delegation has declared, and the Representatives of Powers other than China represented at the present Special Conference have taken note of the declaration, that the Government of the Republic of China has decided to apply the proceeds derivable from the interim surtaxes to the following four purposes to wit:—

1. Compensation for the abolition of *likin*;
2. Consolidation of inadequately secured debts, domestic and foreign;
3. Expenditure for constructive projects; and
4. Urgent administrative expenses;

And whereas it is the general consensus of opinion among the Representatives of the Powers assembled at the present Conference that the Customs surtaxes leviable on foreign imports during the *interim* period should yield an annual revenue sufficient to meet the various purposes mentioned above;

The Representatives of the Powers assembled at this Conference *do hereby resolve and agree* that the annual revenue derivable from the interim surtaxes on foreign imports shall amount to between Ninety and One Hundred Million Dollars, Chinese Currency (*i.e.* between $90,000,000

and $100,000,000), whatever may be the classification of the imported merchandises and the differentiation of their respective rates of Customs duty to be arranged in the new Import Tariff for the said interim period."

while document 71, which had been previously circulated to the delegations, but was not read at the meeting, was as follows:—

"Resolution relative to the levying of the Surtaxes as provided in Article III of the Treaty relating to the Chinese Customs Tariff signed at Washington on February 6th, 1922.

Whereas it is provided in Article III of the Treaty relating to the Chinese Customs Tariff, signed at Washington on February 6th, 1922, that this Special Conference shall authorize the levying of certain surtaxes on foreign imports, by virtue whereof this Special Conference is empowered to authorize the levying of these surtaxes without further action by the various Governments concerned;

And whereas it is agreed in a Resolution adopted by the Special Conference on . . . . 1926, that the annual revenue derivable from the interim surtaxes on foreign imports shall amount to between Ninety and One Hundred Million Dollars, Chinese Currency (*i.e.* between $90,000,000 and $100,000,000) and inasmuch as the levy of surtaxes higher than the rates provided in the Washington Treaty requires the conclusion of a new Treaty;

The Representatives of the Powers assembled at this Conference *do hereby resolve and agree* that on and from April 1st, 1926, a surtax of 2½ per cent *ad valorem* shall be levied on all dutiable imports; that in order to enable a list of articles of luxury to be drawn up the levying of the additional surtax of another 2½ per cent *ad valorem* on the articles of luxury shall be postponed, but in any case this additional surtax shall become effective on and from a date not later than two months from the date of the enforcement of the 2½ per cent surtax on all dutiable goods, *i.e.* not later than June 1st, 1926, and that the surtaxes shall be levied at a uniform rate at all land and maritime frontiers."

Colonel Peel considered that the resolution (document 70) was premature as it was impossible to resolve and agree that the revenue from any particular tax would yield a definite sum. He referred to the compensation to the provinces for the abolition of *likin* as of vital importance, and wished to lay down the

principle that there should be a definite allocation of a considerable portion of the funds to be raised from the interim surtaxes to the provinces to compensate them for their loss of *likin*. "Unless the Provincial authorities were given proper allocation, they would continue to seize the revenues which ought to go to the Central Government, and therefore the question of 'Urgent Administrative Expenses' depended very largely upon the allocation which was to be made to the provinces." He also wished to see more clearly what could be done for the consolidation of the inadequately secured debts, and when they were clearer on these points and also on what precisely was to be included in the expenditure for constructive purposes, it might then, but not before, be of some use to pass resolutions. Mr. MacMurray concurred entirely with Colonel Peel. He recalled that the business of the Conference was defined by the Washington treaty as (1) the authorizing of a surtax on dutiable imports from a date to be agreed upon, and (2) the deciding of the purposes to which, and under what conditions, the surtax revenue should be devoted. "For the sake of discussion, it had been, of course, necessary to adopt certain hypotheses, one of which related to the amount of money that they expected could be raised through the increase of the surtaxes over and beyond what was provided for in the Washington treaty. There had been in these conversations a fairly definite and general acceptance of the hypothesis that probably between ninety and a hundred million dollars would be necessary and could be raised, but the assumption was, after all, a hypothesis which they accepted tentatively as one of the bases on which to work out the terms and conditions upon which the surtaxes were to be granted, and it appeared to him that the effect of the passing of the resolution embodied in Yin (document) 70 would be an acceptance of the hypothesis as a fact, which would vastly complicate matters and increase the difficulties of negotiations and discussions which had thus far been proceeding in a way that was more than satisfactory." He fully endorsed the view that it would be premature to pass any such resolution. Admiral Ts'ai thought that as they had hypothetically agreed upon the amount of from ninety to a hundred million dollars as being necessary, they could discuss the collecting of the 2½ per cent surtax guaranteed to them by the Washington Agreement without the necessity of further ratification by the other Powers. The Washington surtaxes, if levied, were to bring in thirty million dollars which China could make immediate use of "aside from all other amounts that might

be projected in the Conference" The Chinese delegation desired some definite understanding so that the collecting of the 2½ per cent surtax might begin. Mr. Strawn pointed out that the Admiral's remarks referred obviously to document 71, but that for the moment the Conference was discussing document 70. He reminded the Admiral that at the very beginning of the Conference the American delegation had offered China the immediate enforcement of the 2½ per cent surtax, the funds collected to be placed in the hands of the Inspector General pending decision as to their disposal, and that there was no dissentient voice to that proposal except that of China. America still stood by her proposal, and if China was suffering loss it was not the fault of the Conference. Admiral Ts'ai replied that at the beginning of the Conference public opinion in China was against the acceptance of the mere 2½ per cent surtax, agreed upon at Washington, but now that the public realized that the foreign delegations had come in a generous spirit and were ready to consider further claims, the Chinese delegation was prepared to begin the collecting of the 2½ per cent surtax. Monsieur de Warzée agreed with the remarks made by Colonel Peel and Mr. MacMurray, but was quite willing that the 2½ per cent surtax should be levied as soon as possible. Comte de Martel made the same reservations as the British and the American delegates, but in order to enable the Chinese Government to obtain money as soon as possible he proposed the following resolution: "The Representatives of the Powers assembled at this Conference resolve and agree that on and from the 1st of July 1926 a surtax of 2½ per cent *ad valorem* shall be levied on all dutiable imports; that moreover it shall be provided for levying an additional surtax of 2½ per cent *ad valorem* on the articles of luxury; that the revenues of the aforesaid surtaxes shall be deposited in the 'Custodian Banks' under the responsibility and control of the Inspector General of the Chinese Maritime Customs to be employed for such purposes and subject to such conditions as the present Conference may determine". Mr. Kauffmann agreed that it was premature to pass the resolution embodied in document 70; but he had no objection to the proposal just made by the French delegate. Mr. Oudendijk was of opinion that document 70 was useless as a resolution as the amount actually required would be evolved in the course of further conversations; he wished, however, to repeat most emphatically that the Netherlands delegation was in favour of the speedy levy of the 2½ per cent surtax. The fixing of a hard and fast date for the

introduction of the levy was not essential; it might be wiser to say that it would be introduced in two months, or at a certain interval, from the date of agreement. Mr. Bianchi suggested that while document 70 had been rejected as a formal resolution yet he thought that it had been agreed to in spirit. With the putting into force immediately of the 2½ per cent surtax the Portuguese delegation was entirely in sympathy. Mr. Garrido was of the same opinion as Mr. Oudendijk, and Mr. Cerruti agreed with the British and the American delegates. Mr. Hioki had no objection to document 71 in principle, but as the Conference now had before it the Chinese proposal on this point, the original American proposal and the proposal just put forward by the French delegation he thought that the question should be referred to a small sub-committee for consideration. Dr. Yen apologized for the erroneous impression created by his not reading document 71 and making it clear that he was presenting it also as a resolution. He thought from the discussion that had taken place the delegates were agreed on the general content of the two resolutions but not on the form in which they had been put. He agreed that the two resolutions might well be combined into one, and endorsed Mr. Hioki's suggestion that the three proposals regarding the interim enforcement of the Washington 2½ per cent surtax, namely the original American, the Chinese, and the French, should be referred to a small sub-committee to be reduced to a form for submission at their next meeting. Mr. Strawn thought that it was undesirable to combine documents 70 and 71 in one resolution: they were quite willing to put into effect the 2½ per cent surtax, but they did not wish to be bound regarding the amount such a surtax could or should produce. The chairman, Dr. C. T. Wang, in summing up deprecated Colonel Peel's use of the word "premature" in application to the resolution embodied in document 70. They had been discussing these questions for weeks, and he thought that it was a generally accepted opinion that the surtaxes to be levied during the interim period would have to be higher than those allowed by the Washington treaty, and that an additional annual income of between ninety and one hundred million dollars would be required to carry out the programme submitted by the Chinese Government, which had been discussed and generally accepted by the various delegations. The abolition of *likin* and the consolidation of unsecured debts would absorb most of that sum, and the few millions remaining were urgently needed for such constructive purposes as the completion of the Canton-Hankow

Railway, and for such administrative expenses as judicial reforms, placing the diplomatic service on a sound financial basis, and the encouragement of education. He endorsed Admiral Ts'ai's remarks regarding the opposition of Chinese public opinion to the acceptance of the 2½ per cent surtax, which had been proposed at the very beginning of the Conference. He had received letters from Mr. Tang Shao-yi, who had been at first hostile to the Conference, but who was now satisfied with the progress being made, and he knew that their friends in Canton were also satisfied. As a Chinese representative he thought that the resolutions embodied in documents 70 and 71 could be combined, but he agreed that they should refer the matter to a sub-committee for the drafting of an appropriate resolution. Then ensued a passage at arms between Sir Ronald Macleay and the Chairman in which Sir Ronald described the procedure followed at this meeting as so peculiar that no one could tell precisely what was now before the meeting. He was therefore of opinion that both the resolutions embodied in documents 70 and 71 should be withdrawn and that a sub-committee be appointed to draft a resolution which they could all accept. The Chairman then appointed the British, the American, the French, the Japanese, the Netherlands, and the Chinese delegations to membership in this sub-committee, which, it was decided, should meet on the 20th February.

Discussion on drafts of resolution on the levying of interim surtaxes suggested by the Chinese and the American delegations.

§ 26. The first meeting of the sub-committee appointed by the Committee on Provisional Measures to draft a resolution on the levying of interim surtaxes met on Saturday, 20th February, with Dr. W. W. Yen in the chair. Dr. Yen laid two drafts before the meeting, the first being the text of a resolution as proposed by the Chinese delegation, and the second the text of a resolution as proposed by the American delegation. These two drafts were as follows:—

"Proposed Resolution (Chinese) relative to the levying of the Washington Surtaxes during the first part of the interim period.

Whereas Article III of the Treaty relating to the Chinese Customs Tariff signed at Washington on February 6th, 1922, provides that this Special Conference shall authorize the levying of certain surtaxes on dutiable imports without further action on the part of the Governments concerned;

And whereas it is generally agreed that in order to meet the various purposes which have been proposed and considered in this Conference, surtaxes at rates higher than those provided for in the aforementioned treaty will have to be levied so as to raise an amount not less than 90 million dollars, Chinese currency, *per annum;*

And whereas the levying of surtaxes at rates higher than those provided for in the Washington treaty requires the negotiation and conclusion at this Conference of a new treaty, necessitating a delay of some months;

The Representatives of the Powers assembled at this Conference hereby do resolve and agree that on and from . . . 1st, 1926, a surtax of 2½ per cent *ad valorem* shall be levied on all dutiable goods, that in order to enable a list of articles of luxuries to be drawn up, the levying of the additional surtax of another 2½ per cent *ad valorem* shall be postponed to a later date, but in any case this additional surtax shall become effective on and from a date not later than two months from the date of enforcement of the first 2½ per cent surtax, *i.e.* not later than . . . 1st, 1926, that both surtaxes shall be levied at a uniform rate at all land and maritime frontiers, and that the proceeds of these surtaxes shall be employed for such purpose and subject to such conditions as this Conference may determine".

"Resolution [American] relative to the levying of the Surtaxes as provided in Article III of the Treaty relating to the Chinese Customs Tariff, signed at Washington, February 6th, 1922.

Whereas it is provided in Article III of the Treaty relating to the Chinese Customs Tariff signed at Washington on February 6th 1922 that this Conference shall authorize the levying of certain surtaxes on dutiable imports into China as from such date, for such purposes and subject to such conditions as it may determine; and

Whereas it is provided in Article VI of the said Treaty that such surtaxes when imposed shall be levied at a uniform rate *ad valorem* at all land and maritime frontiers of China; and

Whereas the levying of surtaxes at rates higher than those provided in the Washington treaty require the negotiation of a new treaty; and

Whereas the Representatives of the Powers assembled as this Conference are engaged in the negotiation of a treaty wherein provision is to be made for the levying of surtaxes at higher rates, which treaty, when concluded, will have to await ratification by the various Governments concerned; and

Whereas it is recognized as highly desirable that there shall begin to accrue to the Chinese Government at the earliest possible date, the benefit of the increased revenue contemplated in the above cited provisions of the Washington treaty;

The Representatives of the Powers assembled at this Conference agree that on and from the . . . day . . . 1926 (See Note A) the Chinese Government shall impose and collect surtaxes on dutiable imports as follows: on all commodities listed in the schedule hereto annexed a surtax of 5 per cent *ad valorem* (See Note B) and on all other dutiable commodities a surtax of 2½ per cent with the provision, however, that goods shipped to China before the date provided above, viz: . . . 1926 (See Note A) shall pay only the duties which are at present in force (See Note C), and that these surtaxes shall be levied uniformly at all land and maritime frontiers.

And it is further agreed that the increased Customs Revenue which will accrue from the levying of these surtaxes shall be held by the Customs Administration for the purpose of being applied to the carrying out of such plans as shall have been agreed upon at this Conference, or provided for in the general treaty or treaties to be negotiated at this Conference, and that, pending such disposition, the said revenue or any part thereof shall not in any way, directly or indirectly, be pledged or hypothecated to secure any indebtedness heretofore or hereafter incurred or created by the Chinese Government or any department, bureau or agency thereof.

Notes:—

A. It is suggested that the date be two months after the day on which the resolution is adopted.

B. It is suggested that this list include all commodities listed in classes A, B, and C of the schedule of proposed surtaxes submitted by the Chinese delegation.

C. This is in conformity with precedent and is considered equitable."

To facilitate discussion the Chairman then proceeded to read the resolution of the Chinese delegation paragraph by paragraph. Mr. Hioki inquired what the phrase "without further action on the part of the Governments concerned" actually meant. He wished to make clear that the Japanese delegation could not authorize the levy of these surtaxes without going through the form, prescribed by the Japanese Constitution, of submitting the question to the Privy Council for its approval. Mr. Strawn pointed out that the opening paragraph of the American draft followed the wording of the Washington treaty, which he thought was preferable, more especially as the American resolution made it perfectly plain that they were willing to authorize "from such date, for such purposes, and subject to such conditions" as the Conference might determine, the 2½ and 5 per cent surtaxes sanctioned by the Washington treaty, pending the making of a treaty in which they were now engaged for the levy of higher rates. Colonel Peel supported Mr. Strawn and begged to make the same reservation as Mr. Hioki. The Chairman then read the second paragraph of the Chinese draft, pointing out at the same time that the reference to the figure of ninety million dollars required was no longer in the form of a resolution, but merely "a statement of fact or a supposition in the preamble" He thought that this change would remove the objection formerly made against the naming of this figure. Comte de Martel, however, was of opinion that the objection still held good, and in this he was supported by Colonel Peel, who advised the Conference of the necessity—as indicated by the experience from the 1922 revision—of making big allowances for an actual collection much lower than the figure estimated. The Chairman then suggested an alteration in the wording of the clause, but still retaining reference to the figure of ninety million dollars, explaining that "it would give them more courage to go on with the work when there was some definite indication that they agreed that the sum of $90,000,000 would be required for the proper and thorough carrying out of the purposes, which were now quite obvious to them." To this Mr. Strawn strongly objected, reminding the Conference that in November 1925 the American delegation had announced that they were willing to let China have the 2½ per cent surtax at once, but that the Chinese Government had been unwilling to receive it, because it was thought that if China at that time did accept the 2½ per cent surtax the Powers "might not continue to sit in the Conference for the purpose of negotiating a treaty to give China higher

surtaxes." Now, however, the Powers had given unmistakeable evidence that they were "collaborating in an effort to make a higher surtax in order that China may be able to carry on the proposed activities." As they were not actually agreed on the amount of money necessary for the purposes they were discussing, he was of opinion that it was not advisable or necessary that they should go on record by indicating any specified amount, as ninety million dollars might or might not be enough. Mr. Oudendijk suggested that to avoid mentioning any specific amount, and at the same time to afford China the assurance desired, the words—"With a view to meeting the amounts required for the various purposes which are being considered at this Conférence" should be added in the American resolution after the words "wherein provision is made for the levying of surtaxes at higher rates." Mr. Strawn accepted this as a good suggestion, and the Chairman then proceeded to read the resolution proper of the Chinese proposal. As a suitable date for the beginning of the levy of the 2½ per cent surtax he suggested 1st May 1926, and in doing so stated that the Chinese delegation were optimistic enough to believe that before the actual collection of the 2½ per cent surtax had begun the Conference would have ended its labours so that the purposes to which the proceeds of the surtaxes should be devoted would have been already determined. Mr. Strawn pointed out that the view of the American delegation differed from that of the Chinese. A perusal of the resolution as drafted by the American delegation would show that the arrangement favoured by his delegation was that *two months after the resolution had been passed by the Conference* a surtax of 5 per cent *ad valorem* should be imposed on all the articles listed in classes A, B, and C of the schedule submitted by the Chinese delegation and a surtax of 2½ per cent on all other dutiable commodities. This meant that until the date indicated all goods should come in at the rates at present in force. Colonel Peel signified his approval of this method of procedure, but insisted that the list of luxuries, entitled to the 5 per cent surtax, should be a simple one. Then ensued a discussion between Mr. Hioki and Mr. Strawn regarding what would be the fairest date to all for the enforcement of the surtaxes, which ended in Mr. Hioki agreeing to leave the question to his experts. Mr. Strawn then proceeded to read the final paragraph of the American draft which provided that the revenue accruing from the levying of the surtaxes should be held by the Customs Administration pending decision of its disposal in accordance with the general treaty

or treaties to be negotiated by the Conference. He explained that this arrangement in no way reflected upon the Chinese delegation, but was meant to protect them against "the importunities of *Tuchuns* and warlords by putting it beyond the power of anybody to raise any money on that anticipated revenue." The Chairman objected to this arrangement as going beyond the terms of the Washington treaty. Even now the Customs authorities were handling large sums of money which were at the disposal of the Chinese Government and were not hypothecated. The Chinese delegation could not consider the imposing of the humiliating conditions suggested by Mr. Strawn. In reply, Mr. Strawn contended that his conditions were not humiliating but protective as "he had seen in the papers something about removing Sir Francis Aglen from the administration of the Customs. He wanted to make it impossible for the Chinese Government to be importuned by the militarists who were so desirous of getting money and dissipating it, and in other ways embarrassing the Government. It was within the range of possibilities that these militarists might force the Chinese Government to anticipate the collection of the fund and the equity of China in it, . . . by borrowing money on funds which were not at its disposition until after its disposition was agreed upon in this Conference." The Chairman suggested that to get the general opinion of the meeting on the American resolution he would take it paragraph by paragraph. There was no objection to the first two paragraphs, but Colonel Peel suggested that the words "provided in the Washington treaty" should be changed to "provided in Article III of the Washington treaty." and this was accepted by Mr. Strawn. The fourth paragraph, amended to include Mr. Oudendijk's suggested addition but omitting any reference to a specific amount, was then read, but in reading it the Chairman made a reservation as he knew that the Chinese delegation, on behalf of the Chinese people, felt that it was a matter of prime importance that the figure should be inserted. The reading of the sixth paragraph brought out the point that the Chinese delegates, unlike the British and the American, thought that the list of the articles on which the 2½ per cent surtax should be levied would be much shorter than the list of articles on which the 5 per cent surtax should be levied. In reading the final paragraph the Chairman once more pointed out that it—especially the last part of it—was unacceptable to the Chinese delegation, and that the only wording acceptable to that delegation was that of the Washington treaty namely—"that the

proceeds of these surtaxes shall be employed for such purposes and subject to such conditions as this Conference may determine." Colonel Peel asked how the Chinese delegation would propose to safeguard these funds from the dangers indicated by Mr. Strawn, and the Chairman replied that such dangers did not exist. Colonel Peel pointed out that "there might be a long interval of time from the date of the decision to the ratification of the treaty during which the proceeds of the surtaxes would be collected and accumulating"—and the Conference wanted to know how the Chinese delegation intended to have that fund protected during that time. The Chairman answered that the Conference could decide later the question of the custody of the funds. Mr. Strawn remarked that his delegation would like to "protect the funds from the possible menace of the militarists" who "would mortgage anything if they could realize any money on it." The American delegation wanted to have the money "available for the use of the people of China." Comte de Martel drew attention to the French proposal "that the revenues of the aforesaid surtaxes shall be deposited in the 'Custodian Banks' under the responsibility and control of the Inspector General of the Chinese Customs," to which the Chairman replied that the reference to the Custodian Banks was not acceptable to the Chinese delegation, to whom it seemed premature to make a decision on a point of so great importance. Mr. Hioki signified his acceptance of the American draft and Comte de Martel followed suit. Mr. Oudendijk suggested that this final paragraph of the American draft might be acceptable to all if the last part of it were omitted. Mr. Strawn accepted this suggestion provided the paragraph were then to read—"It is further agreed that the increased Customs revenue, which shall accrue from the levying of these surtaxes, shall be held free from all encumbrances by the Customs Administration for the purpose of being applied to the carrying out of such plans as shall have been agreed upon at this Conference or provided for in the general treaty or treaties negotiated at this Conference." The Chairman said that "they did not want to bind themselves in this resolution one way or the other. They did not say that they did not want the Customs Administration to take charge of it, but at the same time they would not say, in fact, they were not in a position to say, that they did want the Customs Administration to take charge of it. That was for the future to decide, so that the time element was rather important." The Chairman also thought that they could not improve on the wording of the original

Washington agreement. Mr. Strawn pointed out that the difficulty with that agreement was that it did not cover the present situation. "The Washington agreement did not contemplate giving the fund to the Chinese Government in advance. It contemplated that the Conference would decide on the purposes contemporaneously with the time the Chinese Government realized on the revenue. The Conference anticipated that situation and was going beyond the Washington treaty in allowing the Chinese Government to put the surtaxes into effect immediately. Therefore the Washington agreement did not cover the possibility of the need of the custodianship of these funds until the purposes for which they were to be employed should have been decided upon." Comte Martel again suggested that the words "custodian banks" should be inserted but the Chairman protested that such insertion would only raise controversy.

Further discussion on wording of resolution on the levying of interim surtaxes. Opposition of foreign delegations to specifying of figure of $90,000,000 as sum to be raised by surtaxes. Draft of resolution proposed by the Japanese delegation.

§ 27. The second meeting of the sub-committee appointed by the Committee on Provisional Measures to draft a resolution on the levying of interim surtaxes met on Wednesday, 24th February, with Dr. W. W. Yen in the chair. The Chairman stated that the Chinese delegation had drawn up an amended draft on the basis of the one submitted by the American delegation at the last meeting. To Comte de Martel's inquiry whether such a draft had not been agreed upon at the previous meeting, the Chairman replied that there had been no agreement but simply an exchange of ideas. To this statement both Colonel Peel and Mr. Strawn demurred, as they thought that there were only two points left on which China was to submit alternative proposals, one in place of the clause referring to the specific figure of $90,000,000, and the other in place of the last paragraph of the American proposal. The first two paragraphs of the amended draft were passed without comment as they were identical with those of the American draft, but as the third paragraph contained a clear statement that a sum of not less than $90,000,000 was necessary, the old controversy broke out afresh, Mr. Strawn maintaining that the necessity could be shown just as well without mentioning the figure. Mr. Hioki then proposed that this debated clause should read as follows:—"Whereas the Representatives of the Powers assembled at this Conference are engaged in

negotiation of a treaty wherein provision is to be made for the levying of such surtaxes as will yield for various purposes now under consideration a revenue which is larger than the revenue obtainable from the surtaxes provided in Article III of said treaty, and the treaty when concluded, will have to await ratification by various Governments concerned"[1] The Chair-

[1] The full text of the Japanese draft resolution on the levying of the surtaxes under the terms of the Washington treaty is as follows —

'Whereas it is provided in Article III of the Treaty relating to the Chinese Customs Tariff, signed at Washington February 6th 1922, that this Conference shall authorize the levying of certain surtaxes on dutiable imports into China as from such date, for such purposes and subject to such conditions as it may determine, and

Whereas it is provided in Article VI of the said Treaty that such surtaxes when imposed shall be levied at a uniform rate *ad valorem* at all land and maritime frontiers of China, and

Whereas the Representatives of the Powers assembled at this Conference are engaged in negotiation of a treaty wherein provision is to be made for the levying of such surtaxes as will yield for various purposes now under consideration a revenue which is larger than the revenue obtainable from the surtaxes provided in Article III of the said Treaty, and the treaty when concluded will have to await ratification by various Governments concerned, and

Whereas it is recognized as highly desirable that, pending the coming into force of the new treaty, the Chinese Government shall begin at the earliest moment to enjoy the benefit of the increased revenue contemplated in the above-cited provisions of the Washington Treaty,

The Representatives of the Powers assembled at this Conference hereby do resolve and agree that on and from the day of 1926 (See Note 1) a surtax of 2½ per cent *ad valorem*, i e one half of the rate of the import duty at present in force, shall be levied on all dutiable imports and that in order to enable a list of articles of luxury to be drawn up, the levying of the additional surtax of another 2½ per cent *ad valorem* shall be postponed to a later date (See Note 2), but in any case this additional surtax shall become effective on and from a date not later than two months from the date of enforcement of the first 2½ per cent surtax, *i e* not later than the day of 1926 It is understood however, that in each case goods shipped from the country of origin to China within days *after the adoption of this resolution or the* notification of the list of articles of luxury shall pay only the duties which are in force at the time of shipment

And it is further agreed that the increased customs revenue which will accrue from the levying of these surtaxes shall be held free from all encumbrances to be applied later for such purposes and subject to such conditions as shall have been agreed upon at this Conference, or provided for in the general treaty or treaties negotiated at this Conference, and that the increased revenue shall be deposited (in custodian banks to be hereby named) under the responsibility of the Customs Administration in such manner as shall have been agreed upon at this Conference

Note 1 It is proposed that the first 2½ per cent surtax be enforced at a date two months after the day on which the Resolution is adopted

Note 2 It is suggested that the additional 2½ per cent surtax be enforced at a date two months after the day on which the list of articles of luxury is drawn up and officially notified"

man inquired if, leaving aside the question of inserting the figure of $90,000,000, they should proceed to consider the wording of the amendment proposed by the Japanese delegation. Mr. Strawn signified his willingness to accept this amendment, as did also Comte de Martel: the latter also indicated that he would accept also the Chinese text provided the reference to the $90,000,000 was omitted. Mr. Oudendijk, referring to the Chinese text, suggested that if the word "estimated" were used instead of "evident" the reference to the requirement of $90,000,000 might stand. This raised an indignant protest from Mr. Strawn, who wished to make it clear beyond all doubt that the American delegation would not agree to the mention of any specific figure in the resolution they were trying to draft. They had not yet come to an agreement regarding the purposes for which the $90,000,000 were to be expended, nor had they agreed on the rates which would produce this sum. His delegation believed that the insertion of a figure at this time would lead to needless difficulty. Further, they had no power to consent to it, and if they did consent, it would create misapprehension in America without the purposes having first been defined. It might also act as a boomerang against the Chinese Government by giving the Chinese public the idea that the Government was to have $90,000,000 to spend for any purposes it saw fit. The Chairman replied that he did not wish to appear discourteous, but he would have to insist on his reservation. The insertion of the figure was merely a statement of fact, not an invention of the Chinese delegation, and the sooner they faced that fact the better. Comte de Martel ventured the opinion "that the Chinese delegation wanted to insert the figure $90,000,000 probably to obtain credit out of it." To avoid submitting a majority and a minority report, when all the foreign delegates were against the insertion of the specific figure of $90,000,000 and only the Chinese in favour of it, Colonel Peel suggested that it would be better for the sub-committee to agree on recommending a draft on which the Chinese delegation could, if necessary, make their reservation. There was, he thought, a real difference of opinion between the foreign delegations and the Chinese delegation on this point, "and he did not believe that they would arrive at an agreement in spite of Mr. Oudendijk's skill as a conciliator." The Chairman then read Mr. Hioki's amendment as a proposed substitute for the third paragraph of the Chinese draft, and Mr. Strawn seconded its adoption. Comte de Martel and Mr. Oudendijk supported the amendment. The Chairman

thought that the text of the Chinese draft was more logical than the Japanese one, and further that this latter draft, though in excellent diplomatic English, would be difficult to render in Chinese as it was so involved. Mr. Strawn then referred to the suggested amendment that he had offered, namely:—"Whereas it is evident that in order to meet the various purposes which have been proposed and are being considered at this Conference, it will be necessary that there be authorized rates of duty to produce an increase of Customs revenue greater than that which can be produced by the rates provided in Article III of the said treaty." Hereupon, the Chairman pointed out that Mr. Strawn's proposal was an amendment to Mr. Hioki's amendment, and that it would be quite satisfactory to him if somehow the figure of $90,000,000 could be inserted in it. To allay Comte de Martel's apprehension he thought that they could make provision at the end of the resolution so as to protect the revenue from improper use even after it became available. There was no seconder of Mr. Strawn's amendment, and Mr. Oudendijk submitted the following, based on the Chinese and the Japanese drafts:—"Whereas the various purposes now under consideration by this Conference will demand a larger revenue than is obtainable from the surtaxes as provided in Article III of the said treaty and it will be necessary to provide in a new treaty to be concluded for a further increase of the general customs revenue" the Chairman suggested that they proceed to the consideration of the fourth paragraph of the Chinese draft which read:—"Whereas the levying of surtaxes at higher rates requires the negotiation and conclusion at this Conference of a new treaty." Colonel Peel raised the technical point whether, strictly speaking, a treaty could be concluded at the Conference, and suggested that the words "at this Conference" be left out. The Chairman pointed out that from the Chinese point of view the inclusion of these words was essential, as they wished to be sure that a treaty would be negotiated and signed—if not in every technical respect concluded—at this Conference. Mr. Strawn suggested that the idea under discussion could be included in the amendment just proposed by Mr. Oudendijk. The Chairman then submitted the fourth paragraph of the Chinese amended draft resolution, which read:—"Whereas it is recognized as fair and just that the Chinese Government shall begin at the earliest moment to enjoy the benefit of the increased revenue contemplated in the above-cited provisions of the Washington treaty." Comte de Martel objected to the use of the words "fair and just" as implying a

possible criticism on the previous actions of the Powers towards China. Mr. Hioki drew attention to the distinctive point in the corresponding paragraph of the Japanese draft, which was the phrase "pending the coming into force of the new treaty," which was inserted just before the phrase "the Chinese Government shall begin at the earliest moment to enjoy." Mr. Strawn supported the insertion of this qualification. The Chairman then proceeded to read the final paragraphs of the Chinese amended draft resolution, which were worded as follows:—"The representatives of the Powers assembled at this Conference hereby do resolve and agree that on and from the . . . day of . . . 1926 a surtax of 2½ per cent *ad valorem* shall be levied on all dutiable goods, that in order to enable a list of articles of luxury to be drawn up, the levying of the additional surtax of another 2½ per cent *ad valorem* shall be postponed to a later date, but in any case this additional surtax shall become effective on and from a date not later than two months from the date of enforcement of the first 2½ per cent surtax, *i.e.* not later than the . . . . day of . . . 1926. It is understood, however, that in each case goods shipped from the country of origin to China before the dates provided above respectively shall pay only the duties which are then in force. And it is further agreed that both surtaxes shall be levied at a uniform rate at all land and maritime frontiers, and that the proceeds of these surtaxes shall be employed for such purposes and subject to such conditions as this Conference may determine." The Chairman reminded the Conference that the American method was in favour of the simultaneous levy of the 2½ and the 5 per cent surtaxes, but the Chinese delegation thought that the drawing up of the list of luxuries would take some little time. Neither Mr. Strawn nor Mr. Hioki had any objection to the Chinese method, but the latter pointed out that the Japanese draft contained the words "one half of the rate of the import duty at present in force" as explanatory of the phrase "2½ per cent *ad valorem*." This addition, he said, was necessitated by the fact that the revision of the tariff to bring the specific rates up to an effective 5 per cent standard was fixed for a certain time, and until that revision had taken place the surtax should be levied on the basis on which the duty was levied. Mr Strawn said that the American delegation took the opposite view, and that they interpreted the Washington treaty to mean that they were to put into effect a 2½ per cent surtax irrespective of what the actual import duty was. Comte de Martel pointed out the practical difficulty in

having two different bases of taxation if the American interpretation were adopted, as many of the specific rates now in force yielded less than 5 per cent *ad valorem*. Mr. Oudendijk supported Mr. Hioki's suggestion as it made for simplicity, and reminded the delegates that according to the treaty the revision of the tariff rates was to take place during the following year. Colonel Peel agreed that they could not very well decide that the surtax should be an effective 2½ per cent while many of the present tariff rates were not on an effective 5 per cent basis. The Chairman was in favour of holding to the words of the Washington treaty, but suggested that the point should be referred to the Inspector General of Customs. Colonel Peel raised the point of the luxury list. He thought that if that list were a comparatively short and simple one it would be more convenient for trade to put both surtaxes into force simultaneously. Otherwise, there would be too many tariff changes at short intervals, first, the imposition of a general 2½ per cent surtax, then a couple of months later a luxury surtax, to be followed shortly afterwards by interim rates as might be agreed on at the Conference, and then at a fourth date a new tariff on the coming into force of tariff autonomy. Such frequent changes were very upsetting to trade. He thought that before deciding on the final wording of that paragraph of this amended resolution there should be a meeting of the experts to see if they could come to an agreement on the list of luxuries. Mr. Strawn agreed with Colonel Peel's suggestion. The Chairman then inquired whether they should adopt the Chinese proposal of two lists or the American proposal of one list only. Colonel Peel was in favour of both surtaxes being put into force simultaneously, while Mr Hioki remarked that either plan was acceptable to the Japanese delegates, who had also no objection to letting the experts decide the question. Comte de Martel reiterated his opinion that surtax and duty should be collected on the same basis, "so that for goods taxed on an *ad valorem* basis, the surtaxes should also be collected on that basis." The Chairman again reminded them that the treaty provided for *ad valorem* surtaxes and expressed the hope "that they would not, before the revenue were collected, reduce the amount, otherwise they would get into greater and greater difficulties in the future." He took it that the delegates were all agreeable to the Chinese plan of putting into effect the 2½ per cent surtax on all articles first, and then the additional 2½ per cent surtax on luxuries. He also wished to correct a slip regarding the date of enforce-

ment. Instead of being two months it should be only one. In the case of the 1919 revision the notice given had been one month and in the case of the 1923 revision only two weeks. Mr. Oudendijk explained that in the latter case there had been at the time a misunderstanding between the Government and the Tariff Commission in Shanghai: it had really been intended that the new tariff should come into effect two months after its publication namely 1st December 1922, provided that goods shipped to China before that date should pay duty under the 1919 tariff. Comte de Martel thought that too short a notice would give ground for objections. Colonel Peel and Mr. Strawn were in favour of two months, and Mr. Oudendijk reminded the meeting that the fact that contracts had been made should not be forgotten. Mr. Hioki remarked that this question was connected with the point raised by him at their last meeting, namely, "whether the levy of the duty should not begin on the arrival of the goods at the port of import." This was the practice in Japan, America, France, and Great Britain, and the exception of China was an anomaly which worked out unfairly to Japanese trade. If the date were fixed at two months "then goods from Japan would begin to be taxed much earlier than the goods from distant countries, which would mean that during these two months Japanese goods would have to compete in the Chinese market with the goods that had been taxed less." Besides, it was inconvenient for the Customs to have to inquire in every case when the goods were shipped and from what place. Mr. Strawn replied by pointing out that the converse of this would be "that by reason of Japan's contiguity to China, it could inundate China with goods in the two months elapsing, or in the time between which the goods were shipped from England, for example, and the date of arrival here, which would give Japan a decided advantage over countries more remotely situated from China." Mr. Hioki stated that the arrangement he suggested was only fair "as competition would then begin at the same time," pointing out that "a geographical situation was a condition which they could not change." He added that in Japan, Great Britain, and America taxes were made effective from the date of promulgation. In reply to Colonel Peel he pointed out that "if the date of shipment were adopted, goods leaving England two months ahead would be admitted into China at a lower rate of tariff, while Japanese goods would have been paying the higher rates during those two months, or one month and a half, so that Japanese trade would be placed under a disadvantage."

The strength of the Japanese proposal lay in the fact that it suggested the following of a practice, which was universal except for China, an anomaly which Japan would like to see changed. The Chairman asked Mr. Hioki what was his suggestion concerning the time limit after notice, to which Mr. Hioki replied "ten days or a week, or any part of a week, just to allow enough time for the notification." Mr. Strawn remarked that ten days was a very short notice, and Colonel Peel added that contracts might be made under the idea that the old arrangement would obtain. To this, Mr. Hioki replied "that in practice no Government had been so generous and lenient as to give the matter such consideration." Mr. Oudendijk objected to the phrase "shipped from the country of origin" and thought that, to avoid complicated investigations and the production of certificates of origin, it should be deleted. Mr. Strawn and Colonel Peel supported this objection. Reverting to the length of notice to be given the Chairman pointed out that the American proposal really meant four months' notice as two months would have to be allowed for the voyage. This was inconsistent with the agreement already reached that China should have the benefit of the surtax at the earliest moment. China was prepared to follow the rule prevailing in other countries, and he hoped that every step taken would be in that direction. Mr. Strawn thought that this question should be referred to the experts. The Secretary General, who was present, was then requested by the Chairman to summon a meeting of the experts to discuss this question, and to come to a decision, if possible, on the drawing up of a list of luxuries. The Chairman then read once more the final paragraphs of the Chinese draft of the amended resolution, and Mr. Hioki moved the following as an amendment to the final paragraph:— "And it is further agreed that the increased Customs revenue, which will accrue from the levying of these surtaxes, shall be held free from all incumbrances, to be applied later for such purposes and subject to such conditions as shall have been agreed upon at this Conference; and that the increased revenue shall be deposited (in custodian banks to be hereby named) under the responsibility of the Customs Administration in such manner as shall have been agreed upon at this Conference." Mr. Strawn read the wording of the American proposal which tentatively had been agreed upon at the last meeting, and pointed out that the only difference between the Japanese and the American proposals was that the former specified that the accrued revenue was to be deposited in certain custodian banks in a manner to be agreed upon at the

Conference. The Chairman reminded them that this matter would have to be taken up by Committee III, which had not yet been organized, and "that if they should put in a subject that was to be discussed by a committee not yet organized it would certainly delay very much the passing of this resolution." Mr. Oudendijk suggested that the following changes be made in the wording of the Japanese draft:— "That the increased revenue shall be deposited in custodian banks to be hereafter selected, and in a manner as shall be agreed upon at this Conference, to be kept under the responsibility of the Customs Administration." Mr. Hioki approved of these changes. The Chairman still maintained that the Chinese text practically covered the matter, and added that if the delegates would adopt the Chinese idea of inserting the figure of $90,000,000 then "the Chinese delegation would be prepared to go as far as possible to meet their wishes in regard to the security of the funds". He thought that this should relieve Comte de Martel from anxiety lest the surtax revenue be used as security for making a loan. Comte de Martel replied that his objection was based on the fact that in the case of the Kiusin Chantiers in Shanghai this 2½ per cent surtax revenue had been offered by the Ministry of Finance as security to the Compagnie des Messageries Maritimes. Colonel Peel remarked that the surtax revenues had also been pledged to certain British creditors. To this the Chairman replied that there were certain "cases where foreign creditors insisted on putting in the agreements that when the 2½ per cent began, they should be paid out of that." Mr. Oudendijk suggested that they should return to the amendment he had proposed during the early part of this meeting, as he believed that it satisfied both Japanese and Chinese requirements except that no figure was mentioned. Mr. Hioki signified his acceptance of Mr. Oudendijk's amendment, but the Chairman objected to the sentence stating that the new treaty "when agreed upon at this Conference, must await ratification by the Governments concerned." Mr. Strawn pointed out that Mr. Oudendijk's amendment was to take the place of paragraphs three and four of the Chinese draft, that ratification of the new treaty by the various Governments represented was necessary as the delegates had come merely to enforce the terms of the Washington treaty, and were not empowered to ratify a new treaty. As regards the date of enforcement of the surtaxes, and as to whether the date of shipment or the date of arrival should obtain, he understood that this was to be left to the experts to decide.

List of luxury articles submitted by Chinese delegation. American delegation's list. Reservations made by various countries.

§ 28 On Thursday, 25th February, under the Chairmanship of Admiral Ts'ai, a meeting of the technical experts of the various delegations was held, pursuant to the desire of the sub-committee appointed by Committee II, in order to draw up a list of the articles of luxury for the enforcement of the surtaxes provided for in Article III of the Washington treaty. The Chairman drew attention to document (Yin) No. 67, which had been previously circulated, in which the Chinese delegation had divided all the import tariff listed articles into seven classes, lettered A, B, C, D, E, F and G, grouping these articles according to the surtax which the Chinese delegation thought should be levied on them. On the A class the surtax was to be 27½ per cent, on the B 22½ per cent, on the C 17½ per cent, on the D 12½ per cent, on the E 7½ per cent, on the F 5 per cent, and on the G 2½ per cent. The Chinese delegation had also prepared two tables, the one showing on the basis of the Customs returns for 1924 the estimated revenue in dollars that would be yielded if the surtaxes shown in document No. 67 were enforced. This table was constructed so as to show not simply the total amount realizable by all classes taken together, but also the total amounts realizable by various combinations of classes taken in consecutive order. The second table was also based on the 1924 returns and showed the estimated revenue derivable if the suggested 5 and 2½ per cent surtaxes were enforced according to the groups shown in document No. 67. As the tariff rates then prevailing yielded only 4.3 per cent, that percentage was taken as the basis of calculation. The table stood thus:—

Group of goods	*1924 Values*	*Surtax rates*	*Estimated Revenue*	*Total Estimated Revenue*
A,B,C,D,E,F,G	$1,301,779,000	2½%	$27,988,000	$27,988,000
" " " " " "		5%	55,976,000	$55,976,000
A,B,C,D,E,F	$1,116,856,000	5%	$48,024,000	
G	184,923,000	2½%	3,975,000	$51,999,000
A,B,C,D,E	$ 646,975,000	5%	$27,819,000	
F,G	$ 654,804,000	2½%	$14,078,000	$41,897,000
A,B,C,D	$ 368,930,000	5%	$15,863,000	
E,F,G	932,849,000	2½%	$20,056,000	$35,919,000
A,B,C	$ 210,776,000	5%	$ 9,063,000	
D,E,F,G	$1,091,003,000	2½%	$23,456,000	$32,519,000
A,B	$ 91,103,000	5%	$ 3,917,000	
C,D,E,F,G	$1,210,676,000	2½%	$26,029,000	$29,946,000
A	$ 45,686,000	5%	$ 1,964,000	
B,C,D,E,F,G	$1,256,093,000	2½%	$27,005,000	$28,969,000

The Chairman stated that the idea of the Chinese delegation was that the articles enumerated in classes A, B, C, D and E should be regarded as luxuries. Mr. Stewart, on behalf of the British delegation, said that he was under the impression that the amount of revenue from luxuries anticipated at the Washington Conference was about $3,200,000 or taels. "If that was the case their task would be to look for imports to the value of $128,000,000 or taels, which at 2½ per cent would produce the requisite amount of $3,200,000 or taels. Proceeding on that basis the list of luxuries should include A, B, and a part of C." Mr. Perkins, on behalf of the American delegation, drew attention to the exact wording of the Washington treaty, from which it was clear that it was left to the discretion of the Conference to decide what the articles of luxury should be. He reminded the meeting that the American delegation, at the meeting of the sub-committee to Committee II, had proposed that:— "The Chinese Government shall impose and collect surtaxes on dutiable imports as follows; on all commodities listed in the schedule hereto annexed a surtax of 5 per cent *ad valorem* (See Note B of the American proposal) and on all other dutiable commodities a surtax of 2½ per cent." In accordance with the suggestion in Note B referred to, the American delegation had drawn up a list of articles, contained in classes A, B and C of the Chinese schedule, but without any reference to these classes and without in any sense accepting the Chinese classification, and the American delegation would now propose this list of theirs as a tentative basis for discussion. He wished to make clear that this list had no bearing on, or any connection with, the interim surtaxes which were to be devized for incorporation in the proposed treaty. The Chairman pointed out that according to the table submitted by the Chinese delegation A, B and C at 5 per cent would yield $9,063,000 and D, E, F, G at 2½ per cent, $23,456,000 or $32,519,000 in all. Mr. van Haute, speaking for the Belgian delegation, pointed out that in 1924 the total import duty collected amounted in round figures to $58,000,000. If, on this basis, a 2½ per cent surtax were imposed on all imports, the additional revenue would be $29,000,000, and if another 2½ per cent surtax were imposed on the articles in classes A, B and C—so as to bring the surtax on those articles up to 5 per cent—another five or six million dollars would be realized, making the total proceeds about $34,000,000. Dr. Hornbeck suggested that their procedure would be simplified if they put aside the tables presented by the Chinese delegation, and took up the suggested list of articles of

luxury prepared by the American delegation as a basis for discussion, striking out those articles which they thought should not come under the 5 per cent surtax and adding those which they thought should. Mr. Fox, Dr. Hornbeck, and Mr. Stewart all concurred with the Chairman's statement that their object that afternoon was solely to work out a list of luxuries on which, under the terms of the Washington treaty, a 5 per cent surtax should be imposed. The Chairman then proceeded to read out the list of articles contained in classes A, B, and C of the Chinese sch dule, interrupted from time to time by various delegates who wished to make reservations. The French delegate made reservations on wine, spirits, liquors, and all alcoholic or spirituous beverages, claret, photographic materials, musical instruments, motor cars, medicines and sugar. The Netherlands delegate made a reservation on alcohol for industrial purposes. The Japanese delegate also made a reservation on alcohol for industrial purposes, on all articles made of pure cotton, on ordinary watches and clocks not made of gold, on games, on medicinal compounds, on awabi, on bêche de mer, compoy, cuttlefish, fish maws, fruits dried or preserved, isinglass, mushrooms, mussels, prawns and shrimps, dried soy, animal sinews, sugar, tea, vegetables, and on aerated and mineral waters. The British delegate made reservations on postal parcels not otherwise classified, imitation fur cloth of all kinds, Worcestershire sauce, and on sugar, and pointed out that he refrained from making reservations on a great number of things because he thought they should look at the question "entirely from the point of view of whether the trade would or would not be injured by the 10 per cent duty." The Belgian delegate suggested that the word "natural" should be inserted before "silk in any form" to distinguish it from artificial silk which came under other classes, and that the term "leather manufactures" was too general and should be made more specific. He also wished to know if it would not be possible to make a tariff distinction between expensive and cheap wall papers. On the question of paper Mr. Fox requested the Chairman to see if some arrangement could not be made by which plain stationery should not be included in the same category as expensive wall papers. In reply to the Norwegian delegate who asked whether oil would be considered a luxury, the Chairman replied that Scott's Emulsion would come under that heading, but ordinary cod liver oil would be classified as oil. The Norwegian, the French, and the Japanese delegates maintained that medicines were a necessity, while the Chairman

held that patent medicines should be classified as luxuries as the trade in them could well bear a 5 per cent surtax. The American delegate made a reservation on bacon and ham and beef, not because he objected to their paying 10 per cent duty, but because he held that they should not be included in a list of luxuries, but said he was willing to drop the reservation if certain other reservations were dropped which had been made purely on the basis of whether an article was a luxury or not: When making a reservation on tinned sardines the Norwegian delegate created a diversion by remarking that he believed that sardines of a secondary grade were a necessity for workmen in all countries, and he was sure that it would be so in China also since there was not so much fish in the interior.

Continued discussion on list of luxuries. Withdrawal of many reservations.

§ 29. The second meeting of the technical experts to draw up a list of luxuries on which the Washington 5 per cent surtax might be levied was held on Tuesday, 2nd March, under the chairmanship of Admiral Ts'ai. The Chairman drew attention to the tables prepared by the Chinese experts since their last meeting, the one showing all the articles on which reservations had been made by different members at their former meeting, and the other showing the rates of import duties levied in other countries on such reserved goods. Mr. Saburi, speaking on behalf of the Japanese delegation, said that he would like to inform the meeting that on referring to the official minutes of the Washington Conference he had found that Senator Underwood had estimated that the 2½ per cent surtax should bring in $27,000,000 and the 5 per cent surtax on luxuries $2,167,000. He thought that they had got very far from the intention of the delegates of the Powers to the Washington Conference. The Chairman replied by pointing out that the circumstances now were quite different from those obtaining at the time of the Washington Conference, and that the figures quoted were simply the personal estimate of Mr. Underwood and not an official binding pronouncement of the Conference. Mr. Stewart expressed the hope that they might all discuss the matter before them in a liberal spirit so that they could come to a general agreement on luxuries at that meeting. "They could then devote themselves to the task of trying to raise the $90,000,000 which they wanted China to have, and on which they would like to come to an agreement." Mr. Michelet expressed the desire to hear what remarks or explanations the

Chairman might have to offer on the reservations made at the former meeting, to which the Chairman replied that his remarks would be found in the table showing the rates of import duty in foreign countries on those reserved articles. Mr. Saburi, referring to this table, remarked that in the Japanese tariff alcohol and spirituous wines were not included as luxuries, and that the duty on alcohol was one yen per litre. To this the Chairman replied that at that rate, the duty was 400 per cent *ad valorem* in comparison with the 10 per cent asked for by China. The Netherlands delegate still wished to maintain his reservation on spirits of wine for industrial purposes, and pointed out that in his country the import duty on it was only 6 per cent. On Dr. Hornbeck's suggestion it was agreed that they should leave this point so that the Chinese might look up the technical facts of the matter. Mr. Yokotake maintained his reservation on lace edging when made of cotton. Mr. Fox, on behalf of the Swiss Consul General in Shanghai, submitted that only ten per cent of the watches and clocks imported into China had gold or platinum cases, ranging in value from $5 to $500, and that the remaining ninety per cent were of silver or of the baser metals, ranging in value from $1 to $20. He thought that only watches and clocks in the former class should be regarded as luxuries. The Chairman said that in Customs practice there were no specific rates on clocks and watches; all were in one class and were treated *ad valorem*, and that, he thought, the trade in these articles could bear the 5 per cent surtax. Mr. Yokotake maintained his reservation. The Chairman inquired what the practice was in the United States, and Dr. Hornbeck replied that the duty there was protective, but as China had no watch-and-clock-making industry he thought there was no occasion for a protective duty in China. After further discussion the Chairman suggested that the heading be changed to—"Watches with cases made wholly or partly of platinum, gold, or silver or with cases decorated with jewels." To this Mr. Fox agreed, but Mr. Yokotake insisted that only watches with gold or platinum cases should be included in this luxury class. Finally, Mr. Yokotake agreed to the wording—"Watches with cases made wholly of platinum or gold, or silver decorated with jewels." Mr. Knight wished to maintain his reservation on photographic and cinematographic products, but finally in view of the facts that France's export of these articles to China was relatively small, and that a 5 per cent surtax on them would not hurt France more than it would other countries, he consented

to recommend to his authorities a reconsideration of the matter. He pointed out, however, that of Chinese imports into France seventy per cent entered free of duty, and fifteen per cent paid the minimum tariff. Mr. Knight agreed to make the same recommendation regarding musical instruments. As regards motor vehicles, however, he said that he must retain his contention that they should not be regarded as luxuries, nor could he agree with the differentiation, now suggested by the Chinese delegation, by which motor passenger vehicles with seats for twelve passengers or more, motor trucks, and motor lorries, should be exempt from the luxury surtax while all other cars remained liable to it. Mr. Knight said that he would put in the luxury class only cars not used for industrial or commercial purposes and of more than 4 cylinders and 15 horse power. Mr. Fox objected to the introduction of the horse-power factor as there was no international standard of horse-power. Dr. Hornbeck stated that the American delegation was now willing not only to withdraw their reservation on bacon and ham, but were also willing to accept the A, B and C lists, not simply as a basis of discussion, but in their entirety. He hoped the other delegations would withdraw their reservations so as to speed up the work before them. Mr. Stewart and Mr. Michelet both requested that they should not be understood as making any reservation on patent medicines. Mr. Knight, however, maintained that he could not regard such articles as luxuries. Mr. van Haute withdrew his reservation on wall paper, and Mr. Fox stated that as the words "paper ware of all kinds" had been struck out, his objection about the duty to be charged on envelopes no longer stood. As regarded sea products the Japanese delegates declined to withdraw their reservation except for sharks' fins: they also wished to maintain their reservation on isinglass. Mr. Michelet and Mr. Bianchi both stated that although they could not consider sardines as luxuries, yet they would not object to their being taxed as such: they also wished to state that they would accept the A, B and C lists in their entirety. Mr. Ewerlöf and Mr. Tillitsoe followed suit in this latter acceptance. The Japanese delegate wished to maintain his reservations on soy, vegetables, dried, preserved or salted, and on mineral and aerated waters; but would drop his reservation on tea. The British delegate dropped his reservation on Worcestershire sauce, but retained that on sugar,—a retention that was necessary on account of the losses that had been suffered by Hongkong. Reverting to alcohol and spirits of wine the

Netherlands delegate stated that he would drop his objection "on the understanding that it would not prejudice its consideration when the question of higher rates should come up." Mr. Stewart begged to suggest that certain articles in classes D and E might well be included in the 5 per cent surtax class without injury to the trade in them. Such articles were—sandalwood, arms and ammunition, spices, tusks and animals' teeth, spectacles, bells and gongs, type-writers, calculating machines, office machinery, barometers, thermometers, and umbrellas, sunshades, parasols, except those made of cotton or paper. To this list the Chairman suggested glassware, crystal and semi-crystal should be added. To these additions all the delegates finally agreed. It was also agreed that the complete list should be made out once more by the Chinese experts and in such a way as to show opposite each article the tariff and returns numbers and that this revised and enlarged list should be submitted to the technical experts before being laid before the sub-committee of Committee II. The Chairman remarked that they had reached a large measure of agreement. There were only fourteen reservations on articles in the C class and as compensation there had been eleven articles included from D and E classes.

Revised Chinese draft of resolution on levying of surtaxes. Debate on date of enforcement of surtaxes. Chinese and Japanese wish to fix it according to date of landing goods in China. Other delegations in favour of fixing according to date of shipment from abroad.

§ 30. Before the technical experts met for a third time to finish their work, the sub-committee appointed by Committee II to draft a resolution on the levying of the Washington surtaxes held on the 8th March its third meeting. Dr. W. W. Yen as Chairman, reported that in spite of the reservations that had been made by certain foreign experts on some of the articles listed in class C, the Chinese delegation had come to the decision that they should not delay the work of the Conference over what was after all comparatively a minor matter. He therefore proposed to read to them the draft of a resolution, based on a composite draft submitted by Mr. Strawn, which had been adopted by the Chinese delegation, and which with a few alterations had been circulated to the members of the Committee. He then proceeded to read the resolution—"Whereas it is provided in Article III of the Treaty relating to the Chinese Customs Tariff signed at Washington on February 6, 1922, that this Conference shall authorize the levying of certain surtaxes on dutiable imports into China as from such date, for such

purposes and subject to such conditions as it may determine; and

"Whereas it is provided in Article VI of the said Treaty that such surtaxes when imposed shall be levied at a uniform rate *ad valorem* at all land and maritime frontiers of China; and

"Whereas it is evident that with a view to meeting the amounts required for the various purposes which have been proposed and are being considered at this Conference, there will have to be made possible a greater increase in the Customs revenue from surtaxes on dutiable imports than can be produced by those provided for in Article III of the said Treaty; and

"Whereas the Representatives of the Powers assembled at this Conference are engaged in the negotiation of a treaty wherein provision is to be made for the levying of such graduated surtaxes on dutiable imports as will yield an increase in the Customs revenue sufficient to meet the aforesaid purposes, which treaty is to be ratified by the various Governments concerned."

The first three paragraphs were passed without question, but the words "is to be ratified" in the fourth paragraph were objected to by Mr. Strawn, who pointed out that it was beyond their power to do more than submit the recommendation that it should be ratified. On the suggestion of Mr. Oudendijk the wording was changed to "must await ratification." Mr. Strawn objected to the word "aforesaid" which he thought was too loose and suggested instead "to meet the purposes which may be agreed upon," and Colonel Peel thought that the word "sufficient" was vague. The Chairman suggested that the simplest solution would be to return to the original Chinese idea and insert a specified figure; but the suggestion was quashed by protests from both Colonel Peel and Comte de Martel. After further discussion on possible substitute wordings it was decided to adopt the following: "Whereas the Representatives of the Powers assembled at this Conference are engaged in the negotiation of a Treaty wherein provision is to be made for the levying of such graduated surtaxes on dutiable imports as will yield an increase in the Customs Revenue sufficient to meet the aforesaid purposes to be decided upon, which treaty must await ratification by the various Governments concerned." The Chairman then proceeded to read the fifth paragraph—

"Whereas the Representatives of the Powers desire that pending the coming into force of the new treaty, the Chinese Government shall begin at the earliest possible moment to enjoy the benefit of the increased revenue contemplated in the above-cited provi-

sions of the Washington Treaty," and as there was no comment on this, he proceeded with the first paragraph of the resolution: "The Representatives of the Powers assembled at this Conference, to wit . . . hereby agree that on and from the . . . day of . . . 1926 the Chinese Government shall impose and collect surtaxes on dutiable imports as follows:— on all commodities listed in the Schedule hereto annexed a surtax equal to one-half of the regular duty actually in force at the time of collection; and on all other dutiable commodities a surtax equal to one-half of the regular duty actually in force at the time of collection: and that these surtaxes shall be levied uniformly at all land and maritime frontiers; but that goods shipped from the country of origin to China within ten days after the adoption of this resolution shall pay only the duties which are in force at the time of shipment." The Chairman stated that the experts of the Chinese delegation had come to the conclusion that China should fall into line with all the other countries of the world and adopt the date of the arrival of goods in China instead of the date of their shipment from abroad as the date on which new import rates should be levied. Then ensued a protracted and at times warm, if not actually heated, debate on whether the Committee should agree to the inclusion of this principle in the resolution before them. Colonel Peel was emphatically opposed to such inclusion as "it would produce a great deal of confusion in the business arrangements of the merchants who would be suddenly confronted with a different rate." Mr. Hioki pointed out that the proposed arrangement would give merchants two months and ten days, namely the two months of the Japanese resolution after which the surtaxes should become effective, and the ten days mentioned in the resolution now before them. Colonel Peel did not consider even seventy days sufficient, but, shifting his ground, expressed the opinion that this principle of levying duty or surtaxes from date of landing should be discussed in connection with the main treaty. As their work at present was subsidiary they ought to keep to existing precedents. The Chairman explained that as the Conference had already accepted the principle of restoring tariff autonomy to China, he hoped that they would agree on this minor matter of whether the time of landing or the time of shipping should govern. To this Colonel Peel replied that tariff autonomy was not to come into force till 1929, but that they were not discussing arrangements that should prevail before it came into force. Mr. Strawn suggested that the length of notice, instead

of being ten days, should be sixty days and that 15th May should be taken as the day of enforcement. The Chairman said that "one point they wanted to agree upon was how much time to allow before the Chinese Government should begin to impose and collect taxes, whether it should be one month or one and a half months after the passing of the resolution. Another point was the number of days they should allow so that goods shipped within that time would not have to pay the surtax regardless of the date of landing". Mr. Strawn remarked that if they made the surtax effective on a certain definite date, instead of contingent on the date of the adoption of the resolution, then they would have no trouble about it. He did not wish to be hypercritical but he still thought that the draft resolution proposed by the American delegation was superior to the one now before them. This led to a digression in which the Chairman defended the wording "a surtax equal to the amount of the regular duty actually in force at the time" while Mr. Strawn maintained that the wording "a surtax equal to the amount of the regular duty at the time being in force according to the Revised Import Tariff for the Trade of China" would be better. The Chairman dismissed the point as being of less importance than that of agreement on the date, to which Mr. Strawn replied that everyone would agree if the Chairman would accept sixty days, a limit which had been put into the American draft because it was in accordance with the practice obtaining up till then, and because of the remoteness of China from the rest of the world. The Chairman remarked that it was rather abnormal that China should be called on to give practically a hundred days' notice when every other country in the world gave only one day's notice. To reconcile, if possible, these seemingly diametrically opposed claims Mr. Oudendijk pointed out that the Chinese delegation in drafting their resolution had in reality as regarded the date combined the principle of landing with the principle of shipping. If the date 15th May were inserted in the resolution that date obviously meant the date of landing, while the limit of ten days given at the end of the resolution just as obviously referred to the date of shipping. He thought, therefore, that agreement might be reached if they adopted the principle of landing, fixed the date for the 15th May as had been suggested, and left out the ten days' notice at the end. To this Colonel Peel replied that the American draft was quite satisfactory to him. Mr. Hioki elicited from the Chairman the admission that the Chinese delegation's proposal was in reality a notice of seventy days, that

is, two months plus ten days, a limit of time which seemed to Mr. Hioki to be quite sufficient. Mr. Strawn dissented as such a limit "would not give seventy days for the fabrication of the goods, but would only give ten days to get the goods on board the ship": he, therefore, adhered to the old rule "to give two months' notice plus the time *en route*." Mr. Hioki once more pointed out that it was not in accordance with international practice to allow time for the transportation of the goods, and that it was international practice for countries to impose the law from date of adoption. Colonel Peel remarked that he was not unprepared to discuss this principle when raised at the proper time, but that to avoid controversy, and to get the surtaxes into operation as quickly as possible, he was firmly of opinion that it would be best "to abide by the existing practice in China on which all their merchants had built their contracts." Comte de Martel and Mr. Strawn agreed with Colonel Peel. Mr. Strawn remarked that "the American delegation would have the authority, without reference to their Government, to sign the proposed resolution that was before them. If, however, they should change the practice so as to accelerate the effective date of this tariff and thereby preclude their nationals from completing contracts which they might have with the Chinese for the delivery of goods, it would be a new situation against which there might be protests and in anticipation of which they would therefore have to refer to their Government as to their authority." He asked Mr. Oudendijk if this time limit question had been discussed at former revisions of the treaty tariff, to which the latter replied that he had been in Peking at the time of the last three revisions, namely 1902, 1919 and 1922. "The two months were put in as a term of grace." He thought that they could settle the present dispute by "agreeing to the principle of landing so that it would create a precedent for China in the future, and at the same time making such liberal allowance for time limit as would be sufficient for the foreign exporters in countries situated far away from China." Mr. Hioki thought that the Chinese delegation had made a fair and reasonable proposal, and that as China at this Conference had been given the opportunity of proposing the restoration of tariff autonomy he could see no reason why this question should not be considered at the same time. He reiterated that it was unfair to have a special practice in China alone, and that the principle of the date of landing held in all other countries of the world. On this Colonel Peel remarked that Mr. Hioki's idea presumably was that as Japan

was in this respect at a disadvantage in the farther parts of the world she naturally wished to be put at a corresponding advantage in this part of the world. The Chairman interposed by remarking that as all the Powers were friendly disposed to China, and as all the delegates had come to China with the express purpose of helping to put China gradually in line with the rest of the world, it seemed to him that they ought to be able to come to an agreement on such a small matter as giving notice and fixing a date for the collecting of the surtaxes. He then requested Mr. Oudendijk to repeat the compromise he had suggested. Mr. Oudendijk replied that his proposal was that they should agree on fixing a date for the introduction of the new taxation, and leave out the last three lines of the paragraph, and as a suitable date he would suggest 15th June. Mr. Strawn once more insisted that to go by the date of landing was an innovation and his difficulty lay in what his Government would think about the change. A change of principle like the one suggested might have to go as far as the President, with whom the treaty-making power rested, and possibly up to the Senate also. He would therefore suggest that they fix the 15th May as the date on which the surtaxes should come into force, and allow as days of grace the time spent *en route* for goods shipped up to that date. Mr. Hioki remarked that the point under discussion was simply a Chinese Customs procedure, and not a part of the treaty; to which Mr. Strawn replied that the suggestion was an innovation, which could best be discussed when they came to negotiate the new treaty. Speaking frankly, he was afraid "that if they should simply increase the time to allow for the period *en route*, they might cause a good deal of argument and delay in the signature of the protocol. He was not arguing just to get a little more time for the American people". He agreed "that Japan had suffered for years because of her remoteness from other countries, and that when she had the geographical advantage, she should have the benefit of it. He disliked to make the change not because he disagreed with the suggestion of the Japanese delegation, but because he thought it would inevitably result in delay." Colonel Peel and Comte de Martel were both likewise of opinion that they had better not make any innovation. The Chairman expressed his feeling of discouragement. The principle of charging new rates of duty from date of landing was not a new one, as it had been discussed frequently before at every tariff revision. "If after two or three Conferences, an innovation remained an innovation, he could hardly see how they were

going to get anywhere." Mr. Strawn said that he had no further remarks to make on the subject, except that if the Chinese delegation insisted on the introduction of the landing date principle he would have to refer the matter to his Government. Mr. Hioki reiterated that it was purely a matter of Customs procedure. In 1923 the Customs had issued a notification on 3rd January and the revised rates were put into effect on 17th January,—a notice of only a fortnight. Mr. Oudendijk explained that in the instance referred to the notice had really been one of seventy-four days. The schedule of revised rates had been published by China in October 1922 for enforcement two months from date, but as France and Italy had not yet ratified the Washington treaty, these two Powers had immediately objected to the enforcement of the new schedule. A controversy had thus arisen between the Wai-chiao Pu and the Legations concerned. Finally, however, they consented to the introduction of the new tariff which was then put into force on 17th January. Mr. Oudendijk added that as they seemed to have come to a deadlock he would like once more to bring forward his suggested compromise of eliminating the last three lines of the paragraph and of fixing the date of enforcement as far back as possible so as to include the shipping time *en route*, and suggested the 15th June as a suitable date. Colonel Peel said that if the shipping date principle was to be given up he could not agree without first consulting his delegation; but Mr. Strawn signified his willingness, on behalf of the American delegation, to accept Mr. Oudendijk's suggestion as a compromise. The Chairman's proposal that the date be altered to 1st June was not acceptable, and it was finally agreed that in the interest of harmony and in order to facilitate matters they would concede to fix the date of enforcement as 15th June, with the understanding that as Colonel Peel was still insistent on retaining the shipping date principle, he should consult his delegation on the matter and communicate the result to the Chairman. The Chairman then proceeded to read the final paragraph:— "And it is further agreed that the increased Customs revenue, which will accrue from the levying of these surtaxes, shall temporarily be held, free from all encumbrances, by the Chinese Customs Administration as for such purposes and subject to such conditions as the Special Conference may determine." In submitting this paragraph, the Chairman explained that without being too specific it practically embodied all the ideas of the other delegations. Mr. Hioki stated that the Japanese delegation considered the final paragraph very import-

ant, as in their opinion "one of the conditions contemplated in the Washington treaty was the manner of depositing the money levied from the surtaxes." He thought that it had been agreed upon at the previous meeting that:— "It is further agreed that the increased Customs revenue which will accrue from the levying of these surtaxes, shall be held free from all encombrances to be applied later for such purposes and subject to such conditions as shall have been agreed upon at this Conference, or provided for in the general treaty or treaties negotiated at this Conference, and that the fund shall be deposited under the responsibility of the Customs Administration in the custodian banks to be hereafter selected, and in such manner as shall be agreed upon at this Conference." He explained that the custodian banks of this resolution were not the custodian banks then existing, and "that as to the manner of depositing the money, they intended to propose a different basis from that in effect." The Chairman remarked that his delegation did not wish to prejudice the situation one way or the other, and they had therefore avoided any reference to custodian banks. He believed that the general Conference would very shortly be taking up this point. Mr. Hioki submitted that the question of custodianship of the surtax funds was certainly one of the conditions envisaged by the Washington treaty. Colonel Peel was quite content to leave it to the Chinese Government and the Customs Administration to decide as to the banks in which to deposit the funds. Mr. Strawn thought that the money ought to be divided among the different banks of the several countries. This was what the American delegation had in mind in the final paragraph of their resolution, and he thought that this was what Mr. Hioki intended. "Naturally, as the Chairman had just remarked, it was anticipated that prior to the actual collection of the revenue contemplated by this resolution they should have agreed on the conditions and purposes." The Chairman still maintained that the question was one for the general Conference to decide. It was not for a sub-committee to commit the different delegations to one plan or the other. Besides, so far as he knew, the words "custodian banks" had not been mentioned in the Conference. Comte de Martel remarked that they had been mentioned at informal discussions, a statement which was corroborated by Mr. Strawn, who said that at all the informal meetings held at the Netherlands Legation they had discussed the feasibility of depositing the funds for the service of foreign debts in foreign banks, and those for the service of domestic debts in

Chinese banks. That was the reason why the American delegation had also used the term "custodian banks" in their revised draft. To this the Chairman replied that in that case they could talk about the deposit of only a part of the fund, as the whole amount was not to be used for the paying of debts. Mr. Hioki pointed out that if they could come to a decision on the question in this sub-committee it would save so much work for the Committee, but if that was not to be, they could reserve the question for the time being. There was, however, one contingency which he thought they ought to discuss, and that was what disposal would be made of the surtax funds in case the purposes and conditions were not agreed upon by the Conference before 15th June, the date on which the collecting of the surtaxes was to commence. He said there was a feeling that allowing the collecting of surtaxes before agreeing upon the conditions and purposes was illogical. Mr. Strawn thought that such a contingency was very remote. He would not like to contemplate the possibility of not reaching agreement. They were there in conference for the express purpose of reaching agreement, and he did not think that the facts of the situation justified Mr. Hioki's apprehension. "He did not want the impression to go out that they anticipated any serious differences of opinion among themselves or with China. It would not effectuate the purposes of this Conference, if they allowed that to obtain." Comte de Martel remarked that at the next meeting they should be able to discuss the question of shipping—and landing—date and the question of the custody of the surtax funds.

British delegation agree to accept landing date if three months notice allowed. Discussion on Japanese proviso that conditions and purposes of surtaxes be agreed upon before their enforcement.

§ 31. The fourth meeting of the sub-committee appointed by Committee II to draft a resolution on the levying of the Washington surtaxes was held on Friday 12th March, under the chairmanship of Dr. W. W. Yen. The Chairman referred to Mr. Strawn's suggestion that the words "according to the Revised Import Tariff for the Trade of China" should be inserted in the penultimate paragraph of the resolution, and said that the Chinese delegation was ready to accept this addition. He then suggested that the sentence in question should read—"a surtax equal to the amount of the regular duty according to the Revised Import Tariff for the Trade of China at the time being in force." With the change of "for the time being" instead of "at the time being" this

change was accepted by the sub-committee. The next point calling for decision was the deletion of the last three lines of this penultimate paragraph regarding the days of grace for shipping goods, and the fixing of a date for the levying of the surtaxes "without any consideration as to the shipping date." Colonel Peel stated that at the previous meeting he had objected to acceptance of the principle of the date of landing as it would be a handicap to British traders, especially engineering firms. He was still of that opinion, but "he had been instructed by his Government, for the sake of harmony, to abandon the principle of the date of shipping if they were allowed three months' notice from the date of the passage of the resolution. If the resolution should go through before the end of March, July 1st or thereabouts would be a convenient date". Comte de Martel associated himself with Colonel Peel. The Chairman pointed out that every day's delay meant loss of revenue to China, and they were all agreed that it was revenue China needed. He thought that the Chinese delegation had been liberal in consenting to give two months and ten days, that is seventy days. At the last meeting he had agreed, on his own responsibility, to accept 1st June as the date for enforcement of the surtaxes, but 1st July was the loss of another month's revenue. Both Colonel Peel and Comte de Martel pointed out that they were giving up the principle of the date of shipment, and the former added that if he made any further concession he would get into most serious trouble with the British Chambers of Commerce. Mr. Strawn agreed with Colonel Peel's suggestion that there should be ninety days' notice, and Mr. Hioki, on being appealed to by the Chairman, replied that so long as the question of principle was settled he had no objection to the length of time. Mr. Strawn stated that on the assumption of the acceptance of Colonel Peel's suggestion, the opening part of the penultimate paragraph would read:— "The Representatives of the Powers assembled at this Conference, to wit . . . hereby agree that beginning three months from the date of signing this agreement, that is on and from the . . . day of . . . 1926 the Chinese Government shall impose and collect surtaxes on dutiable imports as follows." The Chairman expressed his regret that he could not take it upon himself to agree to this three months' notice, and would therefore have to make a reservation on the point. He then read the latter part of the penultimate paragraph of the resolution, deleting the last three lines regarding the ten days' of grace for shipment. The Chairman then passed to the question

of the custody of the revenue accruing from the surtaxes, and submitted that the draft proposed by his delegation at the last meeting adequately covered the point. This draft read: "and it is further agreed that the increased Customs revenue which will accrue from the levying of these surtaxes shall temporarily be held, free from all encumbrances, by the Customs Administration as for such purposes and subject to such conditions as shall have been agreed upon at this Conference." Mr. Hioki reminded the delegates that at the last meeting of this sub-committee he had raised the question of what action should be taken regarding the disposal of surtax funds in case the Conference failed to come to an agreement on purposes and conditions. He therefore wished to submit the following as the final paragraph of the proposed resolution:—

"It is agreed that the increased Customs revenue which will accrue from the levying of these surtaxes shall be held free from all encumbrances by the Customs Administration, to be applied later for such purposes and subject to such conditions as shall have been agreed upon at this Conference, or provided for in the treaty or treaties negotiated at this Conference: with the proviso, however, that, in case the purposes and conditions for the expenditure of the increased revenue to be derived from these surtaxes shall not have been agreed upon at this Conference on a date earlier than the 31st day of May 1926, the levying of these surtaxes shall take effect only on and from a date fifteen days after the day on which an agreement in regard thereto shall have been adopted. And, it is further agreed that this increased Customs revenue shall be deposited in custodian banks in the manner and the proportions which shall have been agreed upon at this Conference." The date of 31st May, he remarked, was fixed on the assumption that the 15th June would be taken as the date for enforcing the surtaxes, but if the latter date was to be changed to 1st July, then the date of his proviso would naturally become 15th June. The Chairman said that this proviso introduced an entirely new idea, but he thought, firstly, that it defeated the very purpose for which the sub-committee was sitting, secondly, that it displayed a lack of confidence in the work of the Conference, thirdly, that on the face of it such a proviso was a confession of failure likely to create a bad impression, and fourthly, that if they accepted it they might be forging a weapon which could be used to upset the Conference entirely. It seemed to him "that the whole proviso would cast a gloom upon the Conference which would

be very difficult to dissipate." Mr. Hioki explained that the reason why he had raised this point was because the Washington treaty stated explicitly that the date for the enforcement of the surtaxes, the conditions on which the levying of them depended, and the purposes for which they should be expended were all to be fixed by the present Conference. Now, if they sanctioned the levying of these Washington treaty surtaxes without fixing the conditions and the purposes they would be in reality violating the Washington treaty. He did not like contemplating the event of a disagreement among them regarding conditions and purposes but there was that possibility and it should be provided for. The proviso, instead of delaying matters, as the Chairman thought, would, if passed, act as a stimulus and make them "determined to come to an agreement just to avoid the difficulties to which they might be brought by the force of circumstances." The Chairman said that he would like to hear from the other delegations, but personally he did not like the negative side of the proviso, and he thought that the resolution without it covered all that was necessary or essential. Mr. Strawn understood that Mr. Hioki was simply reserving his right, under the Washington treaty, to agree upon the conditions and purposes of the surtaxes before enforcing them. If Mr. Hioki were arbitrary about the matter he could refuse to allow the surtaxes to go into effect, or to sign the resolution, until he had come to an accord with the Chinese Government as to purposes and conditions; but Mr. Hioki, he understood, was willing to go beyond the strict letter of the treaty, and "was prepared to concede to the Chinese Government the right to accelerate the collection of these taxes by giving the requisite notice, reserving, however, his right that if and when there be no agreement about the purposes and conditions, the notice must be extended until there was such an agreement." Personally Mr. Strawn was of opinion that "the inclusion of the proviso in the resolution could not manifest any lack of confidence on the part of the Powers because that certainly would not be their thought. If there had been any lack of confidence, which the Chairman seemed to envisage, it would impel them not to do anything about the treaty until the purposes and conditions were agreed upon; but they had not that lack of confidence." Even if there were any disposition on the part of any of the Powers to upset the Conference, a disposition of which he saw not the slightest trace anywhere, "he did not think that the proviso added to the powers which the several Governments already had to upset the

Conference". He thought that before long they would reach complete agreement upon the larger treaty, and he could not therefore share the solicitude of the Chairman that the inclusion of the proviso would endanger the situation. He added that Mr. Hioki had evidenced his desire to accelerate matters by putting in an effective date. The omission of a definite date would have meant that the treaty should not be effectuated until conditions and purposes had been agreed upon. The Chairman expressed the opinion that Mr. Hioki's legal interpretation of the Washington treaty was misleading. They might designate the purposes and conditions, called for by the Washington treaty, by the letter A, and the 2½ and 5 per cent surtaxes, allowed by the same treaty, by the letter B; but at this Conference they were discussing new purposes and conditions which they might designate by the letter C, while the new surtaxes referred to in the resolution under discussion, might be designated by the letter D. There was a definite relation between A and B and between C and D, but he did not think that there was a relation between B and C. To this Mr. Hioki replied that at the beginning of the Conference the American delegation had proposed that the 2½ and 5 per cent surtaxes of the Washington treaty should be dealt with separately, but that the Chinese delegation had refused to consider this proposal and had taken up instead a much wider subject. Then, after they had made a good deal of progress with the wider subject, the Chinese delegation had gone back and wanted to have the Washington surtaxes dealt with separately. It was from this that all this trouble and confusion had arisen. Mr. Strawn asked the Chairman if it was intended to earmark the proceeds of the surtaxes sanctioned under the Washington treaty and keep them distinct from those which would accrue from the interim surtaxes of the treaty they were now negotiating. To this the Chairman replied in the negative; he meant merely to imply that the legal interpretation did not appear to be correct. Mr. Strawn pointed out that as the new treaty would have to be submitted to the Senate for ratification, that body might have its own views on what was and what was not the correct legal interpretation. Mr. Hioki added that the resolution would have to be submitted to the Privy Council in Japan. The Chairman replied that he thought "the proviso was going to lead to long discussions as to the purposes and conditions etc. There would then be an agreement on the new purposes and the new conditions leading, however, only to the levying of the old rates. They were, therefore,

mixing the two things in a way which would lead to great confusion in the future. If the Chinese Government were asking the delegates to begin the new surtaxes then, he was prepared to admit every word that Mr. Strawn and Mr. Hioki had said, for until the new purposes and conditions had been agreed on, the new surtaxes would certainly not begin. To consider the new purposes and new conditions in connection with the old rate of surtaxes did seem to him a confusion of thought." Mr. Strawn remarked that he had not been a member of the Washington Conference, but he understood that the purpose of the surtaxes, sanctioned at that Conference, was to provide for the abolition of *likin*. Strictly speaking, therefore, the proceeds of the Washington surtaxes should be devoted solely to that purpose, but he took it that the Chairman would not be agreeable to that. As he understood it "there was no limitation in the Washington treaty . . . on this Conference as to the purposes to which the revenue derived from the surtaxes should be devoted, and therefore there was no inhibition in that treaty against the Conference combining the sum derivable from that treaty with the sum which would be derived from the treaty now under negotiation. These sums were to be devoted together to the uses and purposes and subject to the conditions upon which they were to agree." Mr. Oudendijk pointed out that as the proceeds from the 2½ and 5 per cent surtaxes were not to be separated from those of the interim surtaxes, the purposes which the Conference should agree upon would be exactly the same for the proceeds from both sources. For this reason he thought that adoption of the Japanese proposal would accelerate the work of the Conference. If they hurried on and got everything ready before the 31st May the proviso would make no difference to anybody. Comte de Martel agreed that the insertion of a definite date showed that they all desired to complete their work by that time, and that the adoption of the proviso would accelerate the work of the Conference. The Chairman remarked that "if they were to insert the proviso they would be imposing new purposes on the old rates which was hardly equitable. If the proviso suggested by Mr. Hioki were at all just and equitable the proper action would be to appoint another sub-committee to deal with the purposes and conditions regarding the levying of the 2½ and 5 per cent, or, if the delegates did not want to do that, then the sub-committee must say with reference to the increased revenue that it was to be derived not from the 2½ and 5 per cent surtaxes,

namely the Washington rates, but from the new surtaxes, estimated at not less than $90,000,000. They would have to refer to that figure in order to be strictly logical and legal." He thought that if they were to be strictly legal they should qualify the words "purposes and conditions" with the phrase "contemplated by the Washington treaty." Mr. Strawn inquired if the Chairman could indicate the purposes and conditions indicated by that treaty. He thought "that the purposes and conditions considered at this Conference were applicable just as well to the Washington surtaxes as to those to be negotiated, because the Washington treaty stated that the money should be disposed of for such purposes and subject to such conditions as the Conference might determine. In other words, they had adopted in their negotiation of the new treaty the theory of the Washington Conference. The Chinese delegation had asked them to raise the tariff which China was to collect beyond that which was possible under the Washington treaty" He dared say that it was undeniable that the purposes and conditions on which that increase in tariff should go into effect to be determined by the Conference were the same as the purposes and conditions on which the 2½ and 5 per cent surtaxes were to go into effect. There should be no difference in principle. Comte de Martel agreed that the question was one of quantity. They were modifying the rates of the surtaxes but they were not modifying the principle for which the surtaxes were to be levied. The Chairman still maintained that the proviso was unnecessary. Colonel Peel remarked that he had been an impartial listener to this discussion because he had complete confidence that they would reach an agreement before the date in question. He should like, however, to ask the Chairman what would happen "if by any chance, through no fault of the Powers, the Conference never came to a decision on the purposes, and the surtaxes continued to be levied and collected and deposited in banks." He was not quite clear as to the danger or the inconvenience that would ensue if the proviso were not there; but on the other hand he could see no harm in it, because he did not think it would have any effect. The Chairman reiterated that the proviso was at least unnecessary, and asked Mr. Hioki what he was afraid of; to which Mr. Hioki replied that his main fear was that unless the proviso were inserted his delegation might have difficulty in obtaining the approval of their Privy Council. This had been indicated in their correspondence with their Foreign Office. The Chairman expressed the hope that Mr. Hioki did not assume

that the contingency he wished to provide against would arise. Mr. Hioki replied that he was confident of the success of the Conference and "if the Chairman had any fears on that score, he thought the Chairman was very much mistaken—nobody had shown any desire not to carry on this Conference to a favourable conclusion." He was willing, and was trying his best, to concur with and meet the desires of the Chinese delegation. Comte de Martel added that if they had thought the Conference would come to no conclusion, they would not have sat more than five months. The Chairman suggested that they leave the point, and proceeded to read the concluding sentence of the resolution as follows: "And it is further agreed that this increased Customs revenue shall be deposited in the custodian banks in the manner and the proportions which shall have been agreed upon at this Conference." In presenting this, the Chairman repeated that he did not consider it fair for them to insert in the resolution a matter which would have to be taken up by Committee III, and "that they should not prejudice future discussions by suggesting at this time any way as to the custody of the funds." A discussion then arose whether the Chairman's object could be met by the omission of the word "custodian" especially as the phrase "custodian banks" had at that time a specific signification. The Chairman, however, made it clear that "it was not any particular words that he objected to, but the fact of their deciding for any committee what that committee had to decide." Colonel Peel agreed with the Chairman's views, and Mr. Oudendijk suggested that as there was going to be a third Committee, which would take up this question, there would be no danger in omitting this concluding sentence, and he hoped that Mr. Hioki would not insist upon it. Mr. Hioki agreed to withdraw it on the understanding that the question would be discussed in another Committee. The Chairman said that they were now practically agreed upon everything except the proviso and the period of three months. He hoped that Mr. Hioki would be willing to reconsider his proviso. Mr. Hioki replied that he was not arguing the question hypothetically. The reason for the proviso "was the technical difficulty they might meet in the future" and the matter had formed a subject of correspondence with their Government. Mr. Strawn added that he "did not think that the proviso was going to make any difference to China, because he did not believe the proviso was ever going to operate. Long

before the time when that proviso would become effective they would have agreed."

Chinese amendment to Japanese proviso specifying certain purposes to which proceeds of surtaxes should be devoted. Chinese decline to accept Japanese proviso.

§ 32. The fifth, and final, meeting of the sub-committee appointed by Committee II to draft a resolution on the levying of Interim Surtaxes was held on Thursday, 18th March under the chairmanship of Dr. W. W. Yen. In opening the meeting the Chairman stated that apart from his reservation regarding the length of time as to notification, the only point on which they had not reached agreement was the proviso introduced by Mr. Hioki. He had given Mr. Hioki's arguments full consideration, and in order to overcome the technical difficulty which stood in their way he wished to propose the following amendment to the Japanese proviso:—"And it is further resolved that the increased Customs revenue which will accrue from the levying of these surtaxes shall temporarily be held, free from all encumbrances, by the Chinese Maritime Customs Administration, to be employed for such purposes and subject to such conditions as this Special Conference may determine, with the understanding, however, that in case this Conference shall not have come to a decision before the . . . day of . . . . 1926 as to the disposal of the fresh revenue produced by these surtaxes, then one-third of the said revenue shall be applied towards the abolition of *likin*, one-third towards the consolidation of inadequately secured domestic and foreign debts, and the remaining one-third towards urgent administrative expenses." The Chairman in explaining the new features of this draft reminded the meeting that the abolition of *likin* was in the hearts of all the delegations, including the Chinese, that the consolidation of China's debts was also the desire of all, and that under urgent administrative expenses, as had already been explained in Committee II, they included the upkeep of China's diplomatic and Consular service, which historically was a charge on Customs revenue prior even to that of foreign loans. They also included under urgent administrative expenses, the funds needed for the reform and the administration of their law courts, and for the development and maintenance of educational work. As they were all of opinion that this proviso provided for a contingency which was very remote, he hoped that they would be able to come to some sort of a conclusion. Mr. Hioki saw no reason for this amendment, as the original proviso had been

accepted by all the delegations with the exception of the Chinese. He thought that it would be advisable to speed up the agreement on conditions and purposes, because, firstly, he foresaw considerable difficulty in fixing the percentages of allocation of this surtax revenue, and secondly, if this matter were to be settled here the question of the custodian banks would have to be brought up again. He thought that the amendment should be dropped, and the original proviso passed. The Chairman replied that the percentages of distribution, suggested in the amendment, could be altered if they were not acceptable to the Japanese delegation. Mr. Hioki said that in view of certain events then happening "they could never be too prudent in making provision." Comte de Martel supported this, and on the Chairman's calling for comments from other delegations, Colonel Peel explained that what was in the minds of his colleagues was the rumour of a loan to be secured by increasing the funds available from the German Indemnity. If the newspapers were to be believed the terms of this loan were onerous, and the proposal was to have it issued prior to any arrangement for the consolidation of debts. This made it very difficult for the delegates to agree that any particular proportion of the surtax revenue should be applied to the consolidation of debts. There was another point to which he referred with some diffidence. So far as he could gather, the principal sources of revenue were now in the hands of men who did not see eye to eye with the Central Government. They were anxious to arrive at an arrangement which would be acceptable to China as a whole, but "he could not tell at present what attitude his Government would take towards any arrangement that might be made, as no one would be certain as to how far any arrangement reached at this Conference would be acceptable to China as a whole." This consideration applied also to the first point he had mentioned. He was sympathetic to the raising of money for the administrative expenses of the Chinese Government "but in view of the present state of affairs it was very difficult for him to have any guarantee that the money would be so employed for the whole of China." Personally he preferred the American draft. Mr. Strawn read the American draft as follows: "Provided it is further agreed that the increased Customs revenue which will accrue from the levying of these surtaxes shall be held, free from all encumbrances, by the Customs Administration to be applied later for such purposes and subject to such conditions as shall have been agreed upon at this

Conference, or provided for in the general treaty being negotiated at this Conference." Mr. Hioki pointed out that this did not cover the technical difficulty he had indicated, and on being appealed to by the Chairman, stated that he could not accept the American draft. Mr. Strawn said that the Japanese proviso was still acceptable to the American delegation, and he did not see any reason why they should not be able to agree upon the purposes before 15th June, "unless there were new elements being precipitated into the consideration all the time." He thought that no one's rights would be prejudiced by acceptance of the Japanese proviso. The Chairman referred to the concessions made by the Chinese delegation; they had "agreed to every guarantee of security that had been proposed, that the money should be held by the Customs Administration and only used for such purposes as this Conference might determine." He characterized the Japanese proviso as negative, and as practically nullifying all the ideas embodied in the original resolution. He was quite prepared to consider the American draft, and to agree to it with perhaps the changing of a word or two, "but as to the Japanese proviso he must say there was considerable difficulty in the way." Mr. Hioki said that it seemed that "the Chinese delegation had misinterpreted their idea of adding this proviso, which was really to begin the levy of the surtaxes in spite of the conditions that still prevailed. Their Government desired that this resolution should be made effective only when the conditions were agreed to. That would, to a certain extent, defeat the purposes of the resolution; so they had invented a form by which they could allow the Chinese Government to begin the levying of the surtaxes in spite of the other things being uncertain. Instead of defeating the purposes his object, therefore, was to help them." He did not expect that this proviso would have any effect upon the Conference. Comte de Martel agreed that acceptance of the proviso would not prejudice the work of the Conference, but on the contrary, would help to hasten the levying of the interim surtaxes. The Chairman asked if they should not report to the Committee that they were unable to reach an agreement, submit the three drafts and leave it to the Committee to decide. Colonel Peel thought that as a matter of procedure they should submit a report embodying the views of the majority, while the Chairman could put forward a substitute on behalf of the Chinese delegation. Comte de Martel agreed with this view. Mr. Strawn deprecated any such action. He thought that unanimity was not possible either in sub-committee or in com-

mittee without adopting the Japanese proviso. The Chairman had the alternative of making a report or of letting the sub-committee stand without making a report. If they failed to make a report the natural chronological result would be "that presently they would get together on the general schedule and on the purposes, in which case the net result affecting China would be a delay of the effectiveness of this tariff until the Conference should have agreed on the purposes which were applicable to the new treaty now under discussion." The Chairman stated that the Chinese delegation was prepared to accept the American draft. Mr. Strawn replied that as a matter of courtesy they had at their last meeting accepted the Japanese amendment. If they were compelled to take a vote, it would be in favour of the Japanese draft. A mere majority report, however, would not accomplish much. If they did not wish to adopt the majority report they could let the matter be dormant "until the purposes agreed upon had become a feature of the general treaty." Mr. Oudendijk remarked that looking at the matter from a practical point of view they should rather discuss how they could accomplish the purpose for which the sub-committee was appointed. The Japanese delegate had explained that the proviso simply covered a technicality which his Government had pointed out. If they went on with other questions they would ultimately have to return to this proviso and deal with it. He thought that it was wiser to overcome the difficulty in a small sub-committee "instead of trying to convince the Japanese Government at the very last moment and thereby run the risk of wrecking the work of the whole Conference." He saw absolutely no way out but to accept the proviso, if the Conference was going to be a success. Postponing its acceptance would not remove the obstacles that the Japanese Government felt. Furthermore, the proviso contained nothing detrimental to the Chinese Government. On the contrary, it embodied an incitement to the Conference to complete its work quicker than otherwise it would do. It was for these reasons he would urge the Chinese delegation to reconsider their position. The Chairman thought that there was no more to be said that morning. He would consult his colleagues and if they came to an understanding he would summon another meeting of the sub-committee. Otherwise they would have to adopt Mr. Strawn's suggestion and wait until they had agreed on the purposes. Mr. Strawn urged the Chinese delegation in the interests of China to accept the Japanese suggestion and "have the advantage of the

time elapsing in which these surtaxes would be effective." If the Chinese delegation could not do that, then the sub-committee, in order not to hold up the Conference, should submit a majority report to Committee II, and if the Chinese delegation still wished to make a protest against the proviso they could file a minority report. The Chairman replied that he still held that the proviso nullified the resolution. "As soon as they should have agreed upon the purposes, whether a month or two months later, they could still do the same thing and have the surtaxes effective from July 1st." Mr. Strawn reminded the meeting that as they had agreed to adopt the principle of landing date instead of shipping date, it was desirable, in China's interest, that the ninety days of notification should be elapsing. He also pointed out that they had reached agreement on the resolution with the exception of the proviso. The Chairman remarked that there was still a difference of opinion in regard to the time of notice. The Chinese delegation had only agreed to two months and ten days, a period which they considered long as compared with the length of notice given in other countries. Comte de Martel remarked that the Chinese had won on principle, to which the Chairman retorted that China had won so often on principle that "he hesitated to win much more of it." Colonel Peel suggested that they ought to have a record of the resolution as agreed to by a majority of the sub-committee, a suggestion supported by Comte de Martel and Mr. Strawn. The latter proposed that it would prevent misunderstanding if they went over the resolution then, recording any differences of opinion, and thus save the necessity of further discussion. The Chairman then proceeded to read as follows:—"Whereas it is provided in Article III of the Treaty relating to the Chinese Customs Tariff, signed at Washington on February 6, 1922 that this Conference shall authorize the levying of certain surtaxes on dutiable imports into China as from such date, for such purposes and subject to such conditions as it may determine; and

"Whereas it is provided in Article VI of the said Treaty that such surtaxes when imposed shall be levied at a uniform rate *ad valorem* at all land and maritime frontiers of China; and

"Whereas it is evident that, with a view to meeting the amounts required for the various purposes which have been proposed and are being considered at this Conference, there will have to be made possible a greater increase in the Customs revenue from surtaxes on dutiable imports than can be produced by those provided for in Article III of the said Treaty; and

"Whereas the Representatives of the Powers assembled at this Conference are engaged in the negotiation of a Treaty wherein provision is to be made for the levying of such graduated surtaxes on dutiable imports as will yield an increase in the Customs revenue sufficient to meet the aforesaid purposes to be decided upon, which Treaty must await ratification by the various Governments concerned; and"

Here the Chairman interposed to record the reservation of the Chinese delegation that words to the effect that the sum of approximately ninety million dollars would be required should be inserted. He then continued to read:—

"Whereas the Representatives of the Powers desire that pending the coming into force of the new Treaty, the Chinese Government shall begin at the earliest possible moment to enjoy the benefit of the increased revenue contemplated in the above-cited provisions of the Washington Treaty:

"The Representatives of the Powers assembled at this Conference, to wit ..... hereby resolve . . . "

Colonel Peel, Mr. Oudendijk, and Mr. Hioki interrupted to say that it would be better to use the word "agree" instead of "resolve." The Chairman replied that he was following the precedent of the Washington Conference. He then continued to read—"that beginning . . . months from the date of the passing of the present Resolution."

Colonel Peel, Mr. Strawn and Mr. Oudendijk remarked that they had agreed to a period of three months; but the Chairman pointed out that the Chinese delegation was still in favour of seventy days. He continued to read:—

"that is, on and from the . . . day of . . . 1926 the Chinese Govt. nment shall impose and collect surtaxes on dutiable imports as follows: on all commodities listed in the Schedule hereto annexed a surtax equal to the amount of the regular duty according to the Revised Import Tariff for the Trade of China for the time being in force (that is, either the specific duty or five per cent *ad valorem* provided in the Schedule) and on all other dutiable commodities a surtax equal to one-half of the regular duty according to the Revised Import Tariff for the Trade of China for the time being in force, and that these surtaxes shall be levied uniformly at all land and maritime frontiers." That, he stated, was the sum of their agreement so far. Mr. Strawn added that they must not overlook the Japanese

proviso, the Chinese amendment to that proviso, and the deletion from the Japanese draft of the concluding sentence dealing with the depositing of the surtax funds on the understanding that a separate resolution would deal with that subject. He also understood that the Chairman had promised to consider whether to have the sub-committee make a report or to let matters stand, and to acquaint the members of the sub-committee with his decision. The Chairman replied that this was so. Mr. Strawn added that as he saw it, the Chinese delegation had made three reservations, one with respect to the $90,000,000, another regarding the three months' notice, and the third with respect to the Japanese proviso. The Chairman agreed.

Revised final list of luxuries presented by Chinese delegation. Dispute whether re-arranged list did not include some articles not previously agreed on as luxuries.

§ 33. The last formal meeting of any of the Committees or sub-committees of the Conference was the third meeting of the technical experts for the drawing up of a list of luxuries for the levying of the surtaxes authorized by Article III of the Washington treaty. This meeting took place on Friday, 9th April, under the chairmanship of Admiral Ts'ai Ting-kan. The previous (second) meeting of this technical committee had taken place on 2nd March and in the interval the Chinese delegation had prepared a revised list of articles, liable to a total surtax of 5 per cent, rearranged so that all goods of the same kind were grouped together. This list, known as document (Yin) No. 84, had been circulated to all the members beforehand. It contained seventy surtax numbers, and opposite each surtax number were the numbers and names of the articles in the Import Tariff of 1922, and a column showing the number in Yin No. 77. In presenting this list, the Chairman remarked that the Japanese reservation on Awabi meant Awabi in any shape or condition, dried as well as canned, and that in the heading covering ornaments, the words "fancy" and "of every description" should be struck out. Mr. Fox enquired whether any articles had been inserted in document No. 84 which had not been included in document No. 77. His reason for asking this question was that when comparing the two lists he found that the tariff number for Condensed Milk appeared in document No. 84 and not in document No. 77. The Chairman replied that in the Revised Import Tariff for the Trade of China 1922 the heading Canned Goods contained six numbers, one of which was for Condensed Milk. As the whole class of Canned Goods had been put into the 5 per

cent surtax list, Condensed Milk had, therefore, been included. Mr. Fox objected to the inclusion of this article for the reason that at the previous meeting it had not been agreed on as an article to be included in the Luxury list. The Chairman defended its inclusion on the ground that in drawing up the list in document No. 84 they had been guided by the classification of the goods, and not by the reference numbers. The corresponding Tariff numbers had been inserted on the suggestion of the Japanese delegation. Mr. Yokotake agreed with Mr. Fox. At their last meeting it had been agreed that the A, B and C lists of the Chinese delegation should form the basis of discussion, and that no articles from the D, E, F and G classes were to be included in the 5 per cent surtax list "unless expressly mentioned and agreed upon by the Technical Committee." Condensed Milk was in the D list. It had not been discussed at their last meeting, and had not been agreed upon by anybody. The same was true of Awabi. It had not been withdrawn from the revised list, in spite of the Japanese reservation and in spite of the Chinese delegation's proposal to cancel it. He thought that when the 5 per cent surtax Luxury list was published the Tariff numbers should be inserted. Otherwise it would be misleading. Mr. Fox remarked that he was not so much concerned about Condensed Milk, as about the question of the inclusion of articles in document No. 84 which had not been mentioned in document No. 77. Mr. Knight, on behalf of the French delegation, agreed with Mr. Yokotake that when publishing the 5 per cent surtax Luxury list it was most important that the numbers of the Tariff articles affected should be clearly specified, as otherwise there would be constant disputes between the Customs and the public. The Chairman inquired whether they should be guided by the old numbers or by the altered numbers when the Tariff was revised; to which Mr. Fox replied that when the revision of the Tariff did take place they could naturally regroup and arrange the Luxury list accordingly. In the meantime they had the present (1922) Tariff to go by. The Chairman proposed that the meeting should decide whether Condensed Milk should be added to the 5 per cent luxury list or not, and asked the American delegation to vote first. In reply, Dr. Hornbeck suggested that "the practical thing to do was for the Chinese delegation to withdraw from the list then under discussion such numbers as did not appear in the list which they discussed and agreed upon at the last meeting." He also pointed out that all the letters written by the various foreign delegations to the Chinese delega-

tion on this subject of the 5 per cent surtax referred solely to the list given in document No. 77. The Chairman then proposed to read through document No. 84 item by item. Mr. Fox protested that this would be of no assistance. What they wanted to know was whether, and if so what, articles had been added in document No. 84 which did not appear in document No. 77. Mr. Watson, on behalf of the Chinese delegation, replied that no additions had been made, and that the tariff numbers had been inserted, on the request of the Japanese, as an aid in looking up the classifications. "They were bound by the terms and not by the numbers." Dr. Hornbeck inquired whether, as the numbers had no meaning, the Chairman would have any objection to striking out the numbers which appeared in document No. 84 opposite the item 57 and returning to the numbers given in document No. 77. The Chairman, however, thought that the easiest way out of the difficulty would be to put the question directly to the meeting whether they agreed that Condensed Milk should or should not be on the 5 per cent surtax Luxury list. Mr. Fox replied that what they wanted was clearness and certainty, as the foreign delegations would have to answer questions, probably by telegraph, regarding the duty treatment of specific articles. When they discussed document No. 77 they were clear in their minds what they had agreed to, "but this new list had introduced into his mind an element of doubt and uncertainty as to what he was to agree to, and therefore he must go right through it again, and check off every single article so that he might know what he was agreeing to and what he was not." He was not satisfied with the Chairman's suggestion that the meeting should be asked to vote whether Condensed Milk should or should not be on the 5 per cent surtax Luxury list. He was not even objecting to that article being classified as a luxury. He reiterated that the really important thing for them to know was what articles had been added to document No. 84 which did not appear in document No. 77. The Chairman thought that the clearest way out would be for each delegation to go over the list again article by article and see whether there was any article which should not be included. He was in complete agreement with Mr. Yokotake that "articles in lists A, B and C of the Chinese Schedule which had been reserved should not be included, and that as to articles in the other lists only those which had been agreed upon were to be included." He disclaimed any intention of trying to steal a march on them. Whatever disagreement there had been that morning had arisen through the

insertion of the index numbers. Mr. Saburi stated that he considered numbers of more importance than the names of the articles, as such numbers were a much safer guide to the Customs. He therefore wished the principle of going by the tariff number to be retained, and when the final list should be ready to have it arranged according to the order of the tariff numbers. The Chairman suggested that the Chinese delegation should draw up a list following the order of the tariff numbers and setting against each whether it was to be subject to the 5 per cent or the $2\frac{1}{2}$ per cent surtax. Mr. Saburi remarked that the Japanese delegation was already preparing such a list, and Mr. Fox thought that it would be sufficient to have only a 5 per cent surtax list, as all the other articles not on that list would naturally be liable to the $2\frac{1}{2}$ per cent surtax. Mr. van Hamte suggested that articles at present coming under the 'unenumerated' group should be definitely mentioned, and Mr. Knight added that in the case of such articles—as they had no special number—the definition should be the guiding principle. The Chairman thought that it would be safer to take both tariff numbers and definitions into consideration in the preparation of the new list. He would have such a list made ready for distribution, and if any of the delegations should send in no reply within ten days from the day of issue, then he would consider it as accepted by that delegation.

Seven classes of surtax ranging from $2\frac{1}{2}$ to $2\frac{1}{2}$ per cent proposed by Chinese delegation. French delegation's proposal.

§ 34. In February the Chinese delegation had put forward a detailed schedule of proposed surtaxes on foreign imports. This schedule took into consideration the suggestions of other delegations, more particularly the American, the British, and the Japanese, without changing materially the total yield from these surtaxes needed by the Chinese Government. Instead of the two classes of the Washington treaty it was proposed to divide all dutiable imports into seven classes with carefully graded rates of duty so arranged that no commodity would be taxed more than it could bear. The surtax rates for these seven classes were $27\frac{1}{2}$ per cent for class A, $22\frac{1}{2}$ per cent for class B, $17\frac{1}{2}$ per cent for class C, $12\frac{1}{2}$ per cent for class D, $7\frac{1}{2}$ per cent for class E, $5\frac{1}{2}$ per cent for class F, and $2\frac{1}{2}$ per cent for class G.[1]

[1] For lists of goods included in these seven classes *vide* Appendix III.

With this classification, and basing their calculations on the returns values of dutiable imports for the year 1924, the Chinese experts worked out that the outturn of the surtaxes they proposed would be as follows:—

	Aggregate Value	*Surtax rate*	*Surtax yield*
Class A:	$ 45,686,000	@ 27½%	$ 12,563,000
Class B:	$ 45,417,000	@ 22½%	$ 10,218,000
Class C:	$ 119,673,000	@ 17½%	$ 20,942,000
Class D:	$ 158,154,000	@ 12½%	$ 19,769,000
Class E:	$ 278,045,000	@ 7½%	$ 20,853,000
Class F:	$ 469,881,000	@ 5½%	$ 23,494,000
Class G:	$ 184,923,000	@ 2½%	$ 4,623,000
	$1,301,779,000		$112,462,000

This surtax outturn figure, however, was based on the assumption that the import tariff rates then ruling were on an effective five per cent basis. In point of fact, however, an effective five per cent *ad valorem* rate seldom, if ever, existed. At that moment the actual average rate was 4.3 per cent, and on that basis the surtaxes suggested would on the 1926 values have brought in only $96,717,000. These proposals were carefully studied by the advisers and experts of the foreign delegations, and as a result of their studies the American, the British, and the Japanese submitted on the 25th March, 1926 a list of proposed modifications,[1] expressing at the same time their belief that the adoption of these modifications would make it possible for the advisers of the majority of the foreign delegations to recommend to their delegations to consider favourably the schedules so amended. Like the Chinese delegation, the foreign experts divided articles of import into seven classes, but reduced the rate of suggested surtax by five per cent in the first three classes and by two and a half per cent in the fourth class. The rates of the remaining three classes were left unchanged. With these rates and with a complete redistribution of the articles of import, differing widely from the distribution suggested by the Chinese delegation, the foreign experts were able to evolve a surtax outturn of $90,000,000, thus:—

[1] *Vide* Appendix.

	Aggregate Value	*Surtax rate*	*Surtax yield*
Class A:	$ 52,895,000	@ 22½% =	$11,901,000
Class B:	$ 78,154,000	@ 17½% =	$13,677,000
Class C:	$ 62,402,000	@ 12½% =	$ 7,800,000
Class D:	$ 68,647,000	@ 10% =	$ 6,865,000
Class E:	$ 335,286,000	@ 7½% =	$25,146,000
Class F:	$ 280,569,000	@ 5% =	$14,028,000
Class G:	$ 423,826,000	@ 2½% =	$10,596,000
	$1,301,779,000		$90,013,000

Three weeks after the presentation of this revised schedule the French Minister notified the Chinese delegation that his Government had instructed him to draw attention to the fact that the proposed surtax schedule, divided into seven classes, varying from 2½ to 27½ per cent, was at complete variance with the stipulations of Article III of the Washington treaty, which allowed for only two classes, namely, 2½ and 5 per cent. Nevertheless, the French Government was desirous to assist the Chinese Government in its task of abolishing *likin*, restoring the country's financial credit, and building up a reliable income for the administrative expenses of the state. To this end the French Government suggested that instead of seven classes of surtax there should be two, one of 15 per cent and the other of 7½ per cent. The former class might, with some slight modifications, be made to include classes A and B of the Chinese delegation's schedule, while the latter should include the remaining five classes C to G. With this arrangement the income derivable would be at least 107 million dollars. As this sum would be considerably more than was necessary for the purposes envisaged by the Conference, it would be possible to lower the surtax to 2½ per cent on special articles which could not well bear a higher tax, such as certain cotton piece goods, cotton yarn, raw cotton, sea products, coal, cement and raw hides. It was further to be understood that these two suggested surtaxes should cover all repayments necessary by the abolition of *likin*, and that goods having once paid the duty and surtax due should be free thereafter from all other charges within the confines of the Republic of China.

Political unrest in China leads to dissolution of Conference.

§ 35. To return to the political events which were shaping the fate of the Conference. Early in November, Sun Ch'uan-fang inflicted a heavy defeat at Hsüchowfu on Chang Tso-lin's troops, an event which had a double effect. In the first place, it made Chang Tso-lin move another of his armies down from Jehol towards the Capital, and in the second place, it led Feng Yü-hsiang, who in reality was awaiting his opportunity to attack Chang, to begin to evacuate Peking and to withdraw his men northwards to Nankow. In alarm, the Government exerted all its powers of persuasion to keep the peace between these two militarists. The agreement then made was, however, violated on 24th November, when the Honan *tuchun*, a *protégé* of Feng Yü-hsiang, began an advance into Chihli and Shantung. This made it clear that Feng Yü-hsiang had joined the combine against Chang Tso-lin. At the same time, violent student demonstrations took place in Peking against the Conference. Early in December Kuo Sung-ling (郭松齡), a subordinate of Chang Tso-lin, in command of the Fengtien troops at Lanchow, suddenly renounced his allegiance to his master and advanced on Mukden. Hereupon the Japanese, in order to protect their interests, strengthened their forces in Mukden. Then followed during Christmas week the crushing defeat and capture of Kuo Sung-ling by Chang Tso-lin at Hsinminfu, and the capture of Tientsin by Feng Yü-hsiang after very heavy fighting against Li Ching-lin (李景林), an ally of Chang. During this commotion Peking was for several weeks completely isolated, and although strong protests were made by the Diplomatic Body against this violation of the Peace Protocal of 1901, the Government was powerless to effect relief. A minor but still disquieting event happened on 30th December, when General Hsü Shu-tsêng (徐樹錚), "Little Hsü", a prominent adherent of the Anfu Party and holder of an office in the Peking Government, while on his way by train to Tientsin, was murdered by a staff officer in the army of Feng Yü-hsiang.

At the opening of the year 1926, therefore, the position stood thus. In Manchuria Chang Tso-lin still remained dominant, while his supporters Li Ching-lin, former *tuchun* of Chihli, and Chang Tsung-chang (張宗昌), *tuchun* of Shantung, held the province of Shantung. Feng Yü-hsiang was in possession of the metropolitan province, Chihli, but his troops had been severely handled and he was short of ammunition and supplies. Further-

more, he was in a precarious position between Chang's armies to the north and those of Chang's allies to the south in Shantung. On the Yangtze Wu Pei-fu was still in command, with his headquarters at Hankow, while Sun Ch'uan-fang, former *tuchun* of Fukien, controlled the five provinces of Fukien, Chekiang, Kiangsu, Anhui, and Kiangsi. Yen Hsi-shan (閻錫山) was still quietly watching events from his mountain fastness in Shansi. Politically the position was one of stalemate, with the Peking Government in a more hopeless plight than ever. Nominally it was under the aegis of Feng Yü-hsiang, but as he had declared his intention of retiring from public life, and of going abroad, it could not count on his unqualified support. In fact, he point blank refused to come to Peking. It was clear to all that the Provisional Chief Executive was only a figurehead without any real authority, and without any decided backing even from the militarist in whose district his Government functioned. The realization of this made men chary of accepting office, and at times the Prime Minister was practically left without a Cabinet to convene. Financially, the Government had reached rock bottom, and in order to secure sufficient funds to tide it over the New Year was obliged to raise from a group of Chinese banks an advance of $8,000,000 secured on the Customs revenue surplus after all prior obligations on that surplus had been met. On 8th January the Provisional Chief Executive, realizing the hopelessness of the situation, tendered his resignation, and on the same day the Government accepted Feng Yü-hsiang's resignation, and appointed him Special Commissioner to study industries abroad. Neither resignation, however, took effect, for it soon became known that Wu Pei-fu had at last begun his advance on Peking, and in doing so was acting in concert with Chang Tso-lin and Sun Ch'uan-fang. Then ensued a four months' struggle between Feng Yü-hsiang and Chang Tso-lin with his associates for the prize of Peking. In this struggle Feng's troops, the Kuominchun, holding the Taku forts, fired upon foreign merchant vessels and Japanese gunboats, thus preventing freedom of navigation in and out of Tientsin. This naturally led to an ultimatum being delivered both to the Peking Government and to the Chinese commanders responsible. The demands of this ultimatum for the cessation of hostilities in the Tientsin-Taku area and for the stoppage of interference with foreign shipping were accepted, but the acceptance caused a violent student demonstration in Peking, in the course of which they attacked the Foreign Office, demanding the severance of relations with the Protocol Powers.

On 22nd March the Kuominchun forces retreated from Tientsin, and for the next three weeks Peking was in a state of siege, during which it was not only cut off from the outer world, but was also subjected to an aerial bombardment. On 10th April Tuan Chi-jui, the Provisional Chief Executive, was deposed by the Kuominchun, and Wu Pei-fu was invited to take control of Peking, an invitation which Wu declined. Ten days later, Tuan Chi-jui was forced out of the Capital and took refuge in Tientsin. Feng Yü-hsiang was now definitely eliminated from the Capital and so, too, was the Government. To carry on, a committee of public safety functioned for some weeks, and then on the 13th May, as Marshals Chang Tso-lin and Wu Pei-fu could not agree on the form of government to be instituted, a so-called Regency Cabinet was inaugurated, with Dr. W. W. Yen as Premier. In circumstances like these, where there was in reality no responsible Government with which to negotiate, the Tariff Conference virtually broke up. Already in April the Chairman, Dr. C. T. Wang, had departed to Shanghai, and shortly afterwards some of the foreign delegates who had come to Peking specially for the Conference also took their departure, while those whose permanent duty was not in Peking made no secret of their intention to do likewise unless authorized representatives of the new Government were appointed to continue the negotiations.

Foreign delegation holds discussions on custodian banks and revision of Agreement of January, 1912

§ 36. In the meantime, informal discussions between the remaining foreign delegates were still carried on, and some of these parleys were on matters of vital import to China. For instance; from 18th May till the beginning of June a committee of experts of the various foreign delegations met daily to discuss the question of custodian banks with whom should be deposited the proceeds of the surtaxes. To guide the discussion, the Japanese delegation submitted a memorandum embodying their proposals for (*a*) the custody of the existing Customs revenue, which involved the 1912 Agreement, (*b*) the revenue from the Washington surtaxes, and (*c*) the proceeds from any future revision of the Customs Tariff. The outcome of the discussions, which at times were acrimonious, was that the committee agreed (1) that the Chinese Government should select the custodian banks from amongst the Chinese banks and such foreign banks as might be

recommended by the Powers materially interested in the loan and indemnity service, (2) that each custodian bank should be called on to provide security for its allotted share of deposit, (3) that the ratio of deposit of the revenues from the existing duties should be based on the percentage of the amounts of annual service of the existing loans and indemnities secured on the Customs, while the ratio of deposit of the increased Customs revenue should be based on the percentage of the amounts of the annual service of the bonds of the proposed consolidation loan held by the respective creditor Powers, (4) that the rate of interest on deposits should be arranged between the Chinese Government and each custodian bank, but that in the event of any bank not desiring to receive its share of the deposits at the generally agreed upon rate of interest, such deposits could be transferred to another bank prepared to receive them, and (5) that it might assist the Inspector General in times of trouble if he were given the option of availing himself of the local branches of the custodian banks at the ports of collection. This discussion brought out clearly the necessity of making a thorough revision of the Agreement of January 1912. In this, the aid of the Inspector General, Sir Francis Aglen, who kept in close touch with the Chinese authorities, was sought. The principles observed by the British delegation in making their draft were:— (1) to follow as closely as possible the general lines of the 1912 Agreement so as to avoid alarming the Chinese by the introduction of new arrangements and to refrain from undue disturbance of a complicated piece of machinery which had worked, and was working, to the satisfaction of all concerned; (2) to meet the Chinese demand for the participation of Chinese banks in the custodianship arrangements, and the similar foreign demand for the participation of other foreign banks on the basis of respective national interest in the existing loan and indemnity services; and (3) to limit the custodianship arrangements to that part of the Customs revenue, estimated at 70 per cent, required for the service of the existing loan and indemnity charges, leaving the Chinese free to make what arrangements they chose for the remaining 30 per cent, representing the so-called surplus which the Chinese Government had entrusted to the Inspector General for the service of the domestic consolidated loans. This latter principle was designed to meet the view that the foreign Powers were justified in interesting themselves in the safekeeping only of such portion of the Customs revenue as might be required to meet the existing foreign loan and

indemnity services, and were not concerned with the disposal of the surplus. By this scheme the Chinese Government was to be allowed to participate in the custodianship of the 7 per cent required for loan and indemnity services by the amount needed to meet the cancelled indemnities. The American delegation likewise submitted a plan of revision of the 1912 Agreement. As there were material differences in this from that presented by the British, considerable debate took place in trying to harmonize them. In the end, in order to secure unanimity, the British agreed to alterations providing custodianship arrangements for the whole revenue, deleting any statement of the percentage of the total net revenue required for the loan and indemnity services, and leaving out the list of custodian banks and the percentages allotted to them. The first article of this final revision stipulated that the net Customs revenue should be deposited in certain custodian banks at Shanghai, which should be chosen by the Chinese Government from a list prepared by the Powers interested in the foreign loan and indemnity services, that at least one bank should be Chinese, and that one bank should be of the nationality of each of the recommending Powers. The second article vested in the Inspector General the duty of assembling the revenue at Shanghai, and gave him liberty to make use of the local branches of the custodian banks for this purpose. The third article, without stating any percentages, allowed for the weekly distribution of the remitted revenue at Shanghai among the custodian banks, each bank to receive a share in proportion to the interest of the nationality which it represented in the foreign loan and indemnity services. The fourth article provided that the proceeds of the Washington surtaxes were to be deposited in accordance with a special resolution not yet passed. The fifth article called for the provision of security by the custodian banks for the deposits entrusted to them. Article six granted authority to the Inspector General to open loan service accounts in each of the custodian banks and to draw on these accounts for loan and indemnity payment through the agency of the Commissioner of Customs at Shanghai. The seventh article bound the custodian banks to pay interest at equitable rates on the revenue deposited with them; while the eighth, and final, article stipulated that the provisions of this agreement were to supersede those of the Agreement of January 1912, and that they should be subject to future revisions as circumstances might require.

Official announcement of foreign delegations desiring to resume Conference at earliest possible date.

§ 37. In order to make clear to the world that any failure to bring the Conference to a successful conclusion would not rest with them, a special meeting was held on the 3rd July at the Netherlands Legation for the purposes of drawing up an official announcement on this point. After the meeting, the following statement was issued by the Senior Minister:—

> "The delegates of the foreign Powers to the Chinese Customs Tariff Conference met at the Netherlands Legation this morning. They expressed their unanimous and earnest desire to proceed with the work of the Conference at the earliest possible moment when the delegates of the Chinese Government are in a position to resume the discussion with the foreign delegates of the problems before the Conference."[1]

At the same meeting, Sir Ronald Macleay made a formal statement defining British policy, to the following effect:—

> "His Majesty's Government instruct me to state that it is their earnest desire and intention to implement the Washington Treaty with the least possible delay, and to grant the surtaxes provided for therein if this should be the wish of the Chinese Government, and that they are prepared to discuss any reasonable proposals put forward by the Chinese delegation to this end which are in harmony with the spirit and letter of the Washington Treaty. His Majesty's Government also wish it to be clearly understood that in the event of the Chinese delegation on the resumption of the Conference tabling a proposal for the immediate enforcement of the Washington surtaxes, they have no intention after agreement on such proposal has been reached to suspend the proceedings of the Conference, or to break off the negotiations for the completion of a tariff treaty which have been interrupted by recent political developments in China."[2]

Ten days later, the new *règime* at Peking had so far established itself as to proceed to the appointment of three delegates to the Tariff Conference to fill the vacancies created by the departure of the nominees of the previous Government. The three new delegates were Messrs. Ma Soo (馬素), Pan Fu (潘復), and Wang Ying-tai (王蔭泰), and to collaborate with them

[1] *The Times*; London 6th July, 1926.

[2] *The Times*; London 6th July, 1926.

as *ex officio* delegates were appointed Messrs. Liang Shih-yi, W. W. Yen, and Wang Chung-hui, along with the heads of the Ministry of Foreign Affairs, the Ministry of Communications, the Ministry of Agriculture and Commerce, the Wine and Tobacco Bureau, and the Shui-wu Ch'u. Wu Pei-fu let it be known that the desire of the Government was that the Washington surtaxes should be enforced at the earliest moment to enable the collecting of additional revenue. He also stated that if the Powers refused to continue negotiations he could only regard their attitude as favourable to the "reds" with whose representatives the Chinese had begun negotiations, and that in that case he would take steps to abrogate all existing treaties with the Powers concerned. Due partly to the victorious advance northwards of the Kuomintang army from Canton, thereby threatening Wu's position in Hankow, and partly to the alliance even then being formed against him by Chang Tso-lin and Feng Yü-hsiang, Wu's influence at Peking was too short-lived to render possible any satisfactory continuation of the Conference, and so at an informal meeting of the foreign delegates, held on 23rd July, it was decided to adjourn without fixing a day for a resumption of the sittings. Dissensions had broken out in the new Cabinet, and the foreign delegates considered that the Chinese delegates were not in a position to resume negotiations, and could give no assurance when they would be. Contemporaneously with this decision there came vigorous protests both from the Kuomintang and the Kuominchun against resumption of the Tariff Conference. The Powers, however, refrained from notifying China that since various militarists had in turn objected to the Conference, and since there was no Government representative of the whole country they would postpone further meetings of the Conference until there should be a Government recognized by all sections of the country.

Results of Conference.

§ 38. The Conference dissolved without the holding of a second plenary session, without even the drafting of a new treaty, and without a formal decision on any of the points coming within the terms of reference laid down in the Washington treaty. But it was not therefore a failure. On the contrary, it had been from several points of view a triumphant success. In the first place, it was a convincing demonstration to China that the Powers wished her well and were not so utterly the imperialistic tyrants that their detractors were so busily representing them to be.

Here, in spite of all the chaos caused by opposing militarists, were the representatives of twelve foreign nations, all of them animated by a sincere desire to help China, eager to work out arrangements to that end, even beyond Washington treaty terms, and more than willing to recommend the adoption of such arrangements to their respective governments. In the second place, it was just as convincing a proof to the Powers of the unanimity among the Chinese of all parties that the terms granted by the Washington treaty were no longer adequate. Torn as China might be by civil dissension, she was yet solidly united in the conviction that the day of fettering her liberty by unilateral treaty tariffs and trade arrangements was irrevocably past, and united, too, in the determination that all existing cramping restrictions of this nature must be forthwith swept away. Thirdly, although the Conference did not result in the immediate abolition of these externally imposed restrictions, yet it succeeded in securing from the assembled delegates the all-important declaration that China should enjoy tariff autonomy, and in fixing 1st January, 1929 as the date on which such autonomy should become effective. Although in the eyes of many of the foreign delegates the enforcement of this decision was to be contingent on the abolition of *likin*, there was in the opinion of the Chinese no such limitation imposed, the two statements on the restoration of tariff autonomy and on the abolition of *likin* being essentially different, the one partaking of the nature of a resolution on the part of the Conference and the other of a voluntary declaration by the Chinese Government. As we shall see, actual events followed the lines of Chinese opinion, for when it came at the close of 1928 to the negotiating with the Powers represented at the Conference of the various tariff relations and tariff autonomy treaties, no clause was inserted in any of them binding China to the simultaneous abolition of *likin*. Fourthly, the repeated declaration by the representatives of most of the Powers that they wished to see the immediate enforcement of the surtaxes specified in the Washington treaty afforded Canton and Peking the moral, if not the strictly legal, justification for the collecting of these surtaxes during the interim between the dissolution of the Conference and the enactment of the tariff autonomy treaties. Finally, a vast amount of valuable work was done at the Conference, chiefly at informal meetings of the technical experts, in preparing and arranging the material necessary for the construction of a new tariff. Schedules were drawn up, and rates of surtax suggested

on the work of men who had expert knowledge of the interests involved, and who were in possession of all requisite data: it naturally followed that the work done in this connection was not ephemeral, but a solid contribution to the evolution of China's national tariff[1]. In fact, the tables of the so-called interim surtaxes, submitted on the 25th March 1926 by the American, the British, and the Japanese delegations, became the basis of China's first national tariff in 1929.

[1] A revision of the tariff was, by the Washington Conference arrangements, due in 1926, that is, four years after the previous revision of 1922. The Shui-wu Ch'u accordingly in September 1926 deputed Mr. Chan Lun (顧綸) to proceed to Shanghai as Chairman of the Commission for the Compilation of Values (編訂貨價委員會), as it came to be called, and Mr Lyall as Vice-Chairman At first the Ch'u intended that the Chinese delegation by itself should draw up the new tariff schedules, and that the various foreign delegations should be kept informed but not consulted That ideal, however, was not realizable The following States appointed delegations—the United States of America, the Netherlands, Denmark, Norway, Sweden, Great Britain, France, Japan, Portugal, and Italy Japan was at first in favour of taking the values of the first half of the year 1926 as basis, but finally agreed with all the other delegations to accept the Chinese proposal to take as basis the market values for the twelve months of 1925 In March 1927 the Kuomintang authorities took possession of the Commission's offices, and Mr Chan Lun returned to Peking, having first arranged that the tariff schedules should be completed at Peking, and be sent to the foreign delegations at Shanghai for criticism and suggestions The foreign delegations, it was proposed, should come to Peking for the final discussion The compilation of values was completed at Peking, but political events precluded the convening of any final meeting.

CHAPTER VII.

THE AFTERMATH OF THE PEKING CONFERENCE. THE LEVYING OF THE SURTAXES THE REGAINING OF TARIFF AUTONOMY.

§ 1 China's reborn national spirit Rise of Kuomintang in Canton Influence of Russian communists Canton's claim to *pro rata* share of Customs surplus First levy of Washington surtaxes § 2 Collecting of surtaxes spreads to all ports in Kwangtung and Kwangsi Organization and methods of surtax bureaux Their relation to the Customs Special taxes on wine, tobacco, and kerosene oil § 3 British Government's memorandum of 18th December 1926 proposes immediate unconditional recognition of levy of surtaxes Japan's China policy under Baron Shidehara U S A policy § 4 Spread of surtax levies to Yangtze ports Yield of surtaxes, especially at Shanghai, enables Minister of Finance to float loans Lawsuits at Shanghai over special surtaxes on wine and beer British, Japanese, and American test cases § 5 Peking Government in favour of Customs collecting surtaxes Attitude of Sir Francis Aglen, the Inspector General, who gives reasons against Customs participation, Aglen's services dispensed with, but surtaxes not to be collected by Customs, Levy of surtaxes at northern ports and in Manchuria Disposal of surtax proceeds § 6 Progress of Kuomintang army Split between right and left wings of Kuomintang Nanking Government's premature declaration of tariff autonomy Expulsion of communists Critical position of revenue and Customs Service Officiating Inspector General suggests holding of a National Tariff Conference at Shanghai Officiating Inspector General visits Shanghai and discusses suggested plan of procedure Nanking militarists not in favour of such Conference § 7 Downfall of Peking Government National Government established at Nanking Tariff autonomy agreement of 25th July 1928 between China and the United States Agreements with Germany and other Powers British agreement's stipulation regarding rates of first national tariff Abolition of special land frontier rates Tariff autonomy agreement with Japan Special rates on certain goods for three years § 8 Import tariff of 1929 based on interim surtaxes proposed at Peking Conference Abolition of surtax bureaux § 9 New tariff stimulates smuggling Revived discussion in 1929 on, and revised draft of, Customs Agreement with Hongkong Chinese Government rejects agreement on account of inland waters clause New proposals submitted by the Inspectorate in 1930, accepted by Hongkong but rejected by Nanking on account of Canton's opposition § 10 Establishment of Tariff Board of Enquiry and Appeal Revision of Tariff Rule 1 § 11 Import tariff of February 1930 places rates on gold unit basis § 12 Seizure of Tientsin Customs by General Yen Hsi-shan Mr B L Simpson's adventure § 13 Inspector General's memorandum on smuggling Activities of smugglers on south eastern coast Abolition of Native Customs, *likin*, transit dues, and coast trade duty Native Customs establishments on coast converted into Maritime Customs stations Origin of interport duty § 14 Creation of Customs Preventive department Limit of Chinese territorial waters Customs preventive fleet Stations established round Kwangchowwan § 15 Revision of bonding regulations: Abolition of drawback system Drawback swindles Re-exports to Dairen

to be marked—To pay Other measures to check smuggling activities § 16 Enlargement of Appraising Department Creation of Tariff Secretariat Training of examiners Central Valuation Office Central Scrutiny Office § 17 Officially protected smuggling at Canton Nanking offers to sign Hongkong Agreement § 18 Creation of State of Manchoukuo Seizure of Customs at Manchurian ports Dairen refuses to remit revenue Import tariff rate increases of August 1932 Revised import tariffs of 1933 and 1934 Proposed revised export tariff of 1935 § 19 Japan's position in Manchuria Creation of Eastern Hopei Autonomous Council Officially protected smuggling in north China Disarming of Customs preventive vessels Chinese, American, and British official protests against smuggling lodged with Japanese Government Establishment of Customs Chief Inspection Bureau for prevention of smuggling by rail Losses caused to Chinese revenue by this north China smuggling campaign § 20 Basic reasons for this smuggling China's right to tariff autonomy, and integrity of Customs Service at stake

China's reborn national spirit Rise of Kuommtang in Canton· Influence of Russian communists Canton's claim to *pro rata* share of Customs surplus. First levy of Washington surtaxes

§ 1. The Peking Tariff Conference, on which so many hopes had been placed, had faded away From the foreigner's point of view its eclipse was due to the political disunity of the country breaking down the effectiveness of the Peking Government as a channel of communication between China and the foreign Powers, and finally bringing about the disappearance of any Government with which to negotiate From the Chinese point of view, however, its dissolution reflected unfavourably on the good faith of the Treaty Powers, who after a lapse of more than four years had still left unredeemed one of their principal pledges given at Washington But the reborn spirit of nationalism, that spirit of determination to recover China's lost rights, including the rights to establish her own tariff and to control her own revenue had not suffered eclipse On the contrary, it was if anything stronger than ever Its more modern development had begun with the Great War of 1914-1918 which shattered the unity of the Western Powers in China, and lowered the prestige of the white man in the Far East It was reinforced by the war propaganda which laid emphasis on self-determination and the rights of the weaker nations, cries which Chinese nationalists were quick to make use of in their campaign against western imperialism It broke into passionate resentment when the victors at Versailles turned a deaf ear to China's claim for a direct restoration of their Shantung territory, and it rose to an outburst of fury when foreign police at Shanghai fired on a student demonstration killing some and wounding others To the student class this was an unfor-

givable outrage. They were the new intelligentsia of China imbued with revolutionary ardour, contemptuous as a rule of traditional institutions, and bitterly opposed to the privileges of foreigners secured by the "unequal treaties." As inheritors of the prestige accorded to learning in China, they were a formidable force when they spoke with one voice on the necessity of freeing China from the servitude imposed on her sovereignty. They were not alone in their opinions. China might be divided by personal and provincial feuds, and by wretched faction fights, but everywhere educated Chinese were growing more and more conscious of China's nationhood, and more determined in their demand for the revision of "unequal treaties," and the recovery of the country's sovereign rights. Even truculent war-lords—interested mainly in the retention of their own bailiwicks—found it advisable to bow to the authority of the Kuomintang in matters affecting foreign policy. The Wai-chiao Pu, too, at Peking could not ignore the public opinion roused by nationalist propaganda. It recognized this opinion when forming the delegation for the Versailles Conference in 1919, and although Canton declined to appoint any representatives on the delegation to the Washington Conference in 1921 yet even Canton recognized that China's spokesmen on that occasion were as sweepingly nationalist and revisionist in their demands as could be desired. At the Peking Tariff Conference, as we have seen, China's delegates consistently showed the same attitude of unyielding insistence on the restoration of China's rights, especially those of tariff autonomy and of control of the Customs revenue. The break-up of the Conference only served to strengthen that attitude. A few months after that break-up, and while the Peking Government was still comatose, twenty-one organizations at Shanghai passed, for communication to the National United Chambers of Commerce of China, a resolution calling on the Government to enforce tariff autonomy at the beginning of 1929. In justification of such action its supporters pointed out that the Powers had agreed in principle to the restoration of tariff autonomy from that date, and boldly threw the blame for the dissolution of the Conference on the foreign delegates, who, in their opinion, had acted without Chinese consent and without previous notice.[1] But it was at Canton, the traditional home of revolutionary thought and activity that more definite action first took place. Here the leaders of the Kuomintang had taken refuge after the dissolution in 1917 of the Peking Parliament. Here Dr. Sun

[1] N. C. H. 20th November, 1926.

Yat-sen had been engaged not only in trying to build up a government on modern lines, but also in elaborating plans for the political and economic reconstruction of the whole country. Here too, on the invitation of Dr. Sun Yat-sen, had come in 1923, as political adviser, the Russian communist Michael Borodin, to be quickly followed by a host of Russian propaganda experts and military instructors to assist Borodin in reorganizing the Kuomintang and its army. It was a *mariage de convenance,* for while the Kuomintang was revolutionary in spirit, and nationalist and revisionist in aim, it was not a party of the proletariat and was not Marxist. In fact, its programme was not to set the world by the ears but to reunite China, to sweep away feudalistic officialdom, to modernize the civil administration and give it control over the army, and to develop the country's natural resources on sound capitalist lines. To realize this programme it was necessary for the Kuomintang to carry the people with them, and this they believed they could effect by well-directed propaganda. It was essential also that the internationally recognized Government at Peking should be ousted, and as that meant a prolonged war it was decided that it would be advantageous to have outside assistance. Soviet Russia and the Comintern were willing to supply that assistance, believing that as things developed an opportunity would come for converting a bourgeois nationalist uprising into a proletarian communistic revolution. Neither side was under any delusion about the pact. Each intended to make use of and—when the time came—to double-cross the other. As the event proved, it was the Kuomintang that got home first. But political programmes, especially when they involve military expeditions cannot be executed without funds. Gambling was licensed and heavily taxed, land rents were collected in advance, public lands and temples were sold, shop and house rates were raised, luxury taxes were imposed, *likin* on the Hongkong-Canton trade was increased 50 per cent, and the Salt revenue, which should have been remitted to the Central Government, was impounded. In their search for revenue it was natural that the Kuomintang should cast their eyes on the Customs. In recent years a surplus over what was required for the maintenance of the Customs administration and for the service of foreign obligations secured on Customs revenue had shown itself.[1] Canton legislators claimed that they had a right to a *pro rata* share of that surplus according to the

[1] For an account of Canton's claims on the Customs revenue surplus, *vide China's Customs Revenue since the Revolution of 1911*; op. cit. pp 296-299, 327-330.

revenue quota collected at the treaty ports in the Kwangtung area. Their claim had been recognized in 1919 and the early months of 1920, but on dissension breaking out among the leaders, resulting in rival claimants for the funds, the Diplomatic Body decided that legally the surplus belonged to the internationally recognized Government of Peking. That decision did not deter the Canton leaders from applying again in 1921, and once more in 1923 for Canton's share of the Customs surplus. On the latter occasion, indeed, Dr. Sun Yat-sen threatened to seize the Canton Custom House if the claim was not met, but left his threat unexecuted when the Powers staged a naval demonstration in Canton harbour. Then followed two years marked by growing disorder at Canton, the flight of Dr. Sun to Peking and his death there, the building up of the Kuomintang army for the northern expedition against Peking, the seamen's strike, and the boycott of Hongkong from July 1925 to October 1926. By September of the latter year the Kuomintang campaign against Peking had become the dominant factor in the situation, and it was obvious that to give that campaign every possible chance of success it was imperative not to leave an enemy in the rear but to settle differences with Hongkong, and to secure the much-needed sinews of war. By a clever stroke of policy both these objects were attained by making them interdependent. Early in October 1926 Mr. Eugene Chen, the Acting Minister of Foreign Affairs of the Canton Government, informed the British Consul General that arrangements had been made to put an end to the boycott on 10th October, 1926, but that surtaxes on imports and exports would have to be levied to meet the liquidation expenses of the boycott, which being interpreted meant replenishing also the war chest. These surtaxes, according to the Canton Government's mandate, were to come into force on the 11th October, and were designated taxes "on the consumption or the production of such articles as are subject of trade between the Liang Kwang provinces and the other provinces in China and foreign countries." This was clearly an echo of the Mackay treaty, but the following paragraph in the mandate just as clearly echoed the Washington Conference Treaty, when it declared that the rate of taxation should be "equivalent to half the usual Maritime or Native Customs Tariff (as the case may be) on general articles, and to a full tariff on articles of luxury, such as silk, silk stuff, toilet articles, fur and leather, articles of decoration, gems and precious stones, and similar goods." As an indication that there are

certain articles on which special surtaxes should be levied, thus endorsing China's claim at the Peking Tariff Conference, this paragraph concludes with the statement that "cigars, cigarettes, imported wines, kerosene and gasolene, which are the subject of other special taxes are exempt from this tax." The mandate also ordained severe punishments for those selling or buying articles which had not paid the tax. The Acting Minister for Foreign Affairs wound up his communique to the representatives of the foreign Powers with the announcement that there was no intention to interfere with the Maritime Customs system "as at present administered, though possible misunderstandings and friction would be avoided if Maritime Customs cooperation should be available in the collection of the new tax by the fiscal authorities to be appointed by my Government."[1] Beyond joining in the protest for the sake of maintaining the solidarity of the Powers[2] the British authorities offered no special opposition to these new trade taxes. To have done so would have been interpreted as a recantation of their professions at the Peking Tariff Conference and of the official memorandum of the 28th May, 1926, sent by the British Government to the United States Government, proposing that the Powers should forthwith authorize the levy of the Washington surtaxes without attempting to exact guarantees or conditions.[3] When Canton's example in this matter of surtaxes had been followed by all the other ports in the province of Kwangtung, the British Government in their memorandum of 18th December 1926 communicated to all the Powers which had taken part in the Washington Conference, the proposal that the Powers should consent to the immediate and unconditional levy of the Washington surtaxes, and so legalize what was already a *fait accompli* at certain ports.[4] To those foreign representatives, who protested that the Canton levies were in direct violation of the treaties, Mr. Chen replied that he would be prepared to discuss this and other matters as soon as the representatives of the Powers recognized the fact that governmental authority was now centred at Canton and no longer at Peking. In the same note Mr. Chen tartly remarked that his Government did not "recognize the existence of the Senior Minister of the interested Powers at Peking (who lack juridical sanction)" nor were the status and relations of the

[1] *The China Year Book*, 1918, p. 1230.

[2] British Government's Memorandum of 18th December, 1926; §13.

[3] *Chinese Social and Political Science Review*: Vol. II; No. 2, April, 1927; Supplement, pp. 105-108.

[4] *Treaties and Agreements with and concerning China, 1919-1929*, p. 189.

same Powers *vis-a-vis* his Government "regulated on a basis which can properly entitle them to raise the question of a direct violation of treaties."[1] That note reflected the growing power of the Kuomintang, whose armies by this time had swept up victoriously into the Yangtze valley.

Collecting of surtaxes spreads to all ports in Kwangtung and Kwangsi: Organization and methods of surtax bureaux: Their relation to the Customs: Special taxes on wine, tobacco, and kerosene oil.

§ 2. Before the end of November 1926 all the treaty ports in the provinces of Kwangtung and Kwangsi had followed Canton's lead. Kowloon, Kongmoon, and Wuchow began the collecting of similar surtaxes on the 1st November, Lappa on the 2nd, Samshui on the 3rd, Kiungchow on the 6th, Swatow on the 8th, Pakhoi on the 15th, and Nanning on the 26th. The offices established by the Canton Government's Ministry of Finance for the assessing and collecting of these surtaxes functioned under slightly different names at the various treaty ports, but were all branches of the Internal Consumption and Production Taxes Bureau (征收出產運銷物品內地稅局). Nothing came of Mr. Chen's suggestion that the Maritime Customs might cooperate in the work of collecting these surtaxes, mainly because his Government could not associate itself officially with an institution under the control of Peking, and perhaps also because it was under pressure to provide lucrative jobs for hundreds of loyal but importunate supporters. Without officially requesting cooperation, however, these surtax establishments clung as closely as possible to the Custom House, accepting the results of Customs examination, and, for the assessing of the surtax, relying implicitly on the figures given on Customs duty memos. At some of the ports, in the early days of these surtax bureaux, there was at times real danger of clashes between the employees of the bureaux and the outdoor men of the Customs Service. The former as a rule had no technical training whatever, and some of them now and again acted as if they thought that ignorance and lack of experience could be made good by officious aggressiveness. Tact, good humour, and firm adherence to the established rights of the senior service successfully kept things in their proper relations. As was to be expected the staff employed was in excess of actual requirements. At Canton there were 120 all told, divided over departments styled Revenue, Audit, Returns, Secretariat, Inspection, and Enquiry. In the Kowloon district the Bureau employed over a score, at Kongmoon there were 53, at Wuchow 48, at

[1] *The China Year Book*, 1928, p. 1231.

Lappa 40, at Samshui, where there was next to nothing in the way of work, there were 24 employees, at Kiungchow 51, at Swatow 74, at Pakhoi 15, and at Nanning 25, giving a total of 470 in all for the Kwangtung area. These surtax offices were invariably in the immediate neighbourhood of the Custom House and at every port they had several employees functioning in the Customs bank to see that the surtaxes were properly assessed according to the figures on the Customs duty memos and on the duplicate application forms, which most of the surtax offices insisted upon. Later on, the Customs lent unsolicited aid by stamping at time of issue on each duty memo the tariff number of each article covered by the memo, thus enabling the surtax bureau to distinguish clearly, with the aid of their luxury surtax lists, which articles were liable to luxury surtax and which to ordinary surtax. At first the bureaux were satisfied to collect on all goods, except tobacco, wine, and kerosene, merely half the duty appearing on the Customs duty memos; but as soon as they were well established and in good working order the luxury tax of a full Customs duty was levied on so-called luxuries. Complete uniformity, however, did not exist. In July 1927 the Nationalist Government promulgated a provisional law on the National Import Tariff, and appended to it a schedule of luxuries in three classes the rates on which were 15, 25, and 57½ per cent respectively. These rates, however, were never effectively put into force. Native wine and tobacco came under the control of the Wine and Tobacco Monopoly Bureau (潮梅烟酒專賣局), while the special taxation of foreign wine and tobacco and of kerosene oil was entrusted to the Revenue Stamp Tax Bureau (潮梅印花稅支處). Importers of kerosene had also to apply to the Kerosene Monopoly Bureau (煤油特稅局) for permit to import, for which a charge of $5 per permit was made. The Revenue Stamp Tax on this article was $2 per case of ten gallons. That all these surtaxes and special taxes were fairly lucrative is seen from the fact that in the Kwangtung area described above, the average monthly yield from the surtaxes on the Customs revenue was about $600,000, on wine and tobacco about $500,000 and on kerosene at least $400,000. Canton was not the only area where special taxes on wine and tobacco had been put into force. As far back as July 1926 Marshal Chang Tsung-chang, *tupan* of Shantung, had instituted a Tobacco and Wine Tax Bureau to levy a 30 per cent tax on foreign wine from 1st August that year, three cents on every bottle of beer, $1.90 per picul on tobacco leaf, and $3.66 per picul on fine cut tobacco.

Consular and diplomatic protests failed to remove these levies, and this encouraged the Shantung authorities shortly afterwards to spring another surprise on long-suffering traders by instituting a special transit tax of 2 per cent *ad valorem* on all goods passing through the province and not destined for consumption therein. The promise that *likin* was to be abolished failed to carry conviction, and indignant merchants began to enquire whether Shantung had been restored to China or handed over to the *tupan* as a personal fief. In spite of all protests the tax came into operation on 22nd November, 1926; but was promptly quashed, along with the Customs surtaxes, on 23rd May, 1928 when the Japanese Government sent troops into Shantung for the protection of Japanese interests in Tsingtau and Tsinan.[1]

British Government's memorandum of 18th December 1926 proposes immediate unconditional recognition of levy of surtaxes: Japan's China policy under Baron Shidehara: U.S.A. policy.

§ 3. During December 1926 no new surtax offices were opened, but on the 18th of that month the British Government addressed a memorandum of proposals concerning China to the Powers signatory to the Washington treaty. In the eyes of the Chinese nationalists Great Britain had been the pioneer in aggression, and British interests therefore had, with the warm approval of the Bolshevik advisers, been singled out for attack. The object of that attack was, if possible, to provoke reprisals, but in this its failure, in spite of great provocation, was immediate and complete. The memorandum reminded those to whom it was addressed of the engagements entered into at the Washington Conference, of the unfortunate delay in the summoning of the Tariff Conference during which the authority of the Peking Government "diminished almost to vanishing point, while in the south a powerful Nationalist Government at Canton definitely disputed the right of the Government at Peking to speak on behalf of China."[2] The Tariff Conference had come to nothing, and the recommendations of the Extra-Territoriality Commission could not be given effect to so long as the Government was so bereft of power. In this confused situation where a recognized but impotent Central Government was waging civil war against a "powerful Nationalist movement which aimed at gaining for China an equal place among the nations,"[3] the correct attitude was not to to take sides, but at the same time to regard the aims of the popular movement with sympathy and understanding. The British Government, therefore, suggested

[1] Memorandum of 20th April, 1928 from Japanese Minister to Waichiao Pu. *The China Year Book* 1928; pp. 878-879.

[2] British Memorandum of 18th December, 1926; §2.

[3] *Ibid.* §5.

that the Powers signatory to the Washington treaty should issue a statement describing the situation, and declaring their readiness to negotiate on treaty revision and other questions as soon as the Chinese had established a Government with authority to negotiate, and, pending the creation of such a Government, to follow a constructive policy in harmony with the spirit of the Washington Conference. Such a constructive policy the British Government thought would be to abandon the idea that foreign tutelage is essential for the economic and political development of China, to recognize China's right to enjoy tariff autonomy as soon as she had drawn up a new national tariff, to disclaim any intention of forcing foreign control on China, and to endeavour to shape developments according to the realities of the situation. "The declaration should show that it is the policy of the Powers to endeavour to maintain harmonious relations with China without waiting for or insisting on the proper establishment of a strong Central Government."[1] The memorandum went on to propose "that the Powers should agree to the immediate unconditional grant of the Washington surtaxes,"[2] and thus help to undo the evil consequences that had arisen from the failure of the Tariff Conference to make good the promise of increased tariff rates made by the Powers to China five years previously. At that Conference the Powers had been prepared to grant those increased rates provided that the proceeds should be placed under foreign control, and used to a large extent for the liquidation of the unsecured debt. The British Government had always been opposed to the question of China's unsecured debt being discussed at the Tariff Conference. They held that the surtax proceeds should be devoted solely to productive objects such as railway construction, and social or economic reforms which would be of benefit to China as a whole. In the absence of a stable Government, debt consolidation, they maintained, would only enable whatever faction happened to be in control at Peking to resort to fresh, and probably ruinous, borrowing. When the Tariff Conference was in session at Peking the British Government realized that China would not submit to any extension of foreign control either for debt consolidation or for the abolition of *likin*, and had therefore on the 28th May proposed in a memorandum[3] to the United States Government "that the Powers should abstain from any attempt to exact guarantees or conditions, but should forthwith authorize the levy of the surtaxes."[4]

[1] British Memorandum of 18th December, 1926; § 7.
[2] *Ibid.* § 8.
[3] *The China Year Book*, 1928; p. 759.
[4] British Memorandum of 18th December, 1926; § 12.

The collapse of the Conference prevented further action; but the Cantonese had, in fact, seized the Washington surtaxes by levying certain additional taxes on the trade of the port. In the interests of solidarity the British Government had joined in the protest against these new taxes; but they did not consider that to be the right policy. They would accordingly "strongly urge that the Powers should now authorize the immediate levy of the Washington surtaxes unconditionally throughout China."[1] The memorandum closed with the suggestion that the proceeds of the surtaxes should not necessarily be remitted by the Commissioners of Customs to the custodian banks at Shanghai, but that in each case the competent Chinese authorities might decide all questions as to the disposition and banking of these additional revenues. Instead of welcoming this proposal Mr. Eugene Chen in a telegram addressed to the American Secretary of State, complained that the adoption of this proposal would promote fresh civil war, ignoring the fact that his party at that moment was wholeheartedly engaged in that very pursuit and relying for support on the proceeds of the new semi-legitimate surtaxes. What really concerned him was that those who were opposed to the Kuomintang held at that moment the majority of the treaty ports, and could thus enjoy about twice as much surtax revenue as his party could. The Japanese reaction to the British memorandum came on the 18th January, 1927 when Baron Shidehara, then Minister for Foreign Affairs, stated in the Diet that the Government would raise no objection to the levy of the Washington surtaxes, provided that assurances were forthcoming that the proceeds would not be used for the carrying on of civil war. The Baron's declared policy towards China was a liberal one. While exercising all reasonable means for the protection of Japan's legitimate rights and interests, he desired (1) to exercise patience and toleration in regard to the existing situation, (2) to respect China's sovereignty and territorial integrity, (3) to avoid interference in China's civil war, (4) to promote solidarity and economic cooperation between the two nations, and (5) to assist China to the attainment of her just aspirations.[2] Nine days later the United States Secretary of State, Mr. Frank B. Kellogg, issued a statement that—"The United States was prepared to enter into negotiations with any Government of China, or delegates who can represent or speak for China, not only for the putting into force of the surtaxes of the Washington treaty, but entirely releasing tariff control and restoring com-

[1] British Memorandum of 18th December, 1926; § 13.
[2] *Japan Weekly Chronicle*; 27th January, 1927.

plete tariff autonomy to China." He added that his Government would expect most favoured nation treatment, and also that China should afford protection to American citizens, property, and rights. His Government was ready to negotiate either jointly with other Powers or alone on the two subjects of extraterritoriality and tariff autonomy.[1]

Spread of surtax levies to Yangtze ports: Yield of surtaxes, especially at Shanghai, enables Minister of Finance to float loans: Lawsuits at Shanghai over special surtaxes on wine and beer: British, Japanese, and American test cases.

§ 4. Canton had blazed the trail to the gold diggings and the British Government had erected a signpost indicating that the way was safe. In a few months that trail became a beaten highroad. Before January 1927 the Kuomintang armies were in full possession both of Hankow and Kiukiang, and at both ports New Year's Day was marked by the opening of surtax offices. On the 20th of the same month Nanking, Chinkiang, Shanghai and Soochow followed suit. In their main lines these offices were on the model of those operating in the Canton province, and the revenue they collected was remitted to the Ministry of Finance of the Nationalist Government at Nanking. As at the Canton ports the rate levied on ordinary goods, whether imported, exported, or carried coastwise or inland was half the Maritime Customs rate, or 2½ per cent *ad valorem* on imports and exports, and 1½ per cent *ad valorem* on goods going coastwise or inland. On goods passing through the Native Customs half the Native Customs rate was charged. The rate on articles of luxury, applied to imports alone, was a full Maritime Customs duty or 5 per cent *ad valorem*. The list of articles on which this luxury rate was charged was that which had been submitted on 9th April, 1926, at the third meeting of the technical committee,[2] appointed by the Peking Tariff Conference to draw up a list of luxuries. The fact that at all ports surtaxes were levied on exports as well as on goods going coastwise, or inland, or through the Native Customs is clear proof that the Washington programme of surtaxes on imports only was not adhered to. The special taxes on wine, tobacco, and kerosene oil varied from port to port. At Hankow wine paid 12½ per cent and tobacco 20 per cent *ad valorem*, while the latter article paid in addition—as did also all ordinary goods—a Dyke Tax of 20 per cent of the Customs duties. Subsequently this Dyke Tax was imposed also at Ichang, Shasi, and Changsha.

[1] *Treaties and Agreements with and concerning China, 1919-1929*: pp. 193-197.

[2] *Vide* Appendix J.

At Kiukiang the special taxes were 30 per cent *ad valorem* on wine and 22½ per cent on tobacco, while kerosene oil paid $1.00 per case of ten gallons, a rate which subsequently held good at all Yangtze ports. The special rates on wines at Nanking varied from ten cents per bottle of beer to ninety cents per bottle of whiskey, while the rate on tobacco was the same as at Hankow: unlike Hankow, however, these articles did not pay a full but only a half Customs duty in addition. At Chinkiang the rates were 30 per cent on wine and 20 per cent on tobacco in addition to full Customs duty. At Shanghai, the premier port, wine and tobacco were called on to pay, in addition to the regular Customs duty, a special tax of 30 and 50 per cent *ad valorem* respectively, or six and ten times the Customs duty. The wine tax lasted for only a little over four months, beginning on the 11th August and ceasing on the 14th December, 1927, while that on tobacco ran from 12th July to 11th November of the same year. As we shall see it was this special tax on wine that brought the heavy artillery of the Powers into play. From 14th December, 1927, the special tax on wine was dropped, the 5 per cent luxury tax taking its place. A special tax, however, of 20 per cent *ad valorem* was from 27th January, 1928, imposed on imported tobacco in addition to the regular import duty, while Chinese tobacco was made to pay a special tax of 22½ per cent. At the other Yangtze ports the special tax on kerosene oil was from the beginning of October 1927 fixed at $1.00 per ten gallon tin; but the Asiatic Petroleum Company arranged, against advances, a contract with the Ministry of Finance by which for them the special tax remained on its former level of thirty cents per five gallon tin. All these surtaxes and special taxes at Shanghai alone brought in a monthly revenue of roughly $2,000,000, and with this steady income the Minister of Finance was in a position to raise funds by the flotation of domestic loans secured on these surtax collections. To strengthen public confidence in such flotations the Government decided to establish a special organization to which should be entrusted the control of the funds required for the service of these surtaxes-secured loans, and which should be thoroughly representative of Shanghai and Kiangsu banking and commercial interests. The organization thus created was the "2½ per cent Surtax Treasury Bonds Sinking Fund Commission,"[1] an organization which rendered outstanding service till its place was taken in 1932 by the National Loans Sinking Fund Administrative Commission. It

[1] For details of this Commission and of the loans it looked after, *vide China's Customs Revenue since the Revolution of 1911*; p. 350 *et. seq.*

was at Shanghai, too, that the conflict between the Kuomintang and the representatives of foreign Powers over the special taxes on wine, beer, and alcohol came to a head. It was on the 5th August, 1927[1] that the Stamp Tax Bureau of Kiangsu issued a notification stating, that on and after the 11th August a special tax of 30 per cent *ad valorem* would be levied on all imported wines and liquors. This levy was to be collected by officials of the Bureau in the Customs bank, and this latter institution was ordered by the Government not to stamp the usual Customs duty memos, covering imports of wines, beer, and alcohol, until the special tax had been paid. Test cases soon arose. Shortly after the introduction of the special tax Messrs. Gande, Price, Ltd., a British firm, claimed delivery from the Ocean Steamship Company, also a British firm, of 75 cases of lager beer. The full treaty tariff duty on this consignment together with the luxury surtax of 5 per cent, as recognized by Great Britain, and the usual local wharfage and conservancy dues, had been assessed by the Customs, a duty memo had been issued, and the amount involved—Hk. Tls. 48.32—had been tendered to the Customs bank according to regular routine. The bank, however, had declined to accept this payment, and to seal the Customs duty memo in quittance, until the applicant had first paid to the officials of the Stamp Tax Bureau, operating in the Customs bank, the recently decreed special tax of 30 per cent. The British Consul, Sir Sidney Barton, to whom appeal had been made, now took a hand in the matter. He contended that as these special taxes had not been approved by his Government, they were not legally leviable. He thereupon took upon himself to accept the amount of duty and recognized surtax payable, and to issue a receipt for the same. The Commissioner, Mr. F. W. Maze, although strongly pressed by the British Consul-General to release the cargo, refused to recognize the right of Consuls to establish independent Customs banks in their Consulates, and adhered to the established principle that treaty duties must be credited to the revenue account in the proper Customs bank, then the Bank of China. It was only the Customs bank that had the authority to issue a stamped receipt certifying that the duties had been paid, and without such a receipt the goods could not be released. If the bank refused to issue such a receipt unless the special tax of 30 per cent, ordered by the Nanking Government, were paid, the issue raised was one for settlement between the British diplomatic authorities and that Government.[2] The British Consul-General had in effect

[1] N.C.H., 10th August, 1927.

[2] N.C.H., 23rd and 26th August, 1927.

attempted to make use of the Customs in settling an international and political dispute by requesting the cooperation of the Commissioner in an action against the Nanking Government, an action which if it had been taken would have forced the Customs Administration into the political arena thereby endangering not only the integrity of that Administration, but also the continuance of the service of the foreign obligations secured on the Customs revenue. In the absence of a stamped permit from the Customs, the defendants, the Ocean Steamship Company, who were bound by the terms of their annual guarantee with the Customs, could not give delivery of the goods. The case was tried in the British Supreme Court at Shanghai before Sir Peter Grain, who gave it as his opinion that as the plaintiffs, Messrs. Gande, Price & Co., had fulfilled all their obligations and carried out all their legal duties they were entitled to their property. Judgment was given accordingly, and order was made for the delivery of the goods.[1] The second test case was one in which the Dai Nippon Brewery Company brought action in the Japanese Court against the Nippon Yusen Kaisha claiming delivery of 1,680 cases of beer on which the tariff duty and wharfage and conservancy dues had been tendered to the Customs bank, but had been refused as the applicant had declined to pay the 30 per cent special tax. As the Japanese Government had not authorized its nationals to pay even the 5 per cent luxury tax, the verdict of the Court, given on the 26th August, 1927, was that the goods were to be delivered against payment of treaty tariff duty and the usual wharfage and conservancy dues. The judge held that the surtaxes and the special taxes were both illegal. The third test case was tried in the Shanghai Court of the United States of America. In its essential features the case was similar to the two preceding, but the verdict was that the Court was not competent to deal with the matter as the issue was not legal but political. The case was therefore referred to Washington, with the result that the State Department instructed the United States Consul-General to order the release of the goods on payment of the treaty tariff duty. On the 3rd October, 1927, the American Consul-General informed the American Chamber of Commerce at Shanghai that he had been authorized by the Department of State, and was prepared "to accept deposit of the treaty duty, wharfage and conservancy dues on consignments of wines and liquors subject to the special 30 per cent stamp tax, and on consignments of tobacco products

[1] N.C.H., 29th August, 1927.

subject to the 50 per cent tobacco products tax, and to inform American warehousemen that there is no objection to their releasing such cargo."[1]

Peking Government in favour of Customs collecting surtaxes: Attitude of Sir Francis Aglen, the Inspector General; who gives reasons against Customs participation; Aglen's services dispensed with, but surtaxes not to be collected by Customs; Levy of surtaxes at northern ports and in Manchuria: Disposal of surtax proceeds.

§ 5. The revenue raising capacity of these surtax collecting offices was not lost on the Peking Government. They were as much in need of funds as their rivals in the South. In fact, the rapid advance of the Kuomintang armies had compelled the northern militarists to pool their resources, and to form a coalition under the leadership of Marshal Chang Tso-lin, who in December 1926 had once more appeared at Peking to take over control of the Government. Almost immediately afterwards he announced his intention of enforcing the levy of surtaxes on Customs duties at all ports under his rule, and subsequently named the 1st February as the date on which collection should begin. In spite of the risk of grave complications the Marshal was in favour of the actual work of assessing and accounting for the surtaxes being entrusted to the Maritime Customs, and not to special organizations as in the Kwangtung and Yangtze areas. In November 1926 the Inspector General, Sir Francis Aglen, on his return from short leave had been confronted with this problem of the collecting of the surtaxes, and had come to the conclusion that the Customs Service should stand aside from such work unless the surtaxes should be recognized as legal by international agreement, and unless the Canton Government should signify its desire that the Customs should collect. Early in December he wrote for one of the foreign representatives at Peking a memorandum giving

[1] A similar situation arose in regard to the payment of tonnage dues. The Nanking Government decreed that a surtax of 50 per cent on tonnage dues was to be enforced from the 11th July, 1927. On the 31st of that month the Messageries Maritimes at Shanghai refused to pay this surtax on their vessel *Paul Lecat*, and the Commissioner, Mr. F. W. Maze, declined to issue the tonnage dues certificate on the ground that he must first have the Customs Bank duty receipt, which the Bank had refused to issue unless the surtax were paid at the same time. The French Consul General, however, accepted on deposit the regular tonnage dues payment and granted the usual Consular clearance, whereupon the vessel left without a tonnage dues certificate, or the issue to the Consul of the Customs "no objection" notice. Foreign vessels of other nationalities followed the precedent thus set. On the 8th August the rate of this surtax was reduced by half, and on the 1st September the levy was abolished, as by that time it had become clear that the only effective way of dealing with a recalcitrant foreign vessel, enjoying the support of its Consul in its refusal to pay extra-treaty levies, would be for the Nanking Government to seize it at Woosung, an act which might lead to hostilities.

the reasons why, in his opinion, the Customs should not take part in the collecting of the surtaxes. In this, and in discussions with the Minister of Finance and the Ministers of the Shui-wu Ch'u he pointed out (1) that the Maritime Customs Service had been brought into existence expressly to operate the treaty tariff, and that, so far as international agreements went, it was authorized to take cognizance only of those dues and duties agreed upon between China and the Powers, and, if need be, to enforce payment of these dues and duties by recognized sanctions, such as detention of vessel or cargo; (2) that these surtaxes, although approved on principle, had not yet been formally ratified by the Powers, and that in the absence of such international ratification, carrying with it authority to exercise sanctions, it would be highly inadvisable to use the Customs Service for their enforcement; (3) that even if one or more Treaty Powers agreed to the levy of these surtaxes, while the rest were still in opposition, it would, in the absence of legal sanctions applicable to all, be impracticable to enforce payment as the goods of the nationals of the agreeing Powers might be conveyed in vessels of non-agreeing Powers, or *vice versa*: to invoke treaty sanction for the enforcement of duties not sanctioned by treaty would place the Customs on untenable ground and would embroil the Powers; (4) that it would also be impracticable to enforce payment uniformly from the nationals of non-agreeing Powers who stood on the principle that the surtaxes were illegal; the fact that they were paying such voluntarily to an extra-Customs organization at ports in areas controlled by the Kuomintang, could not be cited as a precedent for the collecting of the surtaxes by an administration basing its action on treaty sanctions; payment in these latter circumstances would no longer be voluntary but compulsory, and as that compulsion had no treaty basis, embarrassing questions of principle would at once be raised by the Governments interested; and (5) that so far as the Customs Service was concerned the authority of the Central Government was still recognized even in the areas under the control of the Kuomintang, but that if the Customs should be called on by the Government to undertake the collecting of the surtaxes in places which the Kuomintang might now, or in the future, claim as theirs there would inevitably be misunderstandings and clashes, which might easily result in disruption of the Service. The Inspector General urged, therefore, that in the collecting of these surtaxes it was necessary that the Service should stand aside, and with this proposed course of action the Ministers of the Shui-wu Ch'u

were fully in accord. Some higher-placed members of the Government, however, thought otherwise. They knew that both the American and the British Governments were sympathetically disposed towards the levy of the surtaxes, and as it had already been decided that for the sake of revenue the surtaxes must be collected, they considered that it would be wiser to avoid, if possible, the creation of additional trade-taxing organizations, some of which might easily fall under provincial control. To them the Inspector General's reasoned opposition to the Customs Service being used as the collecting agent was secondary; as a servant of the Government the Inspector General was bound to obey orders, and failure in that meant the termination of his services. Early in January 1927 the Inspector General, with the full approval of the Shui-wu Ch'u, proceeded to Hankow to assist the Commissioner there in settling a grave staff situation, which had arisen from the activity of the recently organized Chinese Labour Union. In settling this it was inevitable that he should meet prominent members of the Kuomintang, and it was equally inevitable that they should discuss with him surtax and other Customs matters. After leaving Hankow he had intended to make a tour of inspection of some of the Southern ports; but on the 28th January while at Nanking he was suddenly confronted with the news that the Shui-wu Ch'u had been ordered to issue to him peremptory instructions that the Customs were to commence collecting the surtaxes on 1st February. He decided to return at once to Peking, and while at Shanghai on 31st January he was informed for the first time that the Government intended to take disciplinary action against him for failure to carry out instructions. That action, in fact, had already been taken, for the mandate relieving him from duty was actually dated 31st January. Discussion of this incident, and of the other factors contributory to it, would be out of place here; but it is thus cursorily dealt with to indicate the attitude of the Peking Government towards the surtaxes. In the end, the Inspector General's views were accepted by the Government as indicating the correct line of action, for his *locum tenens*, Mr. A. H. F. Edwardes, was informed that the Customs would not be required to assess and collect the surtaxes, which would be looked after by other organizations. The only northern ports which began surtax-collecting operations on 1st February were Tsingtao and Chefoo with its sub-port Lungkow. Tientsin followed on the 10th and Chinwangtao on the 21st. At all of these northern ports the rates levied on ordinary goods and on luxuries were the stereotyped 2½ and 5 per cent

ad valorem ones. These ports also adhered to the Washington ideal in that they levied these surtaxes only on foreign imports; while the luxury list was precisely the same as that used in the Kwangtung and Yangtze areas. The collecting offices were in each case called 附加稅監理處, with the Customs name of the port prefixed. The special rates on wines and tobacco varied. At Tsingtao foreign tobacco leaf was called on to pay no fewer than five taxes, Import tax, Yellow River tax (河工捐), Merchandise tax (統捐), Goods tax (貨物稅) graded according to quality, and Military tax (勞兵費) all of which together at the highest amounted to about $5.50, or approximately 12 per cent *ad valorem*, and at the lowest to $4.30, or 9 per cent: imported cigarettes had also to meet five levies amounting to about 37½ per cent *ad valorem*, while locally made cigarettes paid only some 8 or 9 per cent. Foreign wines were taxed according to their nature from five cents per bottle of beer to ninety cents per bottle of champagne. Kerosene oil paid the usual 2 per cent goods tax and various levies, based on percentages of freight charges, when sent inland by rail. Chefoo, being in the same province, followed in the main the procedure in force at Tsingtao, except that the levies on native made cigarettes amounted to as much as, if not more than, the levies on foreign importations. From both these ports the surtax collection was remitted to the provincial authorities at Tsinanfu, where Marshal Chang Tsung-ch'ang saw to it that the harvest garnered in his province was likewise consumed there. In the two Chihli ports, Tientsin and Chinwangtao, the ordinary goods and luxury surtax rates were the same as in Shantung, and while there were special levies on wines and tobacco, kerosene oil was exempt from such, except at Tsingtao where it had to pay the Goods tax of 2 per cent *ad valorem*, and the Military, Merchandise, and Yellow River taxes when sent inland by rail. When the collection of surtaxes began at Tientsin the local Chinese authorities pledged the proceeds as security for a loan of $1,200,000 from the Tientsin Chinese Bankers' Association. In consequence the surtax collection was lodged with the leading banks daily. This loan was repaid in September 1927, when a second loan for a like amount was contracted, which was liquidated early in the following year. This example was followed in July 1928 by Mr. T. V. Soong, Minister of Finance of the Nationalist Government, who, as soon as the Northern militarists had been driven out, invited the Tientsin bankers and financiers to take up a loan of $9,000,000 at an issue price of 98 secured on the proceeds accruing from the

Tientsin surtaxes:[1] The surtax-collecting staff employed at these four Northern ports was approximately 90 all told, and the amount of surtax revenue in a year was about $5,000,000 of which $1,500,000 went to Shantung, while the special taxes amounted to roughly $9,300,000 of which $4,300,000 was Shantung's share. But it was not only the Northern ports that saw the commencement of surtax collecting in the month of February 1937. No fewer than ten ports in the areas under Kuomintang control opened surtax offices in this month, namely Ningpo, Amoy, Changsha and Wuhu on the 1st, Santuao and Foochow on the 7th, Ichang on the 14th, Yochow and Wenchow on the 15th, and Lungchow in far distant Kwangsi on the 24th. In methods of collecting and in the surtax rates on ordinary goods and on luxuries these ports followed the lines established elsewhere; but as usual the special taxes on wines, tobacco, and kerosene oil gave scope for variety. At Ningpo there was no fixed scale for the special taxes on wine, the contractor, on behalf of the local government obtaining as much as he could in each case. Cigarettes had to pay 22½ per cent on Customs valuation and kerosene oil the old rate of sixty cents per unit of ten gallons. At Amoy, wines had to pay 20 per cent and tobacco 50 per cent of their value, and kerosene oil one dollar per unit. The rates levied at Changsha varied from 10 to 20 per cent *ad valorem* on wines and tobacco, and one dollar per unit on kerosene oil. Wuhu charged 20 per cent on foreign cigarettes and tobacco, 22½ per cent on native cigarettes and tobacco, 30 per cent on wines, and one dollar per unit on kerosene oil. The special tax levies at Foochow were on wines 30 per cent of the sale price and on cigars and cigarettes 50 per cent of the sale price. Curiously enough at the nearby port of Santuao these articles were not subject to special taxation, but escaped with the simple luxury tax. At both ports kerosene oil paid the usual levy of one dollar per unit. The special tax rate at Ichang on foreign wines, cigars, and cigarettes was 12½ per cent, but native wines and tobacco paid specific rates according to their nature: in the case of cigarettes preferential rates were given to Chinese importers, the reduction running from 30 to 45 per cent. At Wenchow there was a detailed tariff of specific special tax rates on wines and tobacco, while kerosene oil imported by the Standard Oil Company, the Asiatic Petroleum Company, and the Texas Company paid the contract rates of sixty cents per unit, but one dollar when imported by other firms. The average annual collections made by these ten ports

[1] *China's Customs Revenue since the Revolution of 1911:* pp. 356-357

amounted approximately to $4,000,000 for surtaxes on ordinary goods and on luxuries, and to $9,000,000 for special taxes on wines, tobacco and kerosene oil. Not all of this went to the coffers of the Nationalist Government although all these ports were in areas supposed to be under the control of the Kuomintang. Amoy turned over its collections to the Naval Defence Commissioner of the Amoy and Changchow districts. Foochow and Santuao likewise remitted theirs to the local naval authorities. Changsha retained at first only a fixed percentage for local use, remitting the balance to the Ministry of Finance at Hankow, but when the Kuomintang authorities at Nanking broke with the extremists at Hankow, the entire surtax and special tax collection was taken possession of by the military authorities at Changsha. As was to be expected, Wuhu and Wenchow loyally remitted their collections to the Ministry of Finance at Nanking. The total collection at Ichang was appropriated locally by the Szechuan military authorities, while at Yochow, after the split between Hankow and Nanking, the Chinese gunboat *Kiang Chen* constituted itself custodian of this additional revenue. Lungchow, after meeting the exorbitant maintenance expenses of the establishment, was supposed to remit the balance to the Kwangsi Provincial Government at Nanning, but, if reports are true, these balances had a mysterious habit of disappearing while *en route*. By the end of February 1927 there remained fourteen ports unprovided with surtax collecting establishments, but these gaps were speedily filled. On the 1st March Wanhsien fell into line, on the 6th Shasi, on the 14th Szemao, on the 15th Chungking, on the 16th Aigun, and on the 24th Newchwang. The Japanese authorities at Dairen refused to allow any surtaxes to be levied there; but the two other leading ports in Manchuria, Harbin and Antung, began collecting the surtaxes in April, the former on the 1st and the latter on the 14th: Hangchow followed on the 25th of the same month. The months of May and June were blanks, except that Moukden—at which place regular Customs dues and duties were non-existent—was ordered to begin levying surtaxes on 1st June. Hunchun and Lungchingtsun began collecting on the 11th July, Tengyueh on the 1st September, while Mengtsz brought up the rear as late as November. At all of these ports the rates of the surtaxes on ordinary goods and on luxuries were precisely the same as those in force at other ports; but in the case of the Manchurian ports, Newchwang, Antung, Hunchun, Lungchingtsun, Moukden, Harbin, and Aigun, these rates were levied only on foreign imports, while at the

other ports in the areas under Kuomintang control, surtaxes of half the Customs rates were levied on Chinese imports and exports and on goods under transit pass. At the Manchurian ports kerosene oil was exempt from any special tax, except at Aigun where it paid sixty cents per case when moved coastwise or to or from the interior, but wines and tobacco were not exempt. At Newchwang and Antung these articles paid a special tax of 20 per cent *ad valorem*, at Lungchingtsun of 28 per cent, while at Harbin the special rates on tobacco ranged from 15 to 30 per cent, and on wines from five cents on a bottle of beer to thirty cents on a bottle of champagne. At Aigun the rates on wines were even lower, but that on tobacco was fixed at 20 per cent *ad valorem*. The surtax offices at Harbin and Aigun did not observe the one-third duty reduction for land frontier trade, but levied full rates. On the other hand, the Chinese Eastern Railway successfully maintained that articles for railway use, and articles on the special duty-free list if applied for by the railway agency, acting for consignees, should be exempt from surtax. In the south, at Antung, the Japanese authorities effectively prevented the levy of surtaxes within the boundaries of the Japanese settlement, so that goods imported by rail and consumed in the settlement or subsequently forwarded to the interior by rail, and steamer-borne cargo, if consigned to a Japanese firm and consumed in the settlement, were all exempt from surtax. It was only when such goods passed from the settlement into the Chinese town that the levy could be enforced. The surtax collections at Newchwang, Antung, Harbin, and Aigun were earmarked for the Peking Government, but those made at Moukden, Hunchun and Lungchingtsun went to the local authorities. These seven ports collected in all about $2,000,000 a year on the surtaxes and special taxes and of this, it is claimed, nine-tenths were remitted to Peking. The Chungking and Wanhsien special tax on imported wines, cigars and cigarettes was 20 per cent *ad valorem*, on native samshu 3 per cent, and on foreign-style wine made in China 15 per cent: kerosene oil paid the contract rate of sixty cents per unit. The same 20 per cent levy on wines and tobacco held good also at Hangchow, although for a time an attempt was made there to charge 50 per cent on cigarettes, both foreign and native. At the Yunnan ports of Tengyueh and Mengtsz there were no special taxes on wines, tobacco, and kerosene oil, the two former classes of merchandise simply paying the 5 per cent luxury rate. As Chungking and Wanhsien lay in the domain of the redoubtable General Yang Sen (楊森)

it is not surprising that so long as he was in power the proceeds of the surtaxes and special taxes from these two ports should flow into his treasury: when he was ousted, his successor became the residuary legatee. The Hangchow collection went to the Nanking Ministry of Finance, as did also that of Shasi, after authorized local appropriations had been deducted. At Szemao the Superintendent of Customs took care of the proceeds, while the local authorities at Tengyueh and Mengtsz did likewise for the collections made at these ports. The total average surtax revenue raised in a year at these last seven ports of Chungking, Wanhsien, Shasi, Hangchow, Szemao, Tengyueh, and Mengtsz was approximately $2,500,000, while the total annual average for special taxes was about $2,200,000. The total annual yield of the 2½ and 5 per cent surtaxes at ports in the area under Kuomintang control before the submission of the North was approximately $32,000,000, while the annual yield from the ports recognizing Peking was about $6,000,000. The special taxes on wine, tobacco, and kerosene oil, both in the Kuomintang and the Peking controlled areas brought in about as much as the surtaxes.

Progress of Kuomingtang army: Split between right and left wings of Kuomintang: Nanking Government's premature declaration of tariff autonomy: Expulsion of communists: Critical position of revenue and Customs Service: Officiating Inspector General suggests holding of a National Tariff Conference at Shanghai: Officiating Inspector General visits Shanghai and discusses suggested plan of procedure: Nanking militarists not in favour of such Conference.

§ 6. The Kuomintang and the northern militarists might be at war between themselves for the mastery of the country, but in the battle of the surtaxes they were allies. The spirit of resentment against foreign interference in China's domestic fiscal arrangements was shared by all classes who could voice an opinion, as was also the determination that at the earliest possible moment China should regain the right of deciding what tariffs she should enforce on her foreign and domestic trade. Thanks to the rising tide of nationalism, flowing at its full in 1927 and 1928, and the sympathetic attitude of some of the leading Powers this retrieval was, in spite of internal strife, appreciably nearer realization than in 1925. Skilful propaganda and intrigue turned the northern expedition of the Kuomintang army into a triumphal progress, and did more than mere force of arms to vanquish Generals Wu Pei-fu and Sun Ch'uan-fang, the overlords of the Yangtze valley. By the end of March 1927 the whole of that valley was in the hands of the Nationalists, and it was then that the struggle for power within the

Kuomintang came to a head. To the confusion of the left wing communist element, and of their Russian advisers the carefully staged mob violence at Hankow on 3rd January, 1927, and the no less carefully planned anti-foreign outburst at Nanking on the 24th March failed of their object, namely the provoking of the foreign Powers into armed intervention. Both left and right wings had treaty revision and the restoration of tariff autonomy on their programmes; but the right hoped to gain their end by unifying the country without rousing the antagonism of the foreign Powers, as such antagonism might easily mean the sacrificing of financial facilities at Shanghai. They needed the revolutionary fervour of the masses, but they wanted it as servant not as master, as at heart they were not communists, but nationalists who wished to stabilize the revolution on a conservative basis. The left wing, on the other hand, were out to die in the last ditch in the fight against imperialism and the bourgeoisie. They would have no compromise. Their purpose was to fan the flames, if possible to provoke the foreign Powers into armed intervention and in the resultant confusion to stir up an elemental mass uprising. Hence the Nanking incident of March 1927, the official enquiry on which revealed that the attack had been directed solely against foreigners and that there had been no general sack of the city. A terrorist campaign in Shanghai under the direction of the communist General Labour Union was, after bitter street fighting, eventually crushed by General Chiang K'ai-shek. In the meantime, the left wing had seized control of the Nationalist Government at Hankow, whither at the beginning of the year, it had been moved from Canton. General Chiang turned the tables by setting up in April at Nanking a right wing Government, which by its moderation and consideration for foreign interests did its utmost to secure the goodwill of the Powers. It was, however, guilty of a tactical blunder when on the 20th July, 1927, it published a formal announcement declaring that as the existing Customs tariff was the child of unequal treaties, and incompatible with the nation's sovereignty, tariff autonomy would be enforced on 1st September "as an initial measure towards securing an equal status in the family of nations."[1] At the same time the Provisional Law on the National Import Tariff[2] was promulgated to be effective from 1st September. By the terms of this law the import duty on ordinary goods was

[1] *China Year Book*, 1928: p. 1068.
[2] *Ibid.* pp. 1069-1072.

increased from five to twelve and a half per cent *ad valorem*, while luxuries, according to classification were to pay fifteen or twenty-five per cent in addition to the five per cent treaty levy. Alcoholic liquors and tobacco were put in a class by themselves, the rate for which was fixed at fifty-seven and a half per cent in addition to the treaty tariff rate. Another law, promulgated at the same time, ordained that in the six provinces of Kiangsu, Anhui, Chekiang, Fukien, Kwangtung, and Kwangsi *likin*, transit dues, coast trade duty, all Native Customs levies, and *lo-ti-shui* were to be abolished, while a third law stipulated that excise was to be levied on all home-made manufactures, the rates to correspond to the new import duties leviable on similar articles brought in from foreign countries. These laws, however, never became effective. Internal dissension within the Nanking Government led on the 12th August to the temporary resignation of General Chiang Kai-shek, whose example was quickly followed by an influential group of elder statesmen. By the end of the month General Sun Ch'uan-fang was bombarding Nanking from Pukow. Threatened thus externally and internally there was little likelihood that the Nanking Government would be able to enforce its new tariff law on the date specified. In fact, on the 8th August, the Japanese Minister, Mr. Yoshizawa, had personally informed both General Chiang and Dr. C. C. Wu, the Minister for Foreign Affairs, that if the levy of the new surtax rates were attempted his Government would be obliged to take adequate counter measures. Then came the unsuccessful attempt, already described,[1] of the Stamp Tax Bureau of Kiangsu to levy the increased rates on consignments of imported wines and liquors, and the adverse decisions of the foreign law courts in which the cases were tried. The Nanking Government had the good sense to admit that the attempt was premature, and on 1st September issued a proclamation announcing that while its determination to enforce tariff autonomy remained unchanged, internal conditions of the country made it advisable to postpone the enforcement of the three fiscal laws promulgated on the 20th July.[2] The Nationalists were now convinced that if ever their policy of treaty and tariff revision were to be carried out, there must be an end not only to a divided China but also to the disunity within their ranks. By negotiations and numerous conferences a unification of the moderates and conservatives was evolved, the net result of which—effected

[1] *Antea*, Chap. VII, §4; pp. 614-615.
[2] *China Year Book*, 1928: p. 1076.

while the struggle against Chang Tso-lin was still in progress—was the overthrow of the communists, who were for a time driven into the mountain fastnesses of Kiangsi, and the expulsion of the Russian advisers, which latter event was hastened by the raid made by Marshal Chang's orders on premises attached to the Russian Embassy at Peking, and the discovery there of documents which went to show that Moscow was then giving official support to the communist movement in China. All this political unrest with Chinese armies marching hither and thither in continuous conflict, and with foreign armed forces in occupation of Shanghai, had a disastrous effect on China's foreign trade during the year 1927; but what had an equally, if not more, restrictive influence was the uncertainty of duty treatment engendered by the nation-wide spread, under rival governments, of the collecting of surtaxes and special taxes. To the uncertainties of exchange was now added the infinitely more upsetting uncertainty of trade taxation. The result was a Customs revenue for the year ten million Haikwan taels lower than the year preceding. The year's collection was, in fact, barely sufficient to cover costs of maintenance, meet the service of the foreign obligations secured on the Customs revenue, and provide, by dint of much scraping and readjustments, the barest minimum to cover interest charges on the domestic loans then existing, redemption payments having to be postponed. An additional difficulty was the ambiguity of the position of the Customs Service with its headquarters in Peking, its chief a nominee of the Northern Government, its staff functioning at all open ports whether in the area controlled by the Kuomintang or in the region of the northern militarists, and collecting revenue to be used mainly for the service of obligations, both foreign and domestic, contracted by the Peking Government in the days when it was the only recognized Government in the country. A false step either by the Inspectorate at Peking or by a Commissioner at any of the principal ports in the Kuomintang area might easily have precipitated a crisis, and brought about disruption of the Service, and the destruction of that uniform system of trade control, built up under a highly centralized organization, and standing as a safeguard for equality of treatment to the merchants of all nations. In these circumstances the outlook for the future both of the Customs Service and of foreign trade in China was not reassuring. To meet the emergency, the Officiating Inspector General, Mr. A. H. F. Edwardes, in September 1927 submitted to the Shui-wu Ch'u a memorandum in which, after

pointing out the chaotic tariff conditions obtaining and the great injury this and the prevailing unrest were causing to the economic life of the country, he suggested that as China had the right to compile her own tariff, and that as such a tariff to be acceptable should be drawn up by the representatives of the nation as a whole, a national tariff conference should be held at Shanghai consisting of representatives from each of the Governments functioning in China for the purpose of compiling—in a purely non-party spirit—China's first National Tariff. In the task of getting together such a conference, and of providing it with whatever information or assistance it might require the Officiating Inspector General offered his services. He urged the necessity of haste if tariff autonomy was to come into force on 1st January 1929, and expressed the opinion that once the National Tariff was compiled it should be used as a means of obtaining *quid pro quo* arrangements with the various Powers. To carry out such negotiations with the Powers, in the absence of a single Government speaking for the whole country, it was suggested that as the tariff conference was to be composed of duly accredited representatives from all the governments functioning in China, it might be endowed with the rights and powers of a united foreign affairs commission so far as the tariff and its allied questions were concerned. The proposed arrangement was unusual, but the settlement of the tariff question was essential to the welfare of China, and of vital interest to all the Powers having trade relations with China. At the same time the Officiating Inspector General recommended that the resumption of tariff autonomy should be approached by stages, the first being agreement by the Powers that the 2½ per cent surtax should be collected by the Maritime Customs administration which, so long as China was disunited, should turn over the proceeds of such collection regularly to the Superintendent of each port concerned, to be at the disposal of his superior authorities. As soon as this procedure was firmly established, the Powers should be requested to approve the levy of an import duty of 12½ per cent *ad valorem*, a proposal subsequently changed to the levy of the interim surtaxes according to the schedule recommended in March 1926 at the Peking Tariff Conference by the representatives of the United States of America, Great Britain, and Japan, such surtaxes to remain in force till the National Tariff had been completed and promulgated. On the assumption that China still remained disunited, the Officiating Inspector General suggested that the balance

remaining of the revenue collected by these interim surtaxes should, after all first charges and foreign obligations had been met, be dealt with on the same principle as that suggested for the proceeds of the general 2½ per cent surtax, which would naturally be abrogated on the introduction of the interim surtaxes. This memorandum, which was merely a suggestive outline put forward with the object of persuading the Governments of Peking and Nanking to cooperate on a non-political basis with a view to regaining tariff autonomy, was sympathetically received both by the Shui-wu Ch'u in Peking and by the representatives of the Nanking Government to whom it was submitted through the Nanking Commissioner and Mr. Chang Kia-ngau, then Governor of the Bank of China. With the approval of the Peking authorities, the Officiating Inspector General visited Shanghai in September 1927 and again in February 1928, and discussed this proposed conference with Mr. T. V. Soong, Minister of Finance for the Nanking Government, and with other representatives of that Government. During the preliminary discussions the proposal underwent various modifications, but by January 1928 it had assumed the following form:— (1) The various regional governments exercising jurisdiction in China were to agree to appoint fully accredited representatives to meet at Shanghai for the sole purpose of discussing China's tariff policy and of coming to an agreement on what China's National Tariff should be; (2) This national tariff conference was to be composed entirely of Chinese delegates, but in order to avoid misunderstandings, and save much future discussion, the Powers interested were to let it be known that they were prepared to assist the conference by supplying any information that might be required, and, if need be, by appointing experts, not to negotiate with the conference but solely to discuss tariff questions with it; (3) As soon as the national tariff conference had been duly constituted, the Powers were to be requested to issue a joint declaration stating that so long as the conference was in session and until such time as the national tariff should be agreed upon by all parties, the interim scale of import duties recommended in March 1926 by America, Japan, and Great Britain should be put into operation, on the understanding (*a*) that these increased import duties should be collected solely by the Maritime Customs Service, (*b*) that the surtaxes being collected by rival governments should cease with the levy of the interim duties specified above, (*c*) that export, coast trade duties, and transit dues were to be left unchanged during the levy of the interim

duties, (*d*) that after deduction of maintenance expenses of the Customs administration and of the funds required for the service of the foreign and the domestic loans then charged on the Customs revenue, a fixed proportion of the revenue collected at each port, based on the amounts realized by the operation of the irregular surtaxes, be handed over at the close of each month to the local authorities at each port, and (*e*) that the remaining surplus, up to a limit of say Hk. Tls. 10,000,000, be turned over to an international commission of bankers in Shanghai, to be held on trust for the redemption of China's unsecured obligations; should the surplus exceed Hk. Tls. 10,000,000 any balance above that sum was to be divided *pro rata* among the local port authorities; (4) On the completion and acceptance of the national tariff by all delegates, the conference was then as a duly accredited body, representing a united China in this matter and empowered to negotiate on it, to present the completed draft to the Powers and declare its readiness to enter into negotiations regarding any changes that might be desired, so that China might be in a position to conclude with each Power a new and strictly commercial treaty, embodying the agreements come to on the terms of this national tariff and its working; (5) The concluding of this new series of commercial, or tariff, treaties, would mark the restoration of tariff autonomy to China, and as such restoration would make it possible for her to get rid of the burden of unpaid foreign debt, which impaired her credit and hindered her economic development, it was suggested that it should be agreed:—(*a*) that the existing system of entrusting the Inspector General of Customs with the duty of collecting and disposing of the revenue, according to prescribed limitations, be for the time being continued; (*b*) that after deduction of the usual allowances for the upkeep of the Service, the first charge upon the revenue accruing from the enforcement of the new national tariff should be the service of the foreign loans and of the Boxer Indemnity, and that such service should be conducted as far as necessary upon existing lines; (*c*) that those domestic loans, recognized by all parties as a legitimate charge on Customs revenue, continue to be served from that revenue after the obligations specified above had been fully met, but that no further domestic loans be added to the category of those then being served by the Inspector General; (*d*) that a fixed sum of say Hk. Tls. 10,000,000 a year for the first five years be handed to an international bankers' commission, which should be strengthened by the addition of some of the larger Chinese banking

institutions, for the sinking fund of China's unsecured foreign debts, on the understanding that this sum should be *pro rata* increased with the retirement of foreign loans then secured on the revenue, or with a large growth in the revenue collected; and (*e*) that all available surplus after the foregoing disbursements had been made should be divided *pro rata* at the close of each month among the local authorities at the ports of collection. This conference was never held. The Kuomintang militarists of the Nanking Government viewed the proposal with suspicion. Why, they argued, should the Kuomintang bind themselves by an agreement with Peking, even on a purely economic question such as the tariff, when in a few months time they would be in Peking itself, and in a position to dictate without any conference agreement what the first national tariff should be. The proposed plan was built on the hypothesis of the continuance of a disunited China, and that was a hypothesis they would not admit. They intended to control the Customs, surtax, and other revenues collected in the whole of China, and in the meantime they were in enjoyment of a goodly share of such revenues. They were not going to declare themselves satisfied with a part when they meant to control all. The proposed tariff conference accordingly remained an unfulfilled hope; but the making and discussion of the proposal were not without effect. It had shown clearly that the Customs Service above all things desired to promote the welfare of China as a whole, and in doing this to stand outside politics. It brought the Officiating Inspector General into unofficial but friendly personal contact with some of the leaders of the Nanking Government, and thus helped to dispel suspicion, encourage confidence, and ensure the continued integrity of the Customs Service. It also emphasized the importance of the tariff question for China, and many of the points brought out in the discussions held were of value later on when the Government of united China came to devise its first national tariff. One of the immediate results of the reawakened interest in the question of China's tariff autonomy was the revival of the committee which had been formed by the Chinese delegation after the breakup of the Peking Tariff Conference. This committee met on 5th February 1928 to discuss the issues raised by the Officiating Inspector General's memorandum, when on the expert advice of Dr. Wellington Koo and Mr. Liang Shih-yi the attitude of the committee to the proposals of the memorandum was declared as favourable. Exactly a month later, 5th March, when it was known that the proposed tariff conference would not come off on

account of the opposition of the Kuomintang militarists, Marshal Chang Tso-lin issued a mandate[1] calling attention to the importance of tariff autonomy, recalling the resolution passed at the Peking Tariff Conference that tariff autonomy should be restored to China on 1st January 1929, pointing out the necessity of having everything in readiness before that date, and ordering the appointment of a tariff autonomy commission to devise all requisite measures. From the fact that this mandate made no mention of the intended abolition of *likin* the inference was clear that so far as the Peking authorities were concerned, they were determined to draw up and, if possible, enforce a statutory tariff independently of any subsequent action regarding *likin*. A second mandate of the same date gives the names of the thirteen members of the commission. The absence of any reference to *likin* in the above mandate raised considerable apprehension. The legalists among the foreign diplomats claimed that the resolution, passed at the Peking Tariff Conference, restoring tariff autonomy to China on 1st January 1929, was conditional on China's abolition of *likin*, that in any case the Peking Tariff Conference would have to be reconvened in order that these tariff autonomy and *likin* clauses might be embodied in a treaty to be drawn up by that Conference, and that this treaty would have to be ratified by all parties before China could take the step now contemplated. Many Chinese, however, held that the sympathy already expressed by some of the leading Powers towards China in the matter of the surtaxes was a sure sign that when the time came there would be no concerted and strong opposition to the resumption of tariff autonomy. It was this opinion which finally prevailed. Not to be outdone by their northern rivals the Nationalist Government at Nanking issued on the 14th March 1928 a set of regulations[2] governing the organization and defining the duties of the National Tariff Committee to be set up by the Nationalist Government. This Committee consisted of the Ministers of Finance, Foreign Affairs, Industry and Commerce, Communications, and the directors of the Customs Administration and of the Audit Department. Three sections were to be arranged by this Committee: the first was to draw up, and when need be revise, the National Tariff schedule, the second was to take charge of the reorganization of the domestic loans, and of the abolition of *likin*, while the third was to concern itself with tariff policy, deposit of

[1] N.C.H. 10th March, 1928; p. 379.
[2] N.C.H. 17th March; 1928: p. 421.

the Customs revenue and all questions regarding the organization and regulations of the Customs. The committee was empowered to consult foreign experts; but no resolution of the committee was to be carried out without the approval of the Government.

Downfall of Peking Government: National Government established at Nanking: Tariff autonomy agreement of 25th July 1928 between China and the United States: Agreements with Germany and other Powers: British agreement's stipulation regarding rates of first national tariff: Abolition of special land frontier rates: Tariff autonomy agreement with Japan: Special rates on certain goods for three years.

§ 7. But tariff autonomy was not to come by way of conferences and commissions. They had done their work. The subject had been discussed and debated till there was nothing new to be said about it. What was now wanted was opportunity and action. Both came. By the end of 1927 the struggle for power within the Kuomintang had been decisively settled in favour of the right wing so that the campaign against the North could be taken up with fresh vigour. In the late spring of the following year, the Kuomintang army under General Chiang Kai-shek had been obliged by Japanese armed intervention at Tsinan and Tsingtao to withdraw from Shantung, and to abandon their planned march on Peking. That gave the northern government a brief respite but could not avert its final doom. General Feng Yu-hsiang who held the provinces of Honan, Shensi, and Kansu and General Yen Hsi-shan, who governed the province of Shansi, having acknowledged allegiance to Nanking, closed in on Peking from the south and the west. Marshal Chang Tso-lin might have stood his ground and fought them to a finish, but he decided that withdrawal would pay him better, more particularly as the Japanese Government had formally notified both him and the Nanking authorities that if disorder spread to Manchuria, Japan might be obliged to take steps for the preservation of peace and order in that region. He accordingly withdrew to Moukden, but as his train was passing under the bridge at the crossing of the Peking-Moukden and the South Manchuria lines, the car in which he was travelling was mysteriously bombed, and his colourful career brought to a sudden close. A few days later, on the 8th June, the troops of General Yen Hsi-shan marched into Peking, and with their coming the legitimacy, which the Peking Government had enjoyed for centuries, passed to the Nationalists. The victors, however, being distrustful of the Peking atmosphere and traditions, decided not to move their

seat of government from Nanking, which from now was to be the capital of the whole country. The Peking Wai-chiao Pu was closed, the archives removed, and the conduct of China's foreign affairs taken over by the Nationalist Government at Nanking. The Ministry of Foreign Affairs of that Government soon had its hands full. On 16th June the Government issued a declaration that the time had now come for new treaties to be negotiated, in accordance with diplomatic procedure, on the basis of complete equality, and with full recognition of each party's sovereignty.[1] Three weeks later, the Minister of Foreign Affairs issued an official notification that all unequal treaties between China and other countries which had expired were to be considered as abrogated, and that until new treaties were negotiated in their place, nationals of the countries concerned were to come under interim regulations,[2] by which the privileges of extra-territoriality were wiped out; but which accorded to such nationals the privilege of the existing tariff rates until the National Tariff Schedule should be enforced. Copies of these interim regulations were sent to the representatives of Belgium, Spain, Portugal, Italy, Denmark, and Japan. Trouble ensued. The Japanese Government was not averse from negotiations for the revision of existing treaties but they flatly refused to accept the Chinese interpretation of the 26th article of their 1896 treaty, and warned China that any attempt to enforce the interim regulations against Japanese subjects would be regarded as a breach of international usage, and "an outrageous act disregarding good faith between the nations."[3] In spite of this rebuff the Nationalist authorities were able to strengthen their position *vis-a-vis* other Governments. The United States of America led the way. Already in June 1928 Mr. Kellogg, then American Secretary of State, held conversations with Dr. C. C. Wu, Chinese Minister to Washington, on the subject of tariff autonomy, and these conversations prepared the way for the dramatic conclusion on the 25th July at Peking of an agreement between the United States and China by which tariff autonomy, subject to the restrictions of the most favoured nation clause, was restored to China, so far as America was concerned. This agreement was signed by Mr. J. van A. MacMurray, the American Minister, and Mr. T. V. Soong, the Chinese Minister

[1] *Chinese Social and Political Science Review*: Vol. XII, 1928, Supp. pp. 47-48.

[2] *China Year Book*, 1929-1930, p. 824.

[3] *China Year Book*, 1929-1930, pp. 835-837.

of Finance, who had come expressly to Peking to effect this, and to carry out other arrangements necessitated by the change of governments. The agreement, consisting of only two articles, stipulated that "all provisions which appear in treaties hitherto concluded and in force between the United States of America and China relating to rates of duty on imports and exports of merchandise, drawbacks, transit dues, and tonnage dues in China shall be annulled and become inoperative, and the principle of complete national tariff autonomy shall apply subject, however, to the condition that each of the High Contracting Parties shall enjoy in the territories of the other with respect to the above specified, and any related matters, treatment in no way discriminatory as compared with the treatment accorded to any other country:" and that "the nationals of neither of the High Contracting Parties shall be compelled under any pretext whatever to pay within the territories of the other Party any duties, internal charges or taxes upon their importations and exportations other or higher than those paid by nationals of the country, or by nationals of any other country."[1] The agreement was to become effective on 1st January 1929, subject to the exchange of the necessary ratifications by that date. Ratifications were not actually exchanged till 20th February that year; but this did not prevent the enforcement on the 1st February of the National Government's new import tariff,[2] the first since 1843 to be drawn up by the Chinese authorities themselves without interference or dictation from foreign Powers. The signing of this agreement was an epoch-making event in China's foreign relations. It is true that in certain quarters America's liberal and far-sighted action roused criticism and resentment; but there can be no doubt that it shattered the old international bloc, and gave heart of grace both to China and to those nations in treaty relations with China which had been waiting for a definite lead from one of the greater Powers. The first to follow America's lead was Germany, who on the 17th August, in the person of her Minister, Dr. von Borch, signed with Dr. C. T. Wang, a treaty "to extend and facilitate the commercial relations between the two countries." By this instrument it was agreed that "in all Customs and related matters, either of the High Contracting Parties shall not, within the territories of the other Party be subject to any discriminatory treatment as compared with the treatment accorded to any other country." Each party

[1] C.A.: I.G. Circ. No. 3878.
[2] C.A.: I.G. Circ. No. 3854.

guaranteed the other most favoured nation treatment in regard to the payment of duties, internal charges and taxes on the importation and exportation of goods. The article in the Sino-German agreement of the 20th May 1921 by which German imports were to pay duties "in accordance with the General Tariff Regulations prior to the general application of the autonomous Tariff Regulations" was cancelled, and the two parties agreed that a treaty of commerce and navigation on the basis of complete equality should be drawn up as soon as possible. Those were the only two tariff agreements contracted with the Nationalist Government before the promulgation on the 4th October 1928 of the Organic Law, which is the constitutional basis of the Five Power system of government.[1] After this, tariff agreements with other countries came thick and fast; in November three more were signed, and in December no fewer than seven. The dates and countries concerned were as follows: in November, Norway on the 12th, Belgium and Luxembourg on the 22nd, and Italy on the 27th; in December, Denmark on the 12th, the Netherlands and Portugal on the 19th, Sweden and Great Britain on the 20th, France on the 22nd and Spain on the 27th.[2] In the cases of Belgium, Italy, Denmark, Portugal, and Spain these tariff agreements were entitled preliminary treaties of comity and commerce, thus indicating that the main treaties hitherto contracted with these States were regarded as lapsed, and that further treaties of comity and commerce were to be negotiated later. The wording of these preliminary treaties differed also from that followed in all those that were modelled on the lines of the American treaty. As regards Customs and all related matters, they agreed that the two parties stood on a footing of perfect equality, each being free to regulate such matters exclusively by its own national laws, subject only to the condition that neither party should receive in the territory of the other treatment less favourable than that accorded to any other country. To this stipulation was added the usual declaration, common to all the tariff agreements made at this time, that the nationals of each of the High Contracting Parties should not "be compelled under any pretext whatever to pay within the territories of the other Party any duties, internal charges, or taxes upon the importation or exportation of goods

[1] *China Critic;* 25th October, 1929. *Treaties and Agreements with and concerning China, 1919-1929;* pp. 233-237.

[2] C.A.: I.G. Circ. No. 3878. *Treaties and Agreements with and concerning China, 1919-1929;* pp. 237-273.

other or higher than those paid by the nationals of the country, or by the nationals of any other country." There were two points, however, in which these preliminary treaties differed materially from the other tariff agreements; the one was the inclusion of a clause stating that the nationals of each of the High Contracting Parties should "be subject in the territory of the other Party to the laws and jurisdiction of the law courts of that Party," and the other was the stipulation that as soon as possible negotiations should be commenced "for the purpose of concluding a treaty of commerce and navigation based on the principles of absolute equality . . . and mutual respect for sovereignty. After the Netherlands on the 19th December and Sweden on the 20th had signed their tariff agreements, both of which were drawn on the American model, the turn came for Great Britain, and in her case the contract took a form differing in certain respects from any of the others. The article abrogating provisions in existing treaties which limited in any way the right of China to settle her national Customs tariff without pressure from others, avoided particulars and was a general statement of the restoration to China of complete tariff autonomy. In view of the preponderance of British shipping frequenting Chinese waters a special clause stipulated that China should be free to impose tonnage dues at such rates as she might think fit, and in this matter the principles of reciprocity and most favoured nation treatment were also to apply. Almost of equal importance with the treaty itself were the annexes to it in the form of exchanges of notes. By these notes Great Britain assured China that the terms of the treaty regarding tariff autonomy and tonnage dues held good also for all the States composing the British Empire, while China confirmed the correctness of the British Minister's understanding that "the *ad valorem* rates of duty, or the specific rates based thereon in the National Customs Tariff to be adopted by the National Government are the same as the rates which were discussed, and formally agreed upon, at the Tariff Conference of 1926, and that these are the maximum rates to be levied on British goods: furthermore, that these will remain the maximum rates on such goods for a period of at least one year from the date of enforcement of the tariff." The Chinese Government also confirmed the terms of their proclamation of the 20th July 1927 announcing that it was the intention of the National Government "that goods having once paid import duty to the Maritime Customs in accordance with the rates imposed in the new, or any sub-

sequent, national tariff will be freed as soon as possible from any levies of the nature specified in the above-mentioned proclamation," such levies being *likin*, Native Customs dues, transit dues, coast trade duty and similar taxes on imported goods, whether levied in transit or at destination. Finally, the Chinese Government declared that it was their intention "to apply the new Customs tariff uniformly on all land and sea frontiers of China," and that from the date of the coming into force of the new tariff "the preferential rates at present levied on goods imported or exported by land frontier will accordingly be abolished." Appended to the French agreement was a list of Chinese products—including silk, and silk piece goods, tea, and certain spices—on which the French Government agreed to continue to apply the minimum French tariff. The hope was expressed by the French Minister that China would abolish *likin*, and effectively prevent the establishment of new provincial taxes designed to replace *likin*. He also suggested that it would be advantageous to devote part of the additional receipts, accruing from the increased tariff, to the service of loans, advanced by French firms, now in arrears. Regarding the reduced duty rates on the Indo-Chine land frontier trade the Chinese Government notified the French Minister that such duties would cease to be enforced on 31st March 1929, even if on that date the negotiations for the conclusion of the proposed new convention had not yet been completed.[1] By the end of 1928 the only Power

[1] The duty reduction privilege for trade across the China/Russia frontier was ordered to be abolished by the Chinese Government from the 1st April, 1922, both for foreign goods imported from Russia and for Chinese goods exported to Russia. (*vide* I.G. Circ No 3252) This order, however, could not be carried out, as other nations had, under the most favoured nation clause, been enjoying this privilege of duty reduction on the trade across the China/Russia land frontier On the conclusion of the tariff relations treaties in 1928 and the subsequent introduction of the National Import Tariff of 1929, the Chinese Government ordered the privilege of frontier trade duty reduction to be withdrawn on the China/Russia, the China/Corea, the China/Burma, and the China/Indo-Chine frontiers For the first three frontiers the date of expiry was fixed as the 1st February, 1929, and for the China/Indo-Chine frontier the 31st March, 1929 Protests against the withdrawal of the privilege on the China/Russia frontier were lodged by the French and the Danish Consuls at Harbin. Protests were also filed by the local Japanese Consuls against the withdrawal of the reduced duty privilege for the trade across the China/Corea frontier, the Consuls at Antung even going so far as to threaten to use force in preventing the withdrawal of the privilege It was not, therefore, until the 6th September, 1930 that, in accordance with the terms of Annex II, attached to the tariff relations agreement of May 1930 between China and Japan, that this duty reduction privilege on the China/Corea land frontier finally ceased. (*vide* I G Circ. No 4089). On the China/Burma and the China/Indo-Chine frontier the reduced duty privileges definitely ceased in May 1929.

which had not entered into a tariff agreement was Japan, and as there were several important issues still unsettled between the two Governments—notably the Tsinan, Hankow, and Nanking incidents, unsecured loans held by Japanese nationals, and the expired commercial treaty of 1896—and as Dr. C. T. Wang demanded the withdrawal of Japanese troops from Tsinan as a prior condition to the beginning of any formal negotiations whatever, it looked as if at the last moment the ripe fruit of tariff autonomy would be snatched from China's hands. Mr. T. V. Soong, however, had conversations with Mr. S. Yada, the Japanese Consul-General at Shanghai, on the subject of a tariff agreement, the result of which was that the Japanese Government announced their willingness (1) to agree to the enforcement of the new tariff law on the condition that from the increased revenue provision would be made for the service of Japanese unsecured loans, and (2) to restore full tariff autonomy on the liquidation of outstanding issues. For a time it looked as if the Chinese Government would proceed with the enforcement of the new tariff without Japan's consent, a procedure which would have engendered much confusion and resentment, and which might have ended in complete failure if any of the other Powers had insisted on most favoured nation treatment. On the 7th December an official notification had been issued announcing that the new tariff would become operative on the 1st February 1929, and on the following day a copy of the new tariff schedule was sent to each of the foreign Consuls in Shanghai. Mr. Yada at first declined to receive this document, but was later persuaded to transmit it to his Government. After some hesitation the Japanese Government decided to withdraw their opposition, one of the deciding factors being that the State Council at Nanking had just announced that $5,000,000 a year would be set aside from the increased Customs revenue for the service of unsecured or badly secured loans, in which category the obligations to Japan were included. The removal of this final barrier enabled the new tariff to come into operation on the 1st February 1929.[1] Japan, however, had not yet given her full and formal consent to the restoration of tariff autonomy to China. The obstacles cited above had not yet been removed. In the meantime, Japan was beginning to feel the pressure of isolation, as all the other Powers in treaty relations with China had entered into tariff agreements. The revival,

[1] C.A.: I.G. Circ. No. 3854.

too, of the boycott in China against Japanese goods was causing economic stagnation in Japan, while the action of General Chang Hsueh-liang in proclaiming on the 29th December 1928 his allegiance to the Nanking Government and in hoisting the new National flag had roused grave misgivings in the minds of the Japanese.[1] The Tsinan incident was finally settled on the 28th March 1929[2] and the Nanking and Hankow incidents on 2nd May 1920.[3] This cleared the ground for discussion of a tariff agreement, but progress was delayed on account of China's refusal to withdraw her contention that the commercial treaty of 1896 with Japan had lapsed. Ministerial changes delayed matters still further, so that it was not until the 6th May 1930 that the tariff agreement with Japan was finally signed at Nanking by Dr. C. T. Wang and Mr. Shigemitsu.[4] The two parties agreed that all matters relating to rates of duty on the import and the export of articles, drawbacks, transit dues, and tonnage dues should be regulated exclusively by the laws of each country concerned. They also agreed to extend to each other reciprocal most favoured nation treatment with regard to Customs dues and duties and all matters connected therewith. The various stipulations contained in the agreement itself as well as in the annexed notes were to be incorporated in a treaty of commerce and navigation which was to be concluded as soon as possible. By the exchange of notes forming the first annex the Chinese Government agreed to maintain for a period of three years the rates of import duty specified in the tariff schedule of 1929 on certain enumerated types of cotton goods, fishery and sea products, and wheat flour, and for one year on certain miscellaneous goods, all produced or manufactured in the territories of Japan, subject to a reservation made by China of her right to increase existing rates on certain of these articles by not more than two and a half per cent *ad valorem*. A similar reservation was made at the same time in regard to the consolidated tax on imported cotton yarn. As a *quid pro quo* the Japanese Government agreed that during the corresponding three year period there would be no increase in the prevailing rates on grasscloth, silk piece goods, and embroidered tissues imported into Japan from China. On the last two items Japan consented to a reduction in China's favour of thirty per cent off the existing rates. By

[1] N.C.H. 5th January, 1929.
[2] *China Year Book*, 1929-1930; p. 892.
[3] *Ibid.* pp. 900-902.
[4] C.A.: I.G. Circ. No. 4089.

the second annex it was agreed that the reduced duty rates in force for the trade across the land frontiers of Corea and Manchuria should cease after four months from the coming into force of the treaty, and that thereafter such trade should pay the full rates of the new tariff. By the third annex Dr. Wang confirmed Mr. Shigemitsu's understanding that the Chinese Government intended to abolish as soon as possible *likin*, Native Customs duties, transit dues, and coast trade duty, and stated that a mandate had already been issued to this effect. Finally, in the exchange of notes forming the fourth annex Dr. Wang informed Mr. Shigemitsu, in reply to his representations regarding China's unsecured indebtedness to Japan, that the Chinese Government had already commenced to set aside the sum of $5,000,000 each year from the Customs revenue for the service of unsecured, or badly secured, loans, domestic and foreign, and that a conference would be held early in October to devise an adequate plan for the consolidation of such loans.

Import tariff of 1929 based on interim surtaxes proposed at Peking Conference: Abolition of surtax bureaux.

§ 8. The rates of the new National Tariff put into force on the 1st February 1929 were in the main based on the table of proposed interim surtaxes, submitted on the 25th March 1926 by the American, the British, and the Japanese delegations at the Peking Tariff Conference; that is to say, the suggested surtaxes of 2½, 5, 7½, 10, 12½, 17½, and 22½ per cent were added to the rates of the existing (1922) tariff on the goods listed in these seven classes, thus giving new rates ranging from 7½ to 27½ per cent. There were, however, certain exceptions to the general rule, notably cigarettes, on which the import duty was raised from 5 to only 7½ per cent instead of to 27½ per cent as suggested in the interim surtax table, and tobacco leaf and stalk on which the duties were simply doubled instead of being raised to the 22½ per cent of the interim surtax table. The reason for this was that at the close of 1928 the Government had instituted a Tobacco Tax Bureau, one of the objects of which was to levy a special additional tax of 32½ per cent *ad valorem* on all imported cigars and cigarettes. Other exceptions were kerosene oil, gasolene, naptha, and benzine the import duties on which were raised from 5 to 7½ per cent instead of to the 12½ per cent suggested by the interim surtax table, the reason for this being that these goods were also subject to a special tax of one

dollar per tariff unit of ten gallons. The new tariff was not made applicable to inward transit dues which continued to be levied in accordance with the revised import tariff of 1922. The same held good also for such levies as wharfage and conservancy dues, and all charges of a similar nature, the collection of which by the Customs had previously received the sanction of the Central Government; such levies were to continue to be based on the rates of the old five per cent tariff.[1] With the introduction of the new National Tariff the Government decreed that all surtax bureaux, which had now served their purpose, were to close and were to hand over their archives and documents to the Maritime Customs. Although the 2½ and the 5 per cent surtaxes were now abolished as well as the surtaxes on inward and outward transit dues, the Government decided to levy a 2½ per cent surtax on exports abroad, and a surtax of 1¼ per cent, or half the current rate, on native goods carried coastwise. Chinese factory products also were to pay a 2½ per cent surtax, while goods passing through the Native Customs under Maritime Customs control were to pay a surtax of one half of the duty leviable according to existing tariffs; but such goods having once paid this levy were to be exempt from all further charge.[2] It was also stipulated that goods which had been exempt from surtax should continue to enjoy that exemption. With reductions of duty on certain chemicals such as ammonia, refined borax, sulphate of copper, and various forms of soda—all of which were made early in February 1929—this tariff remained in force till the 1st February 1930, when the Customs gold unit was introduced and the rates then in force converted to a gold basis, the general effect of which was to raise these rates roughly seven per cent from the 1st February and twenty-five per cent from the 16th March.[3] In the meantime the new tariff order called for reconsideration of, and action on, old tariff problems, as well as for the devising of new and necessary methods in tariff administration. Among such readjustments were the renewal of negotiations with the Hongkong Government with a view to effecting a Customs agreement; the creation of the tariff secretariat at the Inspectorate of Customs; the revision of the tariff rules, especially of rule 1; and the establishing of a Tariff Board of Enquiry and Appeal.

[1] C.A.: I.G. Circ. No. 3867.
[2] C.A.: I.G. Circ. No. 3854.
[3] *Finance and Commerce*; 22nd January, 1930; p. 9.

Revived smuggling: New tariff stimulates discussion in 1929 on, and revised draft of, Customs Agreement with Hongkong: Chinese Government rejects agreement on account of inland waters clause: New proposals submitted by the Inspectorate in 1930, accepted by Hongkong but rejected by Nanking on account of Canton's opposition.

§ 9. The enforcement of China's first National Tariff proved, as had been expected, a stimulus to wide-spread and well-organized smuggling. This growth of clandestine trading was specially noticeable in South China chiefly on account of the position and status of Hongkong as practically a free trade port at a commercially strategic location on China's southern coast. Large quantities of sugar, piece goods, kerosene oil, and even motor cars were imported into Hongkong for the express purpose of being run clandestinely by junk or by steamer into China. When passing through Hongkong in June 1929 Mr. T. V. Soong, then Minister of Finance, drew the attention of the Governor, Sir Cecil Clementi, to this state of affairs, and the latter declared that he was willing to do all in his power to assist China in the protection of her revenue. This led in the month following to negotiations at Hongkong between Mr. (afterwards Sir) F. W. Maze the Inspector General[1] and the Governor. The former indicated the unsigned 1918 agreement as a suitable basis of discussion, but at the same time wished to have reopened the former Customs stations established by the Hoppo in 1868 and now in Hongkong waters, while the latter declared that his Government would insist on the extension of inland waters steam navigation privileges to Hongkong vessels, on the including of an assurance that the coastwise trading privilege of Hongkong vessels would be guaranteed in all circumstances, and on the continuance of the practice of appointing only a British subject to be Commissioner of Chinese Customs for the Kowloon District. By the 29th July agreement had been reached on all points, and the Inspector General was informed by the Governor that he could lay the draft before the Chinese Government with the assurance that it was acceptable to the Hongkong Government subject to the approval of the Imperial authorities. The main differences between this 1929 draft and its 1918 predecessor were (*a*) the inclusion of punitive measures to be taken by the Hongkong Government on behalf of the Chinese Customs, (*b*) the omission

[1] Mr. A. H. F. Edwardes, the Officiating Inspector General, had resigned on 9th January 1929 (C.A.: I.G. Circs. Nos. 3843 and 3844), whereupon the National Government had appointed Mr. F. W. Maze as full Inspector General.

of salt as an article to be taxed by the Hongkong Government, (*c*) permission to the Chinese Customs to open a head office and sub-offices as required at places approved by the Hongkong Government, (*d*) permission for Chinese Customs revenue vessels to patrol in the waters of the Colony, (*e*) opening under special conditions all non-open ports in China to Hongkong steam vessels, junks, and lighters, (*f*) payment of duty in Hongkong on foreign goods for non-open ports compulsory, (*g*) exemption from compulsory bonding of goods under Chinese Customs documents in transit through Hongkong, (*h*) permission of sale of goods in Hongkong originally landed for transhipment, and (*i*) insertion of clauses dealing with costs of legal proceedings, cost of seizures, custody of seizures, Hongkong rights to seizures authorized by Colonial law, and salaries of Hongkong revenue officers engaged on Chinese Customs behalf. During the negotiations the Governor had withdrawn his demand for an assurance that the coastwise trading privilege of Hongkong vessels would be guaranteed in all circumstances. This revised and enlarged draft of an agreement was duly submitted to the Chinese Government, but the article granting inland waters steam navigation privileges to Hongkong vessels proved the stumbling block to its acceptance. The fact that such an article, in less extended form, had been included in the drafts of 1911 and 1918 was waived aside. The widespread participation of foreign shipping in the coasting trade of China and in the trade and navigation of her inland waters was one of those long-established privileges which national feeling and policy demanded should be curtailed and as soon as possible withdrawn. To make provision for the preservation and extension of that privilege was considered to be derogatory to the fact or the feeling of national sovereignty: a Colony could hardly expect to be granted a privilege which the grantor was planning to withdraw from the mother country. To get the agreement into operation the Inspector General suggested that the article might be sanctioned with the proviso that it be recognized as valid only so long as a similar privilege was in force for foreign shipping at the treaty ports in China. The Government, however, insisted that the article be deleted. In order that the door might not be closed to further discussion the Inspector General then proposed to the Hongkong Government that in its place there might be a formal exchange of notes to the effect that steam and motor vessels flying the Chinese flag would be allowed to trade freely to and from Hongkong and Chinese inland places. He pointed out that once coast and

inland waters trade privileges are withdrawn from foreign flag vessels, direct inland trade to and from a treaty port would be permitted only to Chinese flag vessels. Hongkong being definitely a foreign place and not a treaty port, would *ipso facto* be excluded from such a privilege. Acceptance of this proposal, however, would place Hongkong in this respect in as favourable a position as any of the treaty ports, but rejection of it would just as definitely leave the trade of the Colony to labour under its prevailing disabilities. The Hongkong Government did not view with favour this proposed deletion of the inland waters article, to be replaced by an exchange of notes curtailing the inland waters trading privilege to Chinese vessels only; but no decisive official acceptance or refusal was given, pending reference to the Home authorities. By May 1930 no official reply had been received by the Inspectorate, but in that month the British Minister, Sir Miles W. Lampson, while on a visit to Shanghai, handed to the Inspector General a copy of an entirely new draft which had been drawn up in Hongkong in November of the year previous, but which as yet had not been submitted to the Chinese Government. This new draft made no provision whatsoever for the control of salt; it demanded that Chinese goods passing through Hongkong from one treaty port to another should be allowed to circulate freely in Hongkong for one year without any Customs supervision; it contained a stipulation by which inland waters steam navigation privileges should be granted to vessels from Hongkong on an even more favourable basis than obtained for vessels from regular treaty ports; and it claimed that the privileged duty treatment accorded to the foreign-style products of factories on Chinese soil should be extended to similar products manufactured in Hongkong territory. In spite of the uncompromising nature of this document, which he knew would be totally unacceptable to the Chinese Government, the Inspector General indicated that he was still willing to discuss terms either on the basis of the 1929 draft with the inland waters article omitted, or on the basis of any formula which the Hongkong authorities might be willing to put forward, provided that such formula (*a*) afforded China that measure of protection of her revenue which she considers necessary, (*b*) did not insist on China granting privileges to Hongkong which are denied to other leased territories, and (*c*) made full provision for the active participation of the Chinese Customs in the measures necessary for the control of trade and the protection of the Chinese revenue. In this connection the

Inspector General drew attention to what the Portugese authorities had been prepared to grant to China in the matter of control of the Macao trade if the Commercial Convention of the 15th October, 1902, the Additional Convention of the 27th January, 1903, and the Treaty of Commerce of the 11th November, 1904 had been ratified by both parties.[1] Nothing more was heard officially of this Hongkong draft of November, 1929, but the July draft of that year formed during the spring of 1930 the topic of much discussion in London both in official and in business circles. The general opinion, both official and commercial, was markedly in favour of an agreement being entered into as soon as possible, and Sir William Peel, the newly appointed Governor of the Colony was instructed to take up the matter afresh. On his arrival in May 1930 at Hongkong correspondence on the resumption of negotiations took place between him and the Inspector General, the outcome of which was that conversations were carried on between the Commissioner of Customs for the Kowloon District and the Hongkong Superintendent of Imports and Exports. The fruit of these conversations was a proposal, put forward by the Superintendent, of which the two chief features were (1) that the Hongkong Government should re-enact Ordinance No. 32 of 1915 by which every vessel entering at and clearing from Hongkong would be obliged to present an *import* and an *export manifest* at the Hongkong Office of Imports and Exports, and that the Superintendent of this office would transmit a copy of each such manifest to the Kowloon Commissioner, and (2) that stations should be established on islands at the entrance to Victoria harbour where the Hongkong authorities, with the aid of Chinese Customs officers, should check junks and their cargoes, such stations to be for checking purposes only, while Chinese dues and duties leviable should be paid outside Hongkong territory. The utter inadequacy of these proposals was obvious, and things seemed to have reached a deadlock. Negotiations might have broken down indefinitely had not the Inspectorate come forward with a completely new offer, the outstanding features of which were (1) that the Chinese Government would authorize the Inspector General to second from the Customs Service for attachment to the office of the Hongkong Superintendent of Imports and Exports Chinese Customs

[1] MacMurray, *op. cit.* Vol. I; pp. 370-371 for Supplementary Commercial Convention of 15th October, 1902; pp. 385-386 for Additional Convention regarding the Establishment of a Custom House at Macao, 27th January, 1903; and pp. 371-375 for Treaty of Commerce of 11th November, 1904.

employees, acceptable to the Hongkong Government, in numbers agreed upon as sufficient to enable the Superintendent to carry out efficiently the terms of the agreement; (2) that such seconded employees during the term of their attachment to the office of the Hongkong Superintendent of Imports and Exports should be accorded the status of Hongkong public servants, and for purposes of control and discipline should be under the direction of the Hongkong Superintendent, but that their salaries and other expenses should continue to be paid by the Chinese Customs; (3) that the salaries, etc., of employees engaged by the Hongkong Government for whole time duty in carrying out the terms of the agreement should be met by the Chinese Customs; (4) that the Commissioner of Customs and the Deputy Commissioner of Customs for the Kowloon District should not be seconded but should remain under the direct orders of the Inspector General to act as liaison officers between the Inspectorate and the Hongkong Superintendent of Imports and Exports; and (5) that the official status of the Commissioner and of the Deputy Commissioner should be recognized either by an article in the agreement, or by an exchange of notes of equal validity with the agreement. The rest of the draft followed the lines of that of July 1929, with the omission of the inland waters article, and the insertion of additional articles dealing with coasting steamers, river steamers, motor boats, launches, and lighters. Towards the close of August the principles on which this new draft was based received the approval of the Ministry of Finance, and early in the following month copies were submitted to the British Minister and to the Governor of Hongkong with the proposal that negotiations be continued on the basis of this new draft. Preliminary conversations between the Governor and the Inspector General showed unanimity on the principles of the new offer. The final draft was ready by the 6th November, when the Governor assured the Inspector General that the draft was entirely acceptable to the Hongkong Government, and that he was confident there would be no objection to its acceptance by the British authorities at Peking and London. The Superintendent of Customs at Canton, who was appraised personally by the Inspector General of the contents of the draft, also expressed his approval of it, and considered that it would be acceptable to the Canton authorities. While negotiations were still in progress the Commissioners of Customs at Kongmoon and Lappa submitted to the Inspector General irrefutable proof that the open port of Chung Shan

(中山) was being used as a centre for extensive smuggling into the interior of foreign imports from Hongkong, principally kerosene oil and piece goods. This roadstead, formerly known as Tong Ka Wan (唐家灣), situated in the Heung Shan (香山) district on the west side of the Canton delta, for the opening of which as a port a group of local residents had been agitating for years, in spite of its proved unsuitability on account of silted approaches and lack of water, had been declared open, with the approval of the Government, on the 1st July, 1930 as a port with a "free area", that is a port where no Customs duties would be chargeable on any goods, Chinese or foreign, consumed within the delimited "free area." The proofs of the gross abuse of this privilege, submitted by the Kongmoon and the Lappa Commissioners, were transmitted to the Minister of Finance, who thereupon gave written instructions that the privilege of duty-paid importation of goods into the Chung Shan "free area" was to be withdrawn immediately. Orders were accordingly issued to this effect; but the action, though necessary to protect China's revenue, was bitterly resented by all those who were interested in the Chung Shan undertaking, and who had dreamt of building up in the Canton delta a free port which might in time rival even Hongkong itself. Although the existence of Chung Shan port and of the future planned for it had not even once been mentioned during the negotiations at Hongkong, yet the promoters of the Chung Shan project found it impossible to believe that this action of closing their "free area", taken while the Hongkong negotiations were pending, was not in some way prompted by these negotiations. To these promoters it seemed that the proposed agreement was an insidious attempt to strangle their infant enterprise at its birth, forgetting that arrangements could always be made for the exemption from duty of goods actually consumed within the "free area" and that the Central Government could not stand idly by and watch this "free area" being converted into a smuggling base. The closing of this Chung Shan "free area" soon revealed that there was a party among the Chinese in the Canton district which was strongly opposed to the signing of the proposed Hongkong agreement. This party made its influence felt at the Fourth Plenary Session of the Kuomintang, held in Nanking in November 1930, when at the third general meeting General Ch'en Ming-ch'u (陳銘樞) leader of the Canton party, made a speech denouncing the agreement in no uncertain terms. At the fifth general meeting, held on the 17th November, the matter came again before the session

for definite acceptance or rejection, when, on the renewed opposition of the Canton party, it was finally decided that the Government should not be authorized to sign the agreement; but that instead preventive measures against smuggling from Hongkong should be developed and intensified. The reasons given for this decision were that in the opinion of the Canton representatives the putting into effect of the proposed agreement with Hongkong would affect adversely the trade of Canton, reducing its importance as a port and commercial centre, and at the same time would likewise injure the development of Chung Shan as a "free area" port. For the fourth time the agreement was shelved, this time not on account of any one objectionable article, but because the general arrangements contemplated by it were considered, rightly or wrongly, to be inimical to certain local Chinese interests. Obviously time would be required to convince these partizans that their fears were groundless, and that the enforcing of the proposed agreement, instead of injuring Canton and Chung Shan, would not only protect the nation's revenue but would also encourage and facilitate all legitimate trade, in which latter development both Canton and Chung Shan as distributing centres would be bound to share. In the meantime, instructions were issued that immediately steps were to be taken to delimit accurately the boundaries of the Chung Shan "free area" in a manner acceptable both to the Chung Shan committee and to the Government, but until this could be done and satisfactory arrangements made for the control of goods passing in and out of that area, the prohibition of free importation into Chung Shan was to hold good. Simultaneously, proposals for more adequate preventive measures, by sea and by land, both for the Chung Shan district and for the frontiers of the Hongkong leased territory were called for by the Government. Before any measures, however, could be put fully into effect, and before any decision had been reached on the delimitation of the Chung Shan "free area", events took place which affected materially the position and responsibilities of the Chinese Customs throughout the country generally, and in the South in particular.

Establishment of Tariff Board of Enquiry and Appeal: Revision of Tariff Rule 1.

§ 10. Rule 1 attached to the Mackay treaty tariff provided for a Board of Arbitration in case of dispute between merchants and the Customs regarding the value or classification of imported goods, or the charges assessed thereon. This Board, appointed for each case in dispute,

was of an international character and consisted of (*a*) an official of the Customs, (*b*) a merchant selected by the Consul of the importer, and (*c*) a merchant differing in nationality from the importer, selected by the senior Consul. On such a Board the Chinese Government were not only in a minority, but were also practically debarred from selecting any Chinese to be a member. This placed a premium on Consular intervention, and in cases where the senior Consul was also the Consul of the importer, might easily have tipped the balance in favour of the complainant. From the point of view of Chinese representation, too, such a Board was regression from the arrangements sanctioned by the Tientsin treaties,[1] which in cases of dispute of this kind allowed such to be settled by discussion between the Consul concerned and the Superintendent of Customs. Obviously, the post-Protocol Board of Arbitration was out of place in the new era of tariff autonomy. China having regained her right of adjudication on all tariff matters could not be expected to leave to a Board, composed entirely of foreigners—no matter how fairminded they might be—the settlement of disputes arising from the application of that tariff. It is not surprising therefore, that within six months of the coming into force of the first National Tariff, the Ministry of Finance should promulgate the constitution and regulations for a Tariff Board of Enquiry and Appeal,[2] the duties of which are; (*a*) to investigate and give decision on all questions regarding tariff interpretation, definition and classification of goods, etc., which may be referred to it by the Kuan-wu Shu (關務署), the National Government's successor to the Shui-wu Ch'u, and (*b*) to give decisions on cases where merchants of any nationality dispute the correctness of the tariff classification, or the duty-paying value of their goods as assessed by the Customs. The Board, which is a permanent body, consists of five members, all of whom are appointed by the Director General of the Kuan-wu Shu, three of them being nominees of the National Tariff Commission, and the other two nominees of the Inspector General of Customs. One of these latter must be the Tariff Secretary, or head of the Tariff Secretariat, a department recently created to deal with tariff problems generally, to bring about uniformity in the classification and valuation of products at the ports, and

[1] Treaties of Tientsin, British, Art. XLII; American, Art. XX; French, Art. XIX.

[2] C.A.: I.G. Circ. No. 3935.

to increase the efficiency of the examining and appraising staff.[1] In practice the Board forms the third and final court of appeal in all questions regarding tariff interpretation, definition and classification of goods, and the valuation of goods for the assessment of duty: the first appeal is to the Commissioner of the port, the second to the Inspector General through the Commissioner, and the third is to the Board, such final appeal being transmitted by the Commissioner through the Inspector General. The complainant may be called on to state and defend his case before the Board, and the Board is at liberty to make use of the aid of experts or others whose knowledge and experience may be required in the reaching of a just decision. No decision of the Board is valid without ratification by the Kuan-wu Shu. As the Board is located at Shanghai any case arising at any other port has to be referred by correspondence. The complainant is, of course, at liberty to proceed to Shanghai at his own charges to defend his case, or to appoint a proxy at Shanghai to do so, or to submit to the Board, either through the Commissioner of the port or directly, whatever statements and documents he may wish to be considered by the Board. The creation of this Tariff Board of Enquiry and Appeal, and the elimination of the former Arbitration Board necessitated the redrafting of tariff rule 1. A formula was inserted in the rule showing how the duty-paying value of *ad valorem* goods is to be ascertained: production of *bona fide* invoices, including manufacturers' invoices showing the cost of goods to the importer and certified correct was now made compulsory: in case the goods have been sold before declaration at the Customs the *bona fide* contracts of sale must also be produced: these invoices and contracts will be regarded as evidence of the value, but not necessarily as conclusive evidence, the interpretation resting with the Customs, who are free to employ all available means to determine the correct duty-paying value including the calling for detailed and certified bills of sale, the inspection of firms' books, the examination of the goods, and the making of such enquiries and the obtaining of such private assistance as may be required. The penalty for undervaluation of goods by 20 per cent or more was raised from a possible four to a possible ten times the duty sought to be evaded. The success of this Tariff Board of Enquiry and Appeal was immediate. In the great majority of cases, say from seventy to eighty in a hundred, the complainants are satisfied with the

[1] C.A.: I.G. Circ. No. 3944.

decisions of the Commissioner or of the Inspector General; but in the remaining twenty or thirty cases the Board's decision has been quietly accepted. Since its inception the Board has tried and settled some hundred and sixty-five cases, and has published its decisions with full particulars of each case, in the press and also in special pamphlet form issued periodically by the National Tariff Commission.

Import tariff of February 1930 places rates on gold unit basis

§ 11. The introduction of the National Import Tariff of 1st February 1930 marked a double event. In the first place, it signalized the close of the year during which, in accordance with the agreement with Great Britain, the tariff based on the interim surtaxes which had been suggested by the American, the British, and the Japanese delegations at Peking in 1926, should remain in force. Thereafter China was free to charge what rates she might consider advisable, subject only to the restrictions to be agreed upon, four months later, by the tariff agreement with Japan. This 1930 tariff, therefore, was a further, and a long, stride forward towards complete tariff autonomy. From the strictly legalistic point of view complete tariff autonomy could not be said to have been gained till after the expiry of these restrictions on the 16th May 1933. In the second place, this February 1930 tariff saw at last the realization of a long cherished dream of Sir Robert Hart, namely the placing of import tariff duties on a gold basis. He had, as we have seen,[1] proposed this officially for the first time in 1896 when the Viceroy Li Hung-chang made his trip to Europe and America, although he had been thinking of it for several years before, and had repeated the proposal in 1901 at the Peace Protocol negotiations when China was faced with the necessity of finding more revenue,[2] and again in 1902 at the negotiations for the Mackay treaty.[3] But what the Powers would not grant of their own free will was now secured by the exercise of tariff autonomy. In January 1929 a commission of financial experts, organized at the request of the Chinese Government by Professor Edwin Kemmerer, arrived in China to make an intensive study of China's financial and banking conditions, and to make recommendations thereon for the consideration of the Government. Towards the close of that year they submitted their proposal for the gradual introduction of a gold-standard

[1] *Antea* Chap. IV, §27; p. 345.
[2] *Antea* Chap. V, §3; p. 354.
[3] *Antea* Chap. V, §7; p. 363.

currency in China,[1] and recommended the creation of a Customs gold unit in which import duties should be paid, a step which would offset the heavy fall which had taken place in the gold price of silver, and thus ensure that the yearly Customs revenue would be sufficient to meet the foreign obligations secured on it. The value of the Customs gold unit, it was suggested, should be 60.1866 centigrammes of pure gold, which was then the equivalent of U.S. $0.40, Pence 19.7265, or Gold Yen $.8025. The Government accepted this recommendation, and decreed that from the 1st February 1930 the Haikwan tael as the unit of calculation of import duties should be abolished and that all such duties were henceforward to be collected on the basis of the Customs gold unit. For the first six weeks during which this change in the import tariff duty-paying unit was effective, namely from the 1st February to the 15th March 1930, the rates shown in Haikwan taels in the import tariff were converted into gold units at the equivalence of one Haikwan tael to one and a half gold units, representing the average exchange for the last three months of the year 1929, Shanghai Taels 1=2*s* 2½*d*, and from the 16th March onwards at the rate of one Haikwan tael to one and three-quarters gold units, representing the average exchange for the month of January 1929, Shanghai Taels 1=2*s*. 7*d*.[2] Dollars, taels, and other local currencies continued to be accepted in payment of duties at rates published from time to time at the Custom Houses. At first, merchants had no option but to tender silver in settlement of these gold unit duties, but early in 1930 the Central Bank of China at Shanghai began to sell gold unit credits, which merchants could use in payment of their import obligations. On the 1st May 1931 a further development took place, when the Government granted to the Central Bank of China the sole right to issue Customs gold unit notes, thus providing importers with a third means of meeting their duty obligations. Arrangements were also made by which merchants at the outports could avail themselves of these advantages. The reaching of an agreement between the Bank of China and the Central Bank of China by which branches of the former acted as agents for the latter, turned the scale in favour of payment of import duties by gold unit notes and drafts. In 1930 only a little over 12 per cent of the total import duty of China was paid in gold unit notes and

[1] *Project of Law for the Gradual Introduction of a Gold-standard Currency System in China;* Shanghai: 1929.

[2] C.A.: I.G. Circ. No. 4025.

drafts, but in 1933 this figure had risen to almost 88 per cent. This placed China in the happy position of having sufficient gold to meet all obligations secured on the Customs revenue and payable in foreign currencies. In fact, it gave her so much gold that by the irony of fate she was constantly obliged to sell it for local dollar currency to meet the charges of internal and other domestic obligations.

Seizure of Tientsin Customs by General Yen Hsi-shan: Mr. B. L. Simpson's adventure.

§ 12. The new gold unit import rates had hardly been put into force when revolt flared up once more in the North, a revolt which threatened to upset not only the political supremacy of the National Government but also—on the instigation and by the intrigue of the late Mr. B. L. Simpson (Putnam Weale)—the integrity of the Customs Service. At first, General Yen Hsi-shan intended to impound only the additional revenue over and above the amount accruing on the original five per cent rates, leaving the latter for the maintenance of the Customs and for the service of the foreign obligations secured on the revenue. The Government rejected this demand, and, to prevent seizure of funds, ordered the Commissioner to undertake the actual work of collection. To remove the impasse thus created, it was suggested (1) that an equitable *pro rata* division of the additional duties between the National Government and the Northern coalition be agreed upon, (2) that all additional duties be retained at Tientsin on deposit, untouched by either side till a decision be reached and (3) that the Commissioner see General Yen Hsi-shan in person to make sure that he was not being misled in the matter. Unfortunately no compromise proved acceptable, and on the 16th June Mr. Ke Ching-yu (葛敬猷) the Superintendent of Customs who held his appointment from the National Government, along with Mr. B. L. Simpson and representatives of the local government and military and police forces, appeared at the Custom House, having first taken the precaution to isolate the building by cutting off the telephone connection and by surrounding the compound with plain clothes men who refused to allow anyone to go out or in. Subsequent investigation proved that this coup had been planned by Mr. Simpson without even the knowledge of General Yen Hsi-shan, and that he carried out his ousting operations with more ease than the circumstances warranted. The next move was taken by the National Government which on the 19th June issued instruc-

tions (1) that the Tientsin Custom House was to be closed temporarily, (2) that the Customs staff there were to be withdrawn, and (3) that cargo destined for Tientsin would be released upon liquidation of all fiscal obligations. The evacuation of the staff was carried out swiftly and secretly, and on the morning of the 20th Mr. Simpson found himself with an empty and sealed building. He immediately set about organizing a makeshift staff composed mainly of Chinese employees from local tax offices and of dismissed or paid-off foreigners from the Maritime Customs Service. An attempt made by him to secure control of the sub-office at Chinwangtao was foiled by the intervention of Marshal Chang Hsueh-liang, and by the temporary transference of the control of that office from Tientsin to Newchwang. The Chinese Government now lodged protests with the British authorities in China requesting, under the terms of sections 75 and 80 of the British Order in Council of 1925 that Simpson be arrested and deported, as his action was manifestly that of aiding and abetting against the established and recognized Government. These protests were in vain, but it was suggested that a settlement might be reached if both Messrs. Bell the supplanted Commissioner and Simpson the supplanter were withdrawn and an arrangement made by which the additional duties collected should be held in a neutral account pending the issue of hostilities. No compromise, however, was effected, the chief reason being that the steady flow of revenue into General Yen's exchequer was for the moment of greater importance to him than the question of the control of the Tientsin Customs. It was, indeed, this argument of ready cash, which more than any other enabled the usurper to establish himself so securely with the Northern militarists. Having convinced them of his indispensability from the financial point of view, he proceeded to administer the Tientsin Customs establishment in such a manner as to secure the goodwill of the merchants and the community generally. Being himself a journalist with a strong belief in the value of propaganda he made full use of the public press to advertise his activities. He let slip no opportunity of depreciating the work and methods of the Maritime Customs, and did not hesitate to denounce that administration as a prey to inefficiency and corrupt practices, defects, of course, which he would not tolerate in the Tientsin Customs. In support of his accusations he pointed to an unprecedentedly large seizure of piece goods which had been made in consequence of the discovery of an ingenious fraud on

the revenue practised by certain importers in collusion with a dishonest Customs examiner; but he omitted to mention that this fraud had been discovered and that the principals were being actually dealt with before he had usurped control. Again, he made much in the press of the necessity of reforming the Customs accountancy system on more modern lines, and boasted of his having placed a well-known firm of chartered accountants in charge of the Tientsin Customs accounts, both Service and Revenue. Here again he neglected to take the public into his confidence, as he refrained from stating that in getting together his scratch team, he had been unable to secure anyone competent to keep Customs accounts in accordance with established procedure and Government requirements. He likewise omitted to mention that the firm of chartered accountants who checked the daily balances with the relevant documents could render audited accounts only on the materials submitted to them, while there were certain monetary transactions, of no insignificant nature, which could be, and which were in fact as the sequel proved, concealed from them. His methods of dealing with the declaration and the examination of goods and the assessment of values and of duties were in keeping with his fixed policy of standing well with the public at all costs, even if that cost meant a sacrifice of revenue interests and of reasonable control. Apprehension which some merchants had at first felt gave way to satisfaction when they began to experience the advantage of the accommodating methods of Customs procedure introduced by Simpson the reformer. Cargoes would be released by him on day of application generally without any examination; applicants' declaration of values were accepted without question; and in cases of doubt as to what duty should be levied, or under what category goods should be classified, the decision was generally left to the merchant himself. A Custom House run on these lines could scarcely fail to secure popularity with the trading public; although in the end it came to be regarded askance by the shipping companies, who complained that the unverified acceptance by the Customs of the weights declared by the shippers frequently resulted in loss of freight. By September the tide of war had definitely turned against the Northern militarists. In the previous month Tsinanfu had been recaptured by the Government forces, and General Yen's army was dealt a shattering blow there. On the 18th September

Marshal Chang Hsueh-liang announced his dissatisfaction with the provisional government that was being established at Peking by General Yen and Mr. Wang Ching-wei (汪精衛), and his intention to support the National Government. Simpson now, emulating the Vicar of Bray, sent delegates to Moukden with a letter to Marshal Chang in which he actually offered to hand over to the Marshal a large accumulation of Customs revenue collected while he was still an employee of General Yen on condition that he would be confirmed in his post as Tientsin Commissioner. The Marshal made no secret of his intention to reestablish the authority of the National Government at Tientsin, and flatly turned down all overtures. On the evening of the 1st October, while at home in the Commissioner's residence, Simpson was shot in the back by unknown Chinese assassins who made good their escape, and have since eluded discovery. Six weeks later he died from the injuries thus received. Speculation on the identity of the assassins is futile. They were not Government agents, as certain journals at the time suggested. The Minister of Finance issued a statement on the event which should have made clear to anyone the Government's innocence. Murder would have defeated their purpose, as, it was known, they intended at the first opportunity to arrest Simpson on Chinese soil, to submit him to trial,[1] and to punish him according to Chinese law. The deed is thought by some to have been an act of revenge for treachery to his master General Yen, and for the arbitrary detention of revenue collected under General Yen's protection and claimed by him. Others consider that the crime may have been committed by private individuals in retaliation for some real or fancied grievance arising while Simpson was in power. It is also possible that the disappearance of $130,000, proceeds of the sale of confiscated goods, may have had something to do with it. Thanks to the action of Marshal Chang Hsueh-liang the authority of the National Government over the Tientsin Customs was restored; but Simpson's attack on the unity and integrity of the Customs Service by dragging it into party politics created an evil precedent, while his slack and haphazard methods of applying the tariff were a blatant denial of one of the principal justifications for the existence of that Service, namely the equitable enforcement on all traders of the recognized tariff rates.

[1] *The Leader*, Peking, 8th October, 1930.

Inspector General's memorandum on smuggling: Activities of smugglers on south-eastern coast: Abolition of Native Customs, *likin*, transit dues, and coast trade duty: Native Customs establishments on coast converted into Maritime Customs stations: Origin of interport duty.

§ 13. The enforcement of the gold unit rates, which after the 16th March 1930 meant an increase of twenty-five per cent on all import levies, acted as an additional stimulus to smuggling. This stimulus was intensified by the introduction on the 1st January 1931 of a revised import tariff,[1] the rates of which ran from five to over sixty per cent. After that the smuggling situation became rapidly acute, and called for adequate counter action. As early as June 1929 the Inspector General had submitted to the Government a memorandum[2] in which he emphasized the necessity of vigorous preventive measures to cope with the smuggling situation created by the introduction of the new National Tariff, advised the building and arming of special vessels for coast patrol work, the provision of additional guards on the land frontiers, and the granting of permission to Customs preventive officers either on land or sea to make use of arms when necessary, and suggested that a Commissioner should be detached to make an investigation of smuggling conditions along the coast and along the land frontiers and to suggest preventive measures for the Government's consideration. Lt. Colonel Hayley Bell, the Commissioner selected for this work,[3] carried out a preliminary survey of smuggling activities along the coast between Shanghai and Kiungchow, paying special attention to the Kowloon and Lappa districts. That survey revealed that the most serious factor in this southern area was at that time the fleet of Japanese motor vessels, or "puff puff" boats as they were popularly called, plying between the island of Formosa and non-opened ports along China's south-eastern coast, and using Hongkong as a convenient port of refuge. These vessels would put out from Formosan ports, laden with cargoes of sugar, kerosene oil, alcohol, matches, piece goods, and sundries, and in the absence of a Chinese preventive service make their way without let or hindrance to their various ports of destination along China's coast. They could then either return to Formosa with a load of Chinese produce, or make their way to Hongkong if nearer to that place and take on a consignment of duty-free

[1] C.A.: I.G. Circ. No. 4159.
[2] C.A.: S/O. Cir. No. 61.
[3] C.A.: I.G. Circ. No. 3990.

goods for running into a Chinese port on their way back to Formosa. The Native Customs establishments along the coast frequented by these Formosan smugglers were not equipped with the means of dealing with this menace to legitimate trade and revenue. These establishments were still being administered on old-fashioned lines of absenteeism on the part of the men in charge, and of easy-going methods of supervision of the staff, and still more easy-going methods of controlling trade. Many of these Native Custom Houses had not even a boat of any description with which to get about among shipping, let alone to chase smugglers, while in not a few cases the Custom House itself was situated well inland three or four miles away from any shipping activity. For the smuggler the conditions could scarcely have been more favourable. To deal with this situation satisfactorily it was clear that the Government would have to take the *extra* 50 *li* Native Customs in hand. This they did by the root and branch method of abolition, seizing the opportunity not only to do away with these vestiges of inefficiency, but also at the same time to make good the promise given at Washington in 1922 and at Peking in 1925 of putting an end to the *likin* system. Late in December 1930 the mandate went forth that from the 1st January 1931 (1) *likin* no matter under what name levied, such as consolidated tax (統稅), consolidated dues (統捐), special tax (專稅), goods tax (貨物稅), railway goods tax (鐵路貨捐), parcel tax (郵包稅), *lotishui* (落地稅), etc., (2) all Native Customs levies either on the coast or inland, except those in force at the treaty ports within the 50 *li* radius under the control of the Maritime Customs, which in the meantime were to be retained, (3) transit dues both inwards and outwards, and (4) coast trade duty, were to be abolished.[1] So far as *likin* was concerned the execution of this order did not vitally affect the Customs Service, except in regard to the *likin* and *chingfei* collection at Kowloon and Lappa, which automatically ceased. The general *likin* collectorates at Kiukiang, Shanghai (Sung-Hu), Soochow, and Hangchow, the revenues of which had in 1898 been pledged for the service of the 4½ per cent Anglo-German Gold Loan, had for some years previously ceased making remittances to the Inspector General's accounts for this purpose. The Inspectorate's connection with the three salt *likin* collectorates at Ichang, Hankow, and Tatung (Wuhu), the revenues from which

[1] C.A.: I.G. Circ. No. 4158.

had also been pledged for the service of this loan, had naturally ceased when the Salt Revenue Administration was organized in 1913 with the object of controlling the total salt revenue of the country in order to serve therefrom all the obligations secured on it, including the Reorganization Loan of 1913. To deal with the *extra* 50 *li* Native Customs establishments, many of which were functioning on the coast line controlling not simply domestic trade but also, in some places, a brisk junk trade, of which a good part was clandestine, between China and foreign places, the Government at first intended that the Customs Service should lend its assistance only in carrying out a thorough investigation of all such establishments in order to be able to decide which should be retained as branch offices of the Maritime Customs for the control of these foreign-going junks, and which, on the coast and on the land frontiers, as stations for the checking of Maritime Customs documents certifying payment of import or export duty. To this end, and to put a stop, if possible, to clandestine trade, the whole coast line and the land frontiers adjoining existing treaty ports were divided into sections, and the necessary investigation of each section entrusted to the nearest Maritime Customs establishment.[1] These instructions to investigate, report, and make suggestions were changed on the last day of the year by the Government deciding that the actual administration of the *extra* 50 *li* Native Customs establishments functioning along the coast and at places where there is direct junk trade with foreign countries should be taken over on the 1st January 1931 by the Maritime Customs, who were to convert as many of these offices as should be necessary into Maritime Customs stations for the collecting of duty on foreign imports, and on native exports going abroad, according to the tariffs of the National Government.[2] This was a logical and much-needed step; but it was one that threw a vast amount of organizing and supervising work on the Maritime Customs. It was carried through with complete success, and even the delicate matter of disposal of staff vested interests was equitably settled. Within fifteen months from the date of abolition, during which time the *intra* 50 *li* Native Customs establishments were likewise done away with on similar lines,[3] one hundred and three Maritime Customs sub-stations were in operation along China's coast, of which

[1] C.A.: I.G. Circ. No. 4158.
[2] C.A.: I.G. Circ. No. 4161.
[3] C.A.: I.G. Circ. No. 4240.

twenty-five had been converted from former *intra* 50 *li* Native Customs stations. No fewer than forty-eight former *extra* 50 *li* Native Customs stations along the coast were definitely wiped off the map.[1] The disappearance of transit dues awakened no regrets: they had come to be regarded as having failed in their primary purpose—the complete protection of foreign goods going inland and of native goods *en route* from the interior to a treaty port for shipment abroad. Although the Government did away likewise with the coast trade duty, they decided that for the sake of revenue the export duty on native goods when shipped from one treaty port to another should be retained. The anomaly of levying the same rate of export duty on native goods when carried from treaty port to treaty port and on the same goods when shipped abroad remained, until the Government on the 7th May 1931 promulgated, for enforcement from the 1st June, a revised export tariff on a 7½ per cent *ad valorem* basis applicable only to exports abroad. This provided the opportunity of leaving the old export tariff rates, which in most cases were much lower than 5 per cent, with their half rate surtax, to be applied, under the name of Interport duties, only to native goods moved from open port to open port for consumption in China.[2] At first it was intended that foreign goods going inland from a port where there was an *intra* 50 *li* Native Customs establishment should pay also the Native Customs duty according to the tariff in force; but within a fortnight that order was revoked.[3]

Creation of Customs Preventive department: Limit of Chinese territorial waters: Customs preventive fleet: Stations established round Kwangchowwan.

§ 14. The investigations carried out along the coast both before and after the abolition of the Native Customs establishments as such, and the upward swing in smuggling enterprises, emphasized the necessity of creating as quickly as possible a department for the express purpose of continuing and extending these investigations and of devising and putting into force a comprehensive and clearly defined policy for the prevention of smuggling. Prevention, however, to be effective called for the use of firearms, and for the granting to foreign preventive officers the authority to use such when engaged in anti-smuggling operations. Early in November 1930 the Government gave the required permission in a set of regulations for the guidance

[1] C.A.: I.G. Circ. No. 4401.
[2] C.A.: I.G. Circ. No. 4236.
[3] C.A.: I.G. Circ. No. 4161.

of officers in charge of revenue launches or cruisers.[1] These regulations give detailed instructions on the means to be employed for stopping a vessel at sea for purposes of search, for searching a vessel at sea, and for dealing with a vessel offering armed resistance. At the same time, in the absence of any official delimitation of territorial waters, officers in charge of steamers and launches engaged in preventive work were instructed to confine their activities within the generally accepted limit of three marine miles from China's coastline measured from low water mark, and to operate outside this limit only in the case of a suspected smuggling vessel, which while within the three mile limit, had refused to heave to for Customs inspection and had attempted to escape outside the three mile limit, such vessel, by the doctrine of "hot pursuit", might be pursued into the open seas and there arrested. Eight months later (June 1931) the Government claimed the right of exercising preventive measures for the protection of revenue within twelve marine miles from the coastline.[2] The Wai-chiao Pu duly notified the foreign representatives of this decision, whereupon Great Britain and Japan immediately lodged protests on the ground that such a claim required bilateral agreement in the case of foreign-flag vessels. Later, on the 17th January, 1933, when the preventive regulations were revised,[3] the Wai-chiao Pu again notified all the foreign representatives of China's claim in this matter. In the meantime, in order to elaborate and put into operation a comprehensive policy for the prevention of smuggling the Kuan-wu Shu, on the Inspector General's recommendation, agreed early in 1931 to the inauguration of a Preventive Department to operate under the immediate supervision of a Preventive Secretary.[4] This Department forthwith set about the creating of a preventive fleet, using as a nucleus some of the former so-called revenue cruisers and harbour launches. In 1932 two additional preventive steamers, each 148 feet in length, were put in commission, and arrangements made for the construction of three 170 foot steamers, four 143 foot, four 138 foot, three 137 foot and two 136 foot—a building programme which was due for completion early in 1934, by which time the preventive fleet consisted of twenty-six main sea-going units and thirty-three launches for work nearer shore and in sheltered

[1] C.A.: I.G. Circ. No. 4137.
[2] C.A.: I.G. Circ. No. 4241.
[3] C.A.: I.G. Circ. No. 4692.
[4] C.A.: I.G. Circ. No. 4172.

waters. By 1937 the number of these preventive launches had risen to sixty, thus giving a preventive fleet of some eighty-six craft, manned by a staff of nearly 1,500 trained officers and men, of whom about 100 are foreigners. To provide trained Chinese officers for this work it was necessary to establish a naval school with a highly qualified foreign instructor. A Customs wireless service for expediting the transmission of information and for the coordinating of preventive activities was authorized by the Government. Stations were accordingly erected at Chefoo, Shanghai, Amoy, and Shumchun on the Kowloon frontier, with subsidiary stations at Swatow and Hoihow, with equipment of power sufficient to communicate with the stations on either side. All preventive ships and Customs lights tenders were at the same time equipped with apparatus of certain specified power, and also with sealed emergency sets of 100 miles range, while all launches were provided with telegraph sets of 80 miles guaranteed overseas range.[1] The land frontiers, too, were not neglected. Existing preventive guards were strengthened, patrols were inaugurated on the Burmese frontier, stations were established along the Great Wall, and the overland trade routes of northern China studied and reported on. A cordon of stations was thrown round Kwangchowwan, which ever since its cession to France had been a happy hunting ground for smugglers, at first for opium and later for general merchandise, and which now shared with Kowloon and Lappa in the blessings of the greatly intensified clandestine trading prevalent in south China. Eventually, these Kwangchowwan frontier stations were grouped together as a separate Customs unit and named the Luichow Customs (雷州關) with its head office at Macheung (蘇章).[2] The anti-smuggling operations of these vessels and frontier guards speedily gave would-be defrauders of the revenue something to think about. In 1933 the numbers of smuggling vessels caught *flagrante delicto* were 27 motor boats, 485 junks, and 122 "snake boats"—long, shallow-draught craft propelled by paddles, used mostly in Macao waters. In the following year 87 motor boats, 752 junks, and 43 "snake boats" were seized in smuggling enterprises and confiscated. In 1931 the proceeds realized from fines inflicted and from sale of goods confiscated amounted in round figures to $2,700,000: the following year this figure rose by a million dollars; in 1933 it stood at $6,400,000, and in 1934 it reached almost eight million dollars. As a con-

[1] C.A.: I.G. Circ. No. 4906.
[2] C.A.: I.G. Circ. No. 5173.

sequence of the greatly increased rates on sugar and artificial silk, introduced in April[1] and August 1932, it was not surprising that in 1934 confiscated artificial silk floss and yarn, together with white sugar, contributed 62 per cent of the total confiscation proceeds of that year.

Revision of bonding regulations: Abolition of drawback system: Drawback swindles: Re-exports to Dairen to be marked-To pay: Other measures to check smuggling activities.

§ 15. Simultaneously with all this out of doors activity to suppress smuggling there went on an equally intensive activity in the reshaping of office procedure to fit in with the new policy called for by the restoration of tariff autonomy. In fact it may be stated without exaggeration that in number, in variety, and in scope, the developments introduced in office arrangements and procedure, as well as in staff adjustments, during the five years 1929 to 1934 equalled, if they did not surpass, those instituted by Lay and Hart in the sixties of last century. Foremost among these developments was the complete revision of the general bonding regulations so as to bring them more into conformity with modern requirements, and to meet the widespread demand for increased bonding facilities, now that high rates of duty made deferment of payment more than worth while.[2] This was followed shortly afterwards by revised regulations for bonded tanks and warehouses for petroleum oils, by which for the first time was authorized the partial withdrawal from bond of oil in bulk when required for local consumption or for filling into containers. Previously, all the oil in any one bonded tank had to be applied for and withdrawn at the one time. Another privilege now granted for the first time was the permission for the discharge of bulk oil into a bonded tank on a Sunday or a Customs holiday.[3] Later, came special regulations for bonded re-conditioning warehouses, under which any type of foreign import could be subjected to any manner of reconditioning or repacking before payment of duty[4]; regulations for the assembling of automobiles in bond;[5] and regulations for special bonded crude oil refining factories,[6] the object of the last named being to provide a legitimate procedure in the hope of checking

[1] C.A.: I.G. Circ. No. 4404.
[2] C.A.: I.G. Circ. No. 4093.
[3] C.A.: I.G. Circ. No. 4111.
[4] C.A.: I.G. Circ. No. 4243.
[5] C.A.: I.G. Circ. No. 4519.
[6] C.A.: I.G. Circ. No. 4756.

the illicit refining of kerosene from fuel oil which was going on all over the country, but especially in Kwangtung, by small crudely equipped native refineries. Closely allied to this extension of bonding facilities was the abolition of drawbacks.[1] The main facts regarding China's three-quarters of a century's experience of drawbacks and the drawback system have been recorded elsewhere.[2] It is a story of privileges conferred by the Chinese Government, either on its own initiative, or under pressure from interested foreign Powers, and of these privileges being converted at the first opportunity into treaty rights by the Powers concerned, only to be followed by demands for further privileges, which likewise in turn hardened into treaty rights. Probably nowhere else in the world has there been such flagrant abuse of the privilege granted. In spite of all precautions, chief among which was the Shanghai pass system, the drawback procedure had been made use of by dishonest traders and brokers aided in some cases by equally dishonest Customs underlings, for the practice of the most flagrant swindles. Passes were altered clandestinely so that they might be used a second or even a third time to secure drawbacks on goods not originally covered. Import applications after having been passed for drawback and entered in the register of one broker, would be surreptitiously removed, the name of another broker substituted, and the goods in question entered again for drawback in the register of the second broker, thereby contriving the issue of two drawbacks in full for the same cargo. In such cases the two brokers represented the one and the same person masquerading under two hong names. Actual substitution of cargo, however, was by far the most common fraud practised in connection with drawbacks. Hardly a day passed in which it was not attempted, and it was an open secret that certain firms of brokers relied on this fraudulent practice for the greater part of their income. For example, a broker applied for the re-export of expensive woollen goods to Hongkong, the drawback on which amounted to over $27,000, at that time equal to £2,700. Investigation revealed that the original piece goods, for which drawback had been granted, had been consumed in the port of importation, other piece goods had been substituted, and then after re-examination for re-export the cases containing the substituted goods had been surreptitiously removed and replaced

[1] C.A.: I.G. Circ. No. 4197.

[2] *Antea* Chap. III, p. 222; Chap. V, p. 379.

by cases with similar marks and of like weight, but containing broken bricks, stones, and rubbish. Frauds of this nature literally robbed the revenue of millions of dollars. The signing of the various tariff autonomy treaties gave China the opportunity of sweeping away this outrageous abuse, and from the 1st April, 1931, merchants were given the option of declaring their imports either for bond or for payment of duty. From that time forward only special drawbacks are issuable in the case of foreign short-landed goods on which duty has been paid, and in the case of foreign imports when excess duty has been paid by error in assessments or calculation. Special drawbacks are also issuable for duties on export cargo shut out and not subsequently shipped, provided the shut-out regulations have been fully observed. This abolition of drawbacks raised the question of the duty treatment of foreign duty-paid goods when re-exported from a treaty port to Dairen. By the terms of the agreement for the establishment of a Maritime Customs Office at Dairen (signed 30th May, 1907) it was stipulated that the import duty paid on foreign goods at any treaty port should be refunded by drawback when those goods were re-exported to Dairen.[1] This arrangement was now, on the strength of the tariff autonomy agreement between China and Japan, rendered null and void, while the Chinese Government decided that as Dairen was a leased territory duty-paid foreign imports re-exported from treaty ports to Dairen were not to be dealt with as if they were sent to a treaty port and given an exemption certificate, but were to be marked—"To pay."[2] A merchant desiring to avoid payment of import duty on goods destined for Dairen could either export his goods direct from abroad to Dairen, or ship them from a treaty port in bond. Other measures devised to meet changing conditions and to check smuggling activities were (1) the forbidding of steam and motor vessels of less than 100 tons to engage in direct trade between China and foreign places,[3] an embargo intended to put an end to the activities of the Formosan "puff puff" boats; (2) the enforcement of new regulations governing the entry of vessels and the presentation of manifests and other ships' papers, regulations which for the first time put forward an adequate definition of a manifest, called for the possession of a manifest by every merchant vessel navigating within Chinese territorial waters,

[1] C.A.: I.G. Circ. No. 1439.
[2] C.A.: I.G. Circ. No. 4186.
[3] C.A.: I.G. Circ. No. 4280.

and provided much needed safeguards in the matter of the correction of manifests;[1] (3) the tightening of control over ship's stores and coal for ship's bunkers; gross frauds on revenue were common practice in both cases; at many southern ports, more especially Canton, steamer stewards in charge of ship's stores carried on a brisk and lucrative retail business, chiefly in wines and cigarettes and various sundries, which they took on board duty-free at Hongkong as ship's stores; to put a stop to this, the revised manifest regulations of August 1934[2] stipulated that a master of a vessel on arriving at a port was to present a list, on a specified form certified by him as correct, of all ship's stores on board, which after being checked are sealed up by the Customs for the duration of the ship's stay in port.[3] The abolition of drawbacks put an end to the abuses connected with coal for ship's bunkers; such abuses were, false declaration of bunker capacity, false declaration of coal remaining in bunkers, over declaration of quantity of coal shipped, and applying for drawback on foreign coal and shipping a native substitute thereby netting a handsome rake-off on the differences in duty between foreign and Chinese coal;[4] (4) the putting into effect of regulations for the control of sea-going junks,[5] a measure made doubly necessary by the abolition of the Native Customs establishments, and by the Government's orders that duties were to be levied on all junk-borne cargoes to and from foreign ports; (5) the bringing under firmer control of all Customs brokers, irrespective of nationality,[6] regulations for which, based on the experience of all the treaty ports, were promulgated early in December 1931; (6) the strengthening of control over steam and motor launch traffic, with or without tows, between Hongkong and ports in the Canton delta, by making all such vessels, whether Chinese or foreign, and whether over or under 100 tons register, call at Taishan or Lintin for examination of cargo and payment of duty;[7] (7) the calling for a written guarantee when a merchant desires to preserve the Chinese status of native goods sent from one treaty port to another *via* a foreign port, such guarantee binding the guarantor under specified penalties not to permit repack-

[1] C.A.: I.G. Circs. Nos. 4179; 4929; 4965; 5002; 5112; and 5273.
[2] C.A.: I.G. Circ. No. 4929.
[3] C.A.: I.G. Circ. No. 4945.
[4] C.A.: I.G. Circ. No. 4076.
[5] C.A.: I.G. Circs. Nos. 4371; 4401; 4969; 5131; 5161; and 5343.
[6] C.A.: I.G. Circs. Nos. 4366; 4379; 4390; and 4977.
[7] C.A.: I.G. Circ. No. 4207.

ing of, or tampering with, the goods declared when they are being transhipped at a foreign port *en route* to their destination,[1] (8) co-operation with the Salt Revenue Administration for the seizure of illicit salt and the prevention of salt smuggling; the principles of this co-operation were elaborated in a series of inter-departmental conferences on the basis of which a working arrangement was effected for the division of salt-searching operations;[2] and (9) an arrangement with the Post Office authorities for the Customs control of parcels posted at frontier post offices and supposed to contain non-duty-paid foreign goods, this arrangement went through various stages and finally took the shape of the Post Office authorities ordering that from the 1st January, 1936, parcels handed in at post offices in coastal and frontier districts are to be subject to Customs examination when either the Post Office authorities or the Customs have reason to suspect that the post office in any particular district is being used as an agency for smuggling in which case the postmaster concerned is to arrange for the suspected parcels to be sent under seal to the nearest Customs establishment for examination. Duplicate postal parcel declarations and copies of all way-bills issued in respect of such parcels are sent from these coastal and frontier post offices to the nearest Customs establishment for scrutiny and record.[3]

Enlargement of Appraising Department: Creation of Tariff Secretariat: Training of examiners: Central Valuation Office: Central Scrutiny Office.

§ 16. The creation of the Appraising Department at the Shanghai Customs has already been referred to.[4] It soon passed out of the experimental stage, and became an invaluable adjunct in the determining of the nature, classification, and value of goods, not only at Shanghai, but also at the other principal ports Tientsin, Hankow, Canton, etc., to which, even before the restoration of tariff autonomy, its activities were extended. The coming of tariff autonomy, however, of necessity called for an enlargement and strengthening of the Department, and this took place concurrently with, and dovetailed into, the development of the newly created Tariff Secretariat. The Shanghai Appraising Department remained directly under the control of the Shanghai Commissioner, or rather the special

[1] C.A.: I.G. Circ. No. 4299.
[2] C.A.: I.G. Circ. No. 4306.
[3] C.A.: I.G. Circs. Nos. 4978; 5197; and 5421.
[4] C.A.: I.G. Circ. No. 3464; *antea* Chap. V, §24, p. 437.

Appraising Commissioner appointed for this purpose; but the Tariff Secretary as the Inspectorate officer to whom all tariff questions are to be referred, is charged with the elaborating, and carrying out, of a definite policy for the coordination and improvement of appraising and examining work at all the ports. The question of the proper technical training of examiners is one that has been raised again and again in the past. The days had long since gone when an officer, without any previous training for the work, could be placed as an examiner at a wharf or on a hulk, and left there to pick up a technical knowledge of goods and their values as best he could. He might be able to secure some assistance in this pursuit of knowledge from his brother officers; or, failing that, he could fall back for information on the Chinese weighers under him, whose business was to weigh and tare cargo, but who in most cases took advantage of the examiner's ignorance and of his dependence on them to further their own financial interests. In spite of this haphazard and utterly inadequate way of training examiners—a way which could only be defended on the ground that tariff rates were low, and the number of articles in the tariff very limited—it was surprising how expert and competent some of the old school examiners became. These were men who had a natural bent for this type of work, and who gladly devoted even their spare time to adding to their stock of knowledge and experience by acquiring a sufficient mastery of Chinese for their special work, by seizing every opportunity of gathering inside information from merchants both Chinese and foreign, by collecting samples, and by study of standard technical books and works of reference. Some of these men, in fact, became specialists with an unrivalled knowledge of their subjects. To put matters, however, on a more satisfactory basis for the Service, it was decided in 1916[1] that as a training school for examiners at Shanghai was impracticable, everything possible was to be done to encourage private study among the whole examining staff. Commissioners were accordingly instructed to re-arrange and complete their port sample collections, to establish an examiners' reference library for which standard technical works were supplied, to see that examiners were shifted from wharf to wharf so as to acquire as wide an experience as possible, to have instruction on identification and valuation of goods and on methods of examining given by senior to junior members of the staff, to make a collection of catalogues and price-lists of goods,

[1] C.A.: I.G. Circs. Nos. 2487; 2588.

to exchange value lists with ports in the same trade area, to arrange, if possible, for conferences of examiners on the lines of those so successfully carried out by Mr. A. H. Harris, Commissioner at Newchwang, and gradually to eliminate weighers so that the examining staff might be independent of this type of local employee. Instructional classes in examining work had been instituted in Shanghai in 1926, and have been carried on regularly ever since with conspicuous success. In 1930 this system was extended to Harbin, Newchwang, Dairen, Antung, Tientsin, Kiaochow, Hankow, Amoy, Swatow, Canton, and Wuchow.[1] At each of these ports the Deputy Commissioner or the assistant in charge of the appraising department, or of the general office, is to supervise these classes in person and to see that all appraisers and examiners attend. Instruction, as a rule, is to be given by the senior appraiser, and a special manual for the guidance of instructors has ben compiled and sent to all the ports concerned. Quarterly,[2] subsequently altered to half-yearly,[3] reports are to be submitted on examination work, the valuation and classification of cargo, and on the results achieved in the training of the examining staff. To create an adequate supply of trained Chinese for appraising and examining work the Kuan-wu Shu instituted in the autumn of 1931 in the outdoor branch of the Customs College two classes for training men of assistant's rank to be appraisers, and men of the tidewaiter class to be examiners.[4] The course in each case was to be for two years, and provision was made for practical training in the routine examining and appraising work of the Shanghai Customs. It was further arranged that the assistants trained in appraising work were to be appointed not necessarily as appraisers but to positions wherever their services would be most valuable, while those trained in ordinary examination work were to be appointed assistant examiners. After a two years' experiment these classes, on grounds of economy, were given up.[5] To ensure the closest possible cooperation between the general office where applications are handed in and where all the relevant documents are scrutinized and verified, and the wharves and examination sheds where the actual work of examining and checking the goods is carried out, the plan was introduced at the major ports

[1] C.A.: I.G. Circ. No. 4151.
[2] C.A.: I.G. Circ. No. 4153.
[3] C.A.: I.G. Circ. No. 5095.
[4] C.A.: I.G. Circ. No. 4256.
[5] C.A.: I.G. Circ. No. 4604.

of appointing appraisers and examiners to work in the offices in direct contact with the administrative staff, the former concerning themselves with the technical part of the work, more especially valuation, and the latter exercising general supervision over the documentary side and the interpretation of the tariff.[1] In the Tariff Secretariat a Central Valuation Office was established to serve as a depository of records of values of goods passed by the ports, to make comparisons of these values, and to assist ports—through the medium of the quarterly and semi-annual lists of values and classifications exchanged between ports—to attain a more general uniformity of tariff classification.[2] Alongside this, and merging with it, was placed a Central Scrutiny Office, the creation of which became possible by the abolition of the former slow, inaccurate, and cumbersome process of leaving each port to compile its own trade returns, and by substituting for this the centralized system of having all returns of trade compiled at the Statistical Department from statistical copies of all applications prepared and forwarded by the ports to the Statistical Secretary. At the same time the Statistical Department was equipped with the latest types of electrically controlled tabulating machines,[3] with the result that monthly and annual returns are more accurately compiled, and much more speedily published than ever before. From these statistical copies of applications the Central Scrutiny Office, after the Statistical Department has finished with them, is able to institute a final check on the administration of the tariff at the ports, and to judge how the examining and appraising staff are carrying out their duties.[4]

Officially protected smuggling at Canton: Nanking offers to sign Hongkong Agreement.

§ 17. While all this reform was proceeding for the better application of the tariff, the facilitating of Customs business, and the protection of the revenue, an insidious and determined attack was being made by various government organs in Kwangtung to defraud that revenue. In April 1931 a strong separatist movement sprang up in that province which resulted in the Canton authorities appropriating for provincial purposes the Customs revenue collected at ports within the Canton area, allowing, however, the deduction of the

[1] C.A.: I.G. Circ. No. 4452.
[2] C.A.: I.G. Circ. No. 4460.
[3] C.A.: I.G. Circ. No. 4244; Stat. Sec. Printed Note No. 550.
[4] C.A.: I.G. Circ. No. 4460.

sums necessary for the cost of collecting and a *pro rata* amount to cover Canton's share of the cost of the service of foreign obligations charged on the Customs revenue.[1] Vessels belonging to various provincial Government organs seized the opportunity of this independence movement to do a little trading on their own account. By June 1931 clandestine trading by vessels carrying the commission of the local Salt Revenue authorities had already assumed large proportions. As time went on their smuggling activities grew bolder, while other government organs, eager to have a share in this profitable enterprise, such as the Navy, and the different local tax offices—the Sugar Tax Bureau, the Sea Products Tax Bureau, the Cement and Wax Tax Bureau, the Piece Goods Tax Bureau, the Sundries Tax Bureau, etc. were soon competing with one another in this brazen-faced swindle. The worst offenders, however, were the vessels of the Navy and the local Salt authorities which maintained regular runs between Hongkong and Canton and other Chinese ports, and which occasionally ran smuggled goods to and from Macao. Repeated efforts on the part of the Commissioner of Customs at Canton to come to an understanding with the provincial authorities and the government organs concerned with a view to stopping this traffic failed to achieve anything, while the Central Government's orders were contemptuously ignored. As a consequence non-official smugglers, finding their usual channels, closely guarded by the Customs, fell back for the safe transport of their goods on provincial Government vessels, taking advantage of the immunity from Customs control which such carriers could command. Even the restoration in 1932 of the Customs revenue to the Central Government did not put an end to this clandestine trade. A high official of the National Salt Revenue Administration visited Canton in 1933 and found the yamên of the local Salt Commissioner—a rival of the National Government's nominee—being used as a warehouse through which flowed a ceaseless stream of immense quantities of merchandise, such as sugar, kerosene oil, piece goods, etc., not one item of which had paid a cent of duty to the National Government. This orgy of protected lawlessness reacted adversely on the provincial revenues, so that early in 1934 a provincial Land and Water Preventive Bureau (廣東省水陸緝私總處) was established for the purpose of stopping evasions of the various provincial taxes, and of enforcing the provincial sugar monopoly. But

[1] C.A.: S/O Circ. No. 88.

quis custodiet ipsos custodes? These putative protectors of the provincial revenue rapidly developed into the smuggling agency *par excellence* and bade fair, like Aaron's serpent, to swallow up the rest, as the provincial authorities used it to eliminate private smuggling in favour of official enterprises. The principal goods handled in this provincial clandestine trade were sugar, cotton and woollen piece goods, artificial silk yarn, sulphate of ammonia, motor cars and trucks, kerosene oil, gasolene, sea products, cement, and machinery, while large quantities of wolfram —in which the National Government wished to establish a monopoly—were carried outwards to Hongkong for export abroad. In this connection it is interesting to note that immediately after the opening of several provincial Government sugar mills, during the latter half of 1934, as part of the provincial Government's plan to promote the native sugar industry, the smuggling of foreign sugar practically ceased for a time, but was revived towards the end of 1935 owing to depleted stock. This fact clearly indicates that the provincial Government's policy in regard to smuggling was dictated by provincial, and perhaps private, interests to the detriment of the interests of the nation. It was not until July 1936 that this officially protected clandestine trade was brought to an end when the National Government was reinstated in its control of Kwangtung. It is impossible to state precisely the loss to the national revenue resulting from this officially protected smuggling in Kwangtung, as the local Salt and Navy authorities, being Government officials, could move cargo in their vessels without any interference from the Customs. From careful observations made on the movements of these vessels and of the cargoes they carried, as well as from the decrease in the revenue actually collected by the Canton Customs during this smuggling period when trade generally was on the up-grade, it is safe to place the loss to the national revenue at between three to four million gold units a year. To circumvent, if possible, these separatist activities of the Kwangtung authorities, more particularly those that affected the national revenue, the Nanking Government in June 1931 despatched an emissary to Hongkong to inform the Colonial authorities that the Chinese Government would be willing to sign the 1930 draft of the proposed Customs agreement, subject to a few minor changes in detail. The Governor, Sir William Peel, admitted the force of all the arguments adduced to prove the benefits that would accrue to Hongkong if the agreement were signed, but while Hongkong still wanted the agreement, he

was nevertheless convinced that the moment was inopportune on account of the political situation then existing at Canton. He pointed out that the agreement was to be with China as a whole, and fell through in 1930 because of Canton's opposition. That opposition was now intensified. Hongkong did not wish to be charged with taking sides in a domestic difference, more especially as the Colony was on friendly terms with both parties to that difference. The position, therefore, was that Hongkong did not decline acceptance of China's offer, but merely deferred acceptance till the horizon had cleared.

Creation of State of Manchoukuo: Seizure of Customs at Manchurian ports: Dairen refuses to remit revenue: Import tariff rate increases of August 1932: Revised import tariffs of 1933 and 1934: Proposed revised export tariff of 1935.

§ 18. But the effects of Canton's temporary secession fade almost into insignificance when compared with the political and economic consequences of the developments which were taking place at the same time in north China, more particularly Manchuria. Here Japan was by now (1931) strongly entrenched. She had raised Dairen to the position of one of the great ports of the Far East, she had developed her railway system so that it dominated economically the trade and industry of the central and southern sections of the Three Eastern Provinces, she had created towns, opened mines, built roads, established banks, schools, colleges, and hospitals, and although Marshal Chang Tso-lin during his lifetime was the recognized overlord of Manchuria, it was no secret that in the main he was a reigning circumstance while the power behind the throne was Japan. The advent of the young Marshal Chang Hsueh-liang as successor to his father gave the Japanese authorities food for serious thought. In the first place he took the step, against Japanese advice, of hoisting the Nationalist flag in Manchuria and of declaring himself fully in sympathy with the ideals and policies of the Nanking Government. He also ran counter to Japanese plans when he pushed forward with the construction of a modern port at Hulutao (葫蘆島), north of Shanhaikwan, which would to some extent have become a rival to Dairen, and would have furnished a Chinese controlled outlet for shipment of goods brought down by the Chinese-built Tsitsihar-Chinchow railway. Then in April 1931 came the quarrel at Wanpaoshan (萬寶山) between Coreans, who were Japanese subjects, and Chinese over the cutting by the former without permission of an irrigation canal through Chinese property. The

Japanese police, who by treaty had no rights outside the railway zone, supported the Coreans. The ill feeling engendered by this incident spread to Corea, where riots broke out resulting in the killing or wounding of nearly five hundred Chinese and the destruction of about two million dollars' worth of Chinese property. It was not till August 1931 that this Wanpaoshan affair was diplomatically settled. Before its settlement, however, Japanese feeling had been exacerbated by the announcement on the 4th May by the Chinese Minister of Foreign Affairs, while negotiations were proceeding with the Japanese representatives, that all treaty clauses providing for extraterritorial jurisdiction would be abrogated fom the 1st January 1932. On the 7th June 1931 occurred the murder at Taonan in Manchuria by Chinese militia of Captain Nakamura of the Japanese army, whose passport described him as an agricultural expert wishing to carry out explorations in the Hsingan mountains. This occasioned a passage at arms between the Japanese Ministry of War and the Japanese Ministry of Foreign Affairs, by which the case was practically taken out of the hands of the latter, as the Minister of War succeeded in persuading the Imperial Diet to increase the garrison in Corea so that in case of trouble in Manchuria it would be easy to move troops from Corea without exciting comment.[1] Use for those troops was soon found. On the night of the 18th September 1931 *just outside Moukden a mysterious bomb was exploded* on the South Manchuria Railway line The actual damage caused was insignificant, but the reverberations from that explosion echoed all round the world. Immediately, the Japanese military authorities moved troops out of the railway zone and seized Moukden. Simultaneously the Chinese garrison at Changchun was attacked. On the following day Yingkou was occupied and Kirin two days later. All important towns on the railways were taken over without resistance, as the Young Marshal, who was south of the Great Wall with his main army assisting Chiang Kai-shek, had given orders that armed resistance was not to be offered to Japanese attacks. By the end of the year the Japanese army was in control of the whole of the southern and central regions of Manchuria. That this sweeping, and from the Japanese side practically bloodless, conquest was part of a premeditated plan was borne out by the formal establishment on the 17th February 1932 of the puppet state of Manchoukuo, the Government of which, through the North

[1] *Japan Chronicle;* 27th August, 1931.

Eastern Administrative Committee (東北政務委員會) immediately notified the Superintendents of Customs at the Manchuria treaty ports that in future the control of all these ports was vested in this Committee, that in the meantime the Commissioners and their staffs were to continue performing their accustomed duties, and that Japanese advisers would be appointed to supervise Customs affairs. This automatically brought on immobilization of the Customs revenue, the banks obeying the orders of their new masters by refusing to allow remittances to be made from revenue deposits to the Inspector General's accounts in Shanghai. To redeem the situation, if possible, the Inspector General put forward the proposal (1) that the Manchoukuo authorities should respect the integrity of the Chinese Customs administration throughout Manchuria on the understanding that they would be notified of changes in personnel of Commissioners, of alterations in Customs tariffs, and of revisions in regulations for Manchurian ports outside of Dairen; (2) that the Manchoukuo authorities should recognize liability for a *pro rata* share of service of foreign obligations secured on the Customs revenue; (3) that, in practice, payments on behalf of such service could be effected either by remittance to Shanghai of the total Dairen revenue as representing this *pro rata* share—the revenue of the other ports in Manchuria to be at the disposal of the Manchoukuo Government, or by making the exact *pro rata* share as a fixed charge on the total revenue of all the ports in Manchuria, the surplus to remain at the disposal of the Manchoukuo Government.[1] Failing a compromise of this, or similar nature, the Inspector General pointed out that Chinese Custom Houses in Manchuria would be seized, and the Customs Service disrupted. That compromise, however, was not acceptable to either side, and seizure of the various Custom Houses, and ejection of the Commissioners along with those of their staff who remained loyal, became the order of the day. Harbin was seized on the 26th June 1932, Newchwang on the 27th, Lungchingtsun and Hunchun on the 29th, and Antung on the 30th, while Aigun was not evacuated till towards the end of September. Even the fact that the Custom House at Dairen functioned under a special agreement between China and Japan,[2] and that the Kwantung Leased Territory, in which Dairen is situated, was under the direct control of the Japanese Government, failed to keep that

[1] C.A.: I.G. S/O Circ. No. 95.

[2] C.A.: I.G. Circ. No. 1439: *Treaties, Conventions, etc. op. cit.* Vol. 2, pp. 741-742, *antea* Chap. V, §16, p. 399.

Custom House immune from interference. By the end of the first week in June revenue remittances from Dairen to Shanghai had ceased, and all efforts made during the following weeks to secure resumption of remittances failed, largely because the Commissioner of Customs had been intimidated by the Chief of the Foreign Affairs Department of the Kwantung Government, who in this matter was acting in the interests of the puppet Government of Manchoukuo. The Commissioner was dismissed, and the Japanese Legation evaded the according of recognition to the Chinese Government's new appointee, as called for by Article I of the Dairen agreement, on the ground that the Kwantung authorities had not been consulted regarding the removal of the new appointee's predecessor. Deprived thus of the ability to collect their Customs revenue at these seized ports the Chinese Government issued a notification that the Custom Houses at Harbin, Newchwang, Antung, and Lungchingtsun were to be closed on the 25th September 1932, and to remain closed till further notice. To protect their revenue and the administration of the tariff the Government decreed that at Chinese treaty ports all cargo from Dairen was to be treated as foreign and made to pay full import duty, native goods to Dairen full export duty, factory products to Dairen full factory products tax, and foreign goods to Dairen—whether "to pay" cargo, or non-duty-paid transhipment cargo, or cargo ex bond—were to pay full import duty at port of shipment or transhipment. Foreign goods, which had already paid duty, could be shipped to Dairen under duty-paid documents. Cargo shipped from Chinese treaty ports to other Manchurian ports was, if foreign, to be treated in the same way as similar cargo for Dairen; but, if native, including factory products, no change was to be made in the existing procedure, while cargo arriving at Chinese treaty ports from Manchurian ports other than Dairen was, if foreign, to pay full import duty; if native, inter-port duty and surtax; and, if factory products, the taxes and surtaxes which would normally be collected at the above ports. As the ousting of the Chinese Customs from Manchurian ports entailed a loss in revenue of some forty million dollars a year, the Government, to help to meet the loss thus caused, on the 3rd August 1932 announced an increase in the import tariff rates on certain articles to come into force on the day following. The increases applied mainly to articles of luxury, and covered thirty four tariff headings. The rates on wines and spirituous liquors went up from 50 to 80 per cent, on raw silk from 30 to

60—a hundred per cent increase, on toys from 12½ to 30—an increase of 140 per cent, on lace trimmings, embroideries, plushes, velvets, silk piece goods, natural and artificial, from 45 to 70, and on clothing from 50 to 75. The average percentage increase was 60.65. On the 16th May of the following year (1933) the period of three years expired during which China had agreed by her treaty with Japan of May 1930 not to raise the import duties on certain specified articles higher than those fixed in the import tariff of 1920. Primarily, to increase the Customs revenue, and secondarily, to take advantage of the expiration of the three year period so as not to accord Japan any further preferential rates, the Government ordered the enforcement, as from 22nd May 1933,[1] of a new import tariff in which the rates on many goods, particularly cottons and sea products were increased. This tariff was not discriminatory against Japan, but it happened that increases fell also on those articles in which Japanese traders were particularly interested. That discrimination against any one country was not intended is evidenced by the dissatisfaction with which the new tariff was received by British merchants who objected to the enormously increased rates on certain cotton manufactures, paper, and woollen piece goods.[2] On imitation cotton poplins the increase was roughly 800 per cent, on certain types of woollen goods 200 per cent, and on various grades of paper from 8 to 280 per cent. It was urged that the chief justification for these abnormally heavy rates was the pressing need of the treasury, as Chinese industry, so far as these goods were concerned, was much too embryonic to profit by high protective duties. All the same, protectionism was definitely on the Government's programme. The introduction of the metric system necessitated, as from the 1st February 1934, the conversion of the weights and measures in this tariff to the metric basis. Early in that year, too, Japanese opposition to the 1933 tariff schedule began to make itself felt. The Japanese Minister lodged oral protests with Mr. Wang Ching-wei, Chinese Minister of Foreign Affairs, and President of the Executive Yüan, and repeated these protests later to General Chiang Kai-shek himself. Other events also seemed to indicate that China was being subjected to pressure. At this time the Japanese Government urged that arrangements be made for the payment of the Nishihara loans, and put forward demands in regard to north China. Then came the de-

[1] C.A.: I.G. Circ. No. 4629.

[2] *British Chamber of Commerce Journal*, June 1933, July 1933.

spatch of Japanese gunboats to Nanking on account of the sudden disappearance of a Japanese vice-Consul, who was later discovered hiding in the country. On the 3rd July (1934), practically without warning, a new import tariff act was promulgated,[1] the terms of which were in sharp contrast to the protectionist revision of the previous year. The rates of this new tariff on many of Japan's principal exports to China were greatly reduced. Thirty-five items in the cotton piece goods class, in all of which Japan had the chief interest, were granted reductions varying from two to forty-eight per cent; two items in the wool and manufactures thereof class were reduced seven to eight per cent; five items in the ores and metals class were reduced eleven to thirty per cent; six items in the sea products class, a category of special interest to Japan, were reduced fourteen to twenty-six per cent; two items in the vegetables and cereals class were reduced twenty-two to thirty-three per cent; four items in the paper and wood pulp class were reduced eight to twenty-one per cent; and two items in the bones and feathers class were reduced twenty-five per cent. On the other hand, the rates on certain western, especially American, articles of import were heavily increased. The rate on raw cotton, for instance, went up forty-three per cent, with the result that China's import of that article from the United States in 1935 fell more than fifty per cent below the previous year's importation. This large increase on a raw material taken in conjunction with the decreases on cotton piece goods originating in Japan was a serious blow to the native cotton textile industry. It resulted in heavier costs of production of cotton goods in China, and eventually in the closing down of a number of Chinese-owned mills. It had also the effect of encouraging the domestic production of cotton—a desirable end for a country on an agricultural basis. In this case it is Japan which in present conditions stands to gain most from the development of a dependable supply of cotton in China. The rates on oils, including kerosene, liquid fuel, and lubricating, were raised about thirty-eight per cent, an increase which, so far as kerosene is concerned, acted not as a protection of any domestic industry but as an oppressive sales tax on the poor, and a clog on the import of goods necessary for the progress of the country. This increased rate on a necessity like kerosene and similar provisions in the same tariff were probably devised in the hope of securing sufficient revenue to

[1] C.A.: I.G. Circ. No. 4896.

offset the losses expected from the decreased rates on other items. The rates on wool and woollen manufactures were raised forty-five per cent, an increase which fell heavily on trade from Great Britain. The rates on machinery and tools were raised in some cases by a hundred per cent which struck not only American, British, and German trade, but also China's industrial economy. The rates on chemicals and pharmaceuticals were raised fourteen to a hundred per cent; on candles, soap, and fats thirteen to fifty-three per cent; on timber twenty-five to a hundred per cent; on coal, pitch and tar fifty-six per cent, an increase which speedily brought into operation (22nd July 1935) an agreement between France and China[1] by which anthracite coal with fuel ratio of five or over, imported into China either from France or French Indo-Chine, should pay a special rate of C.G.U. 0.89 per metric ton instead of the tariff rate of C.G.U. 2.80. The rates on chinaware were increased twenty-five per cent; on stone and earthenware thirty-three per cent; and on twenty items in the miscellaneous class seventeen to a hundred per cent.[2] As part of the Government's tariff policy was professedly to reduce duties on raw materials and goods essential to the country's industrial development, and to increase duties on foreign products so as to reduce their competition with certain domestic industries, the growth of which was considered desirable, it is not surprising that the export tariff was also taken in hand and revised so as to accord more with the Government's fiscal policy. The export five per cent tariff schedule attached to the Treaty of Tientsin, had—with certain deletions made by the Chinese Government—remained in force till May 1931, although in the lapse of seventy odd years the increase in the general price level had been such as to reduce its rates to less than three per cent of the values prevailing in 1931. The Chinese Government, though hard pressed for a larger revenue, had never proposed an increase in the export duties, realizing that such an increase would hinder the development of her export trade, and reduce the country's power of competition in the markets of the world. The rates of the May 1931 export tariff were, in the main, fixed on a 7½ per cent *ad valorem* basis, except in the case of certain fruits, medicines, bamboo furniture, silk waste, enamelled ware, earthenware, soap, and varnish which remained on the 5 per cent level. This 1931 tariff was now thoroughly revised.

[1] C.A.: I.G. Circs. Nos. 5136; 5209.

[2] *Bank of China Monthly Review*; Shanghai; Vol. IX; No. 2; August, 1934.

Of the 270 items named in it, the duties on 88, or almost one third of the total, were marked for abolition, while those on an additional 50 were to be reduced. Prominent among the duties to be abolished were those on cotton thread, cotton yarn, cotton piece goods, woollen piece goods, alcohol, sea products, fruits, cigars, cigarettes, prepared tobacco, dyes, beancurd, soy, fodder, vermicelli, glue and animal products, lead, zinc, all forms of brass and tin except ingots of such, bricks, cement, marble, alum, arsenic, soap, soda, chemicals, gypsum, matches, etc. It is intended that this revised export tariff, which is designed to assist domestic industry, is to come into force as soon as the measures for the abolition of interport duty and for the making up of consequent losses are announced by the Government.[1] Till that happy day arrives exporters of China's products will have to rest satisfied with the export tariff of 21st June, 1934.

Japan's position in Manchuria: Creation of Eastern Hopei Autonomous Council: Officially protected smuggling in north China: Disarming of Customs preventive vessels: Chinese, American, and British official protests against smuggling lodged with Japanese Government: Establishment of Customs Chief Inspection Bureau for prevention of smuggling by rail: Losses caused to Chinese revenue by this north China smuggling campaign.

§ 19. But a tariff policy which tries to combine the aims of raising revenue and of encouraging the development of a country's domestic industries by checking the import of competing foreign goods, is not a policy likely to be popular with more highly industrialized countries obliged to find markets for their manufactures. Foremost among such industrialized nations in the Far East, seeking supplies of cheap raw materials and markets for her manufactured goods, stands Japan. Since the days of the Russo-Japanese War of 1904-1905 Japan had become recognized for her prowess in arms as a world Power. It is a position which involves great and growing responsibilities necessitating a steadily increasing national expenditure. For a country which has deliberately chosen industrialization to provide the means necessary for retaining and strengthening her position as a world Power, and which is so poorly endowed with natural resources as Japan, control over abundant supplies of those raw materials without which that industry could not exist, as well as easy—if not sole—access to potentially illimitable markets for the products of her industry become a matter of life and death.

[1] *The Chinese Year Book*, 1935-36, p. 1269.

Political, in this case imperial, ambition dictates an economic policy, and that policy cannot be realized short of aggression. From Japan's point of view, therefore, control, direct or indirect, over the Manchurian provinces and those of north China is vital, even if only economic requirements are considered. But there are other considerations. Japan reminds the world that she has fought two wars on Manchurian soil in defence of her rights, and against what she believed to be threats to her national existence. Those were costly wars both in life and money. The result of the last, that against Russia, placed her finally in the position from which she could more easily proceed to carry out her plans for both economic and strategic dominance. Corea was now definitely Japanese territory, and for the better protection of that territory it was held essential that Japanese influence and authority in the government of Manchuria should be predominant. That became an overwhelming conviction when she was faced with the possibility of an alliance between Russian communists and Chinese nationalists. Communism to Japan is anathema, while rightly or wrongly she believes that the Kuomintang is anti-Japanese. Along with the growth of nationalism in China, there came an eclipse of the spirit of liberalism in Japan. The world slump had brought about a serious decline in the silk trade by which Japan suffered heavily. The London Naval Treaty of 1930 had alienated the navy and lost credit in Japan for the Minseito party. Serious repercussions in Japan's finance and industry had been created by the return to the gold standard in 1929. Baron Shidehara's policy of conciliation in Manchuria had failed, and the growth of the anti-Japanese boycott in China was awakening serious apprehensions. To the Seiyukai party these signs of the times seemed to indicate that some more positive action in China was called for. That action was taken. As we have seen, it assumed the form of an armed invasion of Manchuria, the overthrow of the Government there, the seizure of the Customs at the various ports, and the establishment of the puppet state of Manchoukuo. On the 24th February 1933 the League of Nations passed a vote condemnatory of Japan's action, and a month later an Imperial Rescript was issued notifying Japan's withdrawal from the League. In the light of the Japanese Foreign Office statement, made by Mr. Amau, a little over a year later, that Rescript is significant. That statement has not inaptly been termed the enunciation of Japan's Monroe doctrine. It was a notice to the world that Japan would oppose any action by the Chinese

Government which she might consider as endangering the peace of the Orient. Further, Japan would object to any of the Powers providing China with political loans, or with war material or instructors, as such measures would be likely to lead to disturbances of the peace. Finally, Japan claims that she has special responsibilities in the Far East, and that while she wishes to remain on friendly terms with other Powers, she yet reserves to herself the right to act alone on her own responsibility if she considers that the maintenance of peace and order in East Asia demand it.[1] Before the issue of that statement, however, Japan had already taken further action. In February 1933 she had demanded the withdrawal of Chinese troops from the strategically placed province of Jehol, claiming that it formed an integral part of the new state of Manchoukuo. Within a few weeks the Kwantung army, assisted by Manchoukuo troops, had annexed the whole province, and had thus opened a highroad into north China and Mongolia. This led to the demilitarization of a wide zone of territory including the strip of level country in eastern Hopei through which runs the Peking-Moukden railway, and on the 31st May 1933 to the Tangku Truce, signed by Generals Okamura and Hsu Yen-mo defining this zone. The terms of this truce, as communicated to the public, made no mention of the question of Customs establishments, or of the railway traffic along the Peking-Moukden line. Chinese, however, more particularly at Canton, asserted that this truce contained secret clauses dealing with these matters, with the cessation of the boycott, and with the surrender of extra-territorial rights on the part of Japan. Next followed the abortive attempt in the summer and autumn of 1935 to switch off from allegiance to Nanking the five northern provinces of Hopei, Chahar, Suiyuan, Shansi, and Shantung, and to establish them as an independent unit, politically and economically. General Doihara's plan failed at that time of accomplishment; but in its place came on the 14th November 1935 a proclamation from a Mr. Yin Ju-keng (殷汝耕), a protégé of Japan, announcing the independence, under a government styled the Eastern Hopei Autonomous Council, of an area running from Shanhaikuan to Lutai with its capital at Tungchow, and covering twenty-five prefectures of which eighteen were in the demilitarized zone. At the same time he let it be known that the only revenues which would be remitted to Nanking from

[1] *The Times*; London; 24th April, 1934.

this area would be the *pro rata* shares of the Customs and of the Salt Gabelle earmarked for the service of foreign obligations. Then began an orgy of officially protected smuggling unparalleled even for China. Claiming that the Tangku Truce forbade the carrying of arms by Customs officers, the Eastern Hopei authorities first rendered these representatives of the Nanking Government defenceless, and then stood by as interested spectators while gangs of hooligans, mostly Coreans and Japanese, brought in carloads of goods by rail and shipload after shipload along the Shanhaikuan and Peitaiho littoral, transporting these goods to Tientsin by rail without paying a cent of duty. Attempts made by Customs officers to exercise their preventive duties were in the great majority of cases defeated by the overwhelming numbers of the smugglers who had no scruple in using violence, and in organizing attacks in which not a few Customs employees suffered serious bodily injuries. Appeal to the authorities was useless: the Japanese Consular police refused to interfere, except occasionally when it was usually in defence of the racketeers, the Japanese Consular authorities maintaining that smuggling into China is no offence under the laws of Japan, while the Kwantung military authorities having given the assurance that no smuggler would be allowed to carry firearms—a pledge which they saw was observed—left the Customs and the hooligans to fight it out as best they could. The railway authorities at first were willing to observe the terms of their agreement and to assist the Customs in attempting to suppress this smuggling by gangster methods, but when three of their foreign employees, including the traffic manager at Tientsin, got beaten up by Corean ronin, they withdrew from the conflict. Besides, this illicit trade was bringing in welcome freight returns. In May 1935 the average daily freight receipts were $7,000 while in the corresponding month of 1936 the average daily freight receipts were more than treble that sum. Assaults on Customs officers became a commonplace; within nine months over a hundred such had to be reported. To protect the sea transport of goods to be smuggled the Customs preventive vessels patrolling the Hopei coast had to be rendered harmless. This the Kwantung army proceeded to do. As early as January 1935 they protested against the patrol work of these armed vessels even within the three mile limit, on the ground that such armed patrol was an infringement of the Tangku Truce, although no such stipulation was to be found in the published text of that

document. Protest to the Japanese Government through the Wai-chiao Pu was unavailing. The arms had to be removed, and as preventive vessels without arms and munitions are about as useful as a fire engine without fire-hose and water, there was nothing for it but to withdraw these vessels. That opened the flood gates. Assured of exemption from interference at sea swarms of trawlers, motor boats, and steamers with Dairen as their base poured into China, under the protection of gangs of Japanese and Corean ronin; a ceaseless stream of goods for disposal at Tientsin and all over north China. In one day in May 1936 an impartial newpaper correspondent counted no fewer than thirty-eight steamers of all sizes off Peitaiho, all busily engaged in this illicit traffic.[1] The matter was fast becoming an international scandal, and officials, merchants, and newspapers in China, America, and Great Britain were loud in their protests. To lull the storm the Eastern Hopei Autonomous Council early in 1936 established its own Customs service, and declared that it was taxing all imports passing through its territory, although the rates were only one fourth of those in China's national tariff. This enabled General Tada, the Japanese commandant of the Tientsin garrison, to state that as goods entering Eastern Hopei had paid duty to the authorities there they should not be regarded as smuggled.[2] The world, however, thought otherwise. The London *Times* dubbed the situation bluntly as a "shoddy swindle,"[3] while its New York namesake attributed the whole smuggling problem to the Japanese.[4] Strong official protests were lodged at Tokyo by the Chinese Government as well as by the representatives of the United States and of Great Britain; but these the Japanese Foreign Office spokesman met with the claim that the smuggling situation in north China was an internal affair of China's, and that its continuance was due to lack of zeal on the part of the Chinese Customs Service, and to China's high import tariff. In their official reply the Japanese Government resented the suggestion that the Japanese authorities had countenanced smuggling in order to undermine China's economic position, and simultaneously to destroy the market for other foreign goods.[5] Weary of these ineffective protests, of which six in all had been

[1] N.C.D.N. 5th May, 1936.
[2] N.C.D.N. 10th May. 1936.
[3] *The Times;* London; 18th May, 1936.
[4] *New York Times,* 22nd May, 1936
[5] N.C.D.N. 16th May. 1936.

lodged; the Chinese Government on the 16th May 1936 issued a proclamation announcing that the death sentence would be passed on all apprehended smugglers and their coadjutors, be they merchants, private individuals, railway guards or local police. That put a stop to the railway carriage of smuggled goods as freight. To circumvent this, the smugglers began to carry their goods as private baggage, a practice which led to numerous hand to hand scuffles not only with Customs officers but also with the railway police and with the passengers whom they ejected to make room for their wares. In three months forty such hand to hand tussles took place. Simultaneously with their proclamation of the death sentence, the Government inaugurated a Customs Chief Inspection Bureau for the prevention of smuggling by rail,[1] and although the political situation in north-eastern Hopei shut out the Customs from functioning effectively on the Peking-Moukden railway, yet the establishment of some seventeen Customs inspection posts on the Tientsin-Pukow, the Peking-Hankow, the Nanking-Shanghai, and the Shanghai-Hangchow lines had the effect of stopping almost immediately the penetration by rail of these smuggled goods southward from Tientsin. Irritations, however, multiplied. On the 5th May the Japanese Military Attaché at Shanghai stated that Japan would be willing to suppress smuggling in return for a reduction of duty on Japanese imports. At Tientsin another military officer told reporters that the only solution of the smuggling problem was a reversion to the policy of the late B. L. Simpson namely, the seizure of the Tientsin Customs and the setting up of an independent easy-going régime. Then came several flag incidents, one of which threatened to have serious consequences. On the 22nd June 1936, off the Shantung coast, a suspected smuggling vessel which had refused to stop was overhauled and boarded. The wheel was found lashed and the crew below. When the flagstaff was being taken down, both flag and staff, owing to the strong wind, were accidentally swept overboard. Feeling among the Japanese community at Tsingtao rose to fever height. They alleged that dumdum bullets had been used, that the flag had been deliberately torn and thrown overboard, and that Japanese seamen had been assaulted with rifle butts. A Japanese mob threatened to set fire to the Tsingtao Custom House, and a Japanese warship was promptly rushed to the port. Regret was immediately expressed by the Chinese Customs for

[1] C.A.: I.G. Circs. Nos. 5282; 5345.

the accidental loss of the flag; but the demands put forward by the Japanese were not met. Whether it was the world outcry against this obviously officially protected smuggling campaign, which by its adverse effect on the Customs revenue was a threat to the service of the foreign obligations secured on that revenue, or the effective restriction that China was now exercising against the penetration into central China of smuggled goods from the glutted area in the north, or the growing seriousness of the incidents arising from the activities of the smugglers, or the protests from the giant firms of Mitsui and Mitsubishi that smuggling was destroying legitimate trade in China, or a combination of these and other reasons that led to a reversal in policy on the part of the Japanese authorities is not known; but certain it is that a reversal did take place about the middle of July 1936, for about that time Japanese Consular protection ceased to be extended to Japanese smugglers in Chinese territory. On the 21st July Chinese broadswordsmen from the 29th army drove a horde of Corean smugglers out of the Tientsin Central Station, and seized two truckloads of sugar intended to be smuggled. Four days later 500 bags of sugar were seized in the British Concession at Tientsin, and although the Japanese owner protested, neither in this case nor in the former was any action taken by the Japanese Consul. On the 27th July 2100 bags of sugar and of artificial silk were seized at Peitsang, and again there was no protest from the Japanese authorities. This brought about a practical cessation of the racket so far as using the railway for forcing smuggled goods southwards was concerned; but before the end of August attempts were being made to break through the Customs cordon by the use of motor trucks and cars, escorted by armed Japanese and Corean ronin. In spite of all efforts on the part of the Customs considerable quantities of sugar, rayon, piece goods, cigarette paper, kerosene oil, etc. were forced through in this way into Shantung. In the year 1st August 1935 to 31st July 1936 the following goods, according to the Peking-Moukden Railway records, arrived in Tientsin without having paid legal duty:—

White sugar	927,700 bags:	Unpaid duty	=	C.G.U.	8,998,000
Artificial silk	118,500 „	„ „	=	„	6,400,000
Cotton cloth	55,000 bales:	„ „	=	„	1,870,000
Kerosene oil	137,000 cases:	„ „	=	„	246,600
Sundries	36,000 pkgs.:	„ „	=	„	1,483,400
Cigarette paper	8,100 bags:	„ „	=	„	125,000

The total amount of duty evaded on these goods, namely C.G.U. 19,123,000=approximately $30,000,000 does not, of course, mean that during the period named the Tientsin Customs revenue was actually being robbed of that amount. Had the Customs preventive service been permitted to function normally, and had all imports been compelled to follow legitimate channels and pay national tariff duty rates, the demand for the goods listed would not have reached the proportions indicated. This organized, and officially protected, smuggling, therefore, was not so much an assault on the Customs revenue as an attempt to undermine Chinese industries in sugar, cotton cloth, and artificial silk. Most business dealings in smuggled goods south of Tientsin were in the hands of Chinese brokers, generally men whose legal business in sugar, rayon, or piece goods had been destroyed by the smuggling racket, and who had no alternative but to join the malefactors. They learnt a bitter lesson, for it was they who suffered most from the collapse of prices after the markets had become glutted. In 1936 between the 15th May and the 15th June the price of sugar in the Tientsin market fell from $30 a bag to $14.50; while rayon, which previously had commanded $400 could be had for $170 a bale.[1]

Basic reasons for this smuggling: China's right to tariff autonomy, and integrity of Customs Service at stake.

§ 20. In the final analysis, however, the chief significance of this smuggling campaign is not economic but political. The Japanese Foreign Office declined to intervene, but the Japanese Kwantung army, which since 1931 has seemingly acted as an independent entity, was not so indifferent. Without the action of that army the smuggling racket in north China in 1935-1936 could not have originated and reached the proportions it did. Japan, as all the world knows, needs raw materials to feed Japanese industries, the rapid development of which has astounded the world; those industries require markets for their products, the closer to the place of production the better; competition with these Japanese industries must, if possible, be eliminated, and this can best be

[1] For fuller details of this smuggling racket, *vide* C. Y. Shih; *Smuggling in North China;* May 1936: A. T. Lu; *The Unabated Smuggling Situation in North China;* August 1936, both issued as Information Bulletins by the Council of International Affairs, Nanking, China: Frank K. M. Su and Alvin Barber, *China's Tariff Autonomy, Fact or Myth,* in *Far Eastern Survey,* Vol. V. No. 12, June 1936, New York, Institute of Pacific Relations: H. Hanson, *Smuggler, Soldier, and Diplomat;* in *Pacific Affairs,* Vol. IX, No. 4, December, 1936: P. T. Chen: *The North China Smuggling Situation: A Documentary Review: The Chinese Year Book,* 1936-37: pp. 801-945.

done by the establishing of territorial reserves in China where monopolistic schemes can more easily be fostered, by the aid of government subsidies to facilitate drastic undercutting of the foreign competitor who imports goods into China, and by either getting control of, or undermining China's competitive industries, to which end one of the chief means is dictation, direct or indirect, of tariff rates. The smuggling campaign, therefore, in north China was essentially an assault, under the aegis of the Japanese Kwantung army, to batter down the fortress of China's tariff autonomy, so as to enable the aggressors primarily to carry out political readjustments for the furtherance of their own national ambitions. That China's tariff autonomy, regained after so much struggle and sacrifice, is a stumbling block in Japan's path is evidenced by the reduced tariffs introduced on the 22nd January this year (1938) by the provisional government in north China, in which the rates are specially favourable to Japan's requirements and to the products of Japanese industries, and by the outburst of free trade in Japanese goods carried on at Shanghai and Tsingtao by so-called transports. The notification announcing these new tariffs was, it is true, signed by the Chinese chairman of the executive commission of this provisional government, but of that it need only be said that while "the voice is the voice of Jacob, the hand is the hand of Esau". Ninety-five years ago China for the first time in her history, by the signing of the Treaties of Nanking and of Hoomunchai, acceded to a conventional tariff, as part of the price to be paid for waging an unsuccessful war, and thus lost, though unwittingly, her right to exercise tariff autonomy. Gradually, through eight and a half decades, she was to awaken to a sense of that loss and to learn from bitter experience how serious the consequences of that loss were to her national welfare. Whether she would have made a consistently wise and beneficial use of tariff autonomy, if it had been left in her power, is another matter. What nation has made such a use of it? The fact remains that she was not given the opportunity, and that in spite of her manifest necessity she was held down by the Powers to the strict observance of a treaty tariff, totally inadequate to supply China's needs, and a tariff which, short of free trade, afforded the maximum advantage to the foreign producer and merchant. We have seen how slow and painful the process had been through which China had at last recovered her right to tariff autonomy. Today she is again faced with the danger of being once more deprived of

that right: but this time she is aware of the danger. It is no longer a matter of comparative indifference to the whole nation as it was in 1843. The threat today is realized by an awakened nation to imperil her declared policy of using her dearly bought right of tariff autonomy to protect and foster the development of her native industries, and thereby to attain in due time that place in the world's economy to which her resources and efforts entitle her. She knows today what she did not envisage in 1843 that the loss of tariff autonomy renders the country a more easy prey to the exploitation of outsiders, and the awakened national consciousness rebels at such a prospect. She understands too that the threat to her tariff autonomy is a threat also to her revenue and to the integrity of the Customs Service, the organization by which the tariff is enforced, and by which from 40 to 50 per cent of her total national revenue is gathered in. She knows that during its existence of over eighty years her Customs Service, which, as we have seen, sprang from the necessity of having a reliable organization to administer the tariff, has always been a faithful servant of the Central Government, and by keeping outside politics has consistently been able—in a land kept back by foreign intervention, administrative weakness, and chaotic militarism—to work for the welfare and advancement of the Chinese people. She naturally desires that this capacity for helpfulness to both Government and people be maintained, and that nothing should be done which might impair or destroy that Service's integrity and efficiency. Disruption of the Service and of the Inspectorate system under which alone it can flourish would bring with it as inevitable consequences:— (1) Destruction of the bridge over which has passed, and continues to pass, China's trade with the rest of the world. Most foreign States, having commercial intercourse with China, the great majority of whom are also in treaty relations with her, are at one in their conviction that China's internationally staffed Customs Service, as a centralized and centralizing administrative unit is, in present circumstances, indispensable for the smooth and safe continuance of China's foreign trade. Interference with this administrative unit in any way calculated to impair its integrity or efficiency would result not only in the weakening, and perhaps the loss, of international confidence but also in grievous damage to the country's revenue and trade. (2) Dislocation of the machinery by which China maintains the service of foreign obligations charged by international agreements on her Customs revenue.

All the world knows how high China's credit stands in respect of all foreign loans and charges secured on her Customs revenue, and how by means of this revenue and of the organization by which that revenue has been and is safely collected, banked, and accounted for, China—in spite of ceaseless external and internal difficulties—has been able to maintain in the money markets of the world the high reputation of never having repudiated or failed to serve any of her Customs secured obligations. This is an asset of incalculable value, and in view of future requirements everything possible should be done to avoid any action that might impair the value of that asset. (3) Wrecking of the country's financial fabric, which has been built on the internal loans secured on the Customs revenue. There is no Chinese bank of any importance which does not hold as reserves larger or smaller amounts of the Government's internal loan issues. Upset of the Customs Service, which has been intimately bound up with these loans from the very early issues, would mean disaster not only to the Chinese banks but to millions of their depositors scattered through all the provinces of China as well as abroad. Chinese financiers and bankers are unanimous and emphatic in their opinion that the preservation of the Customs Service on its existing lines is absolutely essential to the stability of these internal loans and the country's internal fiscal arrangements. They are also convinced that without an undivided Customs Service it would be out of the question to guarantee and raise future internal loan issues. There are, of course, other reasons why every action should be avoided which might impair or destroy the integrity and efficiency of China's Customs Service, such as the continuance of collecting for numerous local administrations such special taxes as conservancy, wharfage, and dyke dues, the compiling and prompt publication of trade statistics, and the necessity of maintaining by that Service the upkeep of China's aids to navigation, without which both Chinese and foreign shipping run innumerable risks of serious loss to life and property. The three chief reasons, however, given above are sufficient to prove that it is in the best interests of the Chinese people, and of world trade with China that every effort should be made to preserve China's Customs Service intact. The Open Door, equality of tariff treatment for all and discrimination against none, confidence in the security of the service of foreign obligations, and the stability of China's domestic financial structure are all definite factors in the

peace and prosperity of China and the Far East. Can their continuance be guaranteed if China is deprived of her right to tariff autonomy, and if the integrity and present activities of her internationally staffed Customs Service are subverted?

APPENDIX A

Translation of a Proclamation Issued by H. E. the Imperial Commissioner, Keying

(*Chinese Repository*, Vol. XII, August 1843, pp. 443-444. *vide* also Martens *Nouveaux Recueil Général de Traités, etc.* Vol. V, 1847, pp. 421-423)

Keying, High Imperial Commissioner, etc., etc., Ki Kung, Governor General, and Ching Yuetsai, Governor, etc., issue this proclamation for the purpose of giving clear information and commands.

Whereas, when the English had last year ceased from hostilities, our August Sovereign granted them commercial intercourse at Canton and at four other ports, and was graciously pleased to sanction the treaty that had been concluded; the ratifications of that treaty have now therefore been exchanged, and commercial regulations have been agreed upon, and a tariff of duties, wherein all fees and presents are abolished, has been distinctly settled. These, as soon as the High Commissioner, with the Governor General and Governor, shall have received the replies of the Board of Revenue, shall be promulgated, and shall become the rules to be observed in the various ports. The tariff of duties will then take effect with reference to the commerce with China of all countries as well as of England. Henceforth, then, the weapons of war shall for ever be laid aside, and joy and profit shall be the perpetual lot of all; neither slight nor few will be the advantages reaped by the merchants alike of China and of foreign countries. From this time forward all must free themselves from prejudice and suspicions, pursuing each his proper avocation, and careful always to retain no inimical feelings from the recollection of the hostilities that have before taken place. For such feelings and recollections can have no other effect than to hinder the growth of a good understanding between the two people.

With regard to Fuchau, Amoy, Ningpo, and Shanghai, the four ports which by His Imperial Majesty's gracious permission are now newly opened for trade; it is requisite that the replies of the Board of Revenue should be received before the commerce of these ports should be actually thrown open. But Canton has

been a mart for English trade during more than two centuries past, and therefore the new regulations having been decided upon, they ought at once to be brought into operation, that the far travelled merchants may not be any longer detained in the outer seas, disappointed in all their anticipations. The High Commissioner, the Governor General and Governor have, therefore, in concert with the Superintendent of Customs, determined, in fulfilment of their August Sovereign's gracious desire to cherish tenderly men from afar, that a commencement shall be made with the opening of the port of Canton under the new regulations on the 1st of the 7th month. The wishes of the merchants will thus, it is hoped, be met.

The island of Hongkong having been by the gracious pleasure of His August Majesty granted as a place of residence to the English nation, the merchants of that nation, who will proceed from thence to the various ports will be numerous, and such vessels as they may engage to convey them to and fro will therefore be required to lie under no restrictions, but merely to accept engagements at fair and just rates. If, however, such passengers convey goods in the same boats with the view of evading the dues of government they shall be subject to such fines as the law shall direct. Should merchants of China desire to proceed to the island of Hongkong aforesaid, to trade, they will be required only to report themselves to the next Custom House, and to pay the duties on their merchandise according to the new tariff, obtaining a pass before they quit port to commence their traffic. Any who may dare to go and trade without having requested such a pass, on discovery shall be dealt with as offenders of the laws against clandestine traffic, and against contumacious visiting of the open seas.

As to those natives of China who, in past days, may have served the English soldiery or others with supplies, and may have been apprehended in consequence, the High Commissioner has obtained from the good favour of his August Sovereign, vast and boundless as that of Heaven itself, the remission of their punishment for all past deeds, and any such who may not yet have been brought to trial are therefore no longer to be sought after; while all who may have been seized and brought before government are granted a free pardon. All persons of this class must then attend quietly to their avocations, with a diligent pursuit of everything that is good and right; they need entertain no apprehension of being hereafter dragged forward, nor yield in consequence to any fears or suspicions.

With reference to the arrangements which the High Commissioner and his colleagues have made in regard to duties, everything has been done with a single eye to a just impartiality; all merchants, then, whether of China, or of foreign countries, are called upon to consider the many pains that the High Commissioner and his colleagues have taken, and by all means to abide in the quiet pursuit of their respective callings, and in the enjoyment of so auspicious a peace. From hence-forward amity and goodwill shall ever continue, and those from afar and those who are near, shall perpetually rejoice together. Such is the fervent hope of the High Commissioner and his colleagues; and in this hope they command implicit obedience to what is now thus especially promulgated.

(*Signed*) J. ROBERT MORRISON,
Chinese Secretary and Interpreter.

APPENDIX B

Proclamation by H. E. Sir Henry Pottinger Regarding the Opium Trade

It having been brought to my notice, that such a step has been contemplated as sending vessels with opium on board, into the ports of China to be opened by treaty to foreign trade; and demanding, that the said opium shall be admitted to importation, in virtue of the concluding clause of the new tariff, which provides for all articles not actually enumerated in that tariff, passing at an *ad valorem* duty of five per cent; I think it expedient, by this proclamation to point out to all whom it may concern, that opium being an article the traffic in which is well known to be declared illegal and contraband by the laws and Imperial Edicts of China, any person who may take such a step will do so at his own risk, and will, if a British subject, meet with no support or protection from Her Majesty's Consuls or other officers.

This proclamation will be translated and published in Chinese, so that no one may plead ignorance of it.

GOD SAVE THE QUEEN

Dated at the Government House, at Victoria, this 1st day of August, 1843.

Henry Pottinger.

[Reprinted from *The Chinese Repository*, Vol. XII, 1843, p. 446.]

APPENDIX C

GOVERNMENT NOTIFICATION. SUBJECTS OF CHINA SHIPPING GOODS ON BOARD OF BRITISH VESSELS.

His Excellency Her Majesty's Plenipotentiary, etc., is pleased to direct that the annexed correspondence in which the Chinese Minister concedes the right of subjects of his Government shipping on board of British vessels, be published for general information.

By Order,

(*Signed*) A. R. JOHNSTON.

Victoria, Hongkong, September 17, 1847.

COMMISSIONER KEYING TO SIR JOHN DAVIS.
(*Translation.*)

Keying, High Imperial Commissioner, etc., sends the following reply to a letter of the Honourable Envoy, dated 20th day, 7th month (30th August), respecting the chartering and freighting of English vessels by Amoy merchants.

Having duly perused this communication, I may remark that foreign merchants should generally convey their goods in foreign ships, and Chinese merchants make use of their junks. The exports and imports would thus be easily examined by the Custom House, and the revenue not suffer by smuggling.

In your present despatch you, however, observe with great truth, that it will impede the trade, if Chinese merchants are prevented from putting their cargoes on board of English vessels, and that there is a great similarity between the people from Singapore and our Chinese merchants. We ought therefore to adopt measures and enter upon some arrangements, that the Chinese may not be debarred from using and loading on British vessels. The English ships in that case must pay the tonnage dues, and the duties on goods on Chinese account be paid by the Chinese merchants themselves; but the English captains ought not to take the whole management of these matters in their behalf. Thus we shall perhaps act with justice in regard to commerce, and create no obstacles to the collection of duties.

Trusting that the Honourable Envoy will take the same view of this question, I beg you to favour me with an answer, after having considered the subject.

Whilst forwarding this reply I wish you every happiness.

Taoukwang, 27th year, 7th month, 27th day (September 6, 1847).

SIR JOHN DAVIS TO COMMISSIONER KEYING.

(*Extract*)

September 10, 1847.

I have to acknowledge your Excellency's communication regarding the shipment of cargoes in British vessels.

You very justly propose that we should adopt measures and enter upon some arrangements that the Chinese may not be debarred from loading on British ships. In this manner mutual trade and friendship will be promoted and smuggling prevented.

Every British vessel according to the Treaty must pay the whole tonnage dues, without any regard to the owners of the cargo. The Consul will not allow her to trade unless this has been done.

The Consul will in like manner not allow any British ship to leave the port until all the Customs duties on the whole cargo have been duly discharged, whether the owners be Europeans or Chinese. In this manner it will be impossible to evade the duties. Provided that these are regularly discharged, it can make no difference who are the owners of the cargo. The Consuls thoroughly understand this; and when a ship has once entered the port, it is impossible for her to evade the authority of the Consul.

APPENDIX D

Rules Regarding the Importation and Exportation of Chinese Produce.

1. Foreign Merchants in exporting Chinese produce from Shanghai pay, as it is provided in the Treaty, the inland or half-duty and the export tariff duty.
2. Foreign merchants in bringing merchandise from the Yangtze River have only to pay the inland or half-duty at the time of importation, but if such goods should be exported the export duty will be levied.
3. Foreign merchants in conveying Chinese produce from Shanghai into the Yangtze River have to pay the inland or half-duty.
4. When Foreign merchants bring Chinese goods from the Yangtze River to Shanghai, if such goods should not be landed but transhipped for exportation, both the inland or half-duty, and the export tariff duty will be levied.
5. When Foreign goods arrive at Shanghai if such goods be not landed but transhipped for the Yangtze River, the import tariff duty and the inland or tariff duty will be levied on them.
6. Goods imported to Shanghai by Foreign merchants from Ningpo, Foochow, Canton, Tientsin, and any of the Treaty Ports, should pay the import tariff duty; but if such goods should be reshipped for exportation the export tariff duty will not for the present be enforced.

Office of Maritime Customs,
Shanghai, 22nd July, 1861.

APPENDIX E

THE CUSTOMS TARIFF LAW
(Promulgated 24th October, 1925)

ARTICLE I. Foreign articles upon their importation into any open port in China shall be subject to an import duty according to the provisions stipulated in this law.

ARTICLE II. With the exception of tobacco, wine and articles similar in nature to those under government monopoly, which shall be otherwise provided for, the highest rate of import duty shall be 40 per cent and the lowest 7½ per cent. The tariff schedule will be promulgated separately.

ARTICLE III. The duty-paying value of goods subject to a specific duty shall be fixed, converted or adjusted on the basis of their average prices prevailing during the preceding year.

ARTICLE IV. The duty-paying value of goods subject to an *ad valorem* duty shall be fixed on the basis of their wholesale prices prevailing at the port of entry.

ARTICLE V. In the event that an agreement exists with any country on terms of reciprocity with regard to the import duty of certain articles, the tariff on such articles shall be in accordance with that agreement.

ARTICLE VI. In the event that any country subjects Chinese articles to less favourable treatment than those of other countries, the Government may by mandate impose an import duty on articles from that country in addition to the duty prescribed in the tariff; such increase of duty not to exceed in amount the value of such articles.

ARTICLE VII. In the event that a country grants an export bounty on its articles, the Government may by mandate impose an import duty on such goods of the same amount as the said bounty, in addition to the duties prescribed in the tariff.

ARTICLE VIII. In the event that the prices of foreign articles are intentionally and unreasonably lowered to such an extent that the Government considers it a disturbance to the market, it may by mandate impose a duty equal to the proper prices, in addition to the duties prescribed in the tariff.

ARTICLE IX. Articles unenumerated in the tariff shall be subject to a tariff on the same scale as goods of the same or similar nature listed in the tariff.

ARTICLE X. The following articles shall be exempt from import duty:—

(*a*) Articles belonging to Heads of Foreign States visiting China.

(*b*) Articles for the personal use of Foreign Ambassadors, or articles for the official use of foreign Embassies or Legations.

(*c*) Arms, ammunition, powder, explosives and munitions imported by the Government.

(*d*) Articles purchased or donated for relief purposes.

(*e*) Samples of merchandise which are only fit to be used as such.

(*f*) Native articles re-imported within three years after exportation without any change in character and form.

(*g*) Exported articles shipped by vessels which cleared from Chinese ports, but brought back on account of damage or danger to the vessel.

ARTICLE XI. The following articles, if imported for re-export within one year, shall be exempted from import duty, but a deposit must be made at the time of importation of an amount equivalent to the amount of import duty payable:—

(*a*) Articles imported for the purpose of having work thereon, subject to approval by the Government.

(*b*) Articles imported for repair.

(*c*) Articles imported for the purpose of scientific research.

(*d*) Articles imported for trial.

ARTICLE XII. The import of the articles specified hereunder is prohibited:—

(*a*) Salt.

(*b*) Opium, utensils for smoking Opium, Poppy seeds, Morphia, "Chin Tan", "Hung Wan", "Pai Wan", and all pills containing Morphia, Opium, or Cocaine.

(*c*) Counterfeit, altered, or imitation coins, paper money, or other negotiable papers.

(*d*) Books, pictures, carvings, and other articles injurious to public safety or morals.

ARTICLE XIII. The importation of arms, ammunition, powder, explosives and other munitions of war of every description is prohibited, except by the Government.

ARTICLE XIV. The importation of the following articles is prohibited except with special permission of the Government: saltpetre, chlorate of potash, sulphur, zinc, (powder or spelter) hydrochloric acid, nitric acid, sulphuric acid, yellow phosphorus, and explosives for industrial purposes.

ARTICLE XV. The following articles may be imported in reasonable quantities, after analysis and joint certification by government registered medical practitioners druggists and chemists, as to their proper use, and after report to and further examination by the Customs authorities: Morphia for medicinal purposes; Cocaine and hypodermic syringes; Stovaine; Heroin; Strychnine; Thebaine; Chanja; Hashish; Bhang; Cannabis Indica; Tincture of Opium; Laudanum; Codeine; Dionin; and all other derivatives of Opium and Cocaine.

ARTICLE XVI. The date on which the present Law shall be put into operation shall be determined by mandate.

ARTICLE XVII. On the date this Law is put into force, the National Tariff Regulations promulgated on December 25th, the Sixth Year of the Republic of China (1917) shall become null and void.

APPENDIX F

LAW REGULATING THE IMPORT DUTY ON TOBACCO AND WINE
(Promulgated October 24, 1925)

ARTICLE I. Foreign tobacco and wine on importation into any open port in China shall be subject to an import duty according to the tariff given in this Law.

ARTICLE II. The import duty on tobacco and wine shall range from 50 per cent to 80 per cent *ad valorem*.

ARTICLE III. The duty-paying value shall be fixed, converted or adjusted on the basis of the average wholesale prices prevailing during the preceding year.

ARTICLE IV. The date on which this Law shall take effect will be promulgated by mandate.

APPENDIX G

Declaration of the Chinese Government Regarding the Levying of Duties and Taxes on Foreigners Residing in China[1]

The right of levying duties and taxes is inherent to the right of administration of a state. In a state which is entirely sovereign this right of administration is exercised without restriction whatsoever, and therefore its right of levying duties and taxes is also subject to no limitation.

As far as China is concerned, ever since she entered into trade relations with foreign countries, in no treaty of any sort is there to be found any provision which concedes to foreigners living in or outside the Settlements in China an exemption from taxation. But, in recent years, when China commenced to enforce her revenue laws, foreigners declined to perform their obligations on the pretext that they resided in the Settlement areas or that they had not received instructions from their governments. Besides, those residing outside the Settlements or within the Railway Zones, putting a different interpretation to the treaties, have adopted the same attitude. These examples unfortunately have become precedents for even the Chinese living in the Settlements and Railway Zones and they, too, have been encouraged to refrain from paying their taxes. Although various steps had been taken by the Chinese Government to put an end to this state of things, yet no satisfactory result has been obtained, and the Chinese Government has been obliged to establish provisional barriers around the Settlements and Railway Zones in order to collect taxes and duties. Such an abnormal situation is detrimental not only to the administrative authority of the Chinese Government but also to the trade between China and foreign countries.

It is indeed inadmissible, in the enforcement of a fiscal régime, to make any discrimination either between citizens on account of their nationality or residence or between different parts of a territory subject to the jurisdiction of the same state. This would violate the principle, in international law, of equal treatment for the citizens of a state and run counter to the spirit

[1] Made on 10th December, 1925, at fifth meeting of the Provisional Measures Committee of the Peking Tariff Conference.

of the Washington Conference which was designed to respect the territorial and administrative integrity of China. The Chinese Government, therefore, proposes that these impediments should be removed so that it may be enabled to exercise completely its right of taxation.

Let us examine the foreign settlements in China from the historical point of view. On April 8th, 1863, Earl Russell, then His Britannic Majesty's Secretary of State for Foreign Affairs, wrote to Sir Frederick Bruce, British Minister in Peking, as follows:—

"The lands situated within the limits of the British Settlement are without doubt Chinese territory, and it cannot reasonably be held that the mere fact of a residence within those limits exempts Chinese subjects from fulfilling their natural obligations."

In the same year the foreign representatives in Peking met in conference and agreed to a number of principles for the reorganization of the Foreign Settlement in Shanghai, as follows:—

"1. That whatever territorial authority is established shall be derived directly from the Imperial Government through our Ministers.

"2. That such shall not extend beyond simple municipal matters, roads, police and taxes for municipal objects."

The aforementioned two articles show that the Powers possess over the Shanghai Settlement only an authority in purely municipal matters and are competent to levy taxes only for municipal purposes. It is, therefore, quite clear that the national taxes are to be paid without exception by the residents of the Settlements, whether they be Chinese or foreign citizens. Moreover, the payment of a land tax in respect of all landed property possessed by foreigners in China proves sufficiently that foreigners and Chinese alike have to perform their fiscal duties towards the Chinese Government.

In recent years, however, the Chinese Government has met with difficulties in the collection of such new taxes, as the stamp duties, the income tax, the wine and tobacco taxes, etc. The foreigners residing within or outside the Settlements have refused to pay on the plea that they had received no instructions from their governments, while the Chinese followed their example and pointed out that the payment of taxes should be general and uniform.

The financial difficulties at present confronting the Chinese

Government are really due to the insufficiency of the old taxes to meet the requirements of the new régime. Therefore, as soon as the *likin* system is abolished, the Chinese Government will be compelled to devise new and reasonable taxes in substitution of the old. If, however, China should continue to be fettered by the existing restrictions, then she will never be able to find a satisfactory solution to the question of taxation.

Consequently, the Chinese Government declares that foreigners in China, whether residing within or outside the Settlements, or within the Railway Zones as well as other localities, shall discharge, equally with the Chinese, their fiscal obligations towards the Chinese Government, in conformity with the provisions of the fiscal laws promulgated by China. It is hoped that the Plenipotentiary Delegates of the Powers will appreciate the reasonableness of this declaration by the Chinese Government."

APPENDIX H

Proposed Surtaxes on Foreign Imports

CLASS A. 27½ per cent

Cigars, Cigarettes, Tobacco prepared Wines, spirits and liqueurs, and Jewellery.

CLASS B. 22½ per cent

Tobacco leaf, Ale, beer, stout, etc., Claret, Spirits of wine, Cigarette paper, Platinum, Goldware, Silverware, Curios and Antiques, Unmounted precious stones, and Jade.

CLASS C. 17½ per cent

Pure silk and all goods made from pure silk, Upholstery fabrics, Laces, Embroideries, Trimmings, Articles of clothing, Boots and Shoes, Furs, Feathers, Leather manufactures, Toilet articles, Uncut semi-precious stones, Imitation stones, Works of art, Clocks and watches, Photographic and Cinematographic products and apparatus, Musical instruments, Sporting requisites, Electro-plated ware, Safes, Arms and Ammunition, Motor vehicles of all kinds, Wall-paper, Medicines and medicinal preparations, Ginseng, Sea products such as awabi, Beche de mer, Birds' nests, Cuttlefish, etc., Articles of food such as Cheese, Caviar, Butter, Biscuits, Bacon, Ham, Confectionery, Honey, Jams, Macaroni, Mushrooms, Olive oil, Sugar, Sugar candy, Syrups, Tea, Preserved vegetables, and Aerated waters.

CLASS D. 12½ per cent

Silk mixtures, Woollen piece goods, Linen, Artificial silk goods, Mats and matting, Carpets, Oilcloth, Umbrellas, Sunshades, Paper, Indiarubber manufactures, Ivory and tusks of all kinds, Celluloid, Mirrors, Glass plate, Glassware, Chinaware and Porcelain, Eye-glasses and Spectacles, Bells, Enamelled ware, Bedsteads, Stoves, Grates, Electric lamps, Gas brackets, Marble and granite, Woodware, Aniline dyes, Candles, Soap, Milk and Cream, Sugar white, Fresh fruit and vegetables.

CLASS E. 7½ per cent

Woollen and Cotton mixtures, Artificial silk and cotton mixtures, Mixed cotton and flax piece goods, Cotton socks, Gloves and Handkerchiefs and Cotton clothing, Canvas and Tarpaulin, Cotton Poplins, Cotton velvets, Mosquito netting, Buttons, Shoe and metal polish, Dyes, Colouring and tanning materials, Chemicals and chemical compounds, Gums and Resins, Kerosene oil, Lubricating oil, Liquid fuel, Gasolene, Matches, Household soap, Glazed tiles, Metal-ware, Refrigerators, Embroidering, Knitting and Sewing Machines, Bicycles, Rickshas, Toys, Typewriters, Pens, Pencils, Stationery, Barometers, Thermometers, Dental instruments, Lamps, Electric apparatus, Telephone and Telegraph material, Scales and balances, Fragrant woods, Spices, Sugar cane, and Brown sugar.

CLASS F. 5 per cent

All goods not otherwise specified.

CLASS G. 2½ per cent

Raw cotton, Cotton waste and Wadding, Cotton Yarn, Raw Jute, Grey cotton piece goods, Gunny cloth, Gunny bags, Hemp bags, Molasses and Fertilizing material.

APPENDIX I

TARIFF CONFERENCE, PEKING
October 1925—April 1926

Table of Meetings in chronological order

1925	
26th October.	First Plenary Session.
27th October.	First Meeting of the Committee on Programme and Procedure.
30th October.	First Meeting of the Committee on Tariff Autonomy. (Committee I.)
3rd November.	Second Meeting of the Committee on Tariff Autonomy.
6th November.	First Meeting of the Committee on Provisional Measures. (Committee II.)
13th November.	Second Meeting of the Committee on Provisional Measures.
14th November.	Third Meeting of the Committee on Provisional Measures.
17th November.	Meeting of Sub-Committee of Committee II, to draft preamble for proposed new treaty.
19th November.	Fourth Meeting of the Committee on Provisional Measures.
19th November.	Meeting of Sub-Committee, of Committee II, to discuss Purposes.
21st November.	Meeting of Sub-Committee, of Committee II, on *likin*.
21st November.	Meeting of Sub-Committee, of Committee II, on Other Purposes.
22nd November.	First Meeting of Sub-Committee, of Committee II, on Rates of Surtaxes.
30th November.	Second Meeting of Sub-Committee, of Committee II, on Rates of Surtaxes.
10th December.	Fifth Meeting of the Committee on Provisional Measures.
23rd December.	Third Meeting of Sub-Committee, of Committee II, on Rates of Surtaxes.

1926	
18th February.	Sixth Meeting of the Committee on Provisional Measures.
20th February.	First Meeting of Sub-Committee, of Committee II, to draft a resolution on the levying of Interim Surtaxes.
24th February.	Second Meeting of Sub-Committee, of Committee II, to draft a resolution on the levying of Interim Surtaxes.
25th February.	First Meeting of Technical Committee to draw up a List of Luxuries for the levying of the Surtaxes authorized by Article III of the Washington Treaty.
2nd March.	Second Meeting of Technical Committee to draw up a List of Luxuries for the levying of the Surtaxes authorized by Article III of the Washington Treaty.
8th March.	Third Meeting of Sub-Committee, of Committee II, to draft a resolution on the levying of Interim Surtaxes.
12th March.	Fourth Meeting of Sub-Committee, of Committee II, to draft a resolution on the levying of Interim Surtaxes.
18th March.	Fifth Meeting of Sub-Committee, of Committee II, to draft a resolution on the levying of Interim Surtaxes.
9th April.	Third Meeting of Technical Committee to draw up a List of Luxuries for the levying of the Surtaxes authorized by Article III of the Washington Treaty.

APPENDIX J

A List of Luxuries for Goods Imported from Foreign Countries

(All Imported Goods in this List are Subject to a Surtax of Five Per Cent)

List Item No.	Import Tariff No.	Name of Article.	Remarks.
1	308, 309.	Cigars and Cigarettes.	
2	310, 311, 312.	Tobacco Leaf; Tobacco, Prepared; and Snuff.	
3	313, 407, Part of 417, Part of 582.	Cigarette Paper and all other Materials and Apparatus exclusively used in the manufacture, packing, or preparation for sale of cigars, cigarettes, or tobacco, or in connection therewith.	313 (Tobacco Stalk) is Tobacco Material, 417 (Paper, Unenumerated) includes unenumerated Cigarette Paper, and Part of 582 (Unenumerated goods) contains unenumerated Tobacco Material and Apparatus.
4	283 to 306. Part of 582.	Wines, Spirits, Liqueurs, Ale, Beer, Stout, Porter; Cider, Perry, and similar Liquors made of fruits and berries; and all other Alcoholic or Spirituous Liquors or Beverages.	582 (Unenumerated Goods) includes Unenumerated Wines, Spirits, etc.
5	341.	Alcohol or Spirits of Wine.	
6	Part of 528, 537, 553, 558, 559, Part of 582.	Amber, Pearls, Tortoiseshell, Agate, Coral, Cornelian, Rock Crystal, Diamonds, Emeralds, Jadestone, Opals, Red Quartz, Rubies, Sapphires, and all other Precious or Semi-precious Stones, real or imitation, and all articles made wholly or partly thereof or decorated therewith.	This definition includes part of 528 (Jewellery Buttons) 587 (Umbrellas and Sunshades with Handles wholly or partly of Precious Metals, Ivory, Mother-of-Pearl, Tortoise-shell, Agate, etc., or Jewelled), and part of 582 (Unenumerated Goods).

List Item No.	Import Tariff No.	Name of Article.	Remarks.
7	Part of 582.	*Jewellery of all kinds, real or* imitation.	*This item is included* in 582 (Unenumerated Goods).
8	Part of 582.	Platinum and White Gold, and all articles made wholly or partly thereof.	This item is included in 582 (Unenumerated Goods).
9	Part of 582.	Goldware (Solid, filled, rolled, plated, or washed).	This item is included in 582 (Unenumerated Goods).
10	Part of 582.	Silverware and Silver-plated Ware.	This item is included in 582 (Unenumerated Goods).
11	Part of 528, Part of 582.	Ornaments, Damascene Ware, Ivory Ware, Satsuma Ware, Lacquer Ware, Pictures, and all Decorative, or Ornamental Articles whether for personal, household, or other use.	This definition includes part of 528 [Buttons, Fancy (Glass, Jewellery, etc.)], and part of 582 (Unenumerated Goods).
12	Part of 582.	Curios and Antiques.	This item is included in 582 (Unenumerated Goods).
13	Part of 582.	Works of Art, such as Etchings and Engravings, Paintings, Drawings, Statuary, Sculptures, and/or copies, replicas, or reproductions thereof.	This item is included in 582 (Unenumerated Goods).
14	Part of 582.	Toilet Articles, Preparations, or Requisites, such as Perfumery, Cosmetics, Shaving Soap, Face Cream, Tooth Paste, Talc or other Toilet Powder, Hair Tonic, and all other Preparations for the hair, mouth, teeth, or skin; Sponges, Toilet Brushes, Combs; Manicure Sets or parts thereof, Powder Puffs or Cases, Vanity Cases, and all other Fancy Toilet Equipment.	This item is included in 582 (Unenumerated Goods).
15	570, Part of 582	Satchels, Card Cases, Pocket Books, Purses, Jewel Cases, Fancy Boxes, Portfolios, Trunks, Suit Cases and Travelling Bags or Boxes of all kinds; Walking sticks; Tobacco Pouches and Pipes and parts thereof; Cigar and Cigarette Holders and Cases, Match Boxes, and all other Smokers' Requisites and Tobacconists' Sundries.	(*a*) 570 (Leather Purses) is included in the word "Purses". (*b*) Part of 582 (Unenumerated Goods) contains this item.

List Item No.	Import Tariff No	Name of Article.	Remarks.
16	Part of 582.	Flasks (pocket), and Thermostatic Containers of all kinds, and parts or accessories thereof.	This item is included in 582 (Unenumerated Goods).
17	Part of 582.	Games and Sporting Requisites.	This item is included in 582 (Unenumerated Goods).
18	Part of 501.	Glass Ware, "Crystal" and "Semi-crystal", Cut and/or Polished (i.e., all articles made wholly or chiefly of glass, except common, coarse, moulded or pressed, unpolished glassware).	This item is included in 501 (Glass and Crystal Ware).
19	Part of 582.	Spectacles, Eyeglasses, Goggles, Telescopes, Binoculars, and all other Optical Goods and parts or accessories thereof.	This item is included in 582 (Unenumerated Goods).
20	Part of 582.	Barometers; Thermometers; Drawing, Surveying, and all other Scientific Instruments, Appliances, or Apparatus (medical, nautical, optical, surgical, or other) and all parts or accessories thereof.	This item is included in 582 (Unenumerated Goods).
21	Part of 582.	Photographic and Cinematographic Products, Apparatus, and Materials of all kinds (except Chemicals), and all other Paraphernalia used in connection with the taking, developing, or exhibition of pictures, and all parts or accessories thereof.	This item is included in 582 (Unenumerated Goods).
22	Part of 582.	Musical Instruments and parts or accessories thereof.	This item is included in 582 (Unenumerated Goods).
23	Part of 582.	Bells and Gongs.	This item is included in 582 (Unenumerated Goods).
24	Part of 582.	Watches with cases made wholly or partly of platinum, or gold; or of silver decorated with jewels.	This item is included in 582 (Unenumerated Goods)

List Item No.	Import Tariff No.	Name of Article.	Remarks.
25	Part of 582.	Typewriters, Calculating Machines, Cash Registers, Copy Presses, Duplicating Machines, and all other Office Machines.	This item is included in 582 (Unenumerated Goods).
26	Part of 582.	Electro-plated Ware; Hair Cutters, Knives, Razors, Scissors, and all other Cutlery and parts or accessories thereof (not including Tools).	This item is included in 582 (Unenumerated Goods).
27	Part of 582.	Safes, Cash Boxes, and Strong Room Doors.	This item is included in 582 (Unenumerated Goods).
28	Part of 582.	Arms and Ammunition for personal or sporting use.	This item is included in 582 (Unenumerated Goods).
29	Part of 582.	Motor Vehicles of all kinds (assembled or in parts), including *Motor Cycles, Motor* Cars, Motor Chassis, and all other Motor Vehicles not otherwise specified, and all parts, tyres, and other accessories for any kind of Motor Vehicles, but not including complete Motor Passenger-Vehicles (i.e., Motor Char-a-banc, etc.), with seats for not less than twelve passengers, or complete Motor Trucks or Motor Lorries over one ton carrying capacity.	This item is included in 582 (Unenumerated *Goods*).
30	479, 480, 486, 489, Part of 582.	Fragrant Wood, Scented Wood, Garoo Wood, Sandalwood, and all other Odoriferous Woods.	582 (Unenumerated Goods) includes unenumerated Fragrant Woods.
31	448, 460, Part of 582.	Animals' Teeth and Tusks, and Ivory of all kinds.	582 (Unenumerated Goods) includes unenumerated Animals' Teeth and Tusks.
32	67, 68, Part of 74, Part of 582.	Natural Silk in any form including Silk Piece Goods and all other products which consist wholly of Natural Silk.	This definition includes Part of 74 (Silk Ribbons) and Part of 582 (Unenumerated Goods).

List Item No.	Import Tariff No.	Name of Article.	Remarks.
33	69, Part of 582.	Imitation Fur Cloth except that made of pure cotton.	(*a*) 69 (Silk Seal, with cotton back) in an imitation of Seal Fur and is considered as an Imitation Fur Cloth. (*b*) This item is also included in 582 (Unenumerated Goods)
34	Part of 70, Part of 582. As to other tariff numbers, it is understood that any other products whether specified in the Import Tariff or not, if of such nature or for such a purpose, that it is covered by the definition as given for this item is to be included.	Upholstery Fabrics, (i.e., Furniture Plushes, Velvets, and Tapestry made of any material; Unenumerated Upholstery Fabrics not made entirely of cotton; Upholstery Trimmings such as Braid, Cord, and other fancy goods made of any material).	Part of 70 (Mixture Plushes and Velvets), part of 582 (Unenumerated Goods), and any other tariff numbers, if for Upholstery purposes, are included in this definition.
35	Part of 554, Part of 582.	Curtains, Window Blinds, and Hangings of all kinds.	This item is included in 554 (Bamboo Baskets, Bamboo Blinds and other Bamboo-ware) and 582 (Unenumerated Goods).
36	84, 550-552, Part of 582.	Real or Imitation Gold, Silver, or other Metallic Thread (on cotton, silk, or other material); Spangles, Tinsel and Tinsel Wire, and all other Trimmings and Trimming or Decorative Materials, metallic or other, except those made wholly of cotton; Lace, Edging, Insertion, Veilings and similar Nettings, Millinery, Braid, Embroidered Goods, and all other materials or products used for decorative or ornamental purposes, except those made wholly of cotton; and all articles made wholly or partly of any commodity mentioned in this item or decorated therewith.	This item is also included in 582 (Unenumerated Goods).

List Item No.	Import Tariff No.	Name of Article.	Remarks.
37	74, 577, Part of 582.	Boots and Shoes, Hats and Caps, Hosiery, Drapery, Haberdashery, Clothing, and all other articles of personal wear and parts or accessories thereof (except Cotton Underclothing stitched with silk thread and/or faced with silk or artificial silk, cotton socks and stockings stitched or embroidered with silk and any goods made entirely of cotton).	(a) 74 (Ribbons, all Silk and Mixtures) is included in the term "Haberdashery". (b) Part of 582 (Unenumerated Goods) also contains this item.
38	539, 540, Part of 582.	Umbrellas, Sunshades, and Parasols, except those made of cotton or of paper.	582 (Unenumerated Goods) included Unenumerated Umbrellas, Sunshades, and Parasols.
39	Part of 425 to 430; 431; Part of 433 to 437; Part of 439 to 441; Part of 443 to 444; Part of 582.	Furs, Dressed or Tanned.	(a) Numbers from 425 to 430, from 433 to 437, from 439 to 441, and from 443 to 444 contain this item. (b) 582 (Unenumerated Goods) includes unenumerated Furs Dressed or Tanned.
40	449, 450, 451, Part of 582.	Feathers, and all articles made wholly or partly thereof.	Part of 582 (Unenumerated Goods) is included in this definition.
41	570, Part of 582.	Leather Manufactures of all kinds, except Leather Belting for Machinery.	This item is also included in 582 (Unenumerated Goods).
42	Part of 417.	Wall Paper.	This item is included in 417 (Paper, Unenumerated).
43	Part of 582.	Metallic Foil or Leaf of all kinds.	This item is included in 582 (Unenumerated Goods).
44	231-233, 248, 249, 446, 456-459, Part of 582.	Ginseng, Cow or other Bezoar, Old and Young Deer Horns (i.e., Medicinal), Rhinoceros Horns, Musk, Camphor of all kinds, including Camphor Baroos or Borneole, real or imitation.	This item is also included in 582 (Unenumerated Goods).
45	202, Part of 582.	Asparagus.	582 (Unenumerated Goods) includes Asparagus in any other packing.

List Item No.	Import Tariff No.	Name of Article.	Remarks.
46	196, Part of 207, Part of 582.	Bacon and Ham.	207 (Canned Goods, Unenumerated) includes Canned Bacon and Ham and 582 (Unenumerated Goods) includes Bacon and Ham in any other packing.
47	198, Part of 207, Part of 582.	Beef, Corned or Pickled.	207 (Canned Goods, Unenumerated) includes Canned Beef, Corned or Pickled, and 582 (Unenumerated Goods) includes Beef, Corned or Pickled in any other packing.
48	199, 200, Part of 582.	Birds' Nests.	582 (Unenumerated Goods) includes any birds' Nests that may not be covered by 199 and 200.
49	Part of 582.	Biscuits.	This item is included in 582 (Unenumerated Goods).
50	Part of 207; Part of 582.	Caviare.	(a) 207 (Canned Goods, Unenumerated) includes Canned Caviare. (b) 582 (Unenumerated Goods) contains Caviare in any other packing.
51	201, 215, 217, Part of 582.	Cheese, Butter, Lard, Margarine, and Substitutes thereof.	(a) 215 is "Lard, in Bulk". (b) This item is also included in 582 (Unenumerated Goods).
52	208-210.	Chocolate, Cocoa, and Coffee (in any form).	
53	Part of 582.	Confectionery.	This item is included in 582 (Unenumerated Goods).
54	183, 184.	Fish Maws.	

List Item No.	Import Tariff No.	Name of Article.	Remarks.
55	205, 211, 212, 255, 257, 258, Part of 263; Part of 582.	Fruits, Dried or Preserved.	205 (Fruits, Table and Pie) Part of 263 (Olives) and Part of 582 (Unenumerated Goods) are included in this definition.
56	213.	Honey.	
57	202, 205, 207, 212, 214. Part of 582. As to other tariff numbers, it is understood that any product which is covered by the definition as given for this item is to be included.	Jams, Jellies, and Canned or Bottled Foods of all kinds except Awabi, Cream, and Milk.	(a) 202, 212, and Part of 582 are inserted, because 202 is Canned Asparagus, 212 (Fruits, Preserved in Glass, etc.) is included in the words "Bottled Foods" in this definition and 582 (Unenumerated Goods) includes unenumerated Bottled Foods. (b) This definition is held to include all Canned or Bottled Foods not specially excluded irrespective of whether the tariff numbers are given here or not.
58	216, Part of 582.	Macaroni, Vermicelli, Spaghetti, and similar Products.	This definition includes Part of 582 (Unenumerated Goods).
59	Part of 207. Part of 582.	Meat Extracts.	(a) 207 (Canned Goods, Unenumerated) includes Canned Meat Extracts. (b) Part of 582 (Unenumerated Goods) contains Meat Extracts in any other packing.
60	395, Part of 582.	Oil, Salad or Olive.	582 (Unenumerated Goods) includes Oil, Salad or Olive in any other packing.
	Part of 582.	Sauce and all other preparations, extracts, or substances for flavouring food (except Soy).	This item is included in 582 (Unenumerated Goods).
61			
62	194, 195.	Sharks' Fins.	

List Item No.	Import Tariff No.	Name of Article.	Remarks.
63	461, Part of 582.	Sinews, Animal.	This item is also included in 582 (Unenumerated Goods).
64	231.	Sugar, Cube and Loaf.	
65	232.	Sugar, Candy.	
66	Part of 582.	Syrup, Table.	This item is included in 582 (Unenumerated Goods).
67	Part of 582.	Syrups, Fruit.	This item is included in 582 (Unenumerated Goods).
68	222.	Tea.	
69	307.	Waters (Aerated, Mineral, etc.)	
70	223, 236, 237, 243-5, 262, 267-8, Part of 582.	Aniseed Star, Cardamoms, Cloves, Nutmegs, Pepper, and all other Spices and Condiments.	Part of 582 (Unenumerated Goods) includes all Spices and Condiments not specified in the Import Tariff.

APPENDIX K

TABLES OF INTERIM SURTAXES

As presented on 25th March 1926 by the American, the British, and the Japanese Delegations to the Peking Tariff Conference.

EXPLANATORY NOTE.

In consulting the Tables of Interim Surtaxes the following points should be borne in mind:—

1. The first column gives the number which the article or articles bear in their own class.
2. The second column gives the number or numbers of these same articles in the Revised Import Tariff of 1922.
3. In certain cases, the article or articles appearing in the tables do not comprise the whole of the articles classified under the corresponding number of the Import Tariff. This is shown by quoting the Tariff number as follows: "Part of ——" (cf. Article No. 37 in Class B, the corresponding Tariff number of which is part of 286. In otuer words, Article No. 286 of the Tariff covers other Wines besides Claret, which appear in Class A at No. 16).
4. Where no Tariff numbers are quoted, it is understood that the articles concerned are not enumerated in the Tariff. Their Tariff number should be, in each case, "Part of 582: Unenumerated Goods."
5. The fourth column gives the cross references which show the relationship of articles in one class to articles in another class. For brevity's sake these references give merely the letter of the class and the number of the article. For instance, the cross reference for Article No. 1 in Class A is "See B 4," which means "See Article No. 4 in Class B."

TABLES OF INTERIM SURTAXES.

"A" Class Articles, subject to a Surtax of 22½ per cent.

Number.	Corresponding Numbers in Import Tariff.	Name of Article.	Cross References.
1	—	Arms and Munitions of War	See B 4
2	199, 200	Birds' Nests.	
3	—	Caviare.	
4	308	Cigarettes.	
5	309	Cigars.	
6	456 to 458	Horns, Deer, Old and Young (*i.e.*, Medicinal).	
7	—	Horns, Rhinoceros.	
8	448, 460	Ivory	See C 25
9	—	Jadestoneware (articles made entirely of Jadestone)	See B 18
10	—	Jewellery, and all other articles decorated with Pearls, Diamonds, Emeralds, Opals, Sapphires, Rubies, Jadestone, or with any other Precious Stones (Real).	See B 9
11	—	Pearls and Precious Stones, such as Diamonds, Emeralds, Opals, Sapphires, and Rubies, if "cut" or if ready for being mounted (Real).	See B 22
12	—	Platinum and White Gold, and articles made wholly or chiefly thereof.	See B 9
13	—	Goldware	See B 9, B 22
14	—	Silverware	" " "
15	310, 312	Tobacco, Prepared, and Snuff.	
16	283 to 295 299 to 306	Wines, Spirits, Liqueurs, Saké, and all other Alcoholic or Spirituous Liquors and Beverages, not otherwise specified.	See B 36 For Claret, see B 37

"B" Class Articles, subject to a Surtax of 17½ per cent.

Number.	Corresponding Numbers in Import Tariff.	Name of Article.	Cross Reference
1	67, 68 Part of 74	Natural Silk in any form, including Silk Piece Goods and all other products which consist wholly of Silk.	See B 11, C 18, E 3
2	69	Imitation Fur Cloth (except of all Cotton).	See C 1, E 3
3	—	Upholstery Fabrics, not otherwise specified (*i.e.*, Furniture Plushes, Velvets, and Tapestry made of any material; Unenumerated Upholstery Fabrics not made entirely of Cotton; Upholstery Trimmings, such as Braid and Cord; and other Fancy Goods made of any material).	
4	—	Arms and Ammunition for personal or sporting use.	See A 1
5	84, 550 to 552	Lace, Lacing, Edging, Insertion; Veilings and similar Nettings; Millinery; Embroidered Goods; Real or Imitation Gold, Silver, or other Metallic Thread, either on Cotton, Silk, or other material; Spangles, Tinsel and Tinsel Wire and all other Trimmings and Trimming Materials, Metallic or other; Braid; all materials or products used for decorative or ornamental purposes; and all articles made wholly or chiefly of any commodity mentioned in this item or decorated therewith, except of all Cotton.	See D 1, E 3, E 4, E 10
6	407	Cigarette Paper	See B 7
7	—	All materials and apparatus exclusively used in the manufacture of Cigars, Cigarettes, or Tobacco, or in connexion therewith.	See B 6
8	243	Cinnamon.	
9	—	Clocks and Watches with Cases made wholly or chiefly of solid Platinum, solid Gold, or solid White Gold, or of Silver decorated with Jewels.	See A 10, A 12, A 13, A 14, F 89

"B" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
10	—	Clothing, Hosiery, Drapery, Haberdashery, and all articles of personal wear and parts or accessories thereof, wholly of Natural Silk.	See B 1, C 13, D 10, E 13, E 14, E 26, G 45
11	—	Hats and Caps wholly of Natural Silk Velour and those made of Fur.	See B 1, C 14, E 14
12	244, 245	Cloves.	
13	183, 184	Fish Maws	See B 14, C 19, F 98, F 99, G 40
14	194, 195 (c)	Sharks' Fins	See B 13, C 19, F 98, F 99, G 40
15	248, 249	Ginseng.	
16	*449* to 451	Feathers for decoration, and all articles made wholly or partly thereof, unless otherwise specified.	See F 106
17	—	Musical Instruments, and parts or accessories thereof.	
18	553, 559	Amber, Tortoiseshell, Coral, Jadestone, Cornelian, Agate, Rock Crystal, Red Quartz, and all other Precious or Semi-Precious Stones, if "uncut" (*i.e.*, unfinished).	See A 9, A 11
19	570	Leather manufactures of all kinds, not otherwise specified.	
20	446, 459 231 to 233	Cow or other Bezoar; Musk; Camphor of all kinds, including Camphor Baroos or Borneol, Real or Imitation.	See D 11, E 12
21	Part of 417	Wall Paper	See E 39 to 43, F 118, G 53

"B" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
22	558 Part of 582	Imitations of Pearls, Diamonds, Rubies, or of any other Precious or Semi-Precious Stones, and all articles decorated therewith; Imitation Jewellery; Ornaments; and all fancy decorative or ornamental articles not otherwise specified, whether for personal wear or for household or other use; Filled, Rolled, Plated, or Washed Goldware; Silver-plated-ware; Damasceneware; Satsuma-ware; Lacquerware; and Pictures.	See A 11, B 9
23	—	Curios and Antiques.	
24	—	Works of Art, such as Etchings and Engravings, Paintings, Drawings, Statuary, Sculptures, and/or copies, replicas, or reproductions thereof.	
25	—	Perfumery, Cosmetics, Shaving Soap, Face Cream, Tooth Paste, Talcum or other Toilet Powder, Hair Tonic, and all other preparations for the Hair, Mouth, Teeth, or Skin.	See F 125
26	Part of 577	Shoes and Boots, Leather.	
27	425 to 431 433 to 437 439 to 441 442, 443	Skins (Furs), Dressed or Tanned	See D 13
28	461	Sinews, Animal.	
29	—	Metallic Foil, or Leaf, of all kinds.	
30	311	Tobacco, Leaf.	
31	—	Tobacconists' Sundries.	
32	—	Fancy Toilet Brushes; Fancy Combs; Manicure Sets, or parts thereof; Powder Puffs or Cases; Vanity Cases; and all other Fancy Toilet Equipment.	See E 55
33	—	Trunks, Suitcases, Satchels, Card Cases, Pocket Books, Purses, Jewel Cases, Portfolios, and Travelling Bags or Boxes of all kinds.	

"B" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
34	—	Flasks (Pocket), and parts or accessories thereof.	
35	—	Motor Vehicles of all kinds (assembled or in parts), including Motor-cycles, Motor-cars, Motor Chassis, and all other Motor Vehicles not otherwise specified, and all parts, tyres, and other accessories for any kind of Motor Vehicle; but not including complete Motor Passenger Vehicles (*i.e.*, Motor Char-à-bancs, etc.) with seats for not less than 12 passengers, or complete Motor Trucks or Motor Lorries over 1 ton carrying capacity.	See E 56
36	296 to 298	Ale, Beer, Stout, Porter, Cider, and Perry, and similar Liquors made of Fruits and Berries.	See A 16
37	Part of 286	Claret	See A 16, B 36

"C" Class Articles, subject to a Surtax of 12½ per cent.

Number.	Corresponding Numbers in Import Tariff.	Name of Article.	Cross References.
1	—	Imitation Fur Cloth of all Cotton ..	See B 2
2	—	Bedsteads, Cots, and Camp Beds, and parts or accessories thereof.	
3	—	Biscuits.	
4	201, 215, 217 Part of 207	Cheese, Butter, Lard, Margarine, and substitutes thereof.	
5	—	Syrups, Table.	
6	—	Syrups, Fruit.	
7	202	Asparagus.	
8	Part of 207	Meat Extract.	
9	395	Oil, Salad or Olive.	
10	377	Candles.	
11	381 to 386 388 to 391 393, 394 (b) 398, 399 (b) 401 Part of 207	Gums and Resin, Paraffin Wax, Stearine, Tallow, Fats and Fatty Oils, Essential or Volatile Oils, not otherwise specified.	
12	—	Carpets and Carpeting, including *Linoleum* and all *other covering for* Floors.	See F 116, G 48
13	—	Clothing, and all articles of personal wear and parts or accessories thereof, unless otherwise specified, excluding those of all Silk and of all Cotton.	See B 1, B 10, C 14, E 13, E 26
14	—	Hats and Caps, wholly of Woollen and Hair Velour, or of Felt made with Beaver or Hair (including Bowlers).	See B 11, C 13, E 14
15	208 to 210 Part of 207	Chocolate, Cocoa, and Coffee in any form.	
16	—	Confectionery (not including Chocolate and Cocoa).	
17	342, 363	Aniline Dyes	See E 19
18	Part of 499 „ 500	Enamelledware (value *Hk.Tls.* 5 per piece and over).	See G 39

"C" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
19	195 (a), (b)	Sharks' Fins, not otherwise specified..	See B 13, B 14, F 98, F 99, G 40
20	Part of 501	Glassware, "Crystal" and "Semi-Crystal," Cut and/or Polished (*i.e.*, all articles made wholly or chiefly of Glass, except common, coarse, moulded, pressed, or unpolished Glassware).	See E 25, F 103, G 41
21	213	Honey.	
22	252	Hops.	
23	—	Spectacles, Eye-glasses, Goggles, Telescopes, Binoculars, and all other Optical Goods and parts or accessories thereof.	See E 29
24	—	Bells and Gongs.	
25	—	Tusks and Animals' Teeth, not otherwise specified.	See A 8
26	423 Part of 422	Leather, Enamelled, Japanned, or Patent.	See E 32
27	—	Articles made of Oilcloth or of Artificial Leather.	
28	216 Part of 207	Macaroni, Vermicelli, Spaghetti, and similar products.	
29	259	Malt.	
30	196, 198 Part of 207 „ 218	Bacon and Hams; Beef, Corned or Pickled.	
31	—	Photographic and Cinematographic Products, Apparatus, and materials of all kinds, except Chemicals.	
32	479, 480, 486 489 Part of 582	Sandalwood, Fragrant Wood, Scented Wood, Garoowood, and all other Fragrant Woods.	See F 137
33	341	Alcohol, including denatured Alcohol.	
34	Part of 207	Sauce, and all other Preparations, Extracts, or Substances for flavouring Food, unless otherwise specified.	See D 4, E 50 F 126

"C" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
35	—	Stoves, Grates, Steam Heaters, Cooking Stoves, and parts or accessories thereof.	
36	281	Sugar, Cube and Loaf	See E 52
37	282	Sugar, Candy.	
38	539, 540 Part of 537 " 582	Umbrellas, Sunshades, and Parasols, except those made of Cotton or of Paper.	See G 60

"D" Class Articles, subject to a Surtax of 10 per cent.

Number.	Corresponding Numbers in Import Tariff.	Name of Article.	Cross References.
1	79 to 83 85 to 87	Woollen Piece Goods and all other products made entirely of Wool or Hair, not otherwise specified.	See B 5, F 23
2	60	Piece Goods and all other products made wholly of Flax or Linen, except Thread or Yarn.	See E 2, F 21, F 24
3	—	Artificial Silk Piece Goods and other products made wholly of Artificial Silk, except Floss or Yarn.	See E 4, F 25
4	223, 225, 236 237, 247, 262 267, 268 Part of 207 „ 582	Aniseed Star, Cardamoms, Nutmegs, Pepper, and all other Spices and Condiments not otherwise specified.	See C 84, E 50, F 126
5	—	Cutlery and Electro-platedware, not otherwise specified.	
6	360	Indigo, Artificial.	
7	361, 362	Indigo, Vegetable.	
8	555 Part of 561	Furniture	See D 16
9	327	Glycerine.	
10	—	Hosiery, excluding those of all Silk and of all Cotton.	See B 10, E 26, G 45
11	Part of 568 „ 581 „ 582	Any Medicine or Medicinal Compound, Preparation, or Substance, for either internal or external use, which is not included in any official pharmacopœia and of which the formula (*i.e.*, the definite nature and proportion of the constituent parts) is not shown on the label or container.	See B 20, E 12, G 32
12	—	Scales and Balances, and parts or accessories thereof.	
13	432, 438, 442	Skins (Furs), not otherwise specified	See B 27
14	222 Part of 207 „ 582	Tea.	

"D" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
15	207	Waters, Aerated and Mineral.	
16	578 Part of 561 „ 582	Woodware, i.e., all articles made wholly or chiefly of Wood, including Moulding (plain, decorated, or fitted with any material, useful or ornamental), not otherwise specified.	See D 8, F 138

"E" Class Articles, subject to a Surtax of 7½ per cent.

Number.	Corresponding Numbers in Import Tariff.	Name of Article.	Cross References.
1	75 to 77	Wool and Cotton Mixtures (*i.e.*, all Piece Goods and other products which consist of a mixture of Wool and Cotton), not otherwise specified.	
2	—	Piece Goods and all other products not otherwise specified which consist of a mixture of Cotton and Flax or Linen.	See D 2, F 21, F 24
3	70 to 73 Part of 74	Natural Silk Mixtures (*i.e.*, all Piece Goods or other Textile Products which contain Natural Silk but which are not composed entirely thereof), and Spun Silk Yarn.	See B 2, B 5
4	Part of 74	Artificial Silk Mixtures (i.e., all Piece Goods or other Textile Products which contain Artificial Silk but which are not composed entirely thereof).	See B 5, D 3, F 25
5	59	*Miscellaneous Piece Goods, not otherwise specified.*	
6	95, 99, 104 109, 115, 124 129, 130, 133 134, 138, 145 147, 497 Part of 117 " 582	Metalware (*i.e.*, Nails, Screws, Bolts, Nuts, Rivets, Washers, Hooks, Hinges, Keys, Locks, Latches, Fenders, Fire-irons, Clothes Irons, Chains, and all other fully manufactured articles made wholly or chiefly of Metal and not otherwise specified (except Needles, Tools, Machinery or parts thereof).	See F 27, F 28, F 31, F 32, F 49, F 53
7	229	Betelnuts.	
8	170 to 172	Bicho de Mar.	
9	—	Boxes, Fancy.	
10	48 Part of 582	Cotton Lace, Lacing, and Trimming ..	See B 5
11	528 Part of 529	Buttons, not otherwise specified.. ..	See G 30

"E" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
12	246, 260, 264 314 to 322, 324 326, 330, 331 334 to 339 Part of 568 " 581 " 582	Chemicals and Chemical Compounds, Drugs, Cod-liver Oil, Medicines, and Medical Substances or Products and Coal Tar Products of all kinds, not otherwise specified.	See B 20, D 11, G 32
13	—	Clothing, and all articles of personal wear and parts or accessories thereof, of all Cotton, and not otherwise specified.	See B 10, C 13, E 14, E 26, G 45
14	—	Hats and Caps, not otherwise specified	See B 11, C 14, E 13
15	51	Mosquito Netting.	
16	—	Corks.	
17	47 Part of 582	Covers, Bed and Table.	
18	—	Crucibles.	
19	343 to 359 364 to 376 Part of 168 " 582	Dyes, Colours, Tans and Tanning Material, Zinc Dust, Pigments, Paints, Varnish and Paint Material, unless otherwise specified.	See C 17
20	—	Shoe and Metal Polish.	
21	—	Electric Lamps and Lampware, Shades, Pendants, Hangings, Brackets, Fans, Cookers, Toasters, Radiators, Irons, and similar appliances.	See F 92
22	205, 211, 212 255 Part of 207 " 263 " 582	Fruits, Dried or Preserved.	
23	—	Gas Brackets, Pendants, Burners, Incandescent Mantles, Lamps, Shades, Cookers, Heaters, Water Heaters, and similar appliances.	
24	379	Gasolene, Naphtha, Benzene, or Petrol.	
25	502, 503	Glass, Plate, Silvered or Unsilvered, Bevelled or Unbevelled.	See C 20, G 41

"E" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
26	—	Haberdashery, not otherwise specified.	See B 10, C 18, D 10, E 13
27	—	India-rubber or Gutta-percha Manufactures (*i.e.*, articles made wholly or chiefly of India-rubber or Gutta-percha, Real or Imitation), not otherwise specified.	See F 107
28	—	Articles made wholly or chiefly of Celluloid, unless otherwise specified.	See F 87
29	—	Barometers, Thermometers, Drawing, Surveying, and all other Scientific Instruments, Appliances, or Apparatus (Medical, Nautical, Optical, Surgical, or others), and all parts or accessories thereof, unless otherwise specified.	See C 23
30	—	Thermostatic Containers of all kinds, and parts or accessories thereof.	
31	—	Lamps and Lampware, not otherwise specified.	
32	421, 424 Part of 422 „ 582	Leather, not otherwise specified (*e.g.*, Coloured and Soleing).	See C 26
33	387	Liquid Fuel of all kinds.	
34	571	Machines, Embroidering, Knitting, and Sewing, and parts or accessories thereof.	
35	204, 206	Milk and Cream, in any form or packing.	
36	261 Part of 207 „ 582	Mushrooms.	
37	392 (*a*), (*b*)	Oil, Kerosene.	
38	394 (*a*)	Oil, Lubricating.	
39	409	Paper, Coated and/or Enamelled	See B 21, E 40 to 43, F 118, G 53

"E" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
40	410	Paper, Glazed (Flint, Friction, Plated, and/or Marbled).	See B 21, E 39, E 41 to 43, F 118, G 53
41	Part of 416 " 417	Paper, Art Printing, Bank-note, Copying, Parchment, Pergamyn, Greaseproof, Glascine, and Pelure.	See B 21, E 39, E 40, E 42, E 43, F 118, G 53
42	Part of 417	Paper, Embossed, Metallic, or otherwise decorated.	See B 21, E 39, E 40 to 43, F 118, G 53
43	Parts of 408 to 410 Part of 412 " 413 Parts of 415 to 417	Paper containing Rags	See B 21, E 39 to 42, F 118, G 53
44	—	Paperware and all articles made of Paper, not otherwise specified.	
45	—	Plants and Flowers, Living.	
46	—	Printing and Lithographic Materials.	
47	—	Safes, Cash-boxes, and Strong-room Doors.	
48	—	Typewriters, Calculating Machines, Cash Registers, Copying Presses, Duplicating Machines, and all other Office Machinery.	See F 127
49	—	Marble, Granite, and articles made wholly or chiefly thereof, unless otherwise specified.	
50	197, 214, 220 226, 266 Part of 207 " 240 " 582	Stores, Household, Tinned, Canned, or Bottled, not otherwise specified.	See C 34, D 4 F 101
51	279	Sugar, Brown, under No. 11 Dutch Standard, and "Green Sugar."	
52	280	Sugar, White (including Refined), over No. 10 Dutch Standard.	See C 36

"E" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
53	—	Dental Materials and Instruments and Apparatus of all kinds.	
54	—	Telegraph and Telephone Materials of all kinds.	
55	—	Sponges, Toilet Brushes, Tooth Brushes, and Combs, not otherwise specified.	See B 32
56	—	Motor Vehicles, not otherwise specified	See B 35
57	—	Vehicles: Velocipedes (*e.g.*, Bicycles, etc.), not otherwise specified.	
58	—	Vehicles, other kinds.	
59	228, 234, 235 238, 239, 270 313, 380, 392 (*c*), (*d*), 399 (*a*), 400, 402 445, 447, 454 455, 472, 487 488, 490, 491 494, 510, 554 567, 569, 580 Part of 582	All articles not otherwise classified.	

"F" CLASS ARTICLES, SUBJECT TO A SURTAX OF 5 PER CENT.

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
1	Part of 19	Shirtings, White, Figured	See G 8
2	Parts of 16 to 19 Part of 38	Cambrics, Lawns, and Muslins, White, Dyed, or Printed.	
3	20, 21, 41	Lenos and Balzarines, White, Dyed, or Printed.	
4	Parts of 16 to 19 Part of 582	Fancy Muslins.	
5	Part of 38 " 44 " 582	Art Muslins and Cretonnes, Unenumerated.	
6	40, 43 Part of 35 " 38 " 42 " 44 " 582	Cotton Prints, Plain.	
7	Part of 38 " 42 " 44 " 582	Drills, Furnitures, and Twills, Printed.	
8	39 Part of 27 " 582	Printed Crape.	
9	Part of 38 " 42 " 44 " 582	Satteens and Reppe, Printed.	
10	Part of 30	Venetians, Plain, Fast Black.	
11	Part of 30	Poplins, Plain, Fast Black.	
12	Part of 30	Venetians, Plain, Coloured.	
13	Part of 30	Poplins, Plain, Coloured.	
14	Part of 28	Italians, Figured.	
15	Part of 31	Venetians, Figured.	
16	Part of 31	Poplins, Figured.	

"F" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
17	Part of 28	Lastings, Figured.	
18	25 Part of 582	Crimps and Crêpons, Mercerized.	
19	34 Part of 35	Cotton Velvets and Velveteens.	
20	49	Cotton Handkerchiefs.	
21	15, 57 Part of 28 " 35 " 44 " 56 " 582	Cotton Goods, Unenumerated	See D 2, E 2
22	Part of 56	Cotton Thread, in Balls and on Spools.	
23	88	Woollen and Worsted Yarn and Cord, including Wool and Cotton Mixture.	See D 1
24	—	Flax or Linen Thread or Yarn	See D 2, E 2
25	—	Artificial Silk Yarn or Floss	See D 3, E 4
26	89, 90	Aluminium.	
		Brass and Yellow Metal:	
27	94, 97, 100 102	Bars, Sheets, Plates, Nails, and Wire.	See E 6
28	96, 98, 101 Part of 582	Unenumerated	See E 6
		Copper:	
29	103, 106, 108 111	Bars, Rods, Sheets, Plates, Nails, and Wire.	
30	105	Ingots and Slabs.	
31	107, 110, 112 113 Part of 582	Unenumerated	See E 6
		Iron and Mild Steel, New:	
32	Part of 114 " 116 " 117 " 582	Anchors, Anvils, Castings, Chains, and Forgings.	See E 6

"F" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
		Iron and Mild Steel, New—*Continued:*	
33	Part of 123 " 582	Angles and Tees.	
34	Part of 123 " 582	Bars.	
35	Part of 119 " 582	Cobbles and Wire Shorts.	
36	121	Hoops.	
37	Part of 123 " 582	Joists.	
38	Part of 123	Nail-rod.	
39	125	Pig and Kentledge.	
40	Part of 126 " 146 " 582	Pipes and Tubes.	
41	127	Plate Cuttings.	
42	Part of 123	Rails.	
43	131, 132	Sheets and Plates	See F 47
44	Part of 139	Wire	See F 43, F 56
45	Part of 114 " 119 " 123 " 127 " 140 " 582	Unenumerated.	
46	118, 122, 141 Part of 582	Iron and Mild Steel, Old.	
47	Part of 148	Galvanized Iron Sheets	See F 43
48	Part of 149	Galvanized Iron Wire	See F 44, F 56

"F" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
49	Part of 114 " 117 " 119 " 123 " 126 " 127 " 146 " 582	Iron and Steel Manufactures, not otherwise specified.	See E 6
50	152	Lead, in Pigs or Bars.	
51	154	Lead, Tea and Sheet.	
52	153, 155 Part of 582	Lead, other Manufactures.	
53	158	Nickel, Manufactured and Unmanufactured	See E 6
54	159	Quicksilver.	
55	142 to 144 Part of 121 " 123 " 131 " 132 " 148 " 582	Steel, Bamboo, Bars, Hoops, Sheets, and Plates.	
56	Part of 116 " 139 " 140 " 149 " 582	Steel, Cast, Wire and Wire Rope ..	See F 44, F 48
57	161	Tin, in Slabs.	
58	162 Part of 582	Tin, Manufactured (not including Tinfoil).	
59	135 to 137	Tinned Plates.	
60	164, 165	White Metal or German Silver.	
61	Part of 166	Zinc (Spelter).	
62	167	Zinc, Sheets and Plates.	
63	—	Zinc, other Manufactures.	

"F" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE	CROSS REFERENCES.
64	91, 92, 150, 151 156, 157, 160, 163 Part of 562	Metals and Minerals, Unclassed.	
		Ores:	
65	—	Copper.	
66	—	Iron.	
67	—	Lead.	
68	—	Manganese.	
69	—	Zinc.	
70	93	Unclassed.	
		Animals, Living:	
71	—	Cattle.	
72	—	Goats.	
73	—	Horses.	
74	—	Pigs.	
75	—	Poultry.	
76	—	Sheep.	
77	—	Other kinds.	
78	512 to 516	Asbestos.	
79	227	Beans, Peas, etc.	
80	—	Belting, Machine.	
81	230	Bran of all kinds.	
82	508, 511	Bricks and Tiles.	
83	495, 496, 509 Part of 562	Building Materials, not otherwise specified.	
		Candle-making Materials:	
84	378	Candlewick.	
85	—	Not otherwise specified.	

"F" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
86	—	Casks, etc., Empty.	
87	—	Celluloid	See E 28
88	492	Charcoal.	
89	—	Clocks and Watches, not otherwise specified, and parts or accessories thereof.	See B 9
90	—	Cotton Gins	See F 113
91	—	Eggs, Game and Poultry.	
92	—	Electrical Machinery, Materials, and Fittings, not otherwise specified.	See E 21
93	507, 560, 576 Part of 545 „ 582	Emery and Corundum (*i.e.*, Powder, Cloth, and Paper).	
94	—	Explosives for Industrial purposes.	
95	582 to 584	Fans, Palm-leaf.	
96	535, 536	Fans, other kinds.	
97	—	Felt and Felt Sheathing.	
98	169, 203	Awabi	See B 13, B 14, C 19, G 40
99	175	Compoy	See B 13, B 14, C 19, G 40
100	—	Fodder.	
101	219, 242 Part of 218 „ 582	Foodstuffs, not otherwise specified ..	See E 50
102	224, 241, 254, 265 Part of 263 „ 582	Fruits, Fresh.	
103	504, 505	Window Glass (Silvered or not) and Glass Sheets of all kinds, not otherwise specified.	See C 20, E 25, G 41

"F" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
104	250, 251	Groundnuts.	
105	—	Gypsum.	
106	78, 452, 453 Part of 582	Hair, Feathers, and Wool, not otherwise specified	See B 16
107	565, 566	India-rubber and Gutta-percha	See E 27
108	253, 564	Isinglass and Fish Glue	See G 42
109	257, 258	Lungngans.	
110	—	Machine Tools	See G 59
111	—	Machinery, Agricultural.	
112	—	Machinery, Propelling (Boilers, Turbines, Engines, etc.)	
113	—	Machinery for the Textile Industries	See F 90
114	—	Machinery for Brewing, Distilling, Sugar-refining, etc.	
115	—	Machinery, other kinds, and parts of Machinery.	
116	519 to 527	Mats and Matting of all kinds	See C 12
117	—	Oil Tanks and Fittings.	
118	406 Parts of 413 to 417	Paper, free of Mechanical Wood Pulp, not otherwise specified.	See B 21, E 39 to 43, G 53
119	Part of 412	Paper, Kraft, Packing.	
120	470 Part of 128	Sleepers (Railway Materials).	
121	120 Part of 128 " 582	Railway Materials, not otherwise specified.	
122	473 to 475	Rattans, Whole, Split, and Peeled.	
123	271 to 276	Seed of all kinds.	

"F" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
124	57 Part o '582	Ships and Boats, and **Materials** for (not including those **specified** in Metals or Timber).	
125	397	Soap, Toilet	See B 25, G 57
126	221	Soy	See C 34, D 4
127	—	Pens, Pencils, Stationery, and Office Requisites of all kinds, not otherwise specified.	See E 48
128	277	Sugar Cane.	
129	579	Sulphur.	
130	462 to 469, 471	Timber, Hardwood.	
131		Timber, Softwood.	
132	—	Toys, Games, and Sporting Requisites, not otherwise specified.	
133	256, 269, 278 Part of 207 „ 582	Vegetables, Fresh, Dried, Prepared, Preserved, or Salted.	
134	—	Locomotives and Tenders.	
135	—	Railway Carriages and Wagons (including Tramcars).	
136	—	Traction and Road Engines.	
137	476 to 478 481 to 485 Part of 582	Wood of all kinds, not otherwise specified	See C 32
138	—	Woodware, i.e., Barrels, Packing Cases, or other ordinary containers for Cargo (whole or in parts) or Machinery (whole or in parts).	See D 16, G 56

"G" CLASS ARTICLES, SUBJECT TO A SURTAX OF 2½ PER CENT.

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
1 2	1 to 3	Shirtings, Grey. Sheetings, Grey.	
3	10	Shirtings and Sheetings, White	See F 1
4	11	Shirtings, White Irishes.	
5	4, 5, 12, 13, 23, 29 Part of 28 „ 582	Drills, Jeans, Twills, Satteen Drills, and Satteens (including Warp-faced Satteens, not exceeding 5 shaft), Grey, White, or Dyed.	
6	6, 7	*T*-Cloths, Grey.	
7	14	*T*-Cloths, White, and Mexicans.	
8	24	Turkey Red Cottons, Dyed *T*-Cloths, Embossed Cantoons, and Alpacianos.	
9	Part of 28	Italians, Plain, Fast Black.	
10	Part of 28	Lastings, Plain, Fast Black.	
11	Part of 28	Italians, Plain, Coloured.	
12	Part of 28	Lastings, Plain, Coloured.	
13	22	Shirtings, Sheetings, and Pongees, Dyed, Plain.	
14	—	Shirtings, Hongkong-dyed, Plain.	
15	33	Cotton Spanish Stripes, 64 inches.	
16	9 Part of 32	Cotton Flannel, or Flannelette, of Plain or Twill Weave, Grey, White, Dyed, or Printed.	
17	Part of 32	Cotton Flannel, or Flannelette, Yarn-dyed.	
18	See Tariff, page 10	Cottons, Yarn-dyed.	
19	26 Part of 27	Cotton Crape and Oatmeal Crapes, Grey, White, Dyed, or Yarn-dyed.	
20	8	Nankeens (Japanese Cotton Cloth, including Machine-made).	

"G" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
21	46	Cotton Blankets (including those with a taped or whipped edge of Silk or other material) and Blanket Cloth.	
22	55	Cotton Towels and Towel Cloth.	
23	45	Ankle-bands, Plain or Decorated.	
24	58 (1)	Cotton Yarn, Grey.	
25	58 (2)	Cotton Yarn, Gassed, Bleached, Mercerized, Dyed, etc.	
26	36	Cotton Canvas and Cotton Duck.	
27	65	Gunny and Hessian Cloth.	
28	61 to 64, 517, 518	Bags of all kinds.	
29	—	Bottles, Empty.	
30	530, 531 Part of 529 „ 582	Buttons made of Horn, Bone, Hoof, Shell, Ivory-nut, Porcelain, or Brass.	See E 11
31	506	Cement.	
32	314 to 326 328, 330, 331 333 to 340 Part of 582	Mineral Acids; Soda, Sulphide of; Bleaching Powder; and all other heavy Chemicals.	See D 11, E 12
33	493	Chinaware.	
34	493	Coal.	
35	—	Coke.	
36	556, 557, 575	Cordage, Rope, String, Thread, and Yarn of all kinds, not otherwise specified.	
37	52	Cotton, Raw.	
38	—	Cotton Wadding.	
39	Part of 499 „ 500	Enamelledware, not otherwise specified	See C 18

"G" CLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
40	173, 174 176 to 182 185 to 189	Fish and Fishery Products, Fresh, Dried, or Salted (excluding Awabi, Compoy, Sharks' Fins, and Fish Maws).	See B 13, B 14, C 19, F 98, F 99
41	Part of 501 „ 582	Glass and Glassware, not otherwise specified	See C 20, E 25, F 103
42	562, 563	Glue	See F 108
43	66 Part of 582	Hemp, Jute, Flax, and other Vegetable Fibres.	
44	420	Hides and Skins, Undressed.	
45	37, 50, 53, 54	Cotton Hosiery and Knitted Tissue (including those stitched with Silk Thread and with facings of Silk or other material).	See B 10, D 10, E 13
46	—	Leather, Imitation, and Oilcloth (not including Oilcloth for Flooring).	See C 12
47	572	Looking-glasses and Mirrors, not otherwise specified.	
48	329	Manures of all kinds.	
49	543	Matches.	
50	544, 546 to 549 Part of 545 Part of 582	Match-making Materials, not otherwise specified.	
51	—	Molasses.	
52	542	Needles.	
53	411 Part of 408 „ 412 „ 417	Paper of all kinds, not otherwise specified.	See B 21, E 39 to 43, F 118
54	332	Saltpetre.	
55	168, 190 to 193	Seaweed and Agar-agar.	
56	—	Shooks for making Casks	See F 138
57	396	Soap and Soap-making Materials, not otherwise specified.	See F 125

"G" GLASS ARTICLES—*Continued.*

NUMBER.	CORRESPONDING NUMBERS IN IMPORT TARIFF.	NAME OF ARTICLE.	CROSS REFERENCES.
58	578	Starch.	
59	541 Part of 582	Tools, Hand	See F 110
60	538 Part of 537 „ 582	Umbrellas, Sunshades, and Parasols, of Cotton or of Paper, and parts or accessories thereof.	See C 88
61	418, 419	Wood Pulp.	

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A

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