

TREATY SERIES. No. 35.

1908.

REGULATIONS

RESPECTING

TRADE IN TIBET

(AMENDING THOSE OF DECEMBER 5, 1893)

CONCLUDED BETWEEN

THE UNITED KINGDOM, CHINA, AND
TIBET.

Signed at Calcutta, April 20, 1908.

[Ratifications exchanged at Peking, October 14, 1908.]

*Presented to both Houses of Parliament by Command of His Majesty.
December 1908.*

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REGULATIONS RESPECTING TRADE IN TIBET
(AMENDING THOSE OF DECEMBER 5, 1893*)
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DOM, CHINA, AND TIBET.

*Signed in English, Chinese, and Tibetan texts at Calcutta,
April 20, 1908.*

Ratifications exchanged at Peking, October 14, 1908.

TIBET TRADE REGULATIONS.

PREAMBLE.

WHEREAS by Article 1 of the Convention between Great Britain and China on the 27th April 1906,† that is the 4th day of the 4th moon of the 32nd year of Kwang Hsü, it was provided that both the High Contracting Parties should engage to take at all times such steps as might be necessary to secure the due fulfilment of the terms specified in the Lhasa Convention of 7th September 1904 between Great Britain and Tibet, the text of which in English and Chinese was attached as an Annexe to the above-mentioned Convention ;

And whereas it was stipulated in Article 3 of the said Lhasa Convention that the question of the amendment of the Tibet Trade Regulations which were signed by the British and Chinese Commissioners on the 5th day of December 1893 should be reserved for separate consideration, and whereas the amendment of these Regulations is now necessary ;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the Emperor of the Chinese Empire have for this purpose named as their Plenipotentiaries, that is to say :

His Majesty the King of Great Britain and Ireland and of the

* See "Treaty Series No. 11 (1894)."

† See "Treaty Series No. 9 (1906)."

British Dominions beyond the Seas, Emperor of India,—Mr. E. C. Wilton, C.M.G.;

His Majesty the Emperor of the Chinese Empire—His Majesty's Special Commissioner Chang Yin Tang;

And the High Authorities of Tibet have named as their fully authorised Representative to act under the directions of Chang Tachen and take part in the negotiations—The Tsarong Shape, Wang-Chuk Gyalpo.

And whereas Mr. E. C. Wilton and Chang Tachen have communicated to each other since their respective full powers and have found them to be in good and true form and have found the authorisation of the Tibetan Delegate to be also in good and true form, the following amended Regulations have been agreed upon :—

1. The Trade Regulations of 1893 shall remain in force in so far as they are not inconsistent with these Regulations.

2. The following places shall form, and be included within, the boundaries of the Gyantse mart :—

(a.) The line begins at the Chumig Dangsang (Chlu-Mig-Dangs-Sangs) north-east of the Gyantse Fort, and thence it runs in a curved line, passing behind the Pekor-C. ode (Dpal-Hkhor-Choos-Sde), down to Chag-Dong-Gang (Phyag-Gdong-Sgang); thence, passing straight over the Nyan Chu, it reaches the Zamsa (Zam-Srag). (b.) From the Zamsa the line continues to run, in a south-eastern direction, round to Lachi-To (Gla-Dkyii-Stod), embracing all the farms on its way, viz., The Lahong; The Hogtso (Hog-Mtsho); The Tong-Chung-Shi (Grong-Chhung-Gshis); and the Rabgang (Rab-Sgang), &c. (c.) From Lachi-To the line runs to the Yutog (Gyu-Thog), and thence runs straight, passing through the whole area of Gamkar-Shi (Ragal-Mkhar-Gshis), to Chumig Dangsang.

As difficulty is experienced in obtaining suitable houses and godowns at some of the marts, it is agreed that British subjects may also lease lands for the building of houses and godowns at the marts, the locality for such building sites to be marked out specially at each mart by the Chinese and Tibetan authorities in consultation with the British Trade Agent. The British Trade Agents and British subjects shall not build houses and godowns except in such localities, and this arrangement shall not be held to prejudice in any way the administration of the Chinese and Tibetan Local Authorities over such localities, or the right of British subjects to rent houses and godowns outside such localities for their own accommodation and the storage of their goods.

British subjects desiring to lease building sites shall apply through the British Trade Agent to the Municipal Office at the mart for a permit to lease. The amount of rent, or the period or conditions of the lease, shall then be settled in a friendly way by the lessee and the owner themselves. In the event of a dis-

agreement between the owner and lessee as to the amount of rent or the period or conditions of the lease, the case will be settled by the Chinese and Tibetan Authorities, in consultation with the British Trade Agent. After the lease is settled, the sites shall be verified by the Chinese and Tibetan Officers of the Municipal Office conjointly with the British Trade Agent. No building is to be commenced by the lessee on a site before the Municipal Office has issued him a permit to build, but it is agreed that there shall be no vexatious delays in the issue of such permit.

3. The administration of the trade marts shall remain with the Tibetan Officers, under the Chinese Officers' supervision and directions.

The Trade Agents at the marts and Frontier Officers shall be of suitable rank, and shall hold personal intercourse and correspondence one with another on terms of mutual respect and friendly treatment.

Questions which cannot be decided by agreement between the Trade Agents and the Local Authorities shall be referred for settlement to the Government of India and the Tibetan High Authorities at Lhasa. The purport of a reference by the Government of India will be communicated to the Chinese Imperial Resident at Lhasa. Questions which cannot be decided by agreement between the Government of India and the Tibetan High Authorities at Lhasa shall, in accordance with the terms of Article 1 of the Peking Convention of 1906, be referred for settlement to the Governments of Great Britain and China.

4. In the event of disputes arising at the marts between British subjects and persons of Chinese and Tibetan nationalities, they shall be enquired into and settled in personal conference between the British Trade Agent at the nearest mart and the Chinese and Tibetan Authorities of the Judicial Court at the mart, the object of personal conference being to ascertain facts and to do justice. Where there is a divergence of view the law of the country to which the defendant belongs shall guide. In any of such mixed cases, the Officer, or Officers of the defendant's nationality shall preside at the trial; the Officer, or Officers of the plaintiff's country merely attending to watch the course of the trial.

All questions in regard to rights, whether of property or person, arising between British subjects, shall be subject to the jurisdiction of the British Authorities.

British subjects, who may commit any crime at the marts or on the routes to the marts, shall be handed over by the local authorities to the British Trade Agent at the mart nearest to the scene of offence, to be tried and punished according to the laws of India, but such British subjects shall not be subjected by the local authorities to any ill-usage in excess of necessary restraint.

Chinese and Tibetan subjects, who may be guilty of any criminal act towards British subjects at the marts or on the routes thereto, shall be arrested and punished by the Chinese and Tibetan Authorities according to law.

Justice shall be equitably and impartially administered on both sides.

Should it happen that Chinese or Tibetan subjects bring a criminal complaint against a British subject before the British Trade Agent, the Chinese or Tibetan Authorities shall have the right to send a representative, or representatives, to watch the course of trial in the British Trade Agent's Court. Similarly, in cases in which a British subject has reason to complain of a Chinese or Tibetan subject in the Judicial Court at the mart, the British Trade Agent shall have the right to send a representative to the Judicial Court to watch the course of trial.

5. The Tibetan Authorities, in obedience to the instructions of the Peking Government, having a strong desire to reform the judicial system of Tibet, and to bring it into accord with that of Western nations, Great Britain agrees to relinquish her rights of extra-territoriality in Tibet, whenever such rights are relinquished in China, and when she is satisfied that the state of the Tibetan laws and the arrangements for their administration and other considerations warrant her in so doing.

6. After the withdrawal of the British troops, all the rest-houses, eleven in number, built by Great Britain upon the routes leading from the Indian frontier to Gyantse, shall be taken over at original cost by China and rented to the Government of India at a fair rate. One-half of each rest-house will be reserved for the use of the British officials employed on the inspection and maintenance of the telegraph lines from the marts to the Indian frontier and for the storage of their materials, but the rest-houses shall otherwise be available for occupation by British, Chinese and Tibetan officers of respectability who may proceed to and from the marts.

Great Britain is prepared to consider the transfer to China of the telegraph lines from the Indian frontier to Gyantse when the telegraph lines from China reach that mart and in the meantime Chinese and Tibetan messages will be duly received and transmitted by the line constructed by the Government of India.

In the meantime China shall be responsible for the due protection of the telegraph lines from the marts to the Indian frontier and it is agreed that all persons damaging the lines or interfering in any way with them or with the officials engaged in the inspection or maintenance thereof shall at once be severely punished by the local authorities.

7. In law suits involving cases of debt on account of loans, commercial failure, and bankruptcy, the authorities concerned shall grant a hearing and take steps necessary to enforce payment; but, if the debtor plead poverty and be without means, the authorities concerned shall not be held responsible for the said debts, nor shall any public or official property be distrained upon in order to satisfy these debts.

8. The British Trade Agents at the various trade marts now or hereafter to be established in Tibet may make arrangements for the carriage and transmission of their posts to and from the

frontier of India. The couriers employed in conveying these posts shall receive all possible assistance from the local authorities whose districts they traverse and shall be accorded the same protection as the persons employed in carrying the despatches of the Tibetan Authorities. When efficient arrangements have been made by China in Tibet for a Postal Service, the question of the abolition of the Trade Agents' couriers will be taken into consideration by Great Britain and China. No restrictions whatever shall be placed on the employment by British officers and traders of Chinese and Tibetan subjects in any lawful capacity. The persons so employed shall not be exposed to any kind of molestation or suffer any loss of civil rights to which they may be entitled as Tibetan subjects, but they shall not be exempted from all lawful taxation. If they be guilty of any criminal act, they shall be dealt with by the local authorities according to law without any attempt on the part of their employer to screen or conceal them.

9. British officers and subjects, as well as goods, proceeding to the trade marts, must adhere to the trade routes from the frontier of India. They shall not, without permission, proceed beyond the marts, or to Gartok from Yatung and Gyantse, or from Gartok to Yatung and Gyantse, by any route through the interior of Tibet, but natives of the Indian frontier, who have already by usage traded and resided in Tibet, elsewhere than at the marts shall be at liberty to continue their trade, in accordance with the existing practice, but when so trading or residing they shall remain, as heretofore, amenable to the local jurisdiction.

10. In cases where officials or traders, *en route* to and from India or Tibet are robbed of treasure or merchandise, public or private, they shall forthwith report to the Police officers, who shall take immediate measures to arrest the robbers, and hand them to the Local Authorities. The Local Authorities shall bring them to instant trial, and shall also recover and restore the stolen property. But, if the robbers flee to places out of the jurisdiction and influence of Tibet, and cannot be arrested, the Police and the Local Authorities shall not be held responsible for such losses.

11. For public safety tanks or stores of kerosene oil or any other combustible or dangerous articles in bulk must be placed far away from inhabited places at the marts.

British or Indian merchants, wishing to build such tanks or stores, may not do so until, as provided in Regulation 2, they have made application for a suitable site.

12. British subjects shall be at liberty to deal in kind or in money, to sell their goods to whomsoever they please, to purchase native commodities from whomsoever they please, to hire transport of any kind, and to conduct in general their business transactions in conformity with local usage and without any vexatious restrictions or oppressive exactions whatever.

It being the duty of the Police and Local Authorities to afford efficient protection at all times to the persons and property of the British subjects at the marts, and along the routes to the marts China engages to arrange effective police measures at the marts

and along the routes to the marts. On due fulfilment of these arrangements, Great Britain undertakes to withdraw the Trade Agents' guards at the marts and to station no troops in Tibet so as to remove all cause for suspicion and disturbance among the inhabitants. The Chinese Authorities will not prevent the British Trade Agents holding personal intercourse and correspondence with the Tibetan officers and people.

Tibetan subjects trading, travelling or residing in India shall receive equal advantages to those accorded by this Regulation to British subjects in Tibet.

13. The present Regulations shall be in force for a period of ten years reckoned from the date of signature by the two Plenipotentiaries as well as by the Tibetan Delegate; but if no demand for revision be made on either side within six months after the end of the first ten years, then the Regulations shall remain in force for another ten years, from the end of the first ten years; and so it shall be at the end of each successive ten years.

14. The English, Chinese and Tibetan texts of the present Regulations have been carefully compared, and, in the event of any question arising as to the interpretation of these Regulations, the sense as expressed in the English text shall be held to be the correct sense.

15. The Ratifications of the present Regulations under the hand of His Majesty the King of Great Britain and Ireland, and of His Majesty the Emperor of the Chinese Empire, respectively, shall be exchanged at London and Peking within six months from the date of signature.

In witness whereof the two Plenipotentiaries and the Tibetan Delegate have signed and sealed the present Regulations.

Done in quadruplicate at Calcutta, this twentieth day of April, in the year of our Lord nineteen hundred and eight, corresponding with the Chinese date, the twentieth day of the third moon of the thirty-fourth year of Kuang Hsü.

(L.S.) E. C. WILTON,
British Commissioner.

Signature of
(L.S.) CHANG YIN TANG,
Chinese Special Commissioner.

Signature of
(L.S.) WANG CHUK GYALPO
Tibetan Delegate.
