INSTANCES OF CHINA'S VIOLATION OF TREATIES AND AGREEMENTS AND NON-FULFILMENT OF HER DUTIES

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For many years the Chinese Authorities ignored the Japanese rights in various treaties and agreements, and have also committed unfair acts. Here below contain a few examples of such unfair acts, although there are many more in existence.

1. **RAILWAY**

(a) Violation by China of the Treaty Stipulations prohibiting the Construction of Any Lines parallel to the South Manchuria Railway Lines.


**Article III.**

The Chinese Government engage, for the purpose of protecting the interest of the South Manchuria Railway, not to construct, prior to the recovery by them of the said railway, any main line in the neighborhood of and parallel to that railway, or any branch line which might be prejudicial to the interest of the above-mentioned railway. (Mac. p. 554)

Example 1.

In contradiction to the above Article, the Chinese started the construction of the Tahushan-Tungliao line which is parallel to the S. M. R. main line, in August, 1926.

In spite of protests, made several times by the Japanese authorities, the Chinese continued the construction and opened traffic on the line on November 15, 1927.

Example 2.

In May, 1927, the Chinese started building another parallel line (about forty miles in length) between Peishan-cheng-tzu and
Tung-feng, which is now a branch line of the Mukden-Hailungcheng line.

Ignoring the protests lodged by the Japanese consul general at Mukden, they constructed and completed it at the end of the year.

(b) Obstruction on the Proposed Extension of the Kirin-Tunghua Line to Yench'i.

Agreement Relating to Chientao Region.
(Sept. 1909)

Article VI.

The Government of China shall undertake to extend the Kirin-Changchun Railway to the southern boundary of Yench'i, and to connect it at Heiryong (Hueining) with a Korean Railway, and such extension shall be effected upon the same terms as the Kirin-Changchun Railway. The date of commencing the work of the proposed extension shall be determined by the Government of China, considering the actual requirements of the situation, and upon consultation with the Government of Japan. (Mac. p. 797)

Preliminary Agreement for a Loan for the Construction of the Kirin-Hueining Railway. (June, 1918)

Article IX.

Upon the conclusion of the present preliminary agreement, the Industrial Bank of Japan shall pay to the Government of the Republic of China an advance of $10,000,000 in full without any deduction for commission. (Mac. p. 1431)

Example.

In conformity with these Articles, the Japanese paid the advance in full as provided in Article IX, of the above written Preliminary Agreement for a Loan for the Construction of the Line. Consequently the Japanese applied to the Chinese authorities concerned for the commencement of the work, but the Chinese placed a check on it
on one pretext or another, preventing the Japanese from starting the construction.

(c) Hindrance to the Building of the Changchun-Taonan Line.

Exchange of Notes regarding Four Railways in Manchuria and Mongolia (Sept. 1918)

I have received your communication, which declares that your Government has decided to construct at once the following described railways with money secured by loans from Japanese Capitalists.

2. Changchun-Taonan Line. (Mac. p. 1450)

Example

Although the Japanese authorities applied to the Chinese for the construction of this line from time to time in accordance with the above-mentioned Note, the Chinese have held the construction in check, on one pretext or another, without allowing the Japanese to commence work.

(d) Discrimination in Freight Charges.

Treaty between the Nine Powers concerning China. (1922)

Article V.

China agrees that, throughout the whole of the railways in China, she will not exercise or permit unfair discrimination of any kind. In particular there shall be no discrimination whatever, direct or indirect, in respect of charges or of facilities on the ground of the nationality of passengers or the countries from which or to which they are proceeding, or the origin or owner-ship of goods or the country from which or to which they are consigned, or the nationality or owner-ship of the ship or other means of conveying such passengers or goods before or after their transport on the Chinese Railways.
Example 1.

In contravention of the above treaty, the Central Government of China, Nanking, enacted the Freightage of the Ordinary goods transported on the Chinese Railways, charging higher rates on foreign goods. The discriminatory Freight charges have been in force notwithstanding that protests were made by the Japanese Government as well as the Diplomatic Corps in China.

Example 2.

Since 1929, the Mukden-Hailungcheng Railway made a fifty percent reduction in freight rates in respect of the transportation of Hsian coal, and limited the transportation of Fushun coal on its line, thereby, placing direct or indirect pressure upon Fushun coal.

The Kirin-Hailungcheng Railway Transports Hsian coal at a reduction of 30-50 percent, and the Peiping-Mukden Railway carries the Peipiao Kailan coal at one-third reduction, thus bringing pressure upon Fushun coal.
2. MINES

(a) Questions concerning the Detailed Regulations in respect of Joint Enterprises of the Japanese and the Chinese Subjects along the South Manchuria Railway Lines.

*Agreement Concerning Mines and Railways in Manchuria. (Sept. 1909)*

**Article IV.**

All mines along the Antung-Mukden Railway and the main line of the South Manchuria Railway, excepting those at Fushun and Yentai, shall be exploited as joint enterprises of Japanese and Chinese subjects, upon the general principles which the Viceroy of the Eastern Three Provinces and the Governor of Mukden agreed upon with the Japanese Consul General in the fortieth year of Meiji, corresponding to the thirty-third year of Kuangshu. Detailed regulations in respect of such mines shall, in due course, be arranged by the Viceroy and the Governor with the Japanese Consul General. (Mac. p. 791.)

Example

Although the repeated request was made, in accordance with the said Agreement, by the Japanese Government to conclude detailed agreement, the Chinese authorities have not only turned a deaf ear to it, but also have devised every means to bring the Japanese-managed mines under pressure.

(b) Promulgation of the New Mining Law.

*Treaty for the Extension of the Commercial Relations between United States and China. (Oct. 1903)*

**Article VII.**

Mining regulations to be revised and operations encouraged. The Chinese Government, recognizing that it is advantageous for the country to develop its mineral resources, and that it is desirable
(c) Question re. Import Duty on Tobacco levied at the Chinese Maritime Customs, Dairen.

*Agreement regarding Establishment of Maritime Customs Office at Dairen (May, 1907)*

**Article XII.**

The Customs Tariff in vigour in the Chinese Treaty ports shall be applied likewise by the Maritime Customs Office at Dairen.

(Mac. p. 636)

**Example**

Notwithstanding that the specific duty, equal to 40% ad valorem, which had been levied, at all Chinese ports, on imported tobacco as per the Import Duty Regulations of China provided in 1903, was reduced to one-fifth on the first of June, 1931, the Chinese Maritime Customs, Dairen, has been making a discrimination against the Port of Dairen by adhering to the original tariff as provided in the above-stated Import Duty Regulations.

(d) Illegal Levy of Tax in the South Manchuria Railway Zone.

*Contract for Construction and Operation of Chinese Eastern Railway (Sept. 1896)*

**Article VI.**

The Company will have the absolute and exclusive right of administration of its lands. (Mac. p. 76)

*Treaty of Peace. (Sep. 1909)*

**Article VI.**

The Imperial Russian Government engage to transfer and assign to the Imperial Government of Japan, with the consent of the Chinese Government, the railway between Chang-chun (Kuan-cheng-tsun) and Port Arthur, and all it branches, together with all rights, privileges
and properties appertaining thereto in that region, as well as all coal mines in the said region belonging to or worked for the benefit of the railway.

The two High Contracting Parties mutually engage to obtain the consent of the Government of China mentioned in the foregoing stipulation. (Mac. p. 523)

_Treaty relating to Manchuria. (Dec. 1905)_

**Article I.**

The Imperial Chinese Government consent to all the transfers and assignments made by Russia to Japan by Articles V and VI of the Treaty of Peace above mentioned. (Mac. p. 550)

Example

In violation of the absolute and exclusive right of administration of its Zone enjoyed by the South Manchuria Railway in accordance with the above stipulation, China has been levying tax, by unfair means, on Chinese nationals (sometimes on Japanese subjects, too) residing in the Zone attached to the above Railway.

(e) Taxation in Interior Places.

_Traité d’ amitié, de commerce et de navigation conclu à tien-tsin, entre le France et le Chine. (1858)_

**Art. XXXX.**

......Toute obligation non consignée expressément dans le présents Convention ne saurait être imposée aux consuls ou aux agents consulaires, non plus qu’à leurs nationaux············

Example

Despite that the subjects of those nations enjoying extraterritoriality in China, in conformity with the practical usage as well as the treaty stipulations, are not required to pay tax levied by China,
Japanese subjects residing at various places in Manchuria have been forced to pay tax in one name or another.

(f) Duty on Sleepers levied at Kirin.

*Additional Agreement relating to Manchuria.*

*(Dec. 1905)*

**Article VIII.**

The Imperial Chinese Government engage that all materials required for the railways in South Manchuria shall be exempt from all duties, taxes and likin. *(Mac. p. 552)*

*Contract for Construction and Operation of Chinese Eastern Railway.* *(Sept. 1896)*

**Article VII.**

All goods and materials for the construction, operation, and repair of the line, will be exempt from any tax or customs duty and from any internal tax or duty. *(Mac. p. 76)*

*Example*

In spite of the foregoing Agreement and Contract, the Chinese have been levying unfair duty on lumber when the South Manchuria Railway buys the same as material to be used for sleepers. Though protests have been made by Japan over and over again, the Chinese have never complied with them.
4. OTHER ISSUES.

(a) Hindrance in acquisition of land necessary for the construction, operation and protection of Railway lines.

Contract for Construction and Operation of
Chinese Eastern Railway. (Sept. 1896)

Article VI.

The lands actually necessary for the construction, operation, and protection of the line, as also the lands in the vicinity of the line necessary for procuring sand, stone, lime, etc., will be turned over to the Company freely, if these lands are the property of the State; if they belong to individuals, they will be turned over to the Company either upon a single payment or upon an annual rental to the proprietors, at current prices. The lands belonging to the Company will be exempt from all land taxes (impôt foncier).

The Company will have the absolute and exclusive right of administration of its lands.

The Company will have the right to construct on these lands buildings of all sorts, and likewise to construct and operate the telegraph necessary for the needs of the line.

The income of the Company, all its receipts and the charges for the transportation of passengers and merchandise, telegraphs, etc., will likewise be exempt from any tax or duty. Exception is made, however, as to mines, for which there will be a special arrangement. (Mac. P. 76)

Example 1.

In spite of the said stipulation, the Chinese have done everything possible so as not to allow the South Manchuria Railway to purchase Chinese-owned land. It has become, therefore, impossible for the Railway to buy land, though necessary. As a consequence, cases in which the purchase of land has been suspended or pending for
many years number 59, the whole area of such land being about 19,000 acres.

Example 2.

Moreover, in regard to the acquisition of land along the Railway line necessary for procuring sand, stone, lime, etc., for the operation and protection of the line, China has exerted its utmost efforts in hindering the acquisition, and has obliged the South Manchurian Railway to purchase those materials from places other than those along the line at higher prices.

(b) Non-Fulfillment of the Treaty Stipulation concerning the Land Lease.

*Treaty Respecting South Manchuria and Eastern Inner Mongolia. (May, 1915)*

**Article II.**

Japanese subjects in South Manchuria may, by negotiation, lease land necessary for erecting suitable buildings for trade and manufacture or for prosecuting agricultural enterprises. (Mac. p. 1220)

Example

Although request was made repeatedly by Japan to reach a detailed agreement in this connection, China refuses to pay any attention. The Chinese authorities have, moreover, issued secret orders, prohibiting the lease of land to Japanese subjects. Thus it has become actually impossible for Japanese subjects to lease Chinese lands.

(c) Pressure on Japanese Residents in Interior Places.

*Treaty Respecting South Manchuria and Eastern Inner Mongolia. (May, 1915)*

**Article III.**

Japanese subjects shall be free to reside and travel in South Manchuria and to engage in business and manufacture of any kind whatsoever. (Mac. p. 1220)
Example

In contradiction to the treaty stipulation as mentioned above, the Chinese authorities, by secret order, gave pressure on Japanese subjects living in the interior of Manchuria. It has, therefore, become practically impossible for Japanese to reside in interior places.

(d) Koreans under Pressure.

*Agreement relating to Chientao Region. (Sept. 1909)*

**Article III.**

The Government of China recognizes the residence of Korean subjects, as heretofore, on agricultural lands lying north of the River Tumen. The limits of the district for such residence are shown in the annexed map. (Mac. p. 796)

Example

Notwithstanding that the Chinese authorities recognize the residence of Koreans in Chientao, land north of the River Tumen (near the Korean boundary), the Chinese authorities have endangered the life and property of Koreans and have made it almost impossible for them to engage in business.