

WHANGPOO CONSERVANCY

Agreement signed at Peking September 27, 1905

Entered into force September 27, 1905

Amended by agreement of April 9, 1912,¹ as supplemented

*Terminated as between the United States and China on May 20, 1943,
by treaty of January 11, 1943²*

Treaty Series 448

[TRANSLATION]

With reference to the provisions of the Final Protocol of 1901³ relating to the establishment of a Whangpu Conservancy Board, its functions and revenues, China being now desirous of substituting a different arrangement, assuming charge herself of the work and making herself responsible for the whole cost, and the Powers who were parties to the Protocol having given their consent thereto, the following arrangement has been agreed to.

ARTICLE I

The works in connection with the straightening of the channel of the Whangpu River and of the improvement of the bars above and below Wusung together with the maintenance of such improvements shall all be placed under the management of the Shanghai Customs Taot'ai and the Commissioner of Customs. The control of the Whangpu River Police, lights, beacons, sanitary matters, pilot service, et cetera, shall be under the same control as formerly.

ARTICLE II

Within three months from the date of signing this agreement, China will herself select an engineer well versed in river conservancy work, and if a majority of the Representatives of the Powers parties to the Final Protocol consider him well qualified, China will at once appoint him to undertake the work. If after the commencement of the work a new appointment, for reasons deemed valid by a majority of said Representatives, becomes neces-

¹ *Post.* p. 879.

² TS 984, *post.*

³ Protocol dated Sept. 7, 1901 (TS 397), *ante*, p. 302.

sary, the selection and appointment shall be made in the manner above mentioned.

ARTICLE III

For all contracts for undertaking the river works in whole or in part and for purchasing materials and machinery and the like, public tenders shall be invited and the most advantageous shall be accepted.

ARTICLE IV

Every quarter a detailed report of the work done and an account of monies expended on the river works shall be made and forwarded for the inspection of the Consular Body at Shanghai.

ARTICLE V

The authorization of the Shanghai Customs Taot'ai and of the Commissioner of Customs shall be necessary before new bunds or jetties can be constructed, pontoons placed in position, or hulks stationed in the river.

ARTICLE VI

The Shanghai Customs Taot'ai and the Commissioner of Customs shall have authority to expropriate existing moorings and to establish a system of public moorings in the river.

ARTICLE VII

No dredging or other operations shall be carried out without the authorization of the Shanghai Customs Taot'ai and the Commissioner of Customs.

ARTICLE VIII

The Shanghai Customs Taot'ai and the Commissioner of Customs shall have power to acquire any land outside the foreign settlements necessary for the work of improvement and maintenance of the Whangpu River, and to dispose of such land. If for this purpose it is considered necessary to proceed by way of expropriation, the price in the case of a foreigner's property shall be fixed by a commission composed of (1) a person selected by the Consular authority of the owner, (2) another chosen by the Shanghai Customs Taot'ai and the Commissioner of Customs, and (3) another chosen by the Senior Consul. In case the Senior Consul is also the Consular authority of the owner, the Consul next in authority shall choose the third member of the Commission. The Consular authority of the owner shall provide for the execution of the arbitrator's decision. When the land is the property of a Chinese the Customs shall fix the price and enforce the decision in an analogous manner.

Foreign and Chinese riparian owners shall have the right of preemption

over all land formed in front of their property by reclamation from the river in the course of the execution of the works of the improvement of the channel, at a price to be fixed by a commission formed in the same manner as prescribed in the preceding paragraph, or as the case may be by the Customs Authorities.

ARTICLE IX

The Chinese Government bears the whole cost of the river works and without levying for this purpose dues on riparian property, shipping or goods.

ARTICLE X

China now sets aside and assigns the entire opium duty of Szechuan and of Hsuehou Fu in Kiangsu as security for the whole cost of the river works; and in accordance with the estimated cost as stated in the Protocol of 1901, will annually supply 460,000 Haikwan taels for this purpose for a term of twenty years. If during any given year after the commencement of the work it is necessary to incur an extraordinary expenditure for the purchase of materials, machinery, etc., China may raise to meet it a loan for the required amount and issue bonds on the security of the above mentioned opium revenues. The total sum annually provided for sinking fund and for interest on such loan, as well as for expenses of all kinds on account of works and maintaining works already completed shall not be less than 460,000 Haikwan taels, to be paid in equal monthly instalments by the Provincial authorities concerned to the Shanghai Customs Taot'ai and the Commissioner of Customs. Should the revenues assigned fall short, the Chinese Government will provide the amount specified from other sources.

ARTICLE XI

If the works are not carried out with diligence, care and economy, by a majority vote the Consular Body may unite to point out the fact to the Shanghai Customs Taot'ai and the Commissioner of Customs, and call upon them to direct the engineer to take steps to remedy the matters complained of, and if the work is still not properly done, they may recommend the Engineer's dismissal and the selection and appointment of another engineer, in the manner described in Article II. In case no notice is taken by the Shanghai Customs Taot'ai and Commissioner of Customs of their representations, the Consular Body may report to the Representatives of the Powers interested.

ARTICLE XII

After the present stipulations have been discussed, agreed upon and signed, section (b) of Article XI and Annex 17 of the Protocol of 1901 will be suspended. But if China does not, in accordance with this new agreement, annually furnish the necessary funds, so that the requirements of the

works are impeded, or if she omits to fulfil any other of the essential stipulations of this agreement, the original stipulations of the Protocol of 1901 and of Annex 17 thereto shall immediately come into force.

Done at Peking the 27th September 1905.

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