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DAS STAATSARCHIV.

SAMMLUNG

DER

OFFIZIELLEN AKTENSTÜCKE

ZUR GESCHICHTE DER GEGENWART.

BEGRÜNDET

VON

AEGIDI UND KLAUHOLD.

IN FORTLAUFENDEN HEFTEN

HERAUSGEGEBEN

VON

GUSTAV ROLOFF.

BAND LXXII.

ERSTES BIS DRITTES HEFT.

LEIPZIG,

VERLAG VON DUNCKER & HUMBLOT.

1906.

Bündnisse, Verträge, Konventionen, Protokolle usw.

Nr. 13379. **JAPAN** und **KOREA**. — Vertrag über die Post in Korea. — Veröffentlicht Tokio, 20. April 1905.

The following is the official translation of the Agreement recently concluded at Söul for the control of the Korean post and telegraph: ‖ The Imperial Governments of Japan and Korea, finding it expedient from the standpoint of the administration and finances of Korea, to rearrange the system of communications in that country, and, by amalgamating it with that of Japan, to unite the two systems into one common to the two countries, and, having seen the necessity with that object in view of transferring the post, telegraph and telephone services of Korea to the control of the Japanese Government, Hayashi Gonsuke, Envoy Extraordinary and Minister Plenipotentiary of Japan, and I-hayeng, Minister of State for Foreign Affairs of Korea, each invested with proper authority, have agreed upon and concluded the following Articles: —

Article I. — The Imperial Government of Korea shall transfer and assign the control and administration of the post, telegraph and telephone services in Korea (except the telephone service exclusively pertaining to the Department of the Imperial Household) to the Imperial Japanese Government.

Article II. — The land, buildings, furnitures, instruments, machines and all other appliances connected with the system of communications already established by the Imperial Government of Korea, shall, by virtue of the present Agreement, be transferred to the control of the Imperial Japanese Government. ‖ The authorities of the two countries acting together shall make an inventory of the land, buildings and all other requisites mentioned in the preceding paragraph, which shall serve as evidence in the future.

Article III. — When it is deemed necessary by the Japanese Government to extent the communication system in Korea, they may appropriate land and buildings belonging to the State or to private persons:

the former without compensation and the latter with proper idemnification.

Article IV. — In respect of the control of the communication service and the custody of the properties in connection therewith, the Japanese Government assume, on their own account, the responsibility of good administration. || The expenses required for the extension of the communication services shall also be borne by the Imperial Government of Japan. || The Imperial Government of Japan shal officially notify the Imperial Government of Korea of the financial condition of the system of communications under their control.

Article V. — All appliances and materials which are deemed necessary by the Imperial Government of Japan for the control or extension of the system of communications shall be exempt from all duties and imposts.

Article VI. — The Imperial Government of Korea shall be at liberty to maintain the present Board of Communication so far as such retention does not interfere with the control and extension of the services by the Japanese Government. || The Japanese Government, in controlling and extending the service, shall engage as many Korean officials and employees as possible.

Article VII. — In respect of the arrangement formerly entered into by the Korean Government with the Governments of foreign Powers concerning the post, telegraph telephone, and service, the Japanese Government shall in behalf of Korea exercise the rights and perform the obligations pertaining thereto. || Should there arise in the future any necessity for concluding any new convention between the Government of Korea and the Governments of foreign Powers concerning the communication services, the Japanese Government shall assume the responsibility of concluding such convention in behalf of the Korean Government.

Article VIII. — The various conventions and agreements respecting the communication services hitherto existing between the Governments of Japan and Korea are naturally abolished or modified by the present Agreement.

Article IX. — When in future, as the result of the general development of the communication system in Korea, there is some adequate profit over and above expenditures defrayed by the Japanese Government for the control and maintenance of the old services and for their extensions and improvements, the Japanese Government shall deliver to the Korean Government a suitable percentage of such profit.

Article X. — When in the future an ample surplus exists in the finance of the Korean Government, the control of their communication services may be returned, as the result of the consultation of the two Governments, to the Government of Korea.

Nr. 13380. **JAPAN, DEUTSCHES REICH, FRANKREICH, GROSZ-BRITANNIEN.** — Schiedsspruch über die Auslegung der Verträge zwischen Japan und den vorgenannten Staaten. 22. Mai 1905.

Cour permanente d'Arbitrage à la Haye.

Sentence du Tribunal d'Arbitrage, constitué en vertu des Protocoles signés à Tôkiô le 28 Août, 1902, entre le Japon d'une part, et l'Allemagne, la France, et la Grande-Bretagne d'autre part.

Attendu qu'aux termes des protocoles signés à Tôkiô le 28 Août, 1902, un désaccord s'est produit, entre le Gouvernement du Japon d'une part, et les Gouvernements d'Allemagne, de France, et de Grande-Bretagne d'autre part, touchant le sens réel et la portée des dispositions suivantes des Traités respectifs et autres engagements existant entre eux, c'est-à-dire: — || Paragraphe 4 de l'Article XVIII du Traité de Commerce et de Navigation du 4 Avril, 1896, entre le Japon et l'Allemagne: „Sobald diese Einverleibung erfolgt" (c'est-à-dire: quand les divers quartiers étrangers qui existent au Japon auront été incorporés dans les communes respectives du Japon) „sollen die bestehenden, zeitlich unbegrenzten Überlassungsverträge, unter welchen jetzt in den gedachten Niederlassungen Grundstücke besessen werden, bestätigt und hinsichtlich dieser Grundstücke sollen keine Bedingungen irgend einer anderen Art auferlegt werden, als sie in den bestehenden Überlassungsverträgen enthalten sind;" — et § 3 de la communication complémentaire de même date du Secrétaire d'État des Affaires Étrangères de l'Empire d'Allemagne au Ministre du Japon à Berlin: „3. Daß, da das Eigentum an den im Artikel XVIII des Vertrages erwähnten Niederlassungsgrundstücken dem Japanischen Staate verbleibt, die Besitzer oder deren Rechtsnachfolger für ihre Grundstücke außer dem kontraktmäßigen Grundzins Abgaben oder Steuern irgend welcher Art nicht zu entrichten haben werden," et l'alinéa suivant de la réponse du Ministre du Japon de même date à la précédente communication: „daß die darin unter Nummer 1 bis 4 zum Ausdruck gebrachten Voraussetzungen, welche den Erwerb dinglicher Rechte an Grundstücken, die Errichtung von Warenhäusern, die Steuerfreiheit der Grundstücke in

den Fremdenniederlassungen und die Erhaltung wohlerworbener Rechte nach Ablauf des Vertrages zum Gegenstande haben, in allen Punkten zutreffend sind;“ || Paragraphe 4 de l'Article XXI du Traité revisé du 4 Août, 1896, entre le Japon et la France: „Lorsque les changements ci-dessus indiqués auront été effectués,“ (c'est-à-dire: lorque les divers quartiers étrangers qui existent au Japon auront été incorporés aux communes respectives du Japon et feront dès lors partie du système municipal du Japon; et lorsque les autorités Japonaises compétentes auront assumé toutes les obligations et tous les devoirs municipaux, et que les fonds et biens municipaux qui pourraient appartenir à ces quartiers auront été transférés auxdites autorités) „les baux à perpétuité en vertu desquels les étrangers possèdent actuellement des propriétés dans les quartiers seront confirmés, et les propriétés de cette nature ne donneront lieu à aucuns impôts, taxes, charges, contributions ou conditions quelconques autres que ceux expressément stipulés dans les baux en question;“ || Paragraphe 4 de l'Article XVIII du Traité revisé du 16 Juillet, 1894, entre le Japon et la Grande-Bretagne: „When such incorporation takes place“ (c'est-à-dire: quand les divers quartiers étrangers qui existent au Japon auront été incorporés aux communes respectives du Japon), „existing leases in perpetuity under which property is now held in the said Settlements shall be confirmed, and no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property;“ || Attendu que les Puissances en litige sont tombées d'accord pour soumettre leur différend à la décision d'un Tribunal d'Arbitrage; || Qu'en vertu des Protocoles susmentionnés, les Gouvernements d'Allemagne, de France, et de Grande-Bretagne ont désigné pour Arbitre M. Louis Renault, Ministre Plénipotentiaire, Membre de l'Institut de France, Professeur à la Faculté de Droit de Paris, Jurisconsulte du Département des Affaires Étrangères, et le Gouvernement du Japon a désigné pour Arbitre Son Excellence Mr. Itchiro Motono, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté l'Empereur du Japon à Paris, Docteur en Droit; || Que les deux Arbitres sus-nommés ont choisi pour Surarbitre M. Gregers Gram, ancien Ministre d'État de Norvège, Gouverneur de Province; || Attendu que le Tribunal ainsi composé a pour mission de statuer, en dernier ressort, sur la question suivante: —

„Oui ou non, les dispositions des Traités et autres engagements ci-dessus mentionnés exemptent-elles seulement les terrains possédés en vertu des baux perpétuels concédés par le Gouvernement Japonais ou en son nom, — ou bien exemptent-elles les terrains et les bâtiments de toute nature construits ou qui pourraient être construits sur ces terrains, —

de tous impôts, taxes, charges, contributions ou conditions quelconques autres que ceux expressément stipulés dans les baux en question?"

Attendu que le Gouvernement Japonais soutient que les terrains seuls sont, dans la mesure qui vient d'être indiquée, exemptés du paiement d'impôts et autres charges; || Que les Gouvernements d'Allemagne, de France et de Grande-Bretagne prétendent, au contraire, que les bâtiments construits sur ces terrains jouissent de la même exemption; || Attendu que, pour se rendre compte de la nature et de l'étendue des engagements contractés de part et d'autre par les baux à perpétuité, il faut recourir à divers arrangements et Conventions intervenus, sous le régime des anciens Traités, entre les autorités Japonaises et les Représentants de plusieurs Puissances; || Attendu que de ces actes et des stipulations insérées dans les baux il résulte: || Que le Gouvernement Japonais avait consenti à prêter son concours à la création de quartiers étrangers dans certains villes et ports du Japon, ouverts aux ressortissants d'autres nations; || Que, sur les terrains désignés à l'usage des étrangers dans les différentes localités, le Gouvernement Japonais a exécuté, à ses frais, des travaux en vue de faciliter l'occupation urbaine; || Que les étrangers n'étant pas, d'après les principes du droit Japonais, admis à acquérir la propriété de terrains situés dans le pays, le Gouvernement leur a donné les terrains en location à perpétuité; || Que les baux déterminent l'étendue des lots de terre loués et stipulent une rente annuelle fixe, calculée à raison de l'espace loué; || Qu'il fut convenu qu'en principe les quartiers étrangers resteraient en dehors du système municipal du Japon, mais qu'au reste, ils n'étaient pas soumis à une organisation uniforme; || Qu'il était arrêté, par voie de règlements, comment il serait pourvu aux diverses fonctions de l'administration et qu'il était prescrit que les détenteurs des terrains seraient tenus de subvenir partiellement aux frais de la municipalité à l'aide de redevances dont le montant et le mode de perception étaient déterminés; || Attendu qu'on s'expliquerait bien le soin apporté dans la rédaction des dits actes en vue de préciser les obligations de toute nature incombant aux étrangers vis-à-vis du Gouvernement Japonais, s'il était entendu que la rente annuelle représentât, non seulement le prix de la location, mais aussi la contrepartie des impôts dont les preneurs eussent été redevables à raison de la situation créée à leur profit par les baux et que, par conséquent, ils n'auraient, en cette qualité à supporter que les impôts et charges qui étaient expressément mentionnés dans les dits baux; || Attendu qu'au reste, il n'est pas contesté que ce ne soit là le véritable sens de ces actes, en tant qu'il s'agit des terrains, mais que le Gouvernement Japonais allègue que les baux n'avaient pour objet que les terrains nus

et qu'il n'admet pas que les constructions, élevées sur les trains, fussent comprises dans les stipulations sur lesquelles l'exemption des impôts serait fondée; || Qu'il a allégué que les terrains seuls appartenaient au Gouvernement, les constructions étant, au contraire, la propriété des preneurs, et qu'en conséquence l'immunité dont il est question ne pouvait s'étendre qu'aux immeubles qui n'étaient pas sortis du patrimoine de l'État; || Attendu que, toutefois, la question qu'il s'agit de décider est celle de savoir si, au point de vue fiscal, les constructions élevées sur les terrains loués étaient, de commun accord, considérées comme accessoires de ces terrains, ou non, et que la solution de cette question ne dépend pas de distinctions tirées d'une prétendue différence quant à la propriété des immeubles; || Que le Tribunal ne saurait donc s'arrêter à la discussion engagée à ce sujet et fondée sur les principes du droit civil; || Attendu que les terrains étaient loués pour y construire des maisons, ce qui est indiqué, à la fois, par la situation des immeubles et par la nature des aménagements effectués par le Gouvernement Japonais; || Que l'obligation d'ériger des bâtiments était, dans certaines localités, imposée sous peine de déchéance, que les baux contenaient souvent une clause, aux termes de laquelle les bâtiments, qui se trouveraient sur les terrains, deviendraient la propriété du Gouvernement Japonais, au cas où le preneur aurait manqué à ses engagements; | Attendu qu'il faut admettre que les circonstances qui viennent d'être relatées offrent des arguments à l'encontre de la prétention que le sol et les constructions constituent, dans les relations entre les parties et au point de vue fiscal, des objets entièrement distincts; || Attendu qu'en intervenant aux dits actes, le Gouvernement du Japon a agi, non seulement en propriétaire des terrains donnés en location, mais aussi comme investi du pouvoir souverain du pays; || Attendu que la volonté des parties faisait, par conséquent, la loi en la matière et que, pour établir comment les actes ont été réellement interprétés, il faut s'en rapporter au traitement auquel les détenteurs des terrains ont été, au point de vue des impôts, soumis, en fait, dans les différentes localités; || Attendu, à cet égard, qu'il est constant que, suivant une pratique qui n'a pas varié et qui a existé durant une longue série d'années, non seulement les terrains en question, mais aussi les bâtiments élevés sur ces terrains, ont été exemptés de tous impôts, taxes, charges, contributions, ou conditions autres que ceux expressément stipulés dans les baux à perpétuité; || Attendu que le Gouvernement du Japon soutient, il est vrai, que cet état de choses, de même que l'immunité fiscale dont jouissaient en général les étrangers dans le pays, n'était dû qu'à la circonstance que les Tribunaux Consulaires refusaient de donner la sanction nécessaire aux lois fiscales

du pays; || Attendu que, toutefois, cette prétention est dépourvue de preuves et qu'il n'est pas même allégué que le Gouvernement Japonais ait jamais fait, vis-à-vis des Gouvernements d'Allemagne, de France, et de Grande-Bretagne, des réserves à l'effet de maintenir les droits qu'il dit avoir été lésés; || Que, bien qu'il ait été allégué que l'immunité dont les étrangers jouissaient, en fait, au point de vue des impôts, sous le régime des anciens Traités, était générale et qu'elle s'étendait aux étrangers résidant en dehors des Concessions en question, il résulte pourtant des renseignements fournis au sujet de détenteurs d'immeubles — terrains et maisons — à Hiogo, que ladite règle n'a pas été d'une application universelle; || Que, dans tous les cas, la situation de fait n'est pas douteuse, de quelque façon qu'on l'explique: || Attendu, au point de vue de l'interprétation des dispositions des nouveaux Traités au sujet desquelles il y a contestation entre les Parties; || Que la rédaction de l'Article XVIII du Traité entre la Grande-Bretagne et le Japon — Traité antérieur aux deux autres — avait été précédée de propositions tendant à mettre les étrangers, détenteurs de terrains, sur le même pied que les sujets Japonais, tant au point de vue de la propriété des immeubles qui leur avaient été concédés en location que pour ce qui concerne le paiement de taxes et d'impôts, mais qu'on est ensuite tombé d'accord sur le maintien du régime qui jusqu'alors avait été pratiqué; || Que le Gouvernement Japonais prétend, il est vrai, que la question de maintenir le *statu quo* ne se rapportait qu'aux terrains, mais que cette prétention ne se trouve pas justifiée par les expressions employées au cours des négociations; || Qu'au contraire, le Représentant du Gouvernement Japonais, qui a pris l'initiative pour arriver à un accord dans ce sens, s'est borné à proposer le maintien du *statu quo* dans les Concessions étrangères („maintenance of the *status quo* in the foreign Settlements"); || Qu'il n'est pas à présumer que le Délégué de la Grande-Bretagne, en présentant un projet élaboré sur la base de ladite proposition, ait entendu faire une restriction concernant les constructions, que cela ne résulte, ni des mots insérés dans les procès-verbal, ni du contenu de l'Article par lui proposé; || Que, pour maintenir intégralement le *statu quo*, il ne suffirait pas d'admettre que l'immunité fiscale, qui jusqu'à cette époque s'étendait, tant sur les terrains que sur les constructions, dans les quartiers étrangers, serait maintenue pour le sol seulement et qu'elle cesserait d'exister pour ce qui concerne les maisons; || Qu'il doit surtout en être ainsi lorsqu'on considère que, pour se conformer à ce qui était convenu, les Parties ne se sont pas bornées à formuler une disposition au sujet de la confirmation des baux, mais qu'elles ont ajouté qu'aucunes conditions, sauf celles contenues dans les baux en vigueur, ne seront

imposées relativement à une telle propriété („no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property"; || Que cette dernière clause est rédigée d'une façon encore plus explicite dans le Traité avec la France; || Attendu qu'au surplus, dans les clauses dont il s'agit, les Puissances n'ont pas parlé de terrains, comme elles auraient dû nécessairement le faire si l'immunité, contrairement à ce qui avait été pratiqué jusque-là, avait dû être restreinte aux terrains; || Qu'elles ont, au contraire, employé des expressions assez larges pour comprendre dans son ensemble la situation faite par les baux aux preneurs; || Attendu que le Tribunal ne saurait, non plus, admettre que les notes échangées entre les Gouvernements d'Allemagne et du Japon, au moment de la conclusion du nouveau Traité, contiennent des explications de nature à placer l'Allemagne dans des conditions moins avantageuses que les deux autres Puissances; || Que le Gouvernement du Japon a surtout voulu tirer argument de ce que le Gouvernement Allemand a fondé l'immunité fiscale sur ce qu'il est interdit aux étrangers d'acquérir la propriété de terrains situés au Japon, mais qu'à cet égard il faut considérer qu'en fait les constructions avaient toujours eu le caractère de dépendances des terrains au point de vue des impôts, et qu'il n'est pas à présumer que le Gouvernement Allemand ait entendu renoncer aux avantages consentis en faveur de la Grande-Bretagne par le nouveau Traité, ce qui serait d'ailleurs en contradiction avec la clause assurant à l'Allemagne le traitement de la nation la plus favorisée, || Par ces motifs: || Le tribunal d'Arbitrage, à la majorité des voix, décide et déclare: —

Les dispositions des Traités et autres engagements mentionnés dans les Protocoles d'Arbitrage n'exemptent pas seulement les terrains possédés en vertu des baux perpétuels concédés par le Gouvernement Japonais ou en son nom, mais elles exemptent les terrains et les bâtiments de toute nature construits ou qui pourraient être construits sur ces terrains, de tous impôts, taxes, charges, contributions, ou conditions quelconques autres que ceux expressément stipulés dans les baux en question.

Fait à La Haye, dans l'Hôtel de la Cour Permanente d'Arbitrage, le 22 Mai, 1905. (Signé) G. Gram.
L. Renault.

Au moment de procéder à la signature de la présente Sentence Arbitrale, usant de la faculté que me confère l'Article LII, alinéa 2, de la Convention pour le règlement pacifique des conflits internationaux, conclue à La Haye le 29 Juillet, 1899, je tiens à constater mon dissentiment absolu avec la majorité du Tribunal, en ce qui concerne les motifs comme le dispositif de la sentence. (Signé) I. Motono.

Nr. 13381. **RUSZLAND und PERSIEN.** — Erklärung über die Modifikation des Handelsvertrags vom $\frac{10}{22}$ Feb. 1828.

Teheran, 27. Oktober 1901.

Declaration.

Sa Majesté l'Empereur de toutes les Russies et Sa Majesté le Schah de Perse, animés du même désir de faciliter le dévelopement des relations commerciales entre les deux pays voisins et amis, ont jugé opportun de modifier et de compléter les dispositions établies par l'Article III de l'acte additionnel conclu entre la Russie et la Perse a tourkmentchaï le 10/22 février 1828 et ont nommé a cet effet pour leurs plénipotentiaires, savoir: Sa Majesté l'Empereur de toutes les Russies, son envoyé extraordinaire et Ministre plénipotentiaire près la cour de Perse conseiller privé Argyropoulo et le conseiller privé Valentin Goloubew, membre du conseil du Ministre des finances; et Sa Majesté le Schah de Perse, son Premier Ministre L'atabek-Azam Mirza Ali Asghar Khan Amin-Es-Sultan, et le Sieur Joseph Naus, Administrateur Général des Douanes, lesquels dûment autorisés a cet effet sont convenus de ce qui suit:

Article I.

Les marchandises importées en Perse ou exportées de ce Royaume par les sujets russes et pareillement les productions de la Perse importées en Russie soit par la mer Caspienne, soit par la frontière de terre entre les deux Etats par les sujets persans, de même que les marchandises russes que les sujets persans exporteront de l'Empire par les mêmes voies, seront soumises non plus à la taxation prévue par l'article III de l'acte additionnel du 10/22 février 1828, mais à des tarifs détaillés (*A. B. C.*)*) qui se trouvent annexés à la présente Déclaration.

Article II.

Les marchandises exportées de Russie (voir article I) seront soumises au payement des droits de douane conformément au tarif *A* une fois pour toutes à leur entrée en Perse et ne seront assujetties ensuite au payement d'aucun autre droit de douane ou d'autres charges, sauf celles prévues par l'article V de la présente Déclaration. || Les produits persans exportés en Russie (voir article I) payeront les droits de douane à leur entrée en Russie conformément au tarif *B* et ne seront assujettis à aucun droit de sortie ou autre charge à leur exportation de Perse, sauf les exceptions prévues dans les articles III et V de la présente Déclaration. || Toutes les

*) Hier fortgelassen. Red.

marchandises et objets d'exportation persans non dénommés dans le tarif *B* seront soumis en Russie au payement des droits d'entrée stipulés par les tarifs applicables aux provenances des nations les plus favorisées, sauf les tarifs établis ou à établir pour les produits d'exportation de la Chine et d'autres pays asiatiques voisins. || Les règlements édictés ou à édicter pour les produits prohibés à l'importation en Russie et aussi pour les droits de sortie de la Russie seront applicables au trafic persan en Russie.

Article III.

Le droit de sortie de 5 % existant jusqu'à present en Perse sur les marchandises et produits exportés est totalement aboli, à l'exception des droits de sortie établis par le tarif *C* sur les produits y dénommés. || Les marchandises russes et persanes pourront aux conditions du présent arrangement être librement exportées de l'un dans l'autre des deux Etats sous sa réserve, bien entendu, des interdictions ou prohibitions déjà établies ou à établir par chacune des deux Hautes Parties Contractantes, soit dans un intérêt de sécurité ou de préservation sociale, soit pour empêcher éventuellement l'exportation de produits du sol qu'il serait momentanément nécessaire de réserver afin d'assurer l'alimentation publique.

Article IV.

Le Gouvernement Persan prend l'engagement de supprimer toutes les taxes de raghdari perçues actuellement pour l'entretien des routes et de ne pas permettre l'établissement d'autres taxes de routes ou de barrière ailleurs que sur les voies carrossables comportant des travaux d'art dont la concession a déja été accordée ou serait accordée par firmans spéciaux. Les taux des taxes à percevoir dans ce cas par les concessionnaires seraient fixés par le Gouvernement Persan qui en donnera connaissance à la Légation Imperiale de Russie, ces taxes ne devant pas dépasser par farsakh celle de la route Recht-Téhéran; la perception ne pourrait commencer qu'après l'achèvement de la route ou du moins de ses principaux tronçons entre les localités importantes et ne dépasserait en aucun cas pour les marchandises russes les taux prélevés des marchandises d'une autre provenance.

Article V.

Le système de fermage pour la perception des droits de douane en Perse devant être aboli à jamais sera remplacé à toutes les frontières du Royaume par l'institution de bureaux de douane gouvernementale, organisés et administrés de manière à assurer aux commerçants l'égalité des per-

ceptions et en bon traitement de leurs marchandises. || Le Gouvernement Persan prendra toutes les mesures nécessaires pour assurer d'une manière générale la sécurité des marchandises durant leur séjour dans les bureaux de la Douane et il assume la responsabilité directe de l'intégrité et de la bonne conservation des marchandises qui seront déposées dans les magazins des bureaux de la Douane. En conséquence, le Gouvernement Persan s'engage à faire construire, aussitôt que possible et en tout cas pas plus tard que cela est indiqué ci-dessous dans la clause *a* de cet article, dans les bureaux désignés à cet effet par un règlement prévu ci-après, des magasins dûment clôturés et assez vastes pour y assurer l'emmagasinage des quantités de marchandises habituellement importées; dans tous les autres bureaux il devra être établi des installations convenables en rapport avec les besoins du trafic de passage. Les commerçants russes jouiront, dans les conditions fixées par le même règlement, du droit d'entrepôt pendant douze mois à dater du jour de l'arrivée des marchandises sans payer aucuns droits ni taxes pour la mise en entrepôt. || Un règlement général, arrêté par l'Administration des Douanes d'accord avec la Légation de Russie à Téhéran, fixera avant la mise en vigueur de la présente convention: || a) la classification des bureaux de douane et leurs attributions, les points des frontières de terre et de mer et les chemins ouverts pour l'importation et l'exportation des marchandises, ainsi que l'organisation des magazins des bureaux de la Douane et la fixation des termes indiquant l'inauguration des opérations de ces bureaux et magasins; || b) les formalités à observer par le commerce pour l'importation et l'exportation des marchandises; || c) le régime de l'entrepôt applicable aux marchandises russes pendant douze mois à partir de leur arrivée dans un des bureaux ouverts à ce trafic; || d) les payements à imposer au commerce pour le séjour des marchandises dans les magasins de la douane ou pour tous autres services rendus par la douane aux commerçants; || e) la procédure douanière concernant la vérification des marchandises frappées de droits spécifiques et l'évaluation de celles imposées *ad valorem*, ainsi que les amendes applicables au cas de fraude ou de violation des formalités et règles établies. || Pour ce qui concerne la procédure douanière applicable aux marchandises à l'entrée ou à la sortie du territoire russe, les sujets persans seront soumis aux lois édictées ou à édicter par l'Empire, sans que les dispositions de celles-ci puissent de quelque manière que ce soit consacrer à l'égard du commerce des sujets persans des dispositions moins favorables que celles qui sont applicables aux commerçants des pays jouissant du traitement de la nation la plus favorisée.

Article VI.

L'acquittement des droits d'entrée en Russie d'après le tarif *B* annexé à la présente Déclaration sera effectué en monnaies admises pour le payement des taxes douanières dans tout l'Empire, calculé sur la base du poud équivalant à 40 livres russes, à 16,38 kilogrammes français, à 5,5 batmans de Tauris de 640 miskals persans. Pour l'application des tarifs *A* et *C* le batman persan dit de Tauris sera calculé à 640 miskals persans équivalant à 7,27 livres russes et à 2,97 kilogrammes français; et les 100 krans persans seront calculés à 18 roubles russes ou 48 francs français en monnaie d'or. || Dans le cas où le change du kran par rapport au rouble russe viendrait à baisser de plus de 10 % et se maintiendrait tel plus d'un mois, le Gouvernement Persan aurait la faculté, après la constatation du fait par les principales banques et notification préalable à Légation Imperiale de Russie, de hausser proportionellement les taux des droits spécifiques inscrits dans les tarifs *A* et *C*. La notification relativement à l'élévation des droits devra être faite par le Gouvernement Persan à la Légation de Russie à Téhéran au moins deux semaines avant que cette élévation soit appliquée. || Pour le cas d'une hausse dans le cours du kran dépassant 10 % et se maintenant tel durant plus d'un mois, l'initiative de l'abaissement proportionnel des tarifs *A* et *C* appartiendrait au Gouvernement Imperial de Russie et le Gouvernement Persan serait tenu d'accorder le dit abaissement.

Article VII.

Le Gouvernement Persan s'engage à appliquer à toutes les frontières du Royaume les dispositions de la présente Déclaration ainsi que les tarifs *A* et *C* avec les modifications prévues par l'article VI.

La présente Déclaration, dont, en cas de contestation, le texte français prévaudra, sera ratifiée et les ratifications en seront échangées à Téhéran, après quoi elle sera promulguée par les deux Hauts Gouvernements et entrera en vigueur à la date qui sera fixée d'un commun accord le jour de l'échange des ratifications.

Fait double, en français et en persan, le 27 octobre de l'an 1901, et le 26 Redjeb 1319 de l'Hégire, à Téhéran.

(signé) Argyropoulo (L.S.) (signé) Atabek-Azam (L.S.).

(signé) Goloubew (L.S.) (signé) Mouchr-oud-Dovleh (L.S.).

(signé) Naus (L.S.).

Nr. 13382. JAPAN und CHINA. — Zusatz zum Handelsvertrag. — Veröffentlicht 20. Januar 1904.

Supplementary Treaty of Commerce and Navigation between Japan and China.

His Majesty the Emperor of Japan and His Majesty the Emperor of China, in order to give full effect to the provisions of Article XI of the Final Protocol signed at Peking on the seventh day of the ninth month of the thirty-fourth year of Meiji, corresponding to the twenty-fifth day of the seventh moon of the twenty-seventh year of Kuang-hsu, have resolved to conclude a Supplementary Treaty of Commerce and Navigation, designed to facilitate and promote the commercial relations between Japan and China, and have for that purpose named as Their Plenipotentiaries, that is to say: || His Majesty the Emperor of Japan, Hioki Eki, Jugoi, Fifth Class of the Imperial Order of the Rising Sun, First Secretary of Legation, and Odagiri Masnosuke, Shorokui, Fifth Class of the Imperial Order of the Rising Sun, Consul General; || And His Majesty the Emperor of China, Lu Hai-huan, President of the Board of Public Works, Sheng Hsuan-huai, junior Guardian of the Heir Apparent, formerly Senior Vice-President of the Board of Public Works, and Wu T'ing-fang, Senior Vice-President of the Board of Commerce: || Who, after having communicated to each other their Full Powers found to be in good and due form, have agreed upon and concluded the following Articles: —

Art. I. — Whereas China, with the object of reforming its fiscal system, proposes to levy a surtax in excess of the tariff rates on all goods passing through the Custom Houses, whether maritime or inland and frontier, in order to compensate in a measure for the loss incurred by the complete abolition of *likin*, Japan consents to pay the same surtax as is agreed upon between China and all the Treaty Powers. With regard to the production tax, consumption tax and excise, and the taxes on native opium and salt, leviable by China, Japan also consents to accept the same arrangements as are agreed upon between all the Treaty Powers and China. It is understood, however, that the commerce, rights and privileges of Japan shall not, on account of the above, be placed at any disadvantage as compared with the commerce, rights and privileges of other Powers.

Art. II. — The Chinese Government agrees to permit Japanese steamship-owners to erect, at their own expense, appliances for hauling trough the rapids of that part of the Yangtze-kiang between Ichang and Chungking. But as the interests of the population of the provinces of

Szechuen, Hunan and Hupeh are involved, it is therefore necessary that the approval of the Imperial Maritime Customs be obtained before such appliances may be so erected. ‖ These appliances, which shall be at the disposal of the vessels, both steamers and junks, shall not obstruct the waterway nor interfere with the free passage of junks or of persons on the banks of the river. Such appliances shall be subject to special regulations to be drawn up by the Imperial Maritime Customs.

Art. III. — The Chinese Government agree that any Japanese steamer capable of navigating the inland waterways, upon reporting at the Imperial Maritime Customs, may proceed for the purpose of trade from a treaty port to places inland, so reported, on complying with the Original and Supplementary Regulations for Steam Navigation Inland.

Art. IV. — In case Chinese subjects conjointly with Japanese subjects organise a partnership or company for a legitimate purpose, they shall equitably share the profits and losses with all the members according to the terms of the agreement or memorandum and articles of association and the regulations framed thereunder, and they shall be liable to the fulfilment of the obligations imposed by the said agreement or memorandum and articles of association and the regulations framed thereunder as accepted by them and as interpreted by Japanese Courts. Should they fail to fulfil the obligations so imposed and legal action be taken against them in consequence, Chinese Courts shall at once enforce fulfilment of such obligations. ‖ It is understand that in case Japanese subjects conjointly with Chinese subjects organise a partnership or company, they shall also equitably share the profits and losses with all the members according to the terms of the agreement or memorandum and articles of association and the regulations framed thereunder. Should such Japanese subjects fail to fulfil any of the obligations imposed by the said agreement or memorandum and articles of association or by the regulations framed thereunder, Japanese Courts shall in like manner at once enforce fulfilment of such obligations by them.

Art. V. — The Chinese Government agree to make and faithfully enforce such regulations as are necessary for preventing Chinese subjects from infringing registered trade-marks held by Japanese subjects. ‖ The Chinese Government likewise agree to maks such regulations as are necessary for affording protection to registered copyrights held by Japanese subjects in the books, pamphlets, maps and charts written in the Chinese language and specially prepared for the use of Chinese people. ‖ It is further agreed that the Chinese Government shall establish registration offices where foreign trade-marks and copyrights, upon application for

the protection of the Chinese Government, shall be registered in accordance with the provisions of the regulations to be hereafter framed by the Chinese Government for the purpose of protecting trade-marks and copyrights. || It is understood that Chinese trade-marks and copyrights properly registered according to the provisions of the laws and regulations of Japan will receive similar protection against infringement in Japan. || This Article shall not be held to protect against due process of law any Japanese or Chinese subject who may be the author, proprietor or seller of any publication calculated to injure the well-being of China.

Art. VI. — China agrees to establish itself, as soon as possible, a system of uniform national coinage and provide for a uniform national currency which shall be freely used as legal tender in payment of all duties, taxes and other obligations by Japanese subjects as well as by Chinese subjects in the Chinese Empire. It is understood, however, that all Customs duties shall continue to be calculated and paid on the basis of the Haikwan tael.

Art. VII. — As the weights and measures used by the mercantile and other classes for general and commercial purposes in the different provinces of China vary and do not accord with the standard fixed by the Imperial Government Boards, thus resulting in detriment to the trade of Chinese and foreigners, the Governors General and Governors of all the provinces, after careful inquiry into existing conditions, shall consult together and fix upon uniform standards which after a Memorial to the Throne for sanction, shall be adopted and used in all transactions by officials and people throughout all the Empire. These standards shall be first used in the places opened to foreign trade and gradually extended to inland places. Any differences resulting from divergence between the new weights and measures and those now in vogue shall be equitably settled, whether by way of increase or decrease, according to the amount of such difference.

Art. VIII. — The Regulations fer Steam Navigation Inland of the fifth moon of the twenty-fourth year of Kuang-hsu and the Supplementary Rules of the seventh moon of the same year having been found in some respects inconvenient in working, the Chinese Government hereby agree to amend them and to annex such new Rules to this Treaty. || These Rules shall remain in force until altered by mutual consent.

Article IX. — The provisions of all treaties and engagements now subsisting between Japan and China, in so far as they are not modified or repealed by this Act, are hereby confirmed; and it is hereby expressly

stipulated in addition that the Japanese Government, Officers, Subjects, Commerce, Navigation, Shipping, Industries and Property of all kinds shall be allowed free and full participation in all privileges, immunities and advantages which have been or may hereafter be granted by His Majesty the Emperor of China or by the Chinese Government or by the Provincial or Local Administrations of China to the Government, Officers, Subjects, Commerce, Navigation, Shipping, Industries or Property of any other nation. ‖ The Japanese Government will do its utmost to secure to Chinese Officers and Subjects resident in Japan the most favourable treatment compatible with the laws and regulations of the Empire.

Art. X. — The High Contracting Parties hereto agree that, in case of and after the complete with-drawal of the foreign troops stationed in the province of Chihli and of the Legation guards, a place of international residence and trade in Peking will be forthwith opened by China itself. The detailed regulations relating thereto shall be settled in due time after consultation. ‖ The Chinese Government agree to open to foreign trade, within six months from the exchange of the Ratifications of this Treaty, Ch'ang-sha-fu in the province of Hunan on the same footing as the ports already opened to foreign trade. Foreigners residing in this open port are to observe the Municipal and Police Regulations on the same footing as Chinese residents, and they are not to be entitled to establish a Municipality and Police of their own within the limits of this treaty port, except with the consent of the Chinese authorities. ‖ The Chinese Government agree that, upon the exchange of the Ratifications of this Treaty, Mukden and Tatungkow, both in the province of Shengking, will be opened by China itself as places of international residence and trade. The selection of suitable localities to be set apart for international use and occupation and the regulations for these places set apart for foreign residence and trade shall be agreed upon by the Governments of Japan and China after consultation together.

Art. XI. — The Government of China having expressed a strong desire to reform its judicial system and to bring it into accord with that of Japan and Western nations, Japan agrees to give every assistance to such reform, and will also be prepared to relinquish its extra-territorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration and other considerations warrant it in so doing.

Art. XII. — The present Treaty is signed in the Japanese, Chinese and English languages. In order, however, to prevent future discussions, the Plenipotentiaries of the High Contracting Parties have agreed that

in case of any divergence in the interpretation between the Japanese and Chinese Texts of the Treaty, the difference shall be settled by reference to the English Text.

Art. XIII. — The present Treaty shall be ratified by His Majesty the Emperor of Japan and His Majesty the Emperor of China, and the Ratifications thereof shall be exchanged at Peking as soon as possible and not later than six months from the present date. || In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto the seals of their arms.

Done at Shanghai this eighth day of the tenth month of the thirty-sixth year of Meiji, corresponding to the eighteenth day of the eighth moon of the twenty-ninth year of Kwang-hsü.

(L. S.) Hioki Eki.

(L. S.) Odagiri Masnosuke.

Signature of	Signature of	Signature of
His Excellency	His Excellency	His Excellency
Lu Hai-huan.	Sheng Hsuan-huai.	Wu Ting-fang.

Annex I.

Inland waters steam navigation. Additional rules.

1. — Japanese steamship-owners are at liberty to lease warehouses and jetties on the banks of waterways from Chinese subjects for a term nor exceeding twenty-five years, with option of renewal on term to be mutually arranged. In cases where Japanese merchants are unable to secure warehouses and jetties from Chinese subjects on satisfactory terms, the local officials, after consultation with the Governor or Governor General or Minister of Commerce, shall arrange to provide these on renewable lease, as above mentioned, at current equitable rates.

2. — Jetties shall only be erected in such positions that they will not obstruct the inland waterway or interfere with navigation, and with the sanction of the nearest Commissioner of Customs; such sanction, however, shall not be arbitrarily withheld.

3. — Japanese merchants shall pay taxes and contributions on these warehouses and jetties on the same footing as Chinese proprietors of similar properties in the neighbourhood. Japanese merchants may only employ Chinese agents and staff to reside in warehouses so leased at places touched at by steamers engaged in inland traffic to carry on their business; but Japanese merchants may visit these places from time to time to look after their affairs. The existing rights of Chinese juris-

diction over Chinese subjects shall not by reason of this clause be diminished or interfered with in any way.

4. — Steam vessels navigating the inland waterways of China shall be responsible for loss caused to riparian proprietors by damage which they may do to the banks or works on them, and for the loss which may be caused by such damage. || In the event of China desiring to prohibit the use of some particular shallow waterway by launches, because there is reason to fear that the use of it by them would be likely to injure the banks and cause damage to the adjoining country, the Japanese authorities, when appealed to, shall, if satisfied of the validity of the objection, prohibit the use of that waterway by Japanese launches, provided that Chinese launches are also prohibited from using it. || Both Foreign and Chinese launches are prohibited from crossing dams and weirs at present in existence on inland waterway where they are likely to cause injury to such works, which would be detrimental to the water service of the local people.

5. — The main object of the Japanese Government in desiring to see the inland waterways of China opened to steam navigation being to afford facilities for the rapid transport of both foreign and native merchandise, they undertake to offer no impediment to the transfer to a Chinese company and the Chinese flag of any Japanese steamer which may now or hereafter be employed on the inland waters of China, should the owner be willing to make the transfer. || In the event of a Chinese company registered under Chinese law being formed to run steamers on the inland waters of China, the fact of Japanese subjects holding shares in such a company shall not entitle the steamers to fly the Japanese flag.

6. — Registered steamers and their tows are forbidden to carry contraband goods. Infraction of this rule will entail the penalties prescribed in the treaties for such an offence, and cancellation of the Inland Waters Navigation Certificate carried by the vessels, which will be prohibited from thereafter plying on inland waters.

7. — As it is desirable that the people living inland should be disturbed as little as possible by the advent of steam vessels to which they are not accustomed, inland waters not hitherto frequented by steamers shall be opened as gradually as may be convenient to merchants and only as the owners of steamers may see prospect of remunerative trade. || In cases where it is intended to run steam vessels on waterways on which such vessels have not hitherto run, intimation shall be made to the Commisioner of Customs at the nearest open port, who shall report the matter to the Ministers of Commerce. The latter, in conjunction

with the Governor General or Governor of the province, after careful consideration of all the circumstances of the case, shall at once give their approval.

8. — A registered steamer may ply within the waters of a port, or from one open port or ports to another open port or ports, or from one open port or ports to places inland, and thence back to such port or ports. She may, on making due report to the Customs, land or ship passengers or cargo at any recognised places of trade passed in the course of the voyage; but may not ply between inland places exclusively except with the consent of the Chinese Government.

9. — Any cargo and passenger boats may be towed by steamers. The helmsman and crew of any boat towed shall be Chinese. All boats, irrespective of ownership, must be registered before they can proceed inland.

10. — The above Rules are supplementary to the Regulations published in the fifth and seventh moons of the twenty-fourth year of Kuang-hsü, which remain in full force and effect in so far as they are not modified by the Rules now agreed upon. || The present Rules and the Regulations of the fifth and seventh moons of the twenty-fourth years of Kuang-hsü may hereafter be modified, as circumstances require, by mutual consent.

Done at Shanghai this eighth day of the tenth month of the thirty-sixth year of Meiji, corresponding to the eighteenth day of the eighth moon of the twenty-ninth year of Kuang-hsü.

(Unterschriften wie oben.)

Annex II.

Imperial Japanese Commissioners for Treaty Revision to Imperial Chinese Commissioners for Treaty Revision.

Shanghai, the 8th Day of the 10th Month of the 36th Year of Meiji.

Gentlemen, — According to Article III. of the present Treaty the Chinese Government agree that any Japanese steamer capable of navigating the Inland Waterways, upon reporting at the Imperial Maritime Customs, may proceed for the purpose of trade from a treaty port to places inland, so reported, on complying with the Original and Supplementary Regulations for Steam Navigation Inland. || It is understood that all classes of Japanese steamers, whatever their size, provided they are capable of navigating the Inland Waterways, may on complying with the Regulations receive an Inland Waters Certificate and carry on trade with inland places, and the Chinese Government will in no case raise

difficulties and stop such steamers from plying to and from inland places. || We have the honour, in order to prevent future misunderstandings to address this despatch to Your Excellencies and to request that instructions be sent to the Inspector General of Maritime Customs to act in accordance with this understanding. We have further the honour to request a reply from Your Excellencies.

(Jap. Unterschriften wie oben.)

Annex III.

Imperial Chinese Commissioners for Treaty Revision to Imperial Japanese Commissioners for Treaty Revision.

Shanghai, the 18th Day of 8th Moon of the 29th Year of Kuang-hsü.

Gentlemen, — We have the honour to acknowledge the receipt of Your Excellencies' despatch of this date, written with a view of preventing future misunderstandings, to the effect that, in accordance with the provisions of Article III. of the present Treaty, all classes of Japanese steamers, whatever their size, provided they are capable of navigating the Inland Waterways, may on complying with the Regulations receive an Inland Waters Certificate and ply to and from inland places, and that the Chinese Government will in no case raise difficulties and stop them. || During the negotiation of this Article, we received a list from Your Excellencies of the Japanese steamers — viz.: *Sanyo Maru*, *Setagawa Maru*, *Hiuga Maru*, *Urato Maru*, *Neisei Maru*, *Heian Maru*, *Taiko Maru*. *Yoshino Maru*, *Meiko Maru*, *Fukuju Maru*, *Hijikawa Maru*, *Nagata Maru*, *Kyodo Maru*, *Horai Maru*, *Kwanko Maru*, *Keiko Maru*, *Kinrin Maru*, *Zensho Maru* and *Kohei Maru*, ranging from one hundred and twenty-one tons to four hundred and ten tons register — plying from Chefoo to inland places in Manchuria, under Inland Waters Certificate and in accordance with the Regulations for Steam Navigation Inland, which vessels have not been prevented from doing so on account of their class. || At that time we instructed the Deputy Inspector General of Customs to make inquiries into the records of the Custom Houses, and he reported that the circumstances were in accordance with Your Excellencies' statement. || In consequence of the receipt of Your Excellencies, despatch we shall communicate with the Wai-wu Pu and request that instructions be sent to the Inspector General of Customs to take these circumstances into consideration and to act accordingly, and we have the honour to write this despatch for purposes of record.

(Chines. Unterschriften wie oben.)

Annex IV.

Wie bei II.

Shanghai, the 8th Day of the 10th Month of the 36th Year of Meiji.

Gentlemen, — The provision contained in No. 9 of the Supplementary Rules governing steam navigation on Inland Waters published in the seventh moon of the twenty-fourth year of Kuang-hsü, regarding the appointment of an officer to collect dues and duties, not having in all cases been given effect to, we have the honour to request that Your Excellencies' Government will again issue instructions to all provinces to give strict effect to this provision, as it is a matter of importance. || We trust that Your Excellencies will comply with the request contained in this despatch and that you will favour us with a reply.

(Jap. Unterschriften wie oben.)

Annex V.

(Wie bei III.)

Shanghai, the 18th Day of the 8th Moon of the 29th Year of Kuang-hsü.

Gentlemen, — We have the honour to acknowledge the receipt of Your Excellencies' despatch of this date to the effect that, the provision contained in No. 9 of the Supplementary Rules governing steam navigation on Inland Waters published in the seventh moon of the twenty-fourth year of Kuang-hsü, regarding the appointment of an officer to collect dues and duties, not having in all cases been given effect to, you request that instructions be again issued to all provinces to give strict effect to this provision, as it is a matter of importance. || We have noted the above and have communicated with proper authorities in order that action may be taken, and have now the honour to write this reply for Your Excellencies' information.

(Chines. Unterschriften wie oben.)

Annex VI.

(Wie bei III.)

Shanghai, the 18th Day of 8th Moon of the 29th Year of Kuang-shü.

Gentleman, — According to the provision of Article X of this Treaty, regarding the establishment in Peking of a place of international residence and trade, it is agreed that in case of and after the complete withdrawal of the foreign troops, now guarding the Legations and Communications, a place in Peking outside the Inner City, convenient to both parties and free from objections, shall be selected and set apart as a place where merchants of all nationalities may reside and carry on trade. Within

the limits of this place merchants of all nationalities shall be at liberty to lease land, build houses and warehouses, and establish places of business; but as to the leasing of houses and land belonging to Chinese private individuals, there must be willingness on the part of the owners and the terms thereof must be equitably arranged without any force or compulsion. All roads and bridges in this place will be under the jurisdiction and control of China. Foreigners residing in this place are to observe the Municipal and Police Regulations on the same footing as Chinese residents, and they are not to be entitled to establish a Municipality and Police of their own within its limits except with the consent of the Chinese authorities. When such place of international residence and trade shall have been opened and its limits properly defined, the foreigners who have been residing scattered both within and without the city walls, shall all be required to remove their residence thereto and they shall not be allowed to remain in separate places and thereby cause inconvenience in the necessary supervision by the Chinese authorities. The value of the land and buildings held by such foreigners shall be agreed upon equitably and due compensation therefor shall be paid. The period for such removal shall be determined in due time, and those who do not remove before the expiry of this period shall not be entitled to compensation. || We have considered it to be to our mutual advantage to come to the present basis of understanding in order to avoid future unnecessary negotiations, and we beg that Your Excellencies will consider and agree to it and will favour us with a reply.

(Chines. Unterschriften wie oben.)

Annex VII.

Imperial Japanese Commissioners for Treaty Revision to Imperial Chinese Commissioners for Treaty Revision.

Shanghai, the 8th Day of the 10th Month of the 36th Year of Meiji.

Gentlemen, — We have the honour to acknowledge the receipt of Your Excellencies' despatch of this date in which you state that —|| „According to the provision of Article X of this Treaty, regarding the establishment in Peking of a place of international residence and trade it is agreed that in case of and after the complete withdrawal of the foreign troops, now guarding the Legations and Communications, a place in Peking outside the Inner City, convenient to both parties and free from objections, shall be selected and set apart as a place where merchants of all nationalities may reside and carry on trade. Within the limits of this place merchants of all nationalities shall be at liberty to

lease land, build houses and warehouses, and establish places of business; but as to the leasing of houses and land belonging to Chinese private individuals, there must be willingness on the part of the owners and the terms thereof must be equitably arranged without any force or compulsion. All roads and bridges in this place will be under the jurisdiction and control of China. Foreigners residing in this place are to observe the Municipal and Police Regulations on the same footing as Chinese residents, and they are not to be entitled to establish a Municipality and Police of their own within its limits except with the consent of the Chinese authorities. When such place of international residence and trade shall have been opened and its limits properly defined, the foreigners who have been residing scattered both within and without the city walls, shall all be required to remove their residence thereto and they shall not be allowed to remain in separate places and thereby cause inconvenience in the necessary supervision by the Chinese authorities. The value of the land and buildings held by such foreigners shall be agreed upon equitably and due compensation therefore shall be paid. The period for such removal shall be determined in due time, and those who do not remove before the expiry of this period shall not be entitled to compensation. || Whe have considered it to be to our mutual advantage to come to the present basis of understanding in order to avoid future unnecessary negotiations, and we beg that Your Excellencies will consider and agree to it and will favour us with a reply."

In reply we beg to inform you that we agree generally to all the terms contained in the despatch under acknowledgment. As to the detailed regulations, these shall in due time be considered and satisfactorily settled in accordance with Article X of this Treaty; but it is understood that such regulations shall not differ in any respect to our prejudice from those which may be agreed upon between China and other Powers. We have the honour to send Your Excellencies this communication in reply and for your information.

We have the honour to be, Gentlemen,

Your obedient Servants,

(Signed) Hioki Eki.

(Signed) Odagiri Masnoske.

Their Excellencies

Lu Hai-Huan,

Sheng Hsuan-Huai,

Wu T'ing-Fang.

His Imperial Chinese Majesty's Commissioners for Treaty Revision.

Nr. 13383. GROSZBRITANNIEN und VEREINIGTE STAATEN VON AMERIKA. — Postvertrag.

Washington, 7. Febr. 1905.

For the purpose of making better postal arrangements between the United States of America and the United Kingdom of Great Britain and Ireland, the undersigned, Robert J. Wynne, Postmaster-General of the United States of America, and Edward George Villiers Stanley, C. B., commonly called Lord Stanley, His Majesty's Postmaster-General, have agreed upon the following Articles for the establishment of an exchange of parcels by parcel post between the United States and the United Kingdom.

Article I.

The provisions of this Agreement relate only to parcels to be exchanged by the system herein provided for, and do not affect the arrangements now existing under the Universal Postal Union Convention, which wil continue as heretofore; and all the conditions hereinafter specified apply exclusively to mails exchanged under the present Agreement directly between such offices in the United States and the United Kingdom as may from time to time be designated offices of exchange by mutual consent.

Article II.

1. With the exception of the articles specifically prohibited by Article III, there shall be admitted to the parcel mails all articles which are admitted to the mails under any conditions in the internal service of the country of origin and the country of destination. No parcel may, however, exceed 50 dollars ($ 50) or 10 £ in value, four pounds six ounces (or two kilogrammes) in weight, nor the following dimensions: — greatest length in any direction, three feet six inches; greatest length and girth combined, six feet. || 2. Every parcel must bear the exact address of the addressee and must be packed in a manner adequate for the length of the journey and the protection of its contents. The packing must be of such a nature as to permit the contents to be easily examined by officers of the Post Office or of the Customs.

Article III.

1. It is forbidden to send by post: — || (*a*) Parcels containing letters or communications of the nature of a letter; live animals, except bees in properly constructed boxes; dead animals, except insects and reptiles when thoroughly dried; fruits and vegetables which easily decompose; publi-

cations which violate the copyright laws of the country of destination; poisons and explosive or inflammable substances; liquids and substances which easily liquefy; lottery tickets, lottery advertisements, or lottery circulars; all obscene or immoral articles; or articles the admission of which is not authorized by the Customs or other laws or regulations of either country, and, in general, articles the conveyance of which is dangerous. || A parcel may, however, contain an open invoice in its simplest form. || 2. No parcel may contain an enclosure which bears an address other than that borne by the parcel itself. || 3. if a parcel contravening any of these prohibitions or not conforming to the stipulations of Article II. be handed over by one Administration to the other, the latter shall proceed in the manner and with the formalities prescribed by its law or inland regulations. || 4. The two Administrations shall furnish each other (from time to time) with a list of prohibited articles; but they will not thereby undertake any responsibility whatever towards the police, the Customs authorities, or the senders of parcels.

Article IV.

1. The following rates of postage shall in all cases be fully prepaid by means of postage stamps of the country of origin, viz.: — || 2. In the United States for a parcel not exceeding one pound in weight, 12 cents; and for each additional pound or fraction of a pound, 12 cents. || 3. In Great Britain for every parcel of four pounds six ounces or less in weight, two shillings. || 4. The parcel shall be promptly delivered to addressees in accordance with the inland regulations of the country of destination, free of charge for postage; but the country of destination may, at its option, levy and collect from the addressee for interior service and delivery a charge, the amount of which is to be fixed according to its own regulations, but which shall in no case exceed in the United States five cents, and in the United Kingdom $2^1/_2$ d., for each parcel whatever its weight.

Article V.

The sender may at the time of posting obtain a certificate of posting on the form provided for the purpose.

Article VI.

The parcels to which the present agreement applies cannot be subjected to any postal charge other than those contemplated by the different Articles of this Agreement.

Article VII.

1. The sender of each parcel shall make a Customs declaration upon a special form provided for the purpose, giving a general description of the parcel, an accurate statement of its contents and value, the date of posting, and the sender's signature and place of address. This declaration shall be pasted upon or attached to the parcel. || 2. The parcels in question shall be subject in the country of destination to all Customs duties and all Customs regulations in force in that country for the protection of its Customs revenues; and the Customs duties properly chargeable thereon shall be collected on delivery, in accordance with the Customs regulations of the country of destination. || 3. The Administrations decline all responsibility for the correctness of the Customs declarations.

Article VIII.

Each country shall retain to its own use the whole of the postages and delivery fees it collects on the said parcels; consequently this Agreement will give rise to no postage accounts between the two countries. 2. The foregoing clause, however, shall not preclude either office from proposing a system of accounts, or of insurance or registration of parcels, after some experience has been gained of the working of the post, and if such arrangement be made the necessary modifications in the provisions of the present Agreement shall be carried out by mutual consent.

Article IX.

The parcels shall be considered as a component part of the mails exchanged direct between the United States and the United Kingdom, to be despatched to destination by the country of origin at its cost, and by such means as it provides; but they must be forwarded, at the option of the despatching office, either in boxes or baskets prepared expressly for the purpose, or in ordinary mail sacks, marked „Parcel Post", and securely sealed with wax, or otherwise, as may be mutually agreed upon. || 2. Each country shall promptly return Empty to the despatching office by next mail all such receptacles.

Article X.

Each despatch of a Parcel-Post mail must be accompanied by a descriptive list, in duplicate, of all the parcels sent, showing distinctly the list number of each parcel, the office of origin, the name of the addresse with address of destination, and the declared contents and value. This list must be enclosed in one of the receptacles composing the mail.

Article XI.

1. As soon as a parcel mail shall have reached the office of destination, that office shall check the contents of the mail. || 2. In the event of the parcel bill not having been received, a substitute shall at once be prepared. || 3. Any errors in the entries on the parcel bill which may be discovered shall, after verification by a second officer, be corrected and reported to the despatching office by means of a verification note, which should be sent in a special envelope. || 4. If a parcel advised on the bill be not received, the entry on the bill shall be cancelled, after the non-receipt has been verified by a second officer and the circumstance reported at once. || 5. Should a parcel be received in a damaged or imperfect condition, full particulars shall be reported by means of a verification note. 6. If no verification note or note of error be received, a parcel mail shall be considered as duly delivered, and as having been found on examination correct in all respects.

Article XII.

1. Missent parcels shall be immediately returned to the despatching office of exchange. Attention shall be called to the error by means of a verification note. || 2. If a parcel cannot be delivered as addressed or is refused by the addressee, the sender shall be consulted (through the Administration of the country of origin) as to its disposal. If within two months of the despatch of the notice of non-delivery the office of destination shall not have received instructions from the sender the parcel shall be treated as abandoned. || 3. Parcels redirected from one country to the other, or parcels returned at the sender's request, incur a supplementary charge on the basis of the rates fixed by Article IV., which may be collected either in advance or on delivery, as may be convenient Parcels redirected from one address to another in the country of destination are subject to such additional charge as the domestic regulations of that country prescribe. || 4. Articles liable to deterioration or corruption may, however, be sold immediately, without previous notice or legal formality, for the benefit of the right party. An account of the sale shall be drawn up. || The sum realized by the sale shall be used in the first place to defray the charges upon the parcel. Any balance which there may be shall be remitted to the office of origin to be paid to the sender. If for any reason a sale is impossible the spoilt or worthless articles are destroyed or taken possession of by the Customs. || 5. The Customs duties on parcels which have to be sent back to the country of origin or redirected to a third country shall be cancelled both in the United States and in the United Kingdom.

Article XIII.

Neither of the contracting Administrations will be responsible for the loss or damage of any parcel, consequently no indemnity can be claimed by the sender or addressee in either country.

Article XIV.

1. The internal legislation of both the United States and the United Kingdom shall remain applicable as regards everything not provided for by the stipulations contained in the present Agreement. || 2. The Administrations shall communicate to each other from time to time the provisions of their laws or regulations applicable to the conveyance of parcels by Parcel Post. || 3. They shall regulate the mode of transmission of these parcels, and fix all other measures of detail and order necessary for ensuring the performance of the present Agreement.

Article XV.

This Agreement shall come into operation on the first day of April, 1905, and shall be terminable on a notice of six months by either party. || Done in duplicate at London on the third day of February 1905, and at Washington on the seventeenth day of February, 1905.

(Seal) Robert J. Wynne,
Postmaster-General of the United States of America.

(Seal) Stanley,
His Majesty's Postmaster General.

Verhandlungen zwischen Rufsland und England über Kriegskontrebande 1904*).

Nr. 13384. **RUSZLAND.** — Kaiserliche Verfügung über die Behandlung japanischer Untertanen in Rußland, japanische Handelsschiffe und Kontrebande.

16/29. Februar 1904.

Ordre de Sa Majesté l'Empereur, communiqué au Sénat dirigeant par le Ministre de la Justice et sanctionnant les Règles que le Gouvernement Impérial appliquera durant la Guerre avec le Japon.

Règles que le Gouvernement Impérial appliquera durant la Guerre avec le Japon.

1. Les sujets du Japon sont autorisés à continuer, sous la protection des Lois Russes, leur séjour et l'exercice de professions paisibles dans l'Empire de Russie, à l'exception des territoires faisant partie de la lieutenance Impériale en Extrême-Orient. || 2. Les navires de commerce Japonais que la déclaration de guerre a trouvés dans les ports et havres Russes sont autorisés à y séjourner, avant de prendre la mer avec des marchandises ne constituant pas des objets de contrebande de guerre, durant un délai nécessaire et proportionné au chargement, mais qui dans aucun cas ne doit excéder quarante-huit heures à partir du moment de la publication de la présente déclaration par les autorités locales. || 3. Les sujets des États neutres peuvent continuer sans obstacle leurs relations commerciales avec les ports et villes Russes, à condition de se conformer aux lois de l'Empire et aux principes du droit des gens. || 4. Les autorités militaires sont tenues de prendre toutes les mesures nécessaires pour assurer la liberté du commerce légitimes des neutres, en tout qu'il est compatible avec les opérations de guerre. || Les Règles suivantes doivent être observées à l'égard du commerce des neutres: || (1.) Le pavillon neutre couvre la marchandise ennemie, à l'exception de la contrebande de guerre;

* Engl. Blaubuch_Cd 2348. Red.

‖ (2.) La marchandise neutre, à l'exception de la contrebande de guerre, n'est pas saisissable sous pavillon ennemi; ‖ (3.) Le blocus, pour être obligatoire, doit être effectif, c'est-à-dire maintenu par une force suffisante pour interdire réellement l'accès du littoral de l'ennemi.

6. Sont considérés comme contrebande de guerre les objets suivants: ‖ (1.) Les armes de tout genre portatives et d'artillerie, montées ou en pièces détachées, de même que les blindages; ‖ (2.) Les minutions d'armes à feu, telles que: projectiles, fusées d'obus, balles, amorces cartouches, tubes de cartouches poudre, salpêtre, soufre; ‖ (3.) Le matériel et les substances pour produire des explosions, tels que: torpilles, dynamite, pyroxyline diverses substances fulminantes, fils conducteurs et tout ce qui sert à l'explosion des mines et torpilles; ‖ (4.) Le matériel de l'artillerie, du génie et du train, tels que: affûts, caissons, caisses, ou ballots de cartouches, cuisines, et forges de campagne, charettes à instruments, pontons, tréteaux de ponts, fil de fer à pointes, harnachement, &c.; ‖ (5.) Les objets d'équipement et d'habillement militaire, tels que: gibernes, cartouchières, sacs, bricoles, cuirasses, outils de sape, tambours, marmites, selles, harnais, pièces confectionnées d'habillement militaire, tentes, &c.; ‖ (6.) Les bâtiments se rendant dans un port ennemi, même sous pavillons de commerce neutre, si, d'après leur construction, leur aménagement intérieur et autres indices, il y a évidence qu'ils sont construits dans un but de guerre et se dirigent vers un port ennemi pour y être vendus ou remis à l'ennemi; ‖ (7.) Chaudières et machines de tout genre de navires, montées et démontées. ‖ (8.) Combustible de tout genre, tel que: charbon, naphte, alcool, et autres matériaux semblables. ‖ (9.) Matériel et objets pour des installations télégraphiques, téléphoniques, ou pour la construction de voies ferrées. ‖ (10.) En général tous les objets destinés à la guerre sur mer ou sur terre, de même que le riz, les vivres, et les chevaux, bêtes de somme et autres, pouvant servir dans un but de guerre s'ils sont transportés pour le compte ou à destination de l'ennemi.

7. Sont assimilés à la contrebande de guerre les actes suivants, interdits aux neutres: le transport de troupes ennemies, celui du dépêches et de la correspondance de l'ennemi, la fourniture de transports et de navires de guerre à l'ennemi. Les navires neutres pris en flagrant délit de contrebande de ce genre peuvent être, selon les circonstances, saisis et même confisqués. ‖ 8. Le Gouvernement Impérial se réserve le droit de ne pas se conformer aux règles susénoncées par rapport à l'État ennemi ou neutre qui, de son côté, ne les observerait pas, de même que de prendre les dispositions nécessaires selon les circonstances spéciales de chaque cas donné. ‖ 9. Les règles détaillées que les autorités militaires

sont tenues d'observer pendant la guerre sur mer sont exposées dans le Règlement sur les prises sanctionné par Sa Majesté l'Empereur le 27 Mars, 1895, de même que dans les instructions spéciales approuvées par le Conseil de l'Amirauté le 20 Septembre, 1900, et relatives à l'arrêt, la visite, la capture, le transport, et la remise des navires et des marchandises capturés. || 10. Les autorités militaires sont tenues, de même, de se conformer aux Actes Internationaux suivants signés par la Russie: || (1.) Convention de Genève du 10 (22) Août, 1864, relative à l'amélioration du sort des blessés en temps de guerre. || (2.) Déclaration de Saint-Pétersbourg du 29 Novembre (11 Décembre), 1868, relative à l'interdiction de l'usage des balles explosibles. || (3.) Actes signés à la Conférence Internationale de la Paix à la Haye le 17 (29) Juillet, 1899, et ratifiés par Sa Majesté l'Empereur le 6 Mai, 1900. || (*a.*) Convention concernant les lois et coutumes de la guerre sur terre. || (*b.*) Convention pour l'adaptation à la guerre maritime des principes de la Convention de Genève du 10 (22) Août, 1864. || (*c.*) Déclaration concernant l'interdiction, pour une durée de cinq ans, de lancer des projectiles et des explosifs du haut de ballons ou par d'autres modes analogues nouveaux. || (*d.*) Déclaration concernant l'interdiction de l'emploi de projectiles qui ont pour but unique de répandre des gaz asphyxiants ou délétères. || (*e.*) Déclaration concernant l'interdiction de l'emploi de balles qui s'épanouissent ou s'aplatissent facilement dans le corps humain, telles que les balles à enveloppe dure, dont l'enveloppe ne couvrirait pas entièrement le noyau ou serait pourvue d'incisions.

Nr. 13385. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Nähere Auslegung des vorigen.

St. Petersburg, March 7, 1904.

(Telegraphic.) || With reference to your Lordship's telegram of the 3rd instant, I have received following official declaration from Russian Government: — || „All the articles enumerated in Article 6 of the Rules approved on the 14th ultimo by His Imperial Majesty, amongst which coal is included, are regarded as unconditionally contraband of war by the Imperial Government. With respect to section 10, its sense is confined to this — that the Imperial Government, if they should judge it indispensable in the circumstances of the war to forbid the conveyance of such articles to Japan or to Japanese armed forces, reserve to themselves the right to supplement the list of contraband articles by the addition of others."

Nr. 13386. **RUSZLAND.** — Ausführungsbestimmungen zu Nr. 13384.

Petersburg, 6./19. März 1904.

Sous le nom de denrées alimentaires, dont il est fait mention au 10e alinéa de cet Article, il faut comprendre avant tout, au nombre des divers objets qui peuvent servir de denrées alimentaires ou de fourrages pour l'armée Japonaise, le blé de toute espèce, le poisson et les différents produits de poisson, les haricots, l'huile d'haricots. || Au nombre des objets destinés aux besoins de la guerre sur terre, comme sur mer, doivent figurer aussi les machines et les pièces de machines destinées à la fabrication de canons, de fusils, et de projectiles.

Nr. 13387. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Nachtrag zum vorigen.

St. Petersburgh, March 24, 1904.

(Telegraphic.) || My despatch of 19th March. || Official Russian text contains word „jmuekhi" („oil cakes"), German, „Samenkuchen", omitted in unofficial French translation.

Nr. 13388. **JAPAN.** — Verfügung über Kriegskontrebande.

Tokio, 10. Febr. 1904.

(Translation.) || The following goods shall be regarded as contraband of war during the war between Japan and Russia: || 1. The following goods shall be regarded as contraband when passing through or destined for the enemy's territory, or destined for the naval and military forces of the enemy: || Military weapons, ammunition, explosives, and materials (including lead, saltpetre, sulphur, &c.) and machinery for making them; cement; uniforms (military and naval), military accoutrements, armour-plates, materials and machinery for the construction and equipment of war-ships, and all other goods which, though not coming under the above-mentioned list, are intended solely for use in war. || 2. The following goods shall be regarded as contraband when destined for the enemy's army or navy, or in cases where, being goods arriving in the enemy's territory, there is reason to believe, from the circumstances of the place of destination, that they are intended for the use of the naval or military forces of the enemy: || Provisions, drinks, horses, harness, fodder-vehicles of all kinds, coal, timber, coins, gold and silver bullion, and

materials for the construction of telegraphs, telephones, and railways. || 3. With regard to the goods mentioned in the two preceding clauses, those which from their nature and quantity are clearly to be considered as intended for the use of the ship that carries them, will not be regarded as coming under the category of contraband of war.

Nr. 13389. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Nachtrag zu Nr. 13388.

St. Petersburgh, May 9, 1904, 2.57 P. M. (May 9, 2.29 P. M.)

(Telegraphic.) || Cotton has been added to list of objects declared contraband of war by Russia.

Nr. 13390. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Wünscht nähere Mitteilung hierüber.

Foreign Office, May 16, 1904.

(Telegraphic.) || Ascertain and report without delay whether Notification, referred to in Mr. Spring-Rice's telegram of th 9th May, applies to all cottons, including, *e. g.*, piece-goods, or only to such preparations of cotton as can be used for the manufacture of explosives.

Nr. 13391. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Antwort auf das vorige.

St. Petersburgh, May 17, 1904. (May 17.)

(Telegraphic.) || With reference to your Lordship's telegram of the 16th instant, I am informed that the Notification does not apply to piece-goods, but only to raw cotton suitable for the manufacture of explosives.

Nr. 13392. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Protest gegen die russische Behandlung von Reis und Lebensmitteln als Kontrebande.

Foreign Office, June 1, 1904.

Sir, || Sir Charles Scott forwarded to me, in his despatch of the 23th February last, the text of an order, issued by direction of His Majesty the Emperor of Russia, containing, *inter alia*, a list of articles

which, during the present hostilities with Japan, the Russian Government would deem to be contraband of war. Included in this list are rice and provisions, if they are transported on the account of, or are destined for, the enemy („s'ils sont transportés pour le compte ou à destination de l'ennemi"). || In his despatch of the 14th March, Sir C. Scott forwarded to me a note from Count Lamsdorff, in which he stated that all the articles enumerated in the list referred to in the above-mentioned Imperial Order were regarded by the Russian Government as unconditionally contraband of war. || His Majesty's Government observe with great concern that rice and provisions will be treated as unconditionally contraband, a step which they regard as inconsistent with the law and practice of nations. || His Majesty's Government do not contest that, in particular circumstances, provisions may acquire a contraband character, as for instance, if they should be consigned direct to the army or fleet of a belligerent, or to a port where such fleet may be lying, and if facts should exist raising the presumption that they are about to be employed in victualling the fleet of the enemy. In such cases it is not denied that the other belligerent would be entitled to seize the provisions as contraband of war, on the ground that they would afford material assistance towards the carrying on of warlike operations. || His Majesty's Gouvernment could not, however, admit that if such provisions were consigned to the port of a belligerent (even though it should be a port of naval equipment) they should therefore be necessarily regarded as contraband of war. || In the view of His Majesty's Government the test appears to be whether there are circumstances relating to any particular cargo to show that it is destined for military or naval use. || His Majesty's Government desire to point out that the decision of the Prize Court of the captor in such matters, in order to be binding on neutral States, must be in accordance with recognized rules and principles of international law. || His Majesty's Government feel themselves bound to reserve their rights by protesting against the doctrine that it is for the belligerent to decide that certain articles, or classes of articles, are as a matter of course, and without reference to the considerations referred to in the earlier portion of this despatch, to be dealt with as contraband of war regardless of the well-established rights of neutrals; and His Majesty's Government could not consider themselves bound to recognize as valid the decision of any Prize Court which violated those rights, or was otherwise not in conformity with the recognized principles of international law. || Your Excellency will read this despatch to Count Lamsdorff and furnish him with a copy. Lansdowne.

Nr. 13393. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Antwort auf das vorige. Lamsdorff will die Frage prüfen lassen.

St. Petersburgh, June 8, 1904. (June 13.)

My Lord, I have the honour to report that in accordance with your Lordship's instructions I read to Count Lamsdorff to-day a French translation of your despatch of the 1st instant, protesting against rice and provisions being included in the list of articles declared by the Russian Government to be unconditionally contraband of war, and I handed to his Excellency a copy of your above-mentioned despatch. I mentioned at the same time to Count Lamsdorff that in taking this step I was only acting in accordance with precedent, and with the views invariably held by His Majesty's Government that provisions consigned to the port of a belligerent under a neutral flag are not to be considered generally as contraband of war, except when it can be shown that they are destined for naval and military purposes, and I quoted the instance of the remonstrance addressed in the same sense by His Majesty's Government to the French Government during the Franco-Chinese war. || Count Lamsdorff remarked that, in the absence of any international decision as to what was, or was not, contraband of war, it appeared to be within the power of a billigerent to arbitrarily decide what articles were to be so considered, but that he would submit your Lordship's despatch to his colleagues in the Government for their consideration, and would take the opinion of Professor Martens on the subject.

Charles Hardinge.

Nr. 13394. **GROSZBRITANNIEN.** — Grundsätze für die Kohlenversorgung kriegführender Schiffe in englischen Häfen.

London, 8. Aug. 1904.

Rules for the observance of neutrality, published in the „London Gazette" of the 11th February, 1904, laid down in Rule 3, the extent to which coal might be supplied to belligerent war-ships in British ports during the present war. || It must, however, be borne in mind that the reason for the practice of admitting belligerent vessels of war into neutral ports arises out of the exigencies of life at sea and the hospitality which it is customary to extend to vessels of friendly Powers, and that this principle does not extend to enabling such vessels to utilize a neutral port directly for the purpose of hostile operations. || The rule above

quoted is not to be understood as having any application to the case of a belligerent fleet proceeding either to the seat of war, or to a position or positions on the line of route, with the object of intercepting neutral vessels on suspicion of carrying contraband of war. Such fleet cannot be permitted to make use in any way of a British port for the purpose of coaling, either directly from the shore, or from colliers accompanying the fleet, whether the vessels of the fleet present themselves at the port at the same time or successively. || His Majesty's Government further direct that the same practice be pursued with reference to single belligerent war-vessels, if it be clear that they are proceeding for the purpose of belligerent operations as above defined. This is not to be applied to the case of a vessel putting in on account of actual distress at sea.

Nr. 13395. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Protest gegen die Behandlung neutraler Schiffe durch Rußland. Anschauung der englischen Regierung.

Foreign Office, August 10, 1904.

(Extract.) || It is evident that unless some stept are taken by the Russian Government to restrain their naval authorities from the indiscriminate molestation of neutral traders, the amount of compensation for which the Russian Government will find itself liable may assume enormous dimensions. || You should call the attention of the Russian Government to this aspect of the question. It is necessary that they should realize that it is rapidly assuming a shape in which it will be impossible for the Gouvernment of this country to rest content with the prospect of obtaining pecuniary compensation for the sufferers. The situation which has arisen is indeed becoming one of the utmost gravity. || You will observe that, at the outset of hostilities, the Russian Gouvernment published, by order of His Majesty the Emperor, certain Rules which the Imperial Government decided to enforce during the continuation of the war. Under the 6th of these Rules every kind of fuel, such as coal, naphtha, alcohol, and other similar materials, and generally „everything intended for warfare by sea or land, as well as rice, provisions and horses beasts of burden and other animals, which may be used for a warlike, purpose, if they are transported on the account of, or are destined for, the enemy", were declared to be contraband of war, and it was explained in an official declaration simultaneously published, that they would be regarded as „unconditionally contraband". I am dealing with this subject

in a separate despatch. For the present it is only necessary to call attention to the fact that this unprecedented extension of the doctrine of contraband of war exposes to the penalties to which all persons carrying such contraband are liable the greater part, if not the whole, of the large trade now carried on between Great Britain and the Far East. Russian vessels have been told off for the purpose of searching for such contraband, not only in the proximity of the scene of war, but all over the world, selecting for the purpose the points at which neutral commerce can be most effectually intercepted. His Majesty's Government have lately become aware that a large addition is likely to be made to the number of Russian cruisers employed in this manner, and we must, therefore, contemplate the possibility that such vessels will shortly be found patrolling the narrow seas which lie on the route from Great Britain to Japan in such a manner as to render it virtually impossible for any neutral vessel to escape their attention. The effects of such interference with neutral trade will be disastrous to legitimate commerce passing from a British port in the United Kingdom to a British port in the Far East. || The position, already sufficiently threatening, is aggravated by the assertion on behalf of the Russian Government that the captor of a neutral ship is within his rights if he sinks it, merely for the reason that it is difficult, or impossible, for him to convey it to a national port for adjudication by a Prize Court. We understand that this right of destroying a prize is claimed in a number of cases; amongst others, when the conveyance of the prize to a Prize Court is inconvenient because of the distance of the port to which the vessel should be brought, or when her conveyance to such a port would take too much time or entail too great a consumption of coal. It is, we understand, even asserted that such destruction is justifiable when the captor has not at his disposal a sufficient number of men from whom to provide a crew for the captured vessel. It is unnecessary to point out to your Excellency the effects of a consistent application of these principles. They would justify the wholesale destruction of neutral ships taken by a vessel of war at a distance from her own base upon the ground that such prizes had not on board a sufficient amount of coal to carry them to a remote foreign port — an amount of coal with which such ships would probably in no circumstances have been supplied. They would similarly justify the destruction of every neutral ship taken by a belligerent vessel which started on her voyage with a crew sufficient for her own requirements only, and therefore unable to furnish prize crews for her captures. The adoption of such measures by the Russian Government could not fail to occasion

a complete paralysis of all neutral commerce. || It appears to His Majesty's Government that no pains should be spared by the Russian Government in order to put an end without delay to a condition of things so detrimental to the commerce of this country, so contrary to acknowledged principles of international law, and so intolerable to all neutrals. You should explain to the Russian Government that His Majesty's Government do not dispute the right of a belligerent to take adequate precautions for the purpose of preventing contraband of war, in the hitherto accepted sense of the words, from reaching the enemy; but they object to, and cannot acquiesce in, the introduction of a new doctrine under which the well-understood distinction between conditional and unconditional cotraband is altogether ignored, and under which, moreover, on the discovery of articles alleged to be contraband, the ship carrying them is, without trial and in spite of her neutrality, subjected to penalties which are reluctantly enforced even against an enemy's ship. || We have, from the first, been willing to discuss the important issues thus raised with the Russian Government in the most conciliatory spirit, with the object of reconciling, so far as may be, the just claims of belligerents and the acknowledged rights of neutrals; but you should make it clear that should the Russian Government act upon their extreme contentions with regard to contraband of war, and the treatment of vessels accused of carrying it, His Majesty's Government will be constrained to take such precautions as may seem to them desirable and sufffcient for the protection of their commerce.

Nr. 13396. **GROSZBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Foreign Office, August 10, 1904.

Sir, || in my despatch of to-day I desired you to call the attention of the Russian Government to the effects likely to be produced on neutral commerce — effects which have indeed already manifested themselves — by their action in extending the definition of contraband of war, and in authorizing unduly stringent measures to be taken in order to prevent articles falling within this extended definition from reaching Japan. || I propose, in this despatch, to discuss more fully, and on its own merits, the question of contraband of war as it presents itself under the conditions to which I have referred. || At the outbreak of hostilities, the Russian Government issued an Order of the 14th February, 1904, approving a series of Regulations which they intended to enforce during the war with Japan. This Order was published in the „London Gazette"

of Friday, the 11th March, 1904. The material rules for consideration are those to be found in sections (8) and (10) of Rule 6, which include, amongst articles contraband of war, every kind of fuel, such as coal, naphtha, alcohol, and other similar materials, and, generally, everything intended for warfare by sea or land, as well as rice, provisions, and horses, beasts of burden, and other animals, which may be used for a warlike purpose, if they are transported on the account of, or are destined for, the enemy. || In transmitting the Order from which these Rules are taken, the Russian Government stated that all articles enumerated in Rule 6 were regarded as „unconditionally contraband". || This Declaration, it is needless to say, attracted the attention of His Majesty's Government. The description of contraband of war which it contained went far beyond that which has been hitherto accepted. || It has been held by this country, and our officers have been so instructed, that the term „contraband of war" includes only articles having belligerent destination and purpose. Such articles have been classed under two heads: —

1. Those that are primarily and ordinarily used for military purposes in time of war, *e. g.*, arms and munitions of war, military material, &c. — articles of this kind being usually described as absolutely contraband. || 2. Those that may be, and are, used for peaceful or warlike purposes according to circumstances, such articles being usually described as conditionally contraband.

Articles for the first class destined for ports of.the enemy or places occupied by his forces are always contraband of war. Articles of the second class are contraband of war only when actually and especially destined for the military or naval forces of the enemy. Coal and provisions are among the articles which are only conditionally contraband. I accordingly, in my despatch of the 1st June last, instructed you to call the attention of Count Lamsdorff to this question, and, in particular, to express the surprise with which His Majesty's Government found that rice and provisions were to be treated as unconditionally contraband — a step which they regarded as inconsistent with the law and practice of nations. While thus protesting in regard to this particular category of so-called contraband of war, His Majesty's Government felt themselves bound to reserve their rights by also protesting against the doctrine that it is for the belligerent to decide what articles are as a matter of course, and without reference to other considerations, to be dealt with as contraband of war, regardless of the well-established rights of neutrals; and we explained that we should not consider ourselves bound to recognize as valid the decision of any Prize Court which violated those rights, or was

otherwise not in conformity with the recognized principles of international law. || The question of the category of articles covered by Rule 6 (8) of the Russian Declaration, viz., fuel of every kind, including coal, naphtha, alcohol, and other similar materials, was reserved for separate consideration. I may here call your attention to the fact that this treatment of coal as unconditionally cotraband is diametrically opposed to the declaration made at the West African Conference, held at Berlin in 1884, by the Russian Plenipotentiary, who stated that his instructions were peremptory, and that his Government refused categorically to consent to any Treaty, Convention, or Declaration of any kind which would imply the recognition of coal as contraband of war. || The extreme measures which have since been authorized by the Russian Government in connection with the search for contraband and the punishment of those concerned in its carriage greatly intensify the effects of the new Russian doctrine. || In these circumstances I have to instruct you to renew the protest which you have already made as to the treatment of provisions and food-stuffs as unconditionally contraband of war. You will add that it is impossible for us to admit the new Russian doctrine, contrary to that which the Russian Government have on former occasions supported, that coal and fuel of every kind are contraband, irrespective of whether they are destined for the use of belligerent forces or not. Still less can we admit that it is within the competence of any Power to abolish by a stroke of the pen the long-established distinction between articles wich are conditionally and those which are absolutely contraband of war, and suddenly to announce their intention of including within the latter category a number of articles, in themselves of an innocent description, and largely dealt in by neutral Powers. We are unable to admit that the seizure of cargoes or the vessels containing them, merely upon the ground that they include such articles, and without proof of such destination, is justifiable in international law; and His Majesty's Government will accordingly consider it their duty to support strenuously claims for compensation put forward by British subjects whose interests have suffered by the application of these Rules. || We desire to add that the confiscation of a neutral ship merely upon the ground that 50 per cent. of her cargo is contraband of war cannot be justified, and we shall support claims put forward in consequence of any confiscations which may take place upon this special ground. || In explaining our views to Count Lamsdorff, you will repeat that we have no desire to place obstacles in the way of a belligerent desiring to take reasonable precautions in order to prevent his enemy from receiving supplies. We cannot, however, admit that the

right of taking such precautions implies a consequential right to intercept at any distance from the scene of operations, and without proof that the supplies in question are really destined for the use of the enemy's forces, any articles which that belligerent may determine to regard as contraband of war. || It will be most satisfactory to us if Count Lamsdorff is able to show you that the intention of the regulations on this subject has been imperfectly understood, and that the wording of Rule 6 (10), which is not very clearly drafted, may be taken as implying that proof of the intention to make use of the articles referred to therein for warfare by sea or land, and of their transportation on the account of, or their destination for, the enemy's forces, must be forthcoming before they can be dealt with as contraband. Lansdowne.

Nr. 13397. **GROSZBRITANNIEN.** — Ergänzung zu Nr. 13394.

Admiralty, August 16, 1904.

Sir, || with reference to Admiralty letter of the 8th instant, conveying to you instructions in regard to the use of British ports for purposes of coaling, either by a belligerent fleet or by single belligerent war-vessels, clearly proceeding for the purpose of belligerent operations as therein defined, I am commanded by my Lords Commissioners of the Admiralty to inform you that it is to be understood that all belligerent ships of war not covered by the description contained in that letter are to be treated in accordance with Rule 3 of the Foreign Office letter of the 10th February last, which was published in the „London Gazette" of the 11th February. C. I. Thomas.

Nr. 13398. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Unterredung mit Lamsdorff über Kontrebande und Behandlung Neutraler. St. Petersburgh, August 16, 1904. (August 22.)

(Extract.) || I had the honour to receive yesterday your Lordship's two despatches of the 10th instant, containing the views of His Majesty's Government upon the questions of the sinking of neutral vessels, and of the Russian definition of contraband of war. || I called upon Count Lamsdorff to-day, on his return from his weekly audience with the Emperor, and I read to his Excellency French translations of your Lordship's above-mentioned despatches, giving him at the same time copies of the English text which , I impressed upon him, were to be regarded as the

official text of your Lordship's communications to me. || Count Lamsdorff listened attentively to what I read to him, and assured me at its conclusion that the subject of my communication would be very carefully considered. He said that the questions which had been raised, and of which there seemed to be an ever-increasing number, were of so complex a nature that he had appointed a small Commission in the Ministry for Foreign Affairs, whose sole duty would be to carefully study and report to him upon the many questions relating to contraband and the rights of neutrals, which appeared to arise each day in some new form, but that some little time would naturally elapse before the members of the Commission would have had time to come to a decision upon the many points raised, and he feared that in the meantime other cases might arise to still further complicate the situation. He hoped that the Governments interested would rise above the level of the Prize Courts upon whom the decision upon the cases submitted to them devolved. || I told his Excellency that it was not only with the proceedings of the Prize Courts that dissatisfaction was felt, but with the policy of the Russian Government by which the decisions of the Prize Courts were inspired, since it was not within the province of the Prize Courts to decide what articles were to be treated as contraband of war nor what the penalties should be for those convicted of trading in contraband. It was against the policy of the Government that my representations were addressed, and I expressed my hope and conviction that means could be discovered by friendly discussion for safeguarding Russian interests, and at the same time for meeting the just claims of His Majesty's Government. I added that because Russia and Japan chose to make war upon each other, it was no reason that the trade of the whole world should be dislocated for the sake of the belligerents; and it seemed to me that it was their duty to deal gently with neutral trade, and to diminish as much as possible the inconvenience to which international commerce must necessarily under such circumstances be exposed.

Nr. 13399. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Soll seine Vorstellungen verstärken.

Foreign Office, August 25, 1904.

(Telegraphic.) || Your Excellency's despatch of the 16th instant. || The observations that you made to Count Lamsdorff on the subject of duty of belligerents towards neutral trade were most appropriate. || You should

impress upon him, however, that the subject is one of the greatest urgency, and that whatever is done should be done quickly. || Has anything come of the small Commission which Count Lamsdorff informed you that he had appointed? || Feeling here in commercial circles is very strong, and if there has been any misapprehension as to interpretation of Rule 6 and explanatory note addressed to Sir C. Scott by Count Lamsdorff, the sooner it is removed the better.

Nr. 13400. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Unterredung mit Lamsdorff, der bestreitet, daß englische Schiffe schlechter als französische und deutsche behandelt würden.

St. Petersburgh, August 27, 1904. (September 5.)

(Extract.) || I called on Count Lamsdorff yesterday afternoon, and I asked his Excellency if he could inform me whether the Commission which, on a previous occasion, he said that he had assembled for the consideration of all questions affecting neutrality and the rights of belligerents had arrived yet at any decision on the very important question of the interpretation of the Russian Regulations respecting contraband of war. || Count Lamsdorff replied that the whole question was still under the consideration of the Commission which he had assembled, and in view of the enormous amount of work which had devolved upon them, and which was increasing every day, he had summoned Professor Martens to St. Petersburgh to assist and accelerate, if possible, their deliberations. He was therefore quite unable to give me any indication at present of the decision of the Government on the question at issue. || I told Count Lamsdorff that I regretted very much that no decision had yet been taken tending to relieve the present tension, and I urged upon him the importance of dealing with the matter promptly. The position of British commerce was already seriously compromised, but what rendered the situation even more grave was the apparent discrimination which was being made in favour of French and German vessels, and to the detriment of British shipping. I pointed out that the „Arabia“ and „Calchas“ had been arrested by the Vladivostock squadron during the same cruise, and that although the „Arabia“ had been released three or four days after her capture the „Calchas“ had been already detained three weeks at Vladivostock, and was still under arrest at that port, and yet the circumstances of the two cases were practically identical. It had also not escaped my notice that while the „Petersburg“ and

„Smolensk" had been cruising in the Red Sea the vessels of the Messageries Maritimes had been free from any molestation, and that so far I had not heard of any French ships being stopped and examined by a Russian cruiser. It had also been reported that in one case at least a pass had been given to a German vessel by the Russian Consul at Suez. These facts, though insignificant in themselves, and possibly capable of explanation, had given rise to the idea in British mercantile circles that there was an organized differentation between British and other neutral vessels, and this apparent discrimination, while entailing considerable loss on the shipping community, had made the very worst possible impression on public opinion in England, of which I felt sure that Count Benckendorff must have already informed his Excellency. || Count Lamsdorfi warmly repudiated the idea that there had been any discrimination against British shipping, and promised to make inquiries into the cases to which I had alluded. He denied that passes had been given by the Russian Consul at Suez, and said that the Government had rejected a proposal which had been made in that sense. As regards the general subject of contraband, the question at issue wa sone of interpretation, which required serious consideration, and was not dependent entirely on his Department, since, whatever was decided, had to receive at the same time the concurrence of the naval authorities. He hoped, however, to be able to give me a definite reply within a short space of time. || I again impressed upon Count Lamsdorff the danger of prolonging a situation which gave scope to daily incidents of serious gravity. I further observed that Russian naval officers and Prize Courts appeared to me to have a false conception of the relations of belligerents to neutrals. They should understand that because their country happened to be at war with another State, it was no reason why the trade of the whole world should be dislocated and subjected to treatment which it would be difficult to justify. || Count Lamsdorff listened attentively to my remarks, and at their conclusion repeated that he hoped to be able in a short time to communicate to me the decision of the Government on the general question of contraband.

Nr. 13401. RUSZLAND. — Der Minister des Ausw. an den britischen Botschafter in Petersburg. Derselbe Gegenstand.

St. Pétersbourg, le 19 Août, 1904. (Neuer Stil 1. Septbr.)

M. l'Ambassadeur, || votre Excellence ayant bien voulu attirer mon attention sur certaines appréciations qui ont cours dans la presse Bri-

tannique, et d'après lesquelles nos croiseurs de guerre exerceraient avec plus de sévérité leur surveillance à l'égard des bâtiments Anglais que vis-à-vis des navires naviguant sous d'autres pavillons, je me suis empressé de me mettre en rapport à ce sujet avec le Ministère de la Marine, tout en étant à l'avance convaincu qu'il ne pouvait y avoir place ici pour aucune intention de faire subir à la navigation Anglaise un traitement moins favorable. || Le Ministère de la Marine vient, en effet, de me répondre que la manière d'agir des croiseurs Russes n'a cessé d'être en tous points la même en ce qui concerne les bâtiments Anglais et ceux des autres nationalités. Il y a lieu de croire que la supposition comme quoi les dits croiseurs feraient preuve de plus de sévérité à l'égard de la navigation marchande Britannique provient du fait qu'ils sont amenés à rencontrer des bâtiments Anglais plus fréquemment, ce qui s'explique d'ailleurs étant donnée la grande supériorité numérique de la flotte commerciale Britannique sur celles des autres Etats.

Lamsdorff.

Nr. 13402. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Lamsdorff hat neue Bestimmungen über die Kontrebande versprochen.

St. Petersburgh, September 8, 1904. (September 5.)

(Telegraphic.) || The situation has now become more favourable, and Count Lamsdorff, of whom I made inquiries to-day, told me, in reply, that he hoped to be able to issue very shortly, for the guidance of naval officers, supplementary instructions which would explain Article 6 section 10 of the Russian Regulations. He said that he hoped that a solution would be reached which would satisfy His Majesty's Government, but, at the same time, he was unable to admit the principle that in no case could provisions be regarded as contraband if addressed to a private individual in the enemy's country. Such stores would naturally be addressed to some contractor and not to the Government, and a formula defining the distinction, which would prove acceptable to the naval authorities, must be found. He was endeavouring to find such a formula, and hoped thereby to meet the views of His Majesty's Government as far as possible. || I replied that the view of His Majesty's Government had always been that provisions, coal, &c., could only be regarded as contraband of war when addressed to the enemy's belligerent forces. I thought that in such a case as he had suggested the Captain would

have to adduce very clear proof of the military or naval destination of the articles. I also urged upon him the importance of solving this question as soon as possible.

Nr. 13403. **RUSZLAND.** — Nähere Erläuterungen des Artikels 6 in Nr. 13384.

Petersburg, 30. Septb. 1904.

Communication de l'Agence Télégraphique de Saint-Pétersbourg.

Ensuite de doutes qui se sont élevés sur l'interprétation de l'Article 6 paragraphe 10, des Règles sur la Contrebande de Guerre, il a été décidé, ainsi que nous sommes en mesure de le communiquer, que les objets à l'égard desquels il n'a été pris aucune disposition seront considérés comme contrebande de guerre s'ils sont destinées — || Au Gouvernement des Puissances belligérantes; || A leurs Administrations; || A leur armée; ou || A leurs fournisseurs. || Dans le cas où ils seront adressés à des particuliers, ces objets ne seront pas considérés comme contrebande de guerre. || Les navires ne seront confisqués que dans le cas où des marchandises prohibées formeraient plus de la moitié de la cargaison. || Dans le cas contraire, la cargaison seule sera confisquée. Toutes les mesures possibles ont donc été prises pour assurer la liberté du commerce des Puissances neutres. || Il faut espérer pue les Puissances sauront apprécier la latitude considérable qui est accordée actuellement au libre mouvement de leur commerce, et ne donneront pas lieu à leur reprocher des abus relatifs au Règlement sur la Contrebande de Guerre.

Nr. 13404. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den russischen Minister des Ausw. Protestiert, daß die Kohle als bedingungslose Kontrebande behandelt wird.

St. Petersburgh, October 9, 1904.

M. le Comte, || On the 16th August I had the honour to communicate to your Excellency the substance of a despatch which I had received from the Marquess of Lansdowne, in which the views of His Majesty's Government were very clearly expressed on the subject of the treatment by the Russian Government as unconditional contraband of an extensive category of articles enumerated under sections 8 and 10 of Rule 6 of the Regulations published by the Russian Government on the 14th February of this year. In this statement of the views of His Majesty's Govern-

ment, Lord Lansdowne explained the grounds upon which it was impossible to admit the claims of the Russian Government, and he defined the measures which His Majesty's Government would be reluctantly compelled to take in the event of the interests of British subjects suffering by the application of these Rules. || It was with much satisfaction that I received on the 16th ultimo a verbal communication from your Excellency to the effect that the principle of conditional contraband was admitted by the Russian Government, and that all the articles mentioned in paragraph 10 of Article 6 of the Rules of the 14th February, 1904, with the exception of horses and beasts of burden, had been recognized as articles of a conditionally contraband nature. || I have since had the honour to point out to your Excellency that the principle of conditional contraband having been admitted by the Russian Government the application of this principle could not be logically withheld from coal, which, though essentially contraband when used for warlike objects, has a much wider use for peaceful purposes, and being a commodity of primary necessity for heating, cooking, and manufactures, enjoys when so employed a perfectly innocent character. || In reply to my representations your Excellency has been so good as to inform me that the conclusions of the Ministry for Foreign Affairs upon the question of principle raised by me have been communicated to the Ministry of Marine for their consideration and I can only hope that a solution of this question may be arrived at in accordance with international usage, and that the instructions already issued to Naval Commanders and Prize Courts may be extended so as to include as conditionally contraband all articles of dual use when not destined for the belligerent forces of the enemy. || The new doctrine, which is in complete contradiction to the law and practice of nations sanctioned by international usage, and which is entirely contrary to the former views of the Russian Government, viz., that coal and fuel of every kind are contraband, irrespective of their destination, and that the seizure of cargoes, or the vessels containing them, upon the ground that they included such articles is justifiable in international law, is one which it is impossible for His Majesty's Government to admit. It has been suggested to me by your Excellency that, in view of the fact that Russian war-ships proceeding to the Far East are not allowed to purchase coal in British ports, it could hardly be claimed that British merchant-vessels should have the right to carry coal to the ports of the enemy, even if it is not destined for warlike purposes. The reply to this suggestion is, obvious. An article of commerce may be so essential for hostile purposes that no war-ship should be supplied with it in neutral waters, and

yet so essential for the ordinary purposes of civil life that it should not be prevented from reaching the peaceful inhabitants of belligerent countries. The dual character of coal as contraband of war forms a very apt illustration of the above. ‖ There is another aspect of this question to which I would invite your Excellency's attention. From the enormous quantities of coal which arrive daily in Russia from Great Britain, for both peaceful and warlike purposes, it is evident that the British trade in coal is of very great importance. It is equally certain that the importance of this trade is not confined to exports to Russia, and that very large exports of coal to Japan, for purposes both of peace and war, take place. Your Excellency will, I am confident, admit that the fact of the Governments of Russia and Japan being at war is not in itself a sufficient reason why the peaceful commerce between Great Britain and commercial houses in Japan should be treated with such severity as to render commerce both dangerous and even prohibitive. ‖ So, also, as regards raw cotton, which by Imperial Order on the 21st April was declared to be absolute contraband of war. Your Excellency may not be aware that British India is by far the largest importer of raw cotton into Japan, the quantities imported in 1901 and 1902 being more than double those imported from the United States of America or from any other country, while the value of raw cotton sent to Japan from India in each of the above-mentioned years amounted to nearly 40 000 000 roubles, and one-half of the total value of all the cotton imported into Japan. The quantity of raw cotton that might be utilized for explosives would be infinitesimal in comparison with the bulk of the cotton exported from India to Japan for peaceful purposes, and to treat harmless cargoes of this latter description as unconditionally contraband would be to subject a branch of innocent commerce, which is specially important in the Far East, to a most unwarrantable interference. ‖ As I have already had the honour of explaining to your Excellency, His Majesty's Government have no desire to place obstacles in the way of a belligerent desiring to take reasonable precautions in order to prevent his enemy from receiving supplies, but they cannot admit that the right of adopting such precautions implies a consequential right to abolish by a stroke of the pen the long- established distinction between articles which are conditionally and those which are absolutely contraband of war, and to intercept at a distance from the scene of operations and without proof of their ultimate destination, a numerous category of articles in themselves of an innocent description, and largely dealt in by neutral Powers, but which that belligerent may have announced his intention of regarding as unconditional

contraband of war. || The principle of conditional contraband has already been recognized by the Russian Government, and there only remains to extend its application to coal, cotton, and other articles which may be used for peaceful or warlike purposes according to circumstances. Such a measure would be consistent with the law and practice of nations and with the well-established rights of neutrals. While maintaining the rights of a belligerent, the rights of neutrals would be respected, and the source of a serious and unprofitable controversy would be removed. || In making these representations to your Excellency in accordance with the instructions which I have received from the Marquess of Lansdowne, I am convinced that you will give this matter the very serious consideration which is its due, and I trust that your Excellency will be in a position to inform me shortly that a solution has been arrived at which may prove satisfactory to both Governments. Charles Hardinge.

Nr. 13405. **GROSZBRITANNIEN.** — Derselbe an Denselben. Wünscht liberale Auslegung der neuen russischen Bestimmungen.

St. Petersburgh, September 28 (October 11), 1904.

M. le Comte, || I duly reported to His Majesty's Government that your Excellency had informed me that the Russian Government have, in consequence of the decision of the Commission appointed by Imperial Order under the Presidency of Professor Martens, to study the question of contraband of war, issued supplementary instructions to Naval Commanders and Naval Prize Courts, defining the interpretation of section 10 of Article 6 of the Regulations of the 27th February last. According to the supplementary instructions, the conditionally contraband nature of rice and provisions, used for peaceful or warlike purposes according to circumstances, is admitted by the Russian Government. || I am now instructed by the Marquess of Lansdowne to inform your Excellency that His Majesty's Government desire to acknowledge the friendly spirit in which their representations in this matter have been met by the Russian Government. They learn with satisfaction that it is not intended to treat rice and provisions as unconditionally contraband of war, and they trust that your Excellency's anticipation (which I mentioned to Lord Lansdowne), that the decision arrived at will tend to avoid difficulties in the future, may be realized. || His Majesty's Government note that, in the view of the Russian Government, such articles are not necessarily free from seizure and condemnation as contraband of war merely because they are addressed to private firms or individuals in the enemy's country, the

Russian Government holding that they may, nevertheless, be in reality intended for the military or naval forces of the enemy. || While His Majesty's Government do not contend that the mere fact that the consignee is a private person should necessarily give immunity from capture, they hold, on the other hand, that to take vessels for adjudication merely because their destination is the enemy's country would be vexatious, and constitute an unwarrantable interference with neutral commerce. To render a vessel liable to such treatment there should, in the opinion of His Majesty's Government, be circumstances giving rise to a reasonable suspicion that the provisions are for the enemy's forces, and it is in such a case for the captor to show that the grounds of suspicion are adequate, and to establish the fact of destination for the enemy's forces before attempting to procure their condemnation. || In bringing these views to your Excellency's notice, I am to state that, for the reasons mentioned, His Majesty's Government trust that the instructions now issued will be interpreted in a liberal and considerate spirit, by the Naval Commanders and the Prize Courts to whom they are addressed. || I am to add, at the same time, that His Majesty's Government cannot refrain from expressing their regret that the same principle has, so far, not been admitted in the case of certain other commodities enumerated in the Regulations issued in February last, such, for example, as coal and raw cotton, which clearly appear to be susceptible of use for other than warlike purposes. They cherish, however, the hope that the views which His Majesty's Government have already expressed on this subject may receive favourable consideration at the hands of the Russian Government, and that the principle of conditional contraband, which has been admitted by the Russian Government, may receive still further extension in its application.

Charles Hardinge.

Nr. 13406. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Teilt eine Korrespondenz mit Lamsdorff mit über die Interpretation von Artikel 6.

St. Petersburgh, October 24, 1904. (October 29.)

My Lord, || in view of the ambiguous sense of a communication which appeared in the „Journal de Saint-Pétersbourg" of the 17th (30th) September, relating to the interpretation to be placed on Article 6, paragraph 10, of the Regulations of the 14th February last, and of the incomplete information of the views and intentions of the Russian Go-

vernment as conveyed in Count Lamsdorff's note to me of the 8th (21st) ultimo, I considered it advisable to take steps to obtain from the Russian Government a clearer definition of their views as to the exact meaning of their communications. || I therefore inclosed in a letter to Count Lamsdorff, on the 22nd instant, the Memorandum of which I have the honour to inclose a copy, and inquired whether it coincided with the interpretation placed on Article 6, paragraph 10, by the Russian Government. || Count Lamsdorff's reply, suggesting a slight modification of the text, is herewith inclosed. Charles Hardinge.

Anlage 1.

Memorandum.

En suite de doutes qui se sont élevés sur l'interprétation de l'Article 6, paragraphe 10, des Règles sur la contrebande de guerre, il a été décidé par le Gouvernement Impérial que les objets pouvant servir dans un but de guerre *à l'égard desquels il n'a été pris aucune disposition, y compris* le riz et les vivres, seront considérés comme contrebande de guerre, s'ils sont destinés — || Au Gouvernement de la Puissance belligérante; || A son Administration; || A son armée; || A sa flotte; || A ses forteresses; || A ses ports de guerre; ou || A ses fournisseurs. || Dans le cas où ils seront adressés à des particuliers, ces objets ne seront pas considérés comme contrebande de guerre. || Dans tous les cas les chevaux et les bêtes de somme seront considérés comme contrebande de guerre.

Saint-Pétersbourg, le 9 (22) Octobre, 1904.

Anlage 2.

Count Lamsdorff to Sir l'Hardinge.

Saint Pétersbourg, le 10 (23) Octobre, 1904.

M. l'Ambassadeur, || en réponse à votre lettre d'hier, je m'empresse de vous informer que le texte du Mémoire que vous avez bien voulu me communiquer est conforme au sens de l'interprétation du § 10 de l'Article 6 du Règlement du 14 Février, 1904. || Cependant, afin d'éviter tout malentendu, il serait plus exact de remplacer les mots du préambule: „à l'égard desquels il n'a été prise aucune disposition, y compris . . . .," par les mots: „et non spécifiés dans les §§ 1—9 de l'Article 6, de même que . . . ." Lamsdorff.

England und Rufsland über die Beschiefsung englischer Fischerboote durch russische Kriegsschiffe 1904*).

Nr. 13407. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Teilt die Beschießung englischer Fischer durch russische Kriegsschiffe mit. England fordert Genugtuung, will aber erst die russischen Erklärungen abwarten.

Foreign Office, October 24, 1904.

(Telegraphic.) || We have just received information that the Russian Baltic fleet on the night of the 21st instant suddenly, and without the slightest warning, fired upon the „Gamecock" steam fishing fleet of Hull while engaged in fishing off the Dogger Bank in the Nord Sea. Several vessels belonging to the fishing fleet are reported missing, and it is impossible to ascertain at present the total number of casualties, but it is known that as least one vessel was sunk and two persons killed, besides a number seriously wounded. || The whole action would seem to have been of the most deliberate character. It is stated that signals were made ordering the fleet to change formation, after which fire was opened, and maintained for a considerable time; that when firing ceased, the Russian fleet, without making the slightest attempt to save life or to ascertain the amount of damage they had done, continued their voyage; that one small vessel remained on the scene of the occurrence for about six hours, and then also, without making any effort to save life, steamed after the fleet. || All the distinguishing lights required by international regulations, with which the Russian naval authorities are presumably well acquainted, were burning on the fishing vessels, which were lit up by the searchlights of the Russian squadron.

*) Blaubücher Cd. 2350, 2382. Red.

The fact that these vessels could have been mistaken for anything but what they were — namely, a peaceful fishing fleet engaged in their ordinary occupation — can only have been due to the most culpable negligence. || You should inform Count Lamsdorff of what has occurred, and say that the indignation provoked by this incident cannot possibly be exaggerated. The action of the Russian Commanding Officer in leaving the scene of the disaster without offering assistance has aggravated this feeling, as before his voyage was resumed he must have known that his fleet had fired upon and seriously injured innocent and defenceless fishermen. || The matter is one which admits of no delay. His Majesty's Government prefer not to formulate their demands until the explanations, which no doubt the Russian Government will hasten to lay before them, have been received, but it will be their duty to require ample apology and complete and prompt reparation, as well as security against the recurrence of such intolerable incidents.

Nr. 13408. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Hat Lamsdorff ernste Vorstellungen gemacht.

St. Petersburgh, October 24, 1904. (October 24.)*

(Telegraphic.) || Telegrams were received here this morning reporting an attack by ships of the Baltic squadron on some British fishing-vessels in the North Sea. || Count Lamsdorff, on whom I called this afternoon to inquire whether he could, give any explanation of the occurrence, stated that the only information that he had received was that conveyed in the press telegrams. || I impressed on his Excellency the extreme gravity of the situation, saying that if the facts were as reported, English public opinion would be very justly incensed. Although your Lordship had, I said, so far, sent me no instructions, I urged him, not as His Majesty's Ambassador, but as a friend, that, as a means of maintaining the friendly relations between the two countries, a declaration should be made that those implicated would be adequately punished if they were proved to have been in fault, and full reparation made. || In reply, Count Lamsdorff said that he had been much affected by the news; that at present he had no information beyond that given by the panic-stricken fishermen. He was unable to admit the correctness of their depositions, and was waiting for the Commander of the squadron to furnish his explanations. He could, however, assure me that no action of the nature suggested on the

*) Die eingeklammerten Daten geben das Datum der Ankunft. Red.

part of their naval officers would for a moment be tolerated by the Russias Government; that thorough inquiries would be made, and, if any persons were found guilty of such action, adequate punishment would be inflicted on them, and full reparation be made to the sufferers. Some terrible misunderstanding had arisen, he felt sure, the solution of which, without an inquiry, was impossible. ‖ I said to his Excellency that it would not be possible to allow the situation created by this deplorable incident to be indefinitely prolonged, and remarked that it appeared very strange to me that the fleet should have continued their voyage without showing any regard for the sufferers, and without forwarding a report on the occurrence from any of the telegraph stations on either side of the Channel.

Nr. 13409. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Geschäftsträger, der die russischen Offiziere mit der Besorgnis vor japanischen Angriffen entschuldigt.

Foreign Office, October 24, 1904.

Sir, ‖ I asked the Russian Chargé d'Affaires to call upon me this afternoon, and inquired of him whether he had any informations to give me with regard to the attack made on the 21st instant by the Russian Baltic fleet upon a part of the North Sea fishing fleet. M. Sazonow said that he had not yet received any information on the subject. He could only himself conjecture that the incident, which he deeply deplored, was due to an unfortunate mistake. The Russian Government had received numerous reports to the effect that Japanese agents were visiting this country for the purpose of organizing attacks on the Baltic fleet, and in these circumstances it was perhaps not unnatural that the Captains of the Russian ships should have been alarmed at finding these vessels in close proximity to their men-of-war. I asked M. Sazonow whether there was the slightest evidence to show that the Japanese had really been making preparations in this country or elsewhere for an attack of the kind, and whether, if the vessels had really been Japanese torpedo boats, they would have displayed the lights which, as we knew, were exhibited by the trawlers at the time when they were fired upon. M. Sazonow said that he imagined that if any attempt of the kind had been made by Japanese vessels they would have endeavoured to simulate innocent fishing-boats. I recapitulated to him the facts as stated in my

telegram to you of this day's date, dwelling particularly upon the fact that fire was opened by the ships of war after a change of formation, apparently ordered by signal, and that the whole attack seemed to have been of the most deliberate character. I also said that the prevalent feeling of indignation had been greatly strengthened by the indifference which the Russian Naval Commanders were said to have exhibited in leaving these wretched fishermen to their fate. It was, to my mind, inconceivable that the officers commanding the fleet should not have discovered their mistake before proceeding on their voyage. M. Sazonow said that it was useless for him to offer conjectures as to the circumstances, and that he imagined that the Russian Government would desire to be supplied with a report from the fleet before attempting to address any observations to His Majesty's Government upon the subject. I replied that, although there might be some doubt in regard to matters of detail, the main facts were established beyond dispute. The bodies of the dead sailors had arrived in port. The case was one calling for prompt and adequate reparation, and I earnestly hoped that such reparation would be spontaneously offered by the Russian Government. Of this I felt sure, that if an attempt were made to fence with the question, public feeling here would become uncontrollable. M. Sazonow promised to telegraph to St. Petersburgh the substance of my observations and he also told me that the Ambassador was to return to this country to-night and would, no doubt, be glad to call upon me to-morrow.

Lansdowne.

Nr. 13410. **GROSZBRITANNIEN.** — Derselbe an Denselben*). Englische Forderungen.

Foreign Office, October 25, 1904.

Sir, || The Russian Ambassador arrived in London last night, and asked me to receive him this morning. He told me that he had not yet received any instructions from the Russian Government with regard to the North Sea incident. It was, indeed, almost impossible that he should have received such instructions, for he understood that, although the occurrence had taken place on the night of the 21st instant, we had not heard of it until yesterday, and the Russian Government could scarcely have heard of it sooner. His Excellency added that he had already telegraphed to St. Petersburgh, and that he felt sure that the deepest regret would be felt and expressed in Russia by the Emperor, the Govern-

*) Substance telegraphed.

ment, and, indeed, every one throughout the country. He would take upon himself to say that no difficulty would be experienced in regard to the question of compensation. The question of responsibility was more complicated. It would be difficult to establish without a full report from the naval authorities, and this might take time; but I might depend upon it that no pains would be spared to ascertain where the blame lay. ‖ I told his Excellency that the Prime Minister had arrived from Scotland this morning, and that I was to confer with him immediately, and that it might, in the circumstances, be better that I should not at this moment present to him anything purporting to be a full and complete statement of our demands. It seemed to me, however, self-evident that they would fall under the following heads: — ‖ We should, in the first place, expect an ample apology and disclaimer from the Russian Government. ‖ In the second place, I could not doubt that they would offer the fullest reparation to the sufferers. I assumed that upon these two points there could be no room for doubt. ‖ Thirdly, it would be indispensable that a searching inquiry should be instituted with a view to ascertaining who was to blame for what, if the circumstances were as stated, could only be regarded, not only as a blunder, but as a culpable blunder. ‖ As to this, I thought we should be justified in asking that we should be given an opportunity of satisfying ourselves that the case of the sufferers was properly put forward and taken into consideration by the Court. It followed that we should expect the adequate punishment of the persons, whoever they might be, who proved to be responsible. But; besides this, it would no doubt be our duty to satisfy ourselves that security was given to us against a repetition of such incidents. The only defence as yet put forward, and indeed the only conceivable defence, was that the Russian naval officers had *bonâ fide* believed that these innocent fishermen were Japanese agents in disguise. The Russian fleet had acted upon this assumption, in spite of the fact that the trawling fleet was upon ground which it habitually frequented, and displayed all the signals required by the international regulations in force. If, in such circumstances, innocent people were fired upon, on the assumption that they were Japanese in disguise, who would be safe, and what was to prevent the Russian fleet, during its long journey to the Far East, from carrying death and destruction with it throughout its course? ‖ Count Benckendorff said that he felt sure that no difficulty would arise, either as regards the question of apology or as to that of compensation. As he had already said, every effort would be made to place the responsibility for these acts upon the right shoulders, and he saw no reason why we should not be given a full opportunity of brin-

ging forward such evidence as seemed to us material. With regard to the recurrence of such incidents, he could not himself believe that it was possible, but he felt sure that the Russian Government would be ready to take every precaution to guard against it, and to issue instructions that for the future any suspicious cases should be dealt with with the greatest circumspection. || I again impressed upon his Excellency the need of prompt action by the Russian Government, which would relieve us from the duty of taking our own measures for guarding against a repetition of such acts. His Excellency promised to telegraph the substance of my observations to the Russian Government.

Lansdowne.

Nr. 13411. **RUSZLAND.** — Der Botschafter in London an den englischen Minister des Ausw. Noch keine Nachricht über den Unfall; Angebot von Entschädigung.

Londres, le 12 (25) Octobre, 1904.

Cher Lord Lansdowne, || Je reçois ce soir un télégramme du Comte Lamsdorff, qui me dit que le Ministre de la Marine, à son regret, n'a encore reçu aucune information directe au sujet du malencontreux incident survenu dans la Mer du Nord entre l'escadre Russe et la flotille de pêche Anglaise. || Il ajoute que les péripéties dont rendent compte les télégrammes des agences ne peuvent trouver d'autre explication que celle d'un déplorable malentendu, et qu'à peine les faits se trouveront élucidés (les mesures à cet effet sont déjà prises par l'Amirauté Impériale), une indemnité la plus complète possible est garantie aux victimes. || Le Comte Lamsdorff termine en me chargeant de vous exprimer sans plus de retard le plus profond regret du Gouvernement Impérial du néfaste incident dont ces pêcheurs Anglais ont été la victime.

Benckendorff.

Nr. 13412. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den russischen Botschafter in London. Die schuldigen Offiziere müssen bestraft werden.

Foreign Office, October 26, 1904 (sent 8 A. M.).

My dear Ambassador, || I am much obliged to you for your note which reached me last night. || It justifies me in announcing that the Russian Government have expressed their profound regret for the attack perpetrated by the Russian fleet on the British trawlers, that measures

have already been taken to institute an inquiry into the facts, and that as soon as these have been elucidated ample compensation will be made to the sufferers. || You will, however, pardon me for saying, that this is not enough. As I mentioned to you yesterday it is absolutely necessary that the Russian Government should ascertain who are the persons responsible for this unprovoked attack on British fishermen, and that we should be able to say that the Government inquiry will be directed to this object also, and that the guilty persons will receive exemplary punishment. We shall also expect to be given every facility for cringing forward evidence in support of our case and satisfying ourselves that the investigation is full and complete. || It is not less necessary that we should be able to announce that measures have been taken by the Russian Government to render impossible the recurrence of such incidents. || The only defence which has been advanced is that the officers who ordered the attack considered, and presumably still consider, that they are justified in treating as an enemy any innocent craft which they may meet on their voyage to the Far East, on the mere suspicion that it may be a Japanese vessel in disguise. || I need not dwell upon the kind of results which such a condition of mind might produce. || I hope you will telegraph to your Government at once, and ask them to authorize you to reassure us on both these points. || It seems to me, I must say, absolutely incomprehensible that the officers of the fleet should have left your Minister of Marine without information as to so grave an event; that the fleet should be pursuing its way to the East carrying with it all those who are able to give an account from your point of view of occurrences which surely call for prompt and searching investigation, and that the Minister should apparently be without the means of communicating with it expeditiously. I presume that an effort is being made to intercept it with a view to at least obtaining from the authors of the attack such explanations and such evidence as they may be able to furnish. I shall be glad if you will enable me to say that I am right as to this.

Lansdowne.

Nr. 13413. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Telegramm der baltischen Flotte: Torpedoboote waren anwesend und verschulden den Zwischenfall.

St. Petersburgh, October 27, 1904. (October 27.)

(Telegraphic.) || At Count Lamsdorff's urgent request I called on him at 10 o'clock this morning. || His Excellency communicated to me the

following telegram which had been sent to the Ministry of Marine by the Commander of the Baltic squadron at Vigo: —

„At Count Lamsdorff's request I have been asked to take the necessary steps for the protection of British fishermen near Vigo. || The squadron has met many hundreds of fishermen, and has treated them with every consideration except in the case when the fishermen were in the company of foreign torpedo-boats, one of which has disappeared, and the other, according to the depositions of the fishermen themselves, remained near them till morning. They took it for a Russian ship, and were indignant that it did not come to the help of the wounded, but it was of foreign nationality, and remained till morning to refind its consort or to repair its damages. It evidently feared to betray its origin to those who were not its accomplices. If there were also fishermen on the spot who were imprudently drawn into the enterprise, I wish in the name of the whole squadron to express to the unfortunate victims the most sincere regrets. In the above-mentioned circumstances no warship could have acted otherwise, even in time of profound peace."

Count Lamsdorff promised to send me later a copy of a further telegram which he read to me, giving details of what took place. It showed that no torpedo-boats accompanied the Russian squadron, as they had been sent on in advance; that the leading vessel of the squadron was attacked by two torpedo-boats without lights; that one disappeared and the other was sunk; that a fishing fleet was discovered in the vicinity when the search-light had been turned on to the torpedo-boats, and that the firing ceased the moment the latter disappeared. || Count Lamsdorff pointed out that a statement made in one of the accounts given to the English press, to the effect that two torpedo-boats approached one of the fishing-boats and retired before the commencement of the cannonade corroborated this version. As the Admiral had none with him, these could not have been Russian torpedo-boats. His Excellency had received positive proof that twenty Japanese officers had arrived in Hull a few days before, and that attacks of such a nature were being planned. He maintained that the word of a Russian Admiral, which his subordinates could corroborate, was of greater value than the testimony of panic-stricken fishermen. || I asked Count Lamsdorff whether, in view of the fact that a further inquiry might be necessary, the Admiral would remain at Vigo. || He replied that he earnestly desired that every possible light should be thrown on this incident, and he felt quite convinced that if the Spanish Neutrality Regulations would permit of such a course, the Emperor would have no objection to the prolongation of the Admiral's

stay at Vigo. || As soon as the second telegram from the Admiral has been received I will forward it.

Nr. 13414. **GROSZBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

St. Petersburgh, October 27, 1904. (October 27.)

(Telegraphic.) Count Lamsdorf has communicated to me the text of the second telegram received from the Admiral of the Baltic fleet: — ||

„The incident in the North Sea was provoked by two torpedo-boats which, without lights and protected by the obscurity, prepared to attack the leading vessel of the squadron. When the squadron began to show war signals and then to fire, several other small steamers resembling fishing vessels were discovered. The squadron tried to spare these vessels, and stopped firing as soon as the torpedo-boats had disappeared. The English press is indignant that a torpedo-boat left till morning in the vicinity of the incident did not render assistance to the shipwrecked. However, amongst the ships of the squadron there was not a single torpedo-boat, and not a single one was left on the spot where the incident occurred. Consequently, that which remained till the morning near the small steamers was one of the enemy's torpedo-boats, which had not been sunk and which was only damaged. The squadron could not render assistance to the small steamers, who might be suspected of complicity in view of their obstinate attempts to break the line of our ships. There were some boats which had not lit any lights at all others very late." || Count Lamsdorff has drawn my attention to the fact that the translation of this telegram is a hasty one, as it was only received this morning. I gather from what he said that there is a doubt as to whether the Russian word used means destroyer or torpedo-boat.

Nr. 13415. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Dasselbe.

Foreign Office, October 27, 1904.

(Telegraphic.) || Following telegram was addressed by Admiral Rojestvensky from Vigo at 9.50 P. M. yesterday to Captain Bostroem, Naval Attaché, Russian Embassy: — || „The North Sea incident was occasioned by the action of two torpedo-boats which steamed at full speed under cover of the night, and showing no lights, towards the ship which was leading our detachment. It was only after our search lights had been

turned on that it was remarked that a few small steam craft bearing a resemblance to trawlers were present. || The detachment made every effort to spare these craft, and ceased firing as soon as the torpedo-boats had disappeared from sight. || The Russian detachment did not include any torpedo-destroyers, and no Russian vessel of any kind was left behind upon the scene of the incident. It follows that the vessel which is declared to have remained in the neighbourhood of the small fishing boats until daylight must have been one of the two enemy's torpedo-boats, which had only sustained some injuries, the other one having been sunk. || Our ships refrained from giving assistance to the trawlers on account of their apparent complicity, which they manifested by their persistence in attempting to pass through our line. || Some of these trawlers did not show their navigation lights for a long time, and others not at all."

Nr. 13416. **GROSZBRITANNIEN.** — Derselbe an Denselben. England nimmt die russische Erklärung nicht an und verlangt Untersuchung, ehe die russische Flotte Vigo verlassen hat.

Foreign Office, October 27, 1904.

(Telegraphic.) || My telegram of to-day. || I have told Russian Ambassador officially that we are wholly unable to accept Admiral's explanation, and that it will certainly not carry conviction in this country. I have informed him of our demands, which are as follows: — || 1. Before Russian fleet leaves Vigo, inquiry to be made by Russian authorities as to persons responsible for attack on fishing fleet. All these to be left behind, as well as any others whose testimony is essential to elucidation of facts. || 2. A full inquiry to be held at once as to the facts by an independent Court with an international character. Procedure might be that laid down in Articles IX to XIV of Hague Convention, and Commission might be formed of naval officers of high rank representing the two Powers concerned and, say, three others. || 3. Russian Government to undertake to punish adequately any persons found guilty by Commission. || In reply to a question by him, I said that, if these demands were conceded, acute character of crisis would disappear, as Russian Government had already expressed their deep regret, promised liberal compensation, and undertaken to prevent recurrence of similar incidents.

Nr. 13417. **GROSZBRITANNIEN.** — Der Minister des Ausw. an die Geschäftsträger in Paris, Berlin, Haag, Kopenhagen, Stockholm. Waren Torpedoboote in der Nähe der Doggerbank?

Foreign Office, October 27, 1904.

(Telegraphic.) || North Sea incident. || His Majesty's Government are anxious to ascertain whether, on the night of the attack by the Russian fleet on the British trawlers, any torpedo-boats or destroyers belonging to the Government to which you are accredited were in the vicinity of the Dogger Bank. || Please make inquiries at once as to this, and also whether any information is available of Japanese agents having acquired and equipped any such torpedo-boats or destroyers at any point along the coast.

Nr. 13418. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Ein Teil der russischen Flotte bleibt in Vigo.

St. Petersburgh, October 28, 1904. (October 28.)

(Telegraphic.) I received at 9 A. M. this morning from Count Lamsdorff a letter, of which the following is a résumé: — || Admiral Rojestvensky's telegrams will be published in the press to-day. || Minister of Marine, being anxious to throw as much light as possible on the North Sea incident, has ordered the Admiral to remain at Vigo with those ships by whom it was witnessed. It is hoped that no objection will be raised by the Spanish Government to the prolongation of their stay in Spanish waters. || The Admiral's detailed reports, which have been sent by post, can only reach St. Petersburgh in four or five days. || Letter concludes as follows: —

I am absolutely convinced that, with a firm intention to clear up the question with a spirit of calm, good faith, and a spirit of mutual conciliation, we shall not fail to find practical means of settling to general satisfaction the great difficulties temporarily created by the contradictory depositions and the great amount of time involuntarily lost.

Nr. 13419. **GROSZBRITANNIEN.** — Derselbe an Denselben. Rußland wünscht eine internationale Untersuchungskommission.

St. Petersburgh, October 28, 1904. (October 28.)

(Telegraphic.) Following telegram has been dispatched to Russian Ambassador in London: || „Désirant jeter le plus de lumière possible sur

tout ce qui s'est passé dans la Mer du Nord, l'Empereur trouverait utile de déférer l'examen scrupuleux de cette question à une Commission Internationale d'Enquête prévue par la Convention de La Haye. D'ordre de Sa Majesté, votre Excellence est invitée à proposer ce mode de solution au Gouvernment de Sa Majesté Britannique." || In communicating the above to me, Count Lamsdorff expressed the hope that this proposal of the Emperor would be well received in England.

Nr. 13420. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Rußland will die Schuldfrage nicht vor der Untersuchung diskutieren.

St. Petersburgh, October 28, 1904. (October 28)

(Telegraphic.) || Your Lordship's telegram of yesterday. || In the course of a long interview which I have just had with Count Lamsdorff, his Excellency said that he gladly recognized your Lordship's attitude as a proof of your readiness to accept the Emperor's proposal for an International Court of Inquiry; the details of the composition and procedure of the Court, which, he thinks, should be as far as possible simplified, may be discussed as soon as news reaches him that the proposal has been formally accepted. The squadron has received instructions not to leave Vigo, and orders will be sent that the officers who were in the best position to judge the actual circumstances of the attack are to be detached from it. || As for the question of punishment, Count Lamsdorff stated that he could not admit the guilt of any Russian officer until the results of the inquiry were known; it would then be time to apportion responsibilities and their consequences on whomsoever they might be found to fall. He therefore declined to discuss this now. || He attributed to the careful moderation of your Lordship's language the peaceful tone which the discussion had taken, at which he expressed great satisfaction. The deepest resentment would have been produced here by any symptom of menace, and the result would have been a war which would have disgraced the civilization of the twentieth century.

Nr. 13421. **GROSZBRITANNIEN.** — Der Botschafter in Paris an den Minister des Ausw. Antwort auf Nr. 13417*).

Paris, October 28, 1904. (October 28.)

(Telegraphic.) Attack by Russian war-ships on British trawlers. || I have received assurances in answer to verbal inquiries which I

*) Analoge Antworten kommen von den übrigen Geschäftsträgern. Red.

caused to be made at the Ministry of Marine and at the Ministry for Foreign Affairs that it will almost certainly be established by an official reply, which I hope to receive some time to-day, that there were no French destroyers or torpedo-boats in the vicinity of the Dogger Bank, and that the French Government have no knowledge of the purchase or equipment by Japanese Agents of any such boats in France, although there have recently been vague rumours concerning the presence of Japanese Agents in Scandinavia and on the adjacent coasts of Europe. || At two o'clock to-day I am to have an interview with M Delcassé.

Nr. 13422. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Russische Zugeständnisse.

Foreign Office, October 28, 1904.

(Telegraphic.) Your Excellency's telegram of to-day. || The text of Count Lamsdorff's proposal was communicated to me by the Russian Ambassador after the meeting of the Cabinet. || I told his Excellency that the Emperor's proposal had already been carefully considered by the Cabinet, and was in accord with the suggestion I had made to him on behalf of His Majesty's Government yesterday. It, however, left certain sides of the question untouched. Mr. Balfour was to deliver a speech at Southampton this evening, and I, therefore, asked his Excellency whether I had his sanction to authorize the Prime Minister to make a statement to the following effect: — || The Emperor and the Russian Government, on hearing of the incident, at once expressed their profound regret. Liberal compensation was promised. || The part of the fleet concerned has been detained at Vigo, so that it may be possible to ascertain the responsible officers, who, together with any material witnesses, will not be allowed to proceed with the fleet. || An inquiry will be instituted into the facts, such inquiry to be held by an International Commission of the kind contemplated by the Hague Convention. Any persons found guilty will be tried by the Russian Government and punished adequately.

Instructions will be issued by the Russian Government, so as to secure neutral commerce from risk of interference and prevent the repetition of such incidents. || Count Benckendorf said that I was at liberty to authorize Mr. Balfour to make a statement on these lines. || I entered a protest against the doctrine, which Admiral Rojestvensky was said to hold, that his officers were justified in firing on any boat that came

near their ships, and I urged upon his Excellency the importance of special instructions being issued to the Admiral in the interests not only of British, but of neutral commerce of all nations.

Nr. 13423. **GROSZBRITANNIEN.** — Der Botschafter in Madrid an den Minister des Ausw. Spanien gestattet, daß die Flotte noch in Vigo bleibt.

Madrid, October 28, 1904. (October 28.)

(Telegraphic.) || I am informed by the Minister for Foreign Affairs that he has received a request this morning that, in order that an examination may be held into the circumstances of the fatal mistake in the North Sea, permission might be given for the Russian men-of-war, which four days ago had put into Vigo in order to repair damages to their engines, to remain there for a few days longer. || Señor Rodriguez San Pedro stated that he had willingly given his consent.

Nr. 13424. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Stimmt der Aufstellung Lamsdorffs in Nr. 13420 zu.

Foreign Office, October 29, 1904.

(Telegraphic.) || North Sea incident. || Your telegram of yesterday. The passage in my telegram of the 28th instant, as to punishment, is a textual reproduction of the note which I wrote in the presence of the Russian Ambassador, and read over to him before I communicated it to Mr. Balfour for use in his speech of last night. || Count Lamsdorff's views as to the question of the trial and punishment of any individual found guilty, are, I understand, that it will not arise until the conclusion of the inquiry, and the statement on this point in my note is consistent with the views he has expressed. || His Majesty's Government appreciate highly Count Lamsdorff's reference to the manner in which they have dealt with this question, and, in informing his Excellency of this, I should like you to say how admirably Count Benckendorff has seconded His Majesty's Government's efforts. His Excellency has been untiring in endeavouring to arrive at a solution acceptable to both sides, while energetically upholding the interests of his country.

Nr. 13425. **GROSZBRITANNIEN.** — Derselbe an Denselben. Keine japanischen Offiziere in Hull.

Foreign Office, October 29, 1904.

(Telegraphic.) || We have made inquiries as to the alleged arrival in Hull a short time ago of Japanese officers, to which Count Lamsdorff referred, as reported in your telegram of 27th October. || It has been proved that there is no foundation for such reports.

Nr. 13426. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Abfahrt der russischen Flotte aus Vigo und englische Forderungen.

Foreign Office, October 31, 1904.

(Telegraphic.) || I learn from the Russian Ambassador that the officers who would have to give evidence before the International Commission have been ordered to land at Vigo immediately. They will proceed, together with the Russian Commissioner, to the place of meeting of the Commission. Count Benckendorff, informed me that under these circumstances there was no reason why the Russian ships should be detained any longer at Vigo. || In reply to this communication, I stated that His Majesty's Government must be satisfied on the following points: —

1. That instructions had actually been issued to the Russian fleet to avoid a recurrence of similar incidents. || 2. Information as to the rank and position of the officers landed. || 3. Settlement of terms of reference to the International Commission. His Majesty's Government consider it essentiel that the Commission should be authorized to apportion responsibility and blame.

Count Benckndorff expressed strong objection to these stipulations, but promised to telegraph them at once to his Government. You should point out to Count Lamsdorff the reasonableness of them. || His Excellency was particularly sensitive in regard to the question of punishment. I explained to him that the view of His Majesty's Government was that it would be for the Russian Government to inflict punishment, but that it was a necessary condition that the blame should be apportioned by the Commission. Moreover, as the defence set up by Russia impugns not only the conduct of the fishing fleet, but also the manner in which His Majesty's Government have observed neutrality, this stipulation cannot be considered one-sided.

Nr. 13427. **GROSZBRITANNIEN.** — Derselbe an Denselben. Entwurf zu einem Vertrage über eine internationale Kommission.

Foreign Office, October 31, 1904.

(Telegraphic.) || Following is substance of proposed Agreement for terms of reference to International Commission: —

Preamble, after short recital of facts and damage done, states that two Governments agree that elucidation of questions in dispute shall be referred to an International Commission of Inquiry analogous to that provided for in Articles IX to XIV of Hague Convention, and that following Articles are agreed to: || Article I. The Commission to consist of five members. Two to be officers of high rank in navies of Great Britain and Russia. France and the United States each to be asked to select one Commissioner, who is to be an officer of high rank in their respective navies. Fifth Commissioner to be selected by agreement between four above mentioned, and, if they cannot agree, choice is to be intrusted to King of (country not yet settled). || Art. II. „The Commission shall inquire into and report upon all the circumstances attending the disaster in the North Sea, and particularly as to where the responsibility for the disaster lies, and the degree of blame which attaches to those upon whom that responsibility is found to rest." || Art. III provides that Commission shall settle in all respects procedure to be adopted. || Art. IV is an engagement by both Parties to supply Commission in fullest manner possible with all necessary means and facilities. || Art. V. Commission to meet at Paris as soon as possible after signature of Agreement. || Art. VI. Report of Commission to be communicated to each of the Parties.

Further provisions will probably be required with regard to—

1. Decision by majority.
2. Legal Assessors and Agents.
3. Division of expenses.

Nr. 13428. **GROSZBRITANNIEN.** — Derselbe an Denselben. Näheres über denselben Gegenstand. Unterredung mit Benckendorf.

Foreign Office, October 31, 1904.

(Extract.) || The Russian Ambassador made to me to-day a statement to the following effect: —

His Excellency had been informed yesterday by the Russian Government that orders had been sent to Admiral Rojestvensky that the officers

who would have to be witnesses before the International Commission agreed upon by the British and Russian Governments should be landed at Vigo immediately. These officers should proceed to the place where the Commission was to meet, together with the Admiral appointed to sit as Russian Commissioner. || In these circumstances, there was no reason why a part of the squadron commanded by Admiral Rojestvensky should remain any longer at Vigo. || I told his Excellency that the terms of his communication suggested comments, which I proceeded to make. || I observed, in the first place, that the orders transmitted to Admiral Rojestvensky had reference only to those officers who would be required to give evidence before the proposed International Commission. I assumed, of course, that this description included not only the officers whose presence as witnesses would be necessary, but those who had been ascertained by the Russian naval authorities to have been responsible for the attack upon the fishingfleet. || I also assumed that the Admiral who was to be designated as Russian Commissioner, and who was to accompany the detained officers, would be an Admiral who had taken no part in the proceedings of the fleet. His Excellency said that there could be no doubt upon this point. || I went on to say that it was, in my opinion, necessary that we should be satisfied upon the following points: —

1. We had a right to ask the Russian Government to inform us officially that instructions had been actually issued by the Russian naval authorities to the whole of their fleet for the purpose of avoiding a recurrence of incidents such as that which had occurred in the North Sea. His Excellency would recollect that he had authorized me to inform the Prime Minister that this would be done, and we attached the greatest importance to the point. || 2. We had been officially informed by the Russian Government that the Admiral was to remain at Vigo with a portion of the fleet for the express purpose of designating the officers who were responsible for the attack. I gathered from his Excellency's statement that this investigation must already have taken place, with the result that certain individuals had been thus designated, and I had been informed by our Ambassador at St. Petersburgh that His Imperial Majesty the Emperor, who had been pleased to accord an audience to Sir Charles Hardinge, had stated that four or five officers had been detached from the squadron, and would return at once to St. Petersburgh. Although it was impossible for His Majesty's Government to assume any responsibility for the selection of the officers who might be designated, we felt sure that the Russian Government would understand our desire to have some information as to the rank and position of those officers. ||

3. His Majesty's Government considered that the terms of reference to the International Commission should be settled immediately, and they suggested the inclosed draft which they were prepared to accept in principle.

We considered it essential that the Commission should be authorized to apportion responsibility and blame. || This was indeed a necessary condition, as we understood that the Russian Government had promised to punish adequately any persons who might be found by the Commission to have been responsible for the disaster, and to whom, in their opinion blame attached. || The Commission should be convened and should commence and complete its investigations as soon as possible. For this reason, we considered that each side should use every effort in order to furnish the Commission with the necessary evidence. It would be most unfortunate if, owing to the absence of important witnesses, the Commission were to find itself obliged to adjourn its proceedings. || The Russian Ambassador told me that he feared that the proposals which I had made to him would be regarded by the Russian Government as impugning their good faith. His Excellency was perticularly sensit ve in regard to the punishment of the offieers who were responsible for the incident. I explained to him that in our view, the punishment would have to be inflicted by the Russian Government, but that it was indispensable that the Commission should be authorized to deal with the question of blame. The stipulation was not one-sided, for the defence made by the Russian Admiral was an imputation on the manner in which our neutrality had been observed, as well as upon the conduct of the fishing fleet.

Anlage.

Draft op Proposed Agreement for reference tf International Commission of Inquiry.

Whereas, during the night of the 21st to 22nd October, 1904, a British steam-fishing fleet, while engaged in fishing off the Dogger Bank in the North Sea, was fired upon by vessels forming part of the Russian Baltic fleet; and whereas this action has resulted in the total loss of one of the fishing-boats and the death of two persons, as well as damage to other vessels of the fleet and injuries to members of the crews of the said fleet; and whereas a difference of opinion has arisen between the Government of His Britannic Majesty and the Government of His Imperial Majesty the Emperor of Russia in connection with this incident: || The Undersigned, being duly authorized thereto by their respective Governments, agree that the elucidation of the questions in dispute shall

be referred to an International Commission of Inquiry analogous to that provided for in Articles IX to XIV of the Convention signed at the Hague on the 29th July, 1899. || It is also hereby agreed as follows: —

Article I.

The International Commission of Inquiry shall consist of five Commissioners, and shall be constituted in the following manner: Two of the Commissioners shall be officers of high rank in the navies of Great Britain and Russia respectively, The Governments of France and the United States shall each be requested to select one Commissioner, who shall be officer of high rank in the French and United States' navies respectively. The fifth Commissioner shall be selected by agreement between the four Commissioners above mentioned, and, if they cannot agree, the choice shall be intrusted to His Majesty the King of

Article II.

The Commission shall inquire into and report upon all the circumstances attending the disaster in the North Sea, and particularly as to where the responsibility for the disaster lies, and the degree of blame which attaches to those upon whom that responsibility is found to rest.

Article III.

The Commission shall settle in all respects the procedure to be adopted by them for carrying out the duties imposed upon them by this Agreement.

Article IV.

Each of the High Contracting Parties engages to supply the Commission in the fullest manner possible with all means and facilities necessary to enable it to perform its duties.

Article V.

The Commission shall meet at Paris as soon as possible after the signature of this Agreement.

Article VI.

The Commission shall communicate its Report to each of the High Contracting Parties.

Nr. 13429. **JAPAN.** — Der Botschafter in London an den englischen Minister des Ausw. Kein japanisches Kriegsschiff in der Nordsee.

Japanese Legation, London, November 1, 1904. (November 1.)

M. le Marquis, || With regard to your Lordship's inquiry as to whether there were any Japanese war-vessels present in the vicinity of the Dogger Bank on the night of Friday, the 21st, or early morning of Saturday, the 22nd October, I beg to state that there was no such vessel present in the North Sea at that time. || In this connection, you may perhaps be interested to read the inclosed copy of the letter which I sent to His Majesty's Coroner for Hull in reply to his inquiry.

Tadasu Hayashi.

Nr. 13430. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Lamsdorff verspricht Maßregeln, um eine Wiederholung ähnlicher Vorfälle zu vermeiden.

St. Petersburgh, November 1, 1904. (November 1.)

(Telegraphic.) || Attack on fishing-boats. || I pointed out to Count Lamsdorff the great danger which would arise from the repetition of such incidents, and earnestly impressed upon his Excellency the necessity of avoiding their recurrence. || His Excellency replied that he felt confident that there would be no such recurrence, and asked me to assure your Lordship that every step had been taken to prevent it, and that he had sent instructions to take every precaution to avoid such a possibility even before Admiral Rojestvensky's arrival at Vigo.

Nr. 13431. **GROSZBRITANNIEN.** — Derselbe an Denselben. Untersuchungsfrage, Auswahl der Offiziere.

St. Petersburgh, November 1, 1904. (November 1.)

(Telegraphic.) || I have been informed by Count Lamsdorff that Admiral Kaznakoff has been appointed Russian Representative on the Court of Inquiry. He is Aide-de-camp-General of the Emperor. || The Emperor has approved the choice of the four officers who have been selected for examination by the Court.

Nr. 13432. GROSZBRITANNIEN. — Derselbe an Denselben. Aufnahme von Nr. 13428 durch Lamsdorff.

St. Petersburgh, November 2, 1904. (November 2.)

(Telegraphic.) || North Sea incident. || I have given Count Lamsdorff a French translation of the six Articles of the proposed Agreement and of the last paragraph of your Lordship's telegram of the 31st ultimo. The text did not tally exactly with that telegraphed by Count Benckendorff, but your Lordship's is accepted as the correct version. || Count Lamsdorff will submit it to the Emperor and Minister of Marine to-day.

Nr. 13433. GROSZBRITANNIEN. — Der Minister des Ausw. an den Botschafter in Petersburg. Dasselbe wie Nr. 13431.

Foreign Office, November 2, 1904.

(Telegraphic.) || Russian Ambassador made following announcement to me jesterday: —

„Before the Russian Admiral left Vigo, special instructions were given to him that the Russian fleet, during its voyage to the Far East, is to observe the utmost caution in order to avoid occasioning injury or inconvenience to any neutral shipping which they may encounter. || The following Russian officers have been left behind at Vigo: Captain de Fregate Klado, Lieutenant Ellis, Lieutenant Shramtchenko, and Ensign Ott, these being the only officers whose presence the Russian Government consider material for the purpose of the inquiry."

Nr. 13434. GROSZBRITANNIEN. — Derselbe an Denselben. Frage der Verantwortlichkeit.

Foreign Office, November 2, 1904.

(Telegraphic.) || The question of terms of reference is most urgent. || Count Lamsdorff, in his statement to you, and Count Benckendorff, in his statements to me, have employed phrases which indicate the desire of the Russian Government to exclude altogether from the consideration of the Commission the question of „responsibility". In our view this is wholly inadmissible. || We shall be satisfied if we receive the official assurance of the Russian Government that the officers detained comprise those who were specially implicated in the transaction, and upon whom the blame, if blame there be, must fall. This we have been promised, and we cannot accept less, but you can explain to him that we have no

desire to press for any form of words which prejudges the culpability or innocence of those concerned, to whatever nationality they should happen to belong. It will be for the Commission to determine the question of responsibility and justification or blame, as the case may be.

Nr. 13435. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Lamsdorff will die Untersuchungskommission über die Verantwortlichkeit entscheiden lassen.

St. Petersburgh, November 3, 1904. (November 3.)

(Telegraphic.) || Attack on British fishing-boats. || With reference to your Lordship's telegram of yesterday, Count Lamsdorff read to me a telegram from Count Benckendorff recording his conversation with your Lordship. He entirely approves Count Benckendorff's reply. || In his Excellency's opinion it is the work of the Commission of Inquiry alone to determine the responsibility for the incident, and he could not admit the responsibility or guilt of the officers detached until proved by that body, and therefore could give no assurance in the sense desired by your Lordship, but, since those officers who were actually implicated would be in the best position to give evidence, the selection of certain individuals as witnesses did not exclude the possibility of their having been responsible in the matter. || In the same way there might be fishermen implicated either voluntarily or involuntarily, but though his Excellency presumed that those who might possibly be proved guilty would come before the Commission among the witnesses, he made no demands that any guilt or responsibility should be attached to them now. || I was to convey to your Lordship the assurance that good-will on his part was not lacking, and he was most anxious for a satisfactory settlement of the matter, but it was impossible to speak of the attachment of responsibility to parties on either side, now that the Commission had once been appointed, until it had given its decision. || The consequences of responsibility would then indubitably have to be suffered by Russian officers, in accordance with Russian law, if it could be shown to fall upon them, and in the event, which at present he equally declined to admit, of the complicity of the fishermen in the attack on the fleet being proved, he had absolute conviction that similar action would be taken in their case by His Majesty's Government.

Nr. 13436. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Antwort auf das vorige.

Foreign Office, November 4, 1904.

(Telegraphic.) || Your telegram of the 3rd instant. || Except for what depends on verbal misunderstandings, there seems now to be very little, if any, difference of opinion between the two Governments. || We are agreed:

1. That until the inquiry is concluded no blame should be attached to any one, still less that any punishment should be inflicted. || 2. That the conduct of all persons concerned, and not merely that of Russian officers, should be made the subject of investigation. || 3. That punishment should be inflicted according to law if, and when, the blame is proved. || 4. We gather that the officers retained are not merely those qualified to act as witnesses, but the persons implicated; and Count Lamsdorff's phrase quoted in your telegram („Since those officers who were actually implicated," &c.) shows that he agrees with us on this point.

An apparent misunderstanding of our use of the word „responsibility" seems to be causing the difficulty between us. || The International Tribunal alone can determine whether responsibility is equivalent to guilt or is in itself deserving of punishment. || We do not regard this a necessarily the case, but in our view the persons who are responsible are those on whom blame would fall, if blame there was.

Nr. 13437. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Lamsdorff hat Bedenken gegen das vorige.

St. Petersburgh, November 5, 1904. (November 5.)

(Telegraphic.) || Count Lamsdorff carefully studied your Lordship's telegram of yesterday, which I read to him, and authorized me to inform your Lordship that the whole of it was acceptable to the Russian Government except the last paragraph. || I took the opportunity of telling his Excellency that English public opinion attached great significance to the detachment of so small a number of officers from the fleet, and to its subsequent departure from Vigo. He assured me that punishment would most certainly follow any eventual discovery that responsibility and blame rested either with these four officers or any others.

Nr. 13438. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Zusatzartikel.

Foreign Office, November 5, 1904, 4 P. M.

(Telegraphic.) || Your telegram of 3rd November. || Express our satisfaction at Agreement arrived at as to terms of reference. || We suggest addition to the three following Articles: —

1. Each of the High Contracting Parties shall appoint a Legal Assessor, who shall sit with the Commissioners and assist them in their deliberations. || The Legal Assessor shall have no vote in determining the findings of the Commission.

Nr. 13439. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Antwort auf Nr. 13437.

Foreign Office, November 7, 1904.

(Telegraphic.) || Your telegram of the 5th November. || It is most satisfactory to us to know that we did not misinterpret Count Lamsdorff's meaning. || It is obvious that, pending the result of the inquiry, it is not for us in any way to challenge decision of Russian Government as to rank and number of officers selected. || We note with satisfaction Count Lamsdorff's important intimation that, if Commission should eventually find that responsibility and blame rest with the four officers detained, or any others, punishment will certainly follow. Responsibility for present selection must obviously rest with Russian Government.

Nr. 13440. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Rußland nimmt die Zusatzartikel an.

St. Petersburgh, November 8, 1904. (November 8.)

(Telegraphic.) P. || With reference to your Lordship's telegram of the 5th instant, I called on Count Lamsdorff, at his Excellency's request, on his return from his audience with the Emperor this afternoon, and learned that His Majesty accepts all three Articles, and is willing to take Article 2 on trust since his Excellency was unable to explain to him the duties and attributes of the Agents whom it is proposed to appoint. His Excellency requested me to inquire of your Lordship as to this point, and to suggest that the Agents should be selected from the British and Russian Embassies in Paris, unless their duties are of a very special character.

Nr. 13441. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Antwort auf das Vorige.

Foreign Office, November 9, 1904.

(Telegraphic.) || The prompt manner in which the Russian Government have accepted the three additional Articles, as reported in your telegram of the 8th November, has afforded great satisfaction to His Majesty's Government, and you should so inform Count Lamsdorff. || As regards the Agents, they will not perform duties of any very special character. They will merely act as intermediaries between the Commission and the Governments concerned, and we should be quite content for them to be selected from among the present members of the Russian and British Embassies in Paris.

Nr. 13442. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Rußland hat alle Artikel angenommen.

St. Petersburgh, November 10, 1904. (November 11.)

(Telegraphic.) || Your Lordship's despatch of the 31st October. || I communicated to Count Lamsdorff on the 7th instant a copy of the draft Convention, and his Excellency informed me this evening that Count Benckendorff had asked for full powers to sign. || Count Lamsdorff said, however, that the form of the Convention was not, he thought, that in which such instruments were usually drawn up, and he had prepared a text embodying the nine Articles which he would communicate to me to-morrow. || On my expressing the hope that no new matter for discussion would be introduced into his text, he assured me that the nine Articles agreed upon would be integrally contained in it. Full powers might be conferred by telegram if his text was approved.

Nr. 13443. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Der Kaiser von Österreich soll den 5. Kommissar ernennen*).

Foreign Office, November 11, 1904, 3 p. m.

(Telegraphic.) || With regard to the Sovereign who shall be invited to choose a fifth Commissioner in the event of the other four being

*) Rußland stimmt am 11. November zu. Red.

unable to agree, His Majesty's Government propose that the Emperor of Austria should, if necessary, be asked to name an Austrian Admiral.

Nr. 13444. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Übersendet den russischen Vertragsentwurf. Änderungen.

St. Petersburgh, November 12, 1904. (November 13.)

(Telegraphic.) || Following note received this evening from Count Lamsdorff: — || „In reply to your note of 6th November last, I have the honour to transmit to your Excellency French translation of draft of Agreement with regard to North Sea incident drawn up in accordance with English text of six Articles of this Agreement inclosed in said note, as well as with three additional clauses mentioned in your note. Contents of first of the clauses have been included in text of article I of Agreement, while clauses II and III have gone to form Articles VII and VIII of this project. I consider it my duty to add to above that, besides corrections of editorial character, necessitated by translation into French of said Agreement, Ministry of Foreign Affairs have worded Article II of Agreement in somewhat altered form as compared with English text, in assurance that present version, expressing as it does selfsame idea, will not give rise to any objections on part of His Majesty's Government. As regards form of Agreement as drafted in annexed inclosure, it would seem desirable to conclude it in form of Declaration, that being the least complicated form, which might be signed in St. Petersburgh or London, on authority of simple permission by both Governments."

Following is „projet de Déclaration": — || „Le Gouvernement Impérial de Russie et le Gouvernement de Sa Majesté Britannique, s'étant mis d'accord pour confier à une Commission Internationale d'Enquête, réunie conformément aux Articles IX et XIV de la Convention de La Haye, le soin d'éclaircir, par un examen impartial et consciencieux, les questions de fait se rapportant à l'incident qui s'est produit durant la nuit du 8 — 9 Octobre, au cours duquel une partie de la flotille de pêcheurs Britanniques a éprouvé des dommages à la suite du tir des pièces de canon de la flotte Russe, les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes: —

Article 1er. La Commission Internationale d'Enquête sera composée de cinq membres Commissaires dont deux seront des officiers de haut rang des Marines Impériale Russe et Britannique respectivement. Les Gouvernements de France et des États-Unis d'Amérique seront priés de

choisir chacun un de leurs officiers de Marine de haut rang comme membre de la Commission. Le cinquième membre sera élu d'accord par les quatre membres susmentionnés. Dans le cas où il ne se produirait pas d'entente entre les quatre Commissaires pour le choix du cinquième membre de la Commission, celui-ci sera choisi par Sa Majesté le . Chacune des deux Hautes Parties Contractantes nommera également un jurisconsulte assesseur avec voix consultative et un Agent chargés à titre officiel de prendre part aux travaux de la Commission.

Art. 2. La Commission devra examiner toutes les circonstances ayant trait à l'incident de la Mer du Nord, notamment, élucider les faits y relatifs, et se prononcer sur la question de responsabilité selon les résultats de l'enquête.

Art. 3. La Commission fixera les détails de la procédure que sera suivie par elle pour l'accomplissement de la tâche qui lui est dévolue.

Art. 4. Les deux Hautes Parties Contractantes s'engagent à fournir à la Commission Internationale d'Enquête dans la plus large mesure qu'elles jugeront possible tous les moyens et les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.

Art. 5. La commission se réunira à Paris aussitôt que faire se pourra après la signature de cet Arrangement.

Art. 6. La Commission présentera aux deux Parties Contractantes son Rapport signé par tous les membres de la Commission.

Art. 7. La Commission prendra toutes ses décisions à la majorité des voix des cinq Commissaires.

Art. 8. Le Gouvernement Impérial de Russie garde à sa charge par réciprocité les frais de l'enquête faite par lui préalablement à la réunion de la Commission.

Quant aux dépenses qui incomberont à la Commission Internationale d'Enquête à partir du moment de sa réunion pour l'installation de ses services et les investigations nécessaires, elles seront faites en commun par les deux Gouvernements."

Nr. 13445. **GROSZBRITANNIEN.** — Derselbe an Denselben. Verhandlung mit Lamsdorff über die Änderungen.

St. Petersburg, November 12, 1904. (November 13.)

(Telegraphic.) || My immediately preceding telegram. || I addressed a note to Count Lamsdorff this evening immediately on receipt of his Excellency's note to me of to-day, and reminded him that he had informed

me, in his note of the 4th instant, that the Russian Government, by the Emperor's orders, accepted integrally and adhered to the draft Convention communicated by myself and Count Benckendorff. I also reminded him of his statement on the 10th instant (reported by me in my telegram of the same day) that the nine Articles agreed on would be embodied integrally in his revised draft. || Pending your Lordship's instructions, I purposely abstained from discussing the amended form of Article II or the changes in the Preamble.

Nr. 13446. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. England beharrt auf seinem Entwurf.

Foreign Office, November 14, 1904.

(Telegraphic.) || Your telegram of 12th November. || We greatly regret that Count Lamsdorff should have thought it necessary to recommence a discussion which we regard as definitively closed by his statement made to you on 4th instant with the authority of the Emperor. || We cannot now consent to a controversy as to the terms of the Agreement, and we desire to adhere to the text as sent to you in my despatch of 31st October.

Nr. 13447. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Artikel II widerspricht der Haager Konvention.

St. Petersburgh, November 14, 1904, 8.40 P. M. (November 14, 1904, 9.30 P. M.)

(Telegraphic.) || My telegram of the 12th instant. || I have received note from Count Lamsdorff to the effect that, after consultation with the best Russian jurists, M. de Martens at their head, he had come to the conclusion that original text of Article II was contrary to sense of stipulation of Hague Convention relating to appointment of a Commission of Inquiry: that his sole object in proposing to me a more exact text was to maintain *integrally* the idea of the Article, and express it in a manner which appeared to him more correct.

Nr. 13448. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Widerlegung der russischen Auffassung.

Foreign Office, November 15, 1904.

(Telegraphic.) || Your telegram of yesterday. || Objection that our Article II is contrary to sense of Hague Convention might also be urged

against Russian draft, for it cannot possibly be contended that the question of responsibility is a question of fact but that the question of blame is not. || You should, however, remind Count Lamsdorff that it was clearly explained to him that what we contemplated was a Convention „analogous" to, and not identical with, those recommended by Hague Convention. See my telegram of 31st October.

Nr. 13449. **GROSZBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

Foreign Office, November 15, 1904.

(Telegraphic.) || My telegram of to-day. || It cannot be too clearly understood that, in our opinion, question of responsibility and question of blame are both questions of fact. We used the word „analogous" in the preamble for greater security, in order to meet the kind of objection which Count Lamsdorff now apparently desires to raise.

Nr. 13450. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Rußland ändert seinen Text.

St. Petersburgh, November 18, 1904. (November 18.)

(Telegraphic.) || Note received this evening from Count Lamsdorff, stating that the summary of your Lordship's telegrams, which I had handed him, had greatly contributed to remove misunderstanding which existed between the two Governments. || Misunderstanding was due to fact that Russian Government were persuaded from outset that stipulations of Hague Convention would be sole basis of our Agreement in present case, while British Government wished to give Commission wider powers. Summary established precisely exact sense of Article II. || He communicated a new text of this Article, which, while being in conformity with original English text, contained developments indicated in summary. || As to Preamble, Ministry had not hesitated to modify its text in adding facts mentioned in English draft. || Text of Russian draft is the same, with following exceptions: —

In Preamble, after words „Mer du Nord", insert „au cours duquel le tir des pièces de canons de la flotte Russe occasionna la perte d'un bateau et la mort de deux personnes appartenant à une flotille de pêcheurs Britanniques ainsi que des dommages à d'autres bateaux de la dite flotille et des blessures aux équipages de quelques-uns de ces bateaux,

les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes.

Article II should read: —

„La Commission devra faire une enquête et dresser un rapport sur toutes les circonstances relatives à l'incident de la Mer du Nord, en particulier sur la question où gît responsabilité et sur le degré de blâme concernant les ressortissants des deux Hautes Parties Contractantes ou d'autres pays dans le cas où leur responsabilité se trouverait constatée par l'enquête."

Nr. 13451. **GROSZBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

St. Petersburgh, November 18, 1904. (November 18.)

(Telegraphic.) || Draft Convention. || The proposed Russian form of Article II which I sent in my immediately preceding telegram of this evening embodies, as your Lordship will observe, the original text of our draft with the addition that the Commission will inquire as to the responsibility and degree of blame which should attach to any persons whether subjects of Great Britain, Russia, or of other countries. || The fact that subjects of Great Britain, Russia, and other countries have been mentioned has apparently removed the feeling underlying the opposition of the Russian Government that the word „blame" was aimed at Russian officers alone. || This addition to Article II, which I trust will meet with the approval of His Majesty's Government, was suggested in the summary of your Lordship's telegrams which I handed to Count Lamsdorff yesterday afternoon, and for which I accept entire responsibility. || It may now be said that your Lordship's text has been integrally accepted, and if there is no other serious objection to the Russian draft, I think that it might be as well to accept it.

Nr. 13452. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Antwort auf Nr. 13450.

Foreign Office, November 18, 1904.

(Telegraphic.) || His Majesty's Government accept the Russian draft as described and explained in your despatch of 13th November and your telegrams of to-day, provided that the Russian Government agree that, should the Instrument about to be signed prove to be in any way in-

consistent with the provisions of the Hague Convention, Articles IX to XIV, the Articles of the Instrument shall be held to override those of The Hague Convention. || „The Emperor of Austria, King of Hungary," should be inserted in Article I. || An English version of the Russian draft will be sent to you by post to-night.

Nr. 13453. **GROSZBRITANNIEN.** — Derselbe an Denselben. Dasselbe. Foreign Office, November 18, 1904.

(Telegraphic.) || We have no hesitation in accepting Russian proposal that International Commission should report upon responsibility and blame attaching not only to subjects of both the Powers, but of any other persons concerned. You will remember that in my telegram of 4th November we stated clearly that we believed ourselves to be in agreement with the Russian Government in holding that the conduct of all persons concerned, and not merely that of Russian officers, should be made the subject of investigation by the International Commission.

Nr. 13454. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Unterhandlung mit Lamsdorff

St. Petersburgh, November 19, 1904. (November 19.)

(Telegraphic.) || I called on Count Lamsdorff to-day, and, in accordance with the instructions contained in your Lordship's telegram of yesterday's date, I handed to his Excellency an official note recording the condition under which His Majesty's Government were willing to accept the Russian draft for the conclusion of an Agreement for the appointment of an International Commission to inquire into the circumstances of the incident which took place in the North Sea. || Count Lamsdorff at once expressed his assent, and said that before giving me an official reply, which he promised to let me have as soon as possible, it would be necessary to submit my note to the Emperor in order to obtain His Majesty's approval. || He advocated signature taking place here in order expedite matters.

Nr. 13455. **GROSZBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

St. Petersburgh, November 20, 1904, 4.10 P. M. (November 20, 5.30 P. M.)

(Telegraphic.) || My immediately preceding telegram. || Have received note this morning from Count Lamsdorff, stating that my note of yester-

day has been submitted to Emperor, and that Russian Government take act of this communication. || He awaits your Lordship's reply as to place of signature.

Nr. 13456. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Soll unterzeichnen.

Foreign Office, November 21, 1904.

(Telegraphic.) || I have received your telegrams of the 19th and 20th instant. || We are anxious, as much as possible, to expedite matters and to meet the views of the Russian Government, and we accordingly agree that the Instrument shall be termed a Declaration, and shall be signed at St. Petersburgh. || You are authorized to sign pending the receipt of full powers, which will be prepared and sent out to you at once.

Nr. 13457. **GROSZBRITANNIEN und RUSZLAND.** — Vertrag über Einsetzung einer internationalen Untersuchungskommission.

Declaration.

Le Gouvernement de Sa Majesté Britannique et le Gouvernement Impérial de Russie s'étant mis d'accord pour confier à une Commission Internationale d'Enquête, réunie conformément aux Articles IX—XIV de la Convention de la Haye du 29 (17) Juillet, 1899, pour le réglement pacifique des conflits internationaux, le soin d'éclaircir par un examen impartial et consciencieux les questions de fait se rapportant à l'incident qui s'est produit durant la nuit du 21—22 (8—9) Octobre, 1904, dans la Mer du Nord, — au cours duquel le tir des pièces de canons de la flotte Russe occasionna la perte d'un bateau et la mort de deux personnes appartenant à une flottille de pêcheurs Britanniques ainsi que des dommages à d'autres bateaux de la dite flotille et des blessures aux équipages de quelques-uns de ces bateaux, — les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes: —

Article I.

La commission Internationale d'Enquête sera composée de cinq membres (Commissaires), dont deux seront des officiers de haut rang des marines Britannique et Impériale Russe respectivement. Les Gouvernements de France et des États-Unis d'Amérique seront priés de choisir, chacun, un de leurs officiers de marine de haut rang comme membre de

la Commission. Le cinquième membre sera élu d'accord par les quatres membres susmentionnés. || Dans le cas où il ne se produirait pas d'entente entre les quatre Commissaires pour le choix du cinquième membre de la Commission, Sa Majesté l'Empereur d'Autriche, Roi de Hongrie, sera invité à le nommer. || Chacune des deux Hautes Parties Contractantes nommera également un Jurisconsulte-Assesseur avec voix consultative et un Agent, chargés, à titre officiel, de prendre part aux travaux de la Commission.

Article II.

La Commission devra faire une enquête et dresser un rapport sur toutes les circonstances relatives à l'incident de la Mer du Nord, en particulier, sur la question où gît la responsabilité et sur le degré de blâme concernant les ressortissants des deux Hautes Parties Contractantes ou d'autres pays dans le cas où leur responsabilité se trouverait constatée par l'enquête.

Article III.

La Commission fixera les détails de la procédure qui sera suivie par elle pour l'accomplissement de la tâche qui lui est dévolue.

Article IV.

Les deux Hautes Parties Contractantes s'engagent à fournir à la Commission Internationale d'Enquête, dans la plus large mesure qu'Elles jugeront possible, tous les moyens et les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.

Article V.

La Commission se réunira à Paris aussitôt que faire se pourra, après la signature de cet arrangement.

Article VI.

La Commission présentera aux deux Hautes Parties Contractantes son rapport signé par tous les membres de la Commission.

Article VII.

La Commission prendra toutes ses décisions à la majorité des voix des cinq Commissaires.

Article VIII.

Les deux Hautes Parties Contractantes s'engagent à garder chacune à sa charge, par réciprocité, les frais de l'enquête faite par elle préalablement à la réunion de la Commission. Quant aux dépenses qui incomberont à la Commission Internationale d'Enquête à partir du moment de

sa réunion pour l'installation de ses services et les investigations nécessaires, elles seront faites en commun par les deux Gouvernements.

En foi de quoi les Soussignés ont signé la présente Déclaration et y ont apposé le sceau de leurs armes.

Fait en double à Saint Pétersbourg, le 25 (12) Novembre, 1904.

(Signé) (L. S.) Charles Hardinge.
(Signé) (L. S.) Comte Lamsdorff.

Protocole.

Les Soussignés se sont réunis aujourd'hui à l'Hôtel du Ministère Impérial des Affaires Étrangères pour procéder à la signature d'une Déclaration entre le Gouvernement de Sa Majesté Britannique et le Gouvernement Impérial de Russie concernant l'institution d'une Commission Internationale d'Enquête au sujet de l'incident de la Mer du Nord. || Après lecture des instruments respectifs, lesquels ont été trouvés en bonne et due forme, la signature de ladite Déclaration a eu lieu selon l'usage. || En foi de quoi les Soussignés ont dressé le présent Protocole et l'ont revêtu du sceau de leurs armes.

Fait en double à Saint-Pétersbourg, le 25 (12) Novembre, 1904

(Signé) (L. S.) Charles Hardinge.
(Signé) (L. S,) Comte Lamsdorff.

Nr. 13458. **VERTRAGSSTAATEN.** — Bericht der internationalen Untersuchungskommission.

Paris, 24. Februar 1905.

1er. Les Commissaires, après un examen minutieux et prolongé de l'ensemble des faits parvenus à leur connaissance sur l'incident soumis à leur enquête par la Déclaration de Saint-Pétersbourg du 12 (25) Novembre, 1904, ont procédé dans ce rapport à un exposé analytique de ces faits suivant leur enchaînement rationnel. || En faisant connaître les appréciations dominantes de la Commission en chaque point important ou décisif de cet exposé sommaire, ils pensent avoir mis suffisamment en lumière les causes et les conséquences de l'incident en question en même temps que les responsabilités qui s'en dégagent. || 2. La seconde escadre Russe de la flotte du Pacifique, sous le commandement en chef du Vice-Admiral Aide-de-camp Général Rojdestvensky, mouillait le 7 (20) Octobre, 1904, auprès du Cap Skagen avec l'intention de faire du charbon avant de continuer sa route pour l'Extrême-Orient. || Il paraît, d'après les dépositions acquises, que, dès le départ de l'escadre de la rade de Réval,

l'Amiral Rojdestvensky avait fait prendre des précautions minutieuses par les bâtiments placés sous ses ordres afin de les mettre pleinement en état de repousser pendant la nuit une attaque de torpilleurs, soit à la mer soit au mouillage. || Ces précautions semblaient justifiées par les nombreuses informations des Agents du Gouvernement Impérial au sujet de tentatives hostiles à redouter, et qui, selon toutes vraisemblances, devaient se produire sous la forme d'attaques de torpilleurs. || En outre, pendant son séjour à Skagen l'Amiral Rojdestvensky avait été averti de la présence de bâtiments suspects sur la côte de Norvège. Il avait appris, de plus, par le Commandant du transport „Bakan", arrivant du nord, que celui-ci avait aperçu la nuit précédente quatre torpilleurs ne portant qu'un seul feu et en tête de mât. || Ces nouvelles décidèrent l'Amiral à avancer son départ de vingt-quatre heures. || 3. En conséquence, chacun des six échelons distincts de l'escadre appareilla séparément à son tour et gagna la Mer du Nord, indépendamment, dans l'ordre indiqué par le rapport de l'Amiral Rojdestvensky; cet officier général commandant en personne le dernier échelon formé par les quatre nouveaux cuirassés „Prince Souvoroff", „Empereur Alexandre III," „Borodino", „Orel", et le transport „Anadyr". Cet échelon quitta Skagen le 7 (20) Octobre à 10 heures du soir. || La vitesse de 12 nœuds fut prescrite aux deux premiers échelons, et celle de 10 nœuds aux échelons suivants. || 4. Entre 1 heure 30 et 4 heures 15 de l'après-midi du lendemain, 8 (21) Octobre, tous les échelons de l'escadre furent croisés successivement par le vapeur Anglais „Zéro", dont le Capitaine examina avec assez d'attention les différentes unités pour permettre de les reconnaître d'après la description qu'il en fit. || Les résultats de ses observations sont conformes d'ailleurs en général aux indications du rapport de l'Amiral Rojdestvensky. || 5. Le dernier navire croisé par le „Zéro" était le „Kamchatka", d'après la description qu'il en donna. || Ce transport, qui formait primitivement groupe avec le „Dmitri Donskoi" et l'„Aurora", se trouvait donc alors attardé et isolé à une dizaine de milles environ en arrière de l'escadre; il avait été obligé de diminuer de vitesse à la suite d'une avarie de machine. || Ce retard accidentel fut peut-être la cause incidente des événements qui suivirent. || 6. Vers 8 heures du soir, en effet, ce transport recontra le bâtiment Suédois „Aldebaran" et d'autres navires inconnus, qu'il canonna sans doute par suite des préoccupations que lui causaient dans les circonstances du moment son isolement, ses avaries de machine et son peu de valeur militaire. || Quoiqu'il en soit, le Commandant du „Kamchatka" transmit à 8 heures 45 à son Commandant-en-chef par la télégraphie sans fil, au sujet de cette rencontre, l'information qu'il était „attaqué de tous côtés par des torpilleurs". || 7. Pour

se rendre compte de la part que cette nouvelle put prendre dans les déterminations ultérieures de l'Amiral Rojdestvensky, il faut considérer que dans ses prévisions les torpilleurs assaillants, dont la présence lui était ainsi signalée, à tort ou à raison, à une cinquantaine de milles en arrière de l'échelon des vaisseaux qu'il commandait, pouvaient le rejoindre pour l'attaquer à son tour vers 1 heure du matin. || Cette information décida l'Amiral Rojdestvensky à signaler à ses bâtiments vers 10 heures du soir de redoubler de vigilance et de s'attendre à une attaque de torpilleurs. || 8. A bord du „Souvoroff" l'Amiral avait jugé indispensable que l'un des deux officiers supérieurs de son état-major fût de quart sur la passerelle de commandement pendant la nuit afin de surveiller, à sa place, la marche de l'escadre et de le prévenir immédiatement s'il se produisait quelqu'incident. || A bord de tous les bâtiments, d'ailleurs, les ordres permanents de l'Amiral prescrivaient que l'officier chef de quart était autorisé à ouvrir le feu dans le cas d'une attaque évidente et imminente de torpilleurs. || Si l'attaque venait de l'avant il devait le faire de sa propre initiative, et, dans le cas contraire, beaucoup moins pressant il devait en référer à son Commandant. || Au sujet de ces ordres la majorité des Commissaires estime qu'ils n'avaient rien d'excessif en temps de guerre, et particulièrement dans les circonstances, que l'Amiral Rojdestvensky avait tout lieu de considérer comme très alarmantes, dans l'impossibilité, où il se trouvait, de contrôler l'exactitude des avertissements qu'il avait reçus des Agents de son Gouvernement. || 9. Vers 1 heure du matin le 9 (22) Octobre, 1904, la nuit était à demi obscure, un peu voilée par une brume légère et basse. La lune ne se montrait que par intermittences entre les nuages. Le vent soufflait modérément du sud-est, en soulevant une longue houle qui imprimait aux vaisseaux des roulis de 5 degrés de chaque bord. || La route suivie par l'escadre vers le sud-ouest devait conduire les deux derniers échelons, ainsi que la suite des événements l'a prouvé, à passer à proximité du lieu de pêche habituel de la flotille des chalutiers de Hull, composée d'une trentaine de ces petits bâtiments à vapeur et couvrant une étendue de quelques milles. || Il résulte des dépositions concordantes des témoins Britanniques que tous ces bateaux portaient leurs feux réglementaires et chalutaient conformément à leurs règles usuelles, sous la conduite de leur maître de pêche, suivant les indications de fusées conventionnelles. || 10. D'après les communications reçues par la télégraphie sans fil, rien d'anormal n'avait été signalé par les échelons qui précédaient celui de l'Amiral Rodjestvensky en franchissant ces parages. || On a su depuis, notamment, que l'Amiral Fölkersam, ayant été conduit à contourner la flotille dans le nord, éclaira de très

près avec ses projecteurs électriques les chalutiers les plus voisins et, les ayant reconnus ainsi pour des bâtiments inoffensifs, continua tranquillement sa route. || 11. C'est peu de temps après qu'arrivait à son tour, à proximité du lieu de pêche des chalutiers, le dernier échelon de l'escadre conduit par le „Souvoroff", battant pavillon de l'Amiral Rodestvensky. || La route de cet échelon le conduisait à peu près sur le gros de la flottille des chalutiers, qu'il allait donc être obligé de contourner, mais dans le sud, quand l'attention des officiers de service sur les passerelles du „Souvoroff" fut attirée par une fusée verte qui les mit en défiance. || Cette fusée, lancée par le maître de pêche, indiquait en réalité, suivant leurs conventions, que les chalutiers devaient draguer le côté tribord au vent. || Presque immédiatement après cette première alerte et en se rapportant aux dépositions, les observateurs, qui des passerelles du „Souvoroff" fouillaient l'horizon avec des jumelles de nuit, découvrirent „sur la crête des lames dans la direction du bossoir de tribord et à une distance approximative de 18 à 20 encablures", un bâtiment qui leur parut suspect parce qu'ils ne lui voyaient aucun feu et que ce bâtiment leur semblait se diriger vers eux à contre-bord. || Lorsque le navire suspect fut éclairé par un projecteur, les observateurs crurent reconnaître un torpilleur à grande allure. || C'est d'après ces apparences que l'Amiral Rojdestvensky fit ouvrir le feu sur ce navire inconnu. || La majorité des Commissaires exprime à ce sujet l'opinion que la responsabilité de cet acte et les résultats de la cannonade essuyée par la flottille de pêche incombent à l'Amiral Rojdestvensky. || 12. Presque aussitôt après l'ouverture du feu par tribord, le „Souvoroff" aperçut sur son avant un petit bateau lui barrant la route et fut obligé de lancer sur la gauche pour éviter de l'aborder. Mais ce bateau, éclairé par un projecteur, fut reconnu être un chalutier. || Pour empêcher que le tir des vaisseaux fût dirigé sur ce bâtiment inoffensif, l'axe du projecteur fut aussitôt relevé à 45° vers le ciel. || Ensuite, l'Amiral fit adresser par signal à l'escadre l'ordre „de ne pas tirer sur les chalutiers". || Mais en même temps que le projecteur avait éclairé ce bateau de pêche, d'après les dépositions des témoins, les observateurs du „Souvoroff" aperçurent à bâbord un autre bâtiment qui leur parut suspect, à cause de ses apparences de même nature que celles de l'objectif du tir par tribord. || Le feu fut aussitôt ouvert sur ce deuxième but et se trouva ainsi engagé des deux bords, la file des vaisseaux étant revenue par un mouvement de contre-marche à sa route primitive sans avoir changé de vitesse. || 13. D'après les ordres permanents de l'escadre, l'Amiral indiquait les buts sur lesquels devait être dirigé le tir des vaisseaux en fixant sur eux ses projecteurs. Mais comme chaque

vaisseau balayait l'horizon en tout sens autour de lui avec ses propres projecteurs pour se garer d'une surprise, il était difficile qu'il ne se produisît pas de confusion. || Ce tir, d'une durée de dix à douze minutes, causa de graves dommages dans la flottille des chalutiers. C'est ainsi que deux hommes furent tués et six autres blessés; que le „Crane" sombra; que le „Snipe", le „Mino", le „Moulmein", le „Gull", et le „Majestic" reçurent des avaries plus ou moins importantes. || D'autre part, le croiseur „Aurora" fut atteint par plusieurs projectiles. || La majorité des Commissaires constate qu'elle manque d'éléments précis pour reconnaître sur quel but ont tiré les vaisseaux, mais les Commissaires reconnaissent unanimement que les bateaux de la flottille n'ont commis aucun acte hostile; et la majorité des Commissaires étant d'opinion qu'il n'y avait, ni parmi les chalutiers, ni sur les lieux, aucun torpilleur, l'ouverture du feu par l'Amiral Rojdestvensky n'était pas justifiable. || Le Commissaire Russe, ne se croyant pas fondé à partager cette opinion, énonce la conviction que ce sont précisément les bâtiments suspects s'approchant de l'escadre dans un but hostile qui ont provoqué le feu. || 14. Au sujet des buts réels de ce tir nocturne, le fait que l'„Aurora" a reçu quelques projectiles de 47 millim. et de 75 millim. serait de nature à faire supposer que ce croiseur, et peut-être même d'autres bâtiments Russes, attardé sur la route du „Souvoroff" à l'insu de ce vaisseau, ait pu provoquer et attirer les premiers feux. || Cette erreur pouvait être motivée par le fait que ce navire, vue de l'arrière, ne montrait aucune lumière apparente, et, par une illusion d'optique nocturne dont les observateurs du vaisseau-amiral auraient été l'objet. || A ce propos les Commissaires constatent qu'il leur manque des renseignements importants leur permettant de connaître les raisons qui ont provoqué la continuation du tir à bâbord. || Dans cette conjecture certains chalutiers éloignés auraient pu être confondus avec les buts primitifs et ainsi canonnés directement. D'autres, au contraire, ont pu être atteints par un tir dirigé sur des buts plus éloignés. || Ces considérations ne sont pas d'ailleurs en contradiction avec les impressions de certains chalutiers qui, en se voyant atteints par des projectiles et restant éclairés dans le pinceau des projecteurs, pouvaient se croire l'objet de tir direct. || 15. La durée du tir sur tribord, même en se plaçant au point de vue de la version Russe, a semblé à la majorité des Commissaires avoir été plus longue qu'elle ne paraissait nécessaire. Mais cette majorité estime qu'elle n'est pas suffisamment renseignée, ainsi qu'il vient d'être dit, au sujet de la continuation du tir par bâbord. || En tout cas, les Commissaires se plaisent à reconnaître à l'unanimité que l'Amiral Rojdestvensky a fait personnellement tout ce qu'il pouvait, du

commencement à la fin, pour empêcher que les chalutiers, reconnus comme tels, fussent l'objet du tir de l'escadre. || 16. Quoiqu'il en soit, le „Dmitri Donskoi" ayant fini par signaler son numéro, l'Amiral se décida à faire le signal général de „cesser le feu"; la file de ses vaisseaux continua alors sa route et disparut dans le sud-ouest sans avoir stoppé. || A cet égard, les Commissaires sont unanimes à reconnaître, qu'après les circonstances qui ont précédé l'incident et celles qui l'ont produit, il y avait à la fin du tir assez d'incertitudes au sujet du danger que courait l'échelon des vaisseaux pour décider l'Amiral à continuer sa route. || Toutefois, la majorité des Commissaires regrette que l'Amiral Rojdestvensky n'ait pas eu la préoccupation, en franchissant le Pas de Calais, d'informer les autorités des Puissances maritimes voisines qu'ayant été amené à ouvrir le feu près d'un groupe de chalutiers, ces bateaux, de nationalité inconnue, avaient besoin de secours. || 17. Les Commissaires, en mettant fin à ce rapport, déclarent que leurs appréciations, qui s'y trouvent formulées, ne sont pas dans leur esprit de nature à jeter aucune déconsidération sur la valeur militaire ni sur les sentiments d'humanité de l'Amiral Rojdestvensky et du personnel de son escadre.

Verhandlungen zwischen Grofsbritannien und dem Kongostaat. (Vgl. Bd. 71, S. 212 ff*.)

Nr. 13459. **KONGOSTAAT.** — Bemerkungen zu dem Bericht des englischen Konsuls vom 11. Dezember 1903 (Nr. 13377). Der Konsul hat aus schlechten Quellen geschöpft, ohne Sachkenntnis geurteilt. — Anlagen als Beweisstücke.

Brüssel, 12. März 1904.

A la séance de la Chambre des Communes du 11 Mars, 1903, Lord Cranborne avait dit: — || „We have no reason to think that slavery is recognized by the authorities of the Congo Free State, but reports of acts of cruelty and oppression have reached us. Such reports have been received from our Consular officers." || Le Gouvernement de l'État du Congo demanda, par lettre du 14 Mars, 1903, à son Exellence Sir C. Phipps, de bien vouloir lui communiquer les faits qui avaient été l'objet de rapports de la part des Consuls Britanniques. || Cette demande ne reçut pas de suite. || La dépêche de Lord Lansdowne du 8 Août, 1903, portait: — || „Representations to this effect (alleged cases of ill-treatment of natives and existence of trade monopolies) are to be found . . . , in despatches from His Majesty's Consuls" || L'impression était ainsi créée qu'à cette date le Gouvernement de Sa Majesté se trouvait en possession de renseignements Consulaires concluants: la nécessité d'un voyage de M. le Consul Casement dans le Haut-Congo n'en a pas moins paru évidente. La réflexion s'ensuit que les conclusions de la note du 8 Août étaient au moins prématurées; il s'en déduit également que, contrairement à l'appréciation de cette note, il a été loisible au Consul Britannique d'entreprendre dans les régions intérieures tel voyage qui lui convenait. Il est à noter en tout cas que le „White Paper" (Africa, No. 1, 1904), qui vient d'être présenté au Parlament, ne contient pas, nonobstant le désir qu'en a réitéré l'État du Congo, ces rapports Con-

*) Engl. Blaubücher Cd. 2097 (Africa 7. 1904) und 2333 (Africa 1. 1905).

sulaires antérieurs, qui, cependant, offraient d'autant plus d'intérêt qu'ils dataient d'un temps où la campagne présente n'était pas née. || Le Rapport actuel signale qu'en certains points visités par le Consul, la population se trouve en décroissance. M. Casement n'indique pas les bases de ses recensements comparatifs en 1887 et en 1903. Il est à se demander comment pour cette dernière année le Consul a pu établir ses chiffres au cours de visites rapides et hâtives. Sur quels éléments certains s'appuye-t-il, par exemple, pour dire que la population des localités riveraines du Lac Mantumba *semble* avoir diminué dans les dix dernières années de 60 à 70 pour cent? En un point désigné F*, il déclare que l'ensemble des villages ne compte pas aujourd'hui plus ne 500 âmes; quelques lignes plus loin, ces mêmes villages ne comportent plus que 240 habitants en tout. Ce ne sont là que des détails, mais ils caractérisent immédiatement le défaut de précision de certaines appréciations du Consul. Au reste, il n'est malheureusement que trop exact que la diminution de la population a été constatée; elle est due à d'autres causes qu'à un régime excessif ou oppressif exercé par l'Administration sur les populations indigènes. C'est en premier lieu la maladie du sommeil, qui décime partout les populations en Afrique équatoriale. Le Rapport remarque lui-même que: „a prominent place must be assigned to this malady," et que cette maladie est „probably one of the principal factors," de la diminution de la population. Il suffit de lire la lettre du Révérend John Whitehead (Annexe II du Rapport), citée par le Consul, pour se rendre compte des ravages de la maladie, à laquelle ce missionaire attribue la moitié des décés dans la région riveraine du district. Dans une interview récente, Mgr. Van Ronslé, Vicaire Apostolique du Congo Belge, avec l'autorité qui s'attache à une grande expérience des choses d'Afrique et à des séjours prolongés en de multiples rèsidences au Congo, a montré l'évolution du fléau, le dépérissement fatal des populations qui en sont frappées, quelles que soient d'ailleurs les conditions de leur état social, citant entre autres les pertes effrayantes de vies dues à ce mal dans l'Uganda. Que si l'on ajoute à cette cause fondamentale de la dépopulation au Congo, les épidémies de petite vérole, l'impossibilité actuelle pour les tribus de maintenir leur chiffre par des achats d'esclaves, la facilité de déplacement des indigènes, il s'explique que le Consul et les missionaires aient relevé la diminution du nombre d'habitants de certaines agglomérations, sans que nécessairement ce soit le résultat d'un système d'oppression. L'Annexe No. I reproduit les déclarations sur ce point de Mgr. Van Ronslé. Ce qu'il dit des conséquences, sur le chiffre numérique de la population, de la suppresssion de l'esclavage,

se trouve reproduit ailleurs: — ‖ „The people (slave) are for the most part originally prisoners of war. Since the Decree of Emancipation they have simply rertuned to their own distant homes, knowing their owners have no power to recapture them. This is one reason why some think the popolation is decreasing, and another is the vast exodus up and down river." — „So long as the Slave Trade flourished, the Bobangi flourished, but with its abolition they are tending to disappear, for their towns were replenished by slaves".

Le Consul cite des cas, dont du reste les raisons lui sont inconnues, d'exode d'indigènes du Congo sur la rive Française. On ne voit pas à quel titre il en ferait grief à l'État, si l'on en juge d'après les motifs qui ont déterminé certains d'entre eux, à preuve les exemples de ces émigrations, donnés et expliqués par un missionnaire Anglais, le Révérend Père W. H. Bentley. L'un est relatif à la station de Lukolela; — ‖ „The main difficulty has been the shifting of the population. It appears that the population, when the station was founded in 1865, was between 5000 and 6000 in the riverine Colonies. About two years later, the Chief, Mpuki, did no agree with his neighbours or they with him. When the tension became acute, Mpuki crossed over with his people to the opposite (French) side of the river. This exodus took away a large number of people. In 1890 or 1891, a Chief from one of the lower towns was compelled by the majority of his people to leave the State side, and several went with him. About 1893, the rest of the people at the lower towns either went across to the same place as the deposed Chief, or took up their residence inland. Towards the end of 1894, a soldier who had been sent to cut firewood for the State steamers on an island off the towns, left his work to make an evil request in one of the towns. He shot the man who refused him. The rascal of a soldier was properly dealt with by the State officer in charge; but this outrage combined, with other smaller difficulties, to produce a panic, and nearly all the people left for the French side, or hid away inland. So the fine township has broken up." ‖ L'autre cas a trait à la station de Bolobo: — ‖ „It is rare indeed for Bolobo, with its 30 000 or 40 000 people, divided into some dozen clans, to be at peace for any length of time together. The loss of life from these petty wars, the number of those killed for witchcraft, and of these who are buried alive with the dead, involve, even within our narrow limits here at Bolobo, an almost daily drain upon the vitality of the country, and an incalculable amount of sorrow and suffering. . , . . The Government was not indifferent to these murderous ways. . . . . In 1890 the District Commissioner called the people together,

and warned them against the burying of slaves alive in the graves of free people, and the reckless killing of slaves which then obtained. The natives did not like the rising power of the State. . . . . Our own settlement among them was not unattended with difficulty. . . . . There was a feeling against white men generally, and especially so against the State. The people became insolent and haughty. . . . . Just at this time . . . . as a force of soldiers steamed past the Moye towns, the steamers were fired upon. The soldiers landed, and burnt and looted the towns. The natives ran away into the grass, and great numbers crossed to the French side of the river. They awoke to the fact that Bula Matadi, the State, was not the helpless thing they had so long thought. This happened early in 1891." || Ces exemples donnent, comme on le voit, à l'émigration des indigènes, des causes n'ayant aucun rapport avec — || The methods employed to obtain labour from them by local officials and the exactions levied on them.

Le Rapport s'étend longuement sur l'existence des impôts indigènes. Il constate que les indigènes sont astreints à des prestations de travail de diverses sortes, ici sous forme de fournitures de „chikwangues" ou de vivres frais pour les postes Gouvernementaux, là sous forme de participation à des travaux d'utilité publique, tels que la construction d'une jetée à Bolobo, ou l'entretien de la ligne télégraphique à F . . . . .; ailleurs sous la forme de la récolte des produits domaniaux. Nous maintenons la légitimité de ces impôts sur les populations natives, d'accord en cela avec le Gouvernement de Sa Majesté, qui, dans le Mémorandum du 11 Février, 1904, déclare que l'industrie et le développement des Colonies et Protectorats Britanniques en Afrique montrent que le Gouvernement de Sa Majesté a toujours admis la nécessité de faire contribuer les natifs aux charges publiques et de les amener au travail. Nous sommes d'accord également avec le Gouvernement de Sa Majesté que si en cette matière des abus se commettent, comme, il est vrai, il s'en est dropuit en toutes Colonies, ces abus appellent des réformes, et qu'il est du devoir de l'autorité supérieure d'y mettre fin et de concilier, dans une juste mesure, les nécessités Gouvernementales avec les intérêts bien entendus des indigènes. || Mais l'État du Congo entend à cet égard se mouvoir librement dans l'exercice de sa souveraineté — comme, par exemple, le Gouvernement Britannique explique dans son dernier Mémorandum l'avoir fait à Sierra-Leone — en dehors de toute pression extérieure ou de toute ingérence étrangère, qui seraient attentatoires à ses droits essentiels. || Le Rapport du Consul vise manifestement à créer l'impression que la perception de l'impôt, au Congo, est violente, in-

humaine et cruelle, et nous voulons, avant tout, rencontrer l'accusation si souvent dirigée contre l'Etat, que cette perception donnerait lieu à d'odieux actes de mutilation. A cet égard, la lecture superficielle du Rapport est de nature à impressionner, par l'accumulation complaisante, non pas de faits nets, précis, vérifiée, mais de déclarations et d'affirmations des indigènes. || Une remarque préliminaire s'impose sur les conditions dans lesquelles le voyage du Consul s'est effectué. || Qu'il l'ait voulu ou non, M. le Consul Britannique a apparu aux populations comme le redresseur des griefs, réels ou imaginaires, des indigènes, et sa prèsence à La Lulonga, coïncidant avec la campagne menée contre l'État du Congo, en une région où s'exerce depuis longtemps l'influence des missionaires Protestants, devait fatalement avoir pour les indigènes une signification qui ne leur a pas échappé. C'est en dehors des agents de l'État, en dehours de toute action ou de tout concours de l'autorité régulière que le Consul a fait ses investigations; c'est assisté par des missionaires Protestants Anglais qu'il a procédé; c'est sur un vapeur d'une Mission Protestante qu'il a fait son inspection; c'est dans les Missions Protestantes qu'il a généralement reçu l'hospitalité; dans ces conditions, il a dû inévitablement être considéré par l'indigène comme l'antagoniste de l'autorité établie. || Nous n'en voulons d'autre preuve que le fait caractéristique d'indigènes, pendant le séjour du Consul à Bonginda, s'attroupant à la rive, au passage en pirogue d'agents de la Société „La Lulonga" et s'écriant: — || „Votre violenee est finie, elle s'en va; les Anglais seuls restent; mourez vous autres!" || Et cet aveu significatif d'un missionnaire Protestant qui, à propos de ce fait, explique: — || „The Consul was here at the time, and the people were much excited, and evidently thought themselves on top. . . . . The people have got this idea (that the rubber work was finished) into their heads of themselves, consequent, I suppose upon the Consul's visit."

Dans ces circonstances, en raison de l'état d'esprit qu'elles révèlent chez les indigènes, en raison de leur caractère impressionnable et de leur désir naturel de se soustraire à la Charge de l'impôt, il n'était pas douteux que les conclusions auxquelles arriverait le Consul ne seraient pas autres que celles de son Rapport. || Il suffira, pour mettre ce point en évidence et pour caractériser le manque de valeur de ses investigations, de s'arrêter à un seul cas, celui sur lequel s'est porté tout l'effort de Mr. Casement, nous vonlons parler de l'affaire Epondo. C'est celle de l'enfant II dont le Rapport parle aux pages 56, 58, et 78. || Il est indispensable d'entrer un peu longuement dans les détails de cette affaire, qui sont significatifs. || Le Consul se trouvait, à la date du 4 Septembre,

1903, à la Mission de la „Congo Bololo Mission", à Bonginda, de retour d'un voyage dans la Rivière Lopori, au cours duquel il n'avait constaté aucun de ces actes de mutilation qu'il est d'usage de mettre à la charge des agents au Congo. || A Bonginda, des indigènes d'un village voisin (Bossunguma) viennent le trouver et lui signalent entre autres qu'une „sentinelle" de la Compagnie „La Lulonga", nommée Kelengo, avait, à Bossunguma, coupé la main d'un indigène du nom d'Epondo, dont les blessures étaient à peine guéries. Le Consul se transporte à Bossunguma; il est accompagné des deux Réverénds W. D. Armstrong et D. J. Danielson et se fait présenter l'indigéne estropié, lequel, „en réponse à la question du Consul, accuse de ce méfait une sentinelle nommée Kelengo (placée dans cet endroit par l'agent local de la Société ‚La Lulonga' pour vérifier si les indigènes récoltaitent du caoutchouc)." Ce sont les termes du Consul: il s'agissait en effet d'établir un rapport de cause à effet entre la récolte du caoutschouc et ce cas prétendu de cruauté. || Le Consul procède à l'interrogatoire du chef et de quelques indigènes du village. Ils répondent en accusant Kelengo; la plupart déclarent avoir été témoins oculaires du fait. Le Consul fait demander par ses interprètes s'il se trouve là d'autres témoins qui ont vu le crime et en accusent Kelengo: „presque tous les individus présents, au nombre environ de quarante, s'écrient d'une seule voix que c'est Kelengo le coupaple." || Il faut lire toute cette enquête telle qu'elle a été libellée par le Consul lui-même, en des sortes de procès-verbaux des 7, 8, et 9 Septembre (Annexe 2), pour se rendre compte de l'acharnement avec lequel les indigènes accablent Kelengo, et des dénégations de l'accusé se heurtant à l'unanimité de tous ceux qui le chargent. De partout surgissent les dénonciateurs et de la foule surexcitée jaillissent les accusations les plus diverses: il a coupé la main d'Epondo, enchaîné des femmes, volé des canards et un chien! L'attention du Consul ne veut pas s'éveiller en présence du caractère passionné des dépositions; sans autre garantie de leur sincérité, sans autre contrôle de leur véracité, il considère son enquête comme concluante, et, de même qu'il s'était substitué au Parquet pour l'instruction de l'affaire, de même il préjuge la décision de l'autorité compétente en déclarant à la population assemblée que „Kelengo deserved severe punishment for his illegal and cruel acts". Dramatisant l'incident, il emmène avec lui la prétendue victime, l'exhibe le 10 Septembre devant le Chef de Poste de Coquilhatville, auquel il remet la copie de son enquête, et le 12 Septembre, il adresse au Gouverneur-Général une lettre qu'il qualifie de „personal and private", dans laquelle il prend texte entre autres de l'incident pour accuser „the system of general exploitation of an entire

population which can only be rendered successful by the employment of arbitrary and illegal force". Cette enquête terminée, il reprenait aussitôt la route du Bas-Congo. || Les circonstances de fait eussent-elles été exactes, encore serait-on frappé de la disproportion des conclusions que le Consul en déduit, en généralisant avec emphase son système de critiques contre l'État du Congo. Mais le fait même, tel qu'il l'a présenté, est inexact. || En effet, dès la dénonciation du Consul connue du Parquet, celui-ci se rendit sur les lieux en la personne du Subsistut du Procureur d'État, M. Gemarro Bosco, et procéda à une enquête judiciaire dans les conditions normales en dehors de toute influence étrangère. Cette enquête démontra que M. le Consul de Sa Majesté Britannique avait été l'objet d'une machination ourdie par les indigènes, qui, dans l'espoir de n'avoir plus à travailler, avaient comploté de représenter Epondo comme la victime de procédés inhumains d'un capita d'une Société commerciale. En réalité Epondo avait été victime d'un accident de chasse et mordu à la main par un sanglier; la blessure s'était gangrenée et avait occasionné la perte du membre, ce qui avait été habilement exploitée par les indigènes vis-à-vis du Consul. Nous joignons (Annexe 3) lex extraits de l'enquête faite par le Substitut relatifs à cette affaire Epondo. Les dépositions sont typiques, uniformes et concordantes. Elles ne laissent aucun doute sur la cause de l'accident, attestent que les indigènes ont menti au Consul, et revèlent le mobile auquel ils ont obéi, dans l'espoir que l'intervention du Consul les déchargerait de l'obligation de l'impôt. L'enquête montre Epondo, enfin acculé, rétractant ses premières affirmations au Consul, et avouant avoir été influencé par les gens de son village. Il est interrogé: — || „D. Persistez-vous à accuser Kelengo de vous avoir coupé la main gauche? || R. Non; j'ai menti. || D. Racontez alors comment et quand vous avez perdu la main. || R. J'étais esclave de Monkekola, à Malele, dans le district des Bangala. Un jour, j'allai avec lui à la chasse au sanglier. Il en blessa un avec une lance, et alors la bête, devenue furieuse, m'attaqua. Je tâchai de me sauver avec la suite, mais je tombai; le sanglier fut bientôt sur moi, m'arrachant la main gauche, au ventre et à la hanche gauche. Le comparant montre les cicatrices aux endroits désignés, et spontanément se met par terre pour faire voir dans quelle position il se trouvait lorsqu'il fut attaqué et blessé par le sanglier. || D. Depuis combien de temps cet accident vous est-il arrivé? || R. Je ne me rappelle pas. C'est depuis longtemps. || D. Pourquoi alors aviez-vous accusé Kalengo? || R. Parce que Momaketa, un des Chefs de Bossunguma, me l'a dit, et après tous les habitants de mon village me l'ont répété.

D. Les Anglais vous ont-ils photographié? || R. Oui, à Bonginda et à Lulanga. Ils m'ont dit de mettre bien en évidence le moignon. Il y avait Nenele, Mongongolo, Torongo, et autres blancs, dont je ne connais pas les noms. Ils étaient les blancs de Lulanga. Mongongolo a porté avec lui six photographies." || Epondo a reitéré ses déclarations et rétractations spontanément à un missionnaire Protestant, M. Faris, résidant à Bolengi. Ce Révérend a remis au Commissaire-Général de Coquillhatville la déclaration écrite suivante: || „Je soussigné E.-E. Faris, missionnaire, résidant à Bolengi, Haut-Congo, déclare que j'ai interrogé l'enfant Epondo, du village de Bosongoma, qui a été chez moi le 10 Septembre, 1903, avec Mr. Casement, le Consul d'Angleterre, et que j'ai mené à la Mission de Bolengi, le 16 Octobre, 1903, selon la requête de M. le Commandant Stevens, de Coquilhatville, et que le dit enfant m'a dit aujourd'hui, le 17 Octobre, 1903, qu'il a perdu sa main par la morsure d'un sanglier. || Il m'a dit également qu'il a informé Mr. Casement que sa main a été coupé par un soldat, ou bien d'un des travailleurs de blancs, qui ont fait la guerre dans son village pour faire apporter le caoutchouc, mais il affirme que cette dernière histoire qu'il m'a dite aujourd'hui est la vérité. E.-E. Faris.

A Bolengi, le 17 Octobre, 1903."

L'enquête aboutit à une ordonnance de non-lieu ainsi motivée en ce qui concerne le cas Epondo: — || „Nous, Substitut du Procureur d'État près le Tribunal de Coquilhatville; || Vu les notes rédigées par le Consul de Sa Majesté Britannique, à l'occasion de sa visite aux villages d'Ikandja et Bossunguma, dans la région des Ngombe, d'où résulte que le nommé Kelengo, garde forestier au service de la Société ‚La Lulonga', aurait — || (*a.*) Coupé . . . , la main gauche au nommé Epondo. || (*b.*) . . . . || (*c.*) . . . . || Vu l'enquête faite par M. le Lieutnant Braeckman, confirmant en partie l'enquête faite par le Consul de Sa Majesté Britannique, mais le contredisant en partie, et ajoutant aux accusations précédemment faites à Kelengo, celle d'avoir tué un indigène nommé Baluwa; || Vu les conclusions posées par cet officier de police judiciaire tendant à faire naître des soupçons assez graves sur la vérité de toutes ces accusations; || Attendu que tous les indigènes qui ont accusé Kelengo, soit au Consul de Sa Majesté Britannique, soit au Lieutenant Braeckman, convoqués par nous, Substitut, ont pris la fuite, et tout les efforts faits pour les retrouver n'ont abouti à aucun résultat; que cette fuite discrédite évidemment leurs affirmations; || Que tous les témoins interrogés dans notre enquête attestent . . . . qu'Epondo a perdu la main gauche parce qu'un sanglier la lui a arrachée . . . .; || Qu'Epondo confirme ces attestations,

avouant qu'il a menti par suggestion des indigènes de Bossunguma et Ikondja, qui espéraient de se soustraire à la récolte du caoutchouc moyennant l'intervention du Consul de Sa Majesté Britannique, qu'ils jugeaient très puissant; || Que les témoins, presque tous indigènes des villages accusateurs, confirment que tel fut le but de leur mensonge: || Que cette version, indépendamment de l'unamité des affirmations des témoins et des parties lésées, se présente aussi comme la plus plausible, parce que personne n'ignore, soit la répugnance des indigènes pour le travail en général et la récolte du caoutchouc, soit leur facilité à mentir et à porter de fausses accusations: || Qu'elle est confirmée par l'opinion, nettement formulée, du missionnaire Anglais Armstrong, qui retient les indigènes ‚capables de tout complot pour éviter de travailler et surtout de faire le caoutchouc'; || Que l'innocence de Kelengo étant complètement prouvée, il n'y a pas lieu à le poursuivre;

Par ces motifs:

Nous, Substitut, déclarons non-lieu à poursuivre le nommé Kelengo, garde forestier au service de la Société ‚La Lulonga', pour les crimes prévus par les Articles 2, 5, 11, 19 du Code Pénal. Le Substitut,

(Signé) Bosco.

Mampoka, le 9 Octobre, 1903."

Si nous avons insisté sur les détails de cette affaire, c'est qu'elle est considérée par le Consul lui-même comme d'une importance capitale et qu'il se base sur ce seul cas pour conclure à l'exactitude de toutes les autres declarations d'indigènes qu'il a recueillies. || „Dans le seul cas sur lequel j'ai pu enquêter personnellement, dit-il — celui de l'enfant II — j'ai trouvé cette accusation établie sur les lieux, sans apparemment une ombre de doute quant à la culpabilité de la sentinelle accusée." || Et plus loin: — || „Dans le village de R*, j'ai en seulement te temps de faire enquête sur l'accusation faite par II*." || Et ailleurs: || „Il était évidemment impossible que je puisse . . . . . vérifier sur place, comme dans le cas de l'enfant, les déclarations que me firent les indigènes. Dans ce seul cas, la vérité des accusations fut amplement démontrée." || C'est aussi à propos de cette affaire que, dans sa lettre du 12 Septembre, 1903, au Gouverneur-Général, il disait: — || „When speaking to M. le Commandant Stevens at Coquilhatville on the 10th instant, *when the mutilated boy Epondo before us as evidence of the deplorable state of affairs* I reprobated, I said: ‚I do not accuse an individual, I accuse a system.'" || La réflexion s'impose que si les autres informations du Rapport du Consul ont toutes la même valeur que celles qui lui ont été fournies dans cette seule espèce, elles ne peuvent, à aucun

degré, être considérées comme probantes. Et il saute aux yeux que dans les autres cas où le Consul, de sa propre déclaration, ne s'est livré à aucune vérification des affirmations des indigènes, ces affirmations ont moins de poids encore, si possible. || Il faut reconnaître, sans doute, que le Consul s'exposait délibérément à d'inévitables mécomptes, de par sa manière d'interroger les indigènes, — ce qu'il faisait, en effet, à l'aide de deux interprètes: „par l'intermédiaire de Vinda, parlant en Bobangi, et de Bateko, répétant ses paroles dans le dialecte local", de sorte que le Consul était à la merci non seulement de la sincérité de l'indigène interrogé, mais encore de la fidélité de traduction de deux autres indigènes, dont l'un, d'ailleurs, était un de ses serviteurs, et dont l'autre, semble-t-il, était l'interprète des missionnaires. Quiconque s'est trouvé en contact avec l'indigène sait cependant son habitude du mensonge: le Révérend C. H. Harvey constatait: — || „Les natifs du Congo qui nous entouraient étaient méprisables, perfides, et cruels, impudemment menteurs malhonnêtes et vils."

Et le fait n'est pas non plus sans importance, — si l'on veut exactement se rendre compte de la valeur des témoignages, — de la présence aux côtés de Mr. Casement, qui interrogeait les indigènes, de deux missionnaires Protestants Anglais de la région, présence qui, à elle seule, a dû nécessairement orienter les dépositions. || Nous dépasserions nous-mêmes la mesuré si, de ce qui précède, nous conclusions au rejet en bloc de toutes les informations indigènes enregistrées par le Consul. Mais il en ressort à l'évidence qu'une telle documentation est insuffisante pour asseoir un jugement fondé, et que ces informations obligent à une vérification minutieuse et impartiale. || Que si l'on dégage du volumineux Rapport du Consul, les autres cas qu'il *a vus* et qu'il enregistre comme des cas de mutilation, on constate qu'il en cite deux comme s'étant produits au Lac Matumba „il y a plusieurs années". Il en cite quelques autres — sur le nombre desquels les renseignements du Rapport ne semblent pas être concordants — qu'il renseigne comme ayant été commis dans les environs de Bonginda, précisément en cette région où s'est placée l'enquête Epondo et où, comme on l'a vu, les esprits étaient montés et influencés. Ce sont ces affaires que, dit-il, il n'a pas eu le temps d'approfondir, et qui, au dire des indigènes, étaient imputables aux agents de la Société „La Lulanga". Étaient-ce là des victimes de la pratique de coutumes indigènes, que les natifs se seraient bien gardés d'avouer? Les blessures constatées par le Consul étaient-elles dues à l'une ou l'autre lutte intestine entre villages ou tribus? Ou bien était-ce réellement le fait de sous-ordres noirs de la Société? On ne saurait se prononcer à

la lecture du Rapport, les indigènes, ici comme toujours, étant la seule source d'informations du Consul et celui-ci s'étant borné à prendre rapidement note de leurs multiples affirmations en quelques heures de la matinée du 5 Septembre, pressé qu'il était par le temps „to reach K. (Bossunguma) at a reasonable hour." || Nonobstant la considération qu'il attache à „l'air de franchise" et „à l'air de conviction et de sincérité" des indigènes, l'expérience faite par lui-même commande incontestablement la prudence et rend téméraire son appréciation: „qu'il était clair que ces hommes déclaraient soit ce qu'ils avaient réellement vu de leurs yeux, soit ce qu'ils pensaient fermement dans leurs cœurs." || Toutefois, il suffit que soient signalés ces quelques faits, actes de cruauté ou non, auxquels se réduisent en définitive ceux constatés personnellement par le Consul, sans qu'il puisse à suffisance de preuve en établir les causes réelles, pour que l'autorité doive y porter son attention et pour que des enquêtes soient ordonnées à leur sujet. A cet égard, le regret doit être exprimé de ce que l'exemplaire du Rapport, communiqué au Gouvernement de l'État Indépendant du Congo, ait systématiquement omis toute indication de date, de lieu, de noms. Il n'est pas à méconnaître que ces suppressions rendront excessivement malaisée la tâche des Magistrats Instructeurs, et, dans l'intérêt de la manifestation de la vérité, le Gouvernement du Congo formule le vœu d'être mis en possession du texte complet du Rapport du Consul. || On ne s'étonnera pas si le Gouvernement de l'État du Congo s'élève, en cette occasion, contre le procédé de ses détracteurs, mettant dans le domaine public la reproduction de photographies d'indigènes mutilés, et créant cette odieuse légende de mains coupées à la connaissance ou même à l'instigation des Belges en Afrique. C'est ainsi que la photographie d'Epondo, estropié dans les conditions que l'on sait, et qui „a été deux fois photographié", est probablement une de celles circulant dans les pamphlets Anglais comme preuve de l'exécrable administration des Belges en Afrique. On a vu une revue Anglaise reproduisant la photographie d'un „cannibale entouré des crânes de ces victimes", et la légende portait: „In the original photograph, the cannibal was naked. The artist has made him decent by . . . . . covering his breast with the star of the Congo State. It is now a suggestive emblem of the Christian veneered cannibalism on the Congo." A ce compte, il suffirait, pour jeter le discrédit sur l'Administration de l'Uganda, de mettre dans la circulation des clichés reproduisant les mutilations dont le Dr. Castellani dit, dans une lettre datée d'Uganda, du 16 Décembre, 1902, avoir constaté l'existence aux environs mêmes d'Entebbe: „Il n'est pas difficile d'y rencontrer des indigènes sans nez, sans oreilles, &c." || C'est dire que dans

l'Uganda comme au Congo, les indigènes sacrifient encore à leurs instincts sauvages. Mr. Casement a prévu l'objection en affirmant: — „It was not a native custom prior to the coming of the white man; it was not the outcome of the primitive instincts of savages in their fights between village and village; it was the deliberate act of soldiers of a European Administration, and these men themselves never made any concealment that in committing these acts they were but obeying the positive orders of their superiors."

L'articulation d'une aussi grave accusation, sans qu'elle soit en même temps étayée sur des preuves irréfragables, semble donner raison à ceux qui pensent que les emplois antérieurs de Mr. Casement ne l'avaient pas préparé entièrement aux fonctions Consulaires. Mr. Casement est resté dix-sept jours au Lac Mantumba, un lac, dit de 25 à 30 milles de long et de 12 ou 15 milles de large, entouré d'épaisses forêts. Il ne s'est guère éloigné de la rive. On ne voit pas dès lors quelles investigations utiles il a pu faire sur les mœurs d'autrefois et les habitudes anciennes des populations. La constatation que ces tribus sont encore très sauvages et adonnées au cannibalisme permet de croire, au contraire, qu'elles n'étaient pas exemptes de la pratique de ces actes cruels qui, d'une manière générale en Afrique, étaient le cortège habituel de la barbarie des mœurs et de l'anthropophagie. Dans une partie des régions que le Consul a visitées, les témoignages des missionnaires Anglais ne sont à cet égard que trop instructifs. Le Révérend McKittrick, parlant des luttes meurtrières entre indigènes, dit ses efforts d'autrefois auprès des Chefs pour pacifier la contrée: „ . . . . Nous leur dîmes qu'à l'avenir nous ne laisserions plus passer par notre station aucun homme armé de lance ou de couteau. Notre Dieu était un Dieu de paix, et nous, ses enfants, nous ne pouvions supporter de voir nos frères noirs se couper et se blesser l'un l'autre (cutting and stabbing each other)." „Lorsque j'allais çà et là dans la rivière, dit un autre missionnaire, on me montrait les endroits de la rive d'où avaient coutume de partir les guerriers pour capturer les canots et les hommes. Il était affligeant d'entendre décrire les terribles massacres qui avaient lieu d'habitude à la mort d'un grand Chef. Un trou profond était creusé en terre, où des vingtaines d'esclaves jetés après que leurs têtes avaient été coupées (after having their heads cut off), et sur cette horrible pile, on plaçait le cadavre du Chef couronnant ce carnage humain indescriptible." Et les missionnaires constatent combien encore en ces jours actuels les indigènes reviennent aisément à leurs anciennes coutumes. Il apparaît aussi que cette autre affirmation du Rapport qu'à la différence d'aujourd'hui, les indigènes autrefois ne s'enfuyaient pas à l'approche d'un steamer, n'est pas d'accord

avec les récits des voyageurs et explorateurs. || Il est, en tout cas, à remarquer que le Consul n'a constaté dans le territoire où s'exerce l'activité de la Société A. B. I. R. aucun de ces faits de cruauté qui eût pu être représenté comme imputable aux agents commerciaux. La coïncidence est à relever, puisque la Société A. B. I. R. est précisément une Compagnie à Concession et qu'on ne cesse d'attribuer au régime des Concessions les conséquences les plus désastreuses pour les indigènes. || Ce qui domine les innombrables questions touchées par le Consul et la multiplicité des menus faits qu'il a recueillis, c'est de savoir si vraiment cette sorte de tableau d'une existence misérable, qui serait celle des indigènes, répond à la réalité des choses. Nous prendrons pour exemple la région de la Lulanga et du Lopori, parce que là se trouvent, depuis des années, des centres de Missions de la „Congo Balobo Mission". Ces missionnaires y sont établis en des endroits les plus distants et les plus intérieurs: à Lulonga, Bonginda, Ikau, Bougandanga, et Baringa, tous points situés dans la région où opèrent la Société „La Lulonga" et la Société A. B. I. R. Ils sont en contact suivi avec les populations indigènes, et une revue spéciale mensuelle, „Regions Beyond", publie régulièrement leurs lettres notes, et rapports. Que l'on parcoure la collection de ce recueil; nulle part, à aucun moment avant Avril 1903 — à cette dernière date, la motion de Mr. Herbert Samuel était, il est vrai, annoncée au Parlament — on ne trouve trace d'une appréciation quelconque signalant ou révélant que la situation générale des populations indigènes dût être dénoncée au monde civilisé. Les missionnaires s'y félicitent de la sympathie active des agents, officiels, et commerciaux à leur égard, des progrès de leur œuvre d'évangélisation, des facilités que leur apporte la création de routes, de la pacification des mœurs, „dû à la fois aux missionnaires et aux commerçants", de la disparition de l'esclavage, de la densité de la population, du nombre grandissant de leurs élèves, „grâcé à l'État, qui a donné des ordres pour que les enfants fussent menés à l'école", de la disparition graduelle des pratiques indigènes primitives, du contraste enfin entre le présent et le passé. Admettra-t-on que ces missionnaires Chrétiens et Anglais, qui, au cours de leurs itinéraires, visitaient les postes de factorerie et étaient témoins des marchés de caoutchouc, se seraient rendus complices par leur silence d'un régime inhumain ou tortionnaire? Un des Rapports annuels de la „Congo Bolobo Mission" dit dans ses conclusions: „Dans l'ensemble, le coup d'œil rétrospectif est encourageant. S'il n'y a pas eu une avance considérable, il n'y a pas eu de triste déception, et il n'est aucune opposition définitive à l'œuvre . . . . Il y a eu de la disette et des maladies parmi les natifs, notamment à Bonginda

. . . . . A part cela, il n'y a pas eu de sérieux empêchements au progrès . . . ." Et, parlant incidemment des effets bienfaisants du travail sur l'état social des indigènes, un missionnaire écrit: „The greatest obstacle to conversion is polygamy. Many evils have been put down, *e. g.*, idleness, thanks to the State having compelled the men to work; and fighting, through their not having time enough to fight." Ces appréciations des missionnaires nous paraissent plus précises que les données d'un Rapport à chaque page duquel, pour ainsi dire, on lit: „I was told;" „it was said;" „I was informed"; „I was assured"; „They said"; „it was alleged"; „I had no means of verifying"; „It was impossible to me to verify"; „I have no means of ascertaining", &c. En dix lignes, par exemple, on rencontre quatre fois l'expression: „appears", „would seem"; „would seem"; „do not seem".

Le Consul ne semble pas s'être rendu compte que c'est le travail qui constitute l'impôt indigène au Congo, et que cette forme d'impôt se justifie autant par son caractère moralisateur que par l'impossibilité de taxer autrement l'indigène, en raison même du fait, constaté par le Consul, que l'indigène n'a pas de numéraire. Cette dernière considération fait, pour en donner un autre exemple, que sur 56 700 huttes imposées dans la North-Eastern Rhodesia, 19 653 payent la taxe „in labour" et 4938 la payent „in produce". Que ce travail soit fourni directement à l'État ou à telle ou telle entreprise privée, qu'il soit adapté, selon les possibilités locales, à telles prestations ou à telles autres, sa justification a toujours l'une de ses bases dans ce que le Mémorandum du 11 Février dernier reconnaît être la „necessity of the natives being induced to work". Le Consul s'inquiète surtout de la qualification à donner à la fourniture du travail; il s'étonne, si c'est là un impôt de ce que cet impôt soit payé et recouvrable parfois par des agents commerciaux. Dans la rigueur des principes, il est à reconnaître, en effet, que la rémunération d'un impôt heurte les notions fiscales ordinaires; elle s'explique cependant en fait si l'on songe qu'il s'est agi de faire contracter l'habitude de travail à des indigènes qui y ont été réfractaires de tout temps. Et si cette idée du travail peut être plus aisément inculquée aux natifs sous la forme de transactions commerciales entre eux et des particuliers, faut-il nécessairement condamner ce mode d'action, notamment dans des régions dont l'organisation administrative n'est pas complétée? Mais il s'impose que, dans leurs rapports de cet ordre avec les indigènes, les agents commerciaux, comme d'ailleurs les agents de l'État eux-memes, s'inspirent de pratiques bienveillantes et humaines. A cet égard, les éléments que fournit le Rapport du Consul seront l'objet d'une étude approfondie, et si le résultat de cet examen révélait des abus réels ou commandait des

réformes, l'Administration supérieure agirait comme l'exigeraient les circonstances. || Nul n'a jamais pensé, d'ailleurs, que le régime fiscal au Congo eût atteint d'emblée la perfection, notamment au point de vue de l'assiette de l'impôt et des moyens de recouvrement. Le système des „chefferies", bon en soi en ce qu'il place entre l'autorité et l'indigène l'intermédiaire de son chef naturel, procédait d'une idée mise en pratique ailleurs: — || „The more important Chiefs who helped the Administration have been paid a certain percentage of the taxes collected in their districts, and I think that if this policy is adhered to each year, the results will continue to be satisfactory and will encourage the Chiefs to work in harmony with the Administration." || Le Décret sur les chefferies établissait le principe de l'impôt, et sa perception selon „un tableau des prestations annuelles à fournir, par chaque village, en produits, en corvées, travailleurs ou soldats". L'application de ce Décret a été formulée en des actes d'investiture, des tableaux statistiques et des états de prestation, dont les modèles sont reproduits à l'Annexe IV. Contrairement à ce que pense le Rapport, ce Décret a reçu l'exécution compatible avec l'état d'avancement social des tribus; de nombreux actes d'investiture ont été dressés et des efforts ont été faits pour établir des états de répartition équitable des prestations. Le Consul eût pu s'en assurer dans les bureaux des Commissariats, notamment des districts du Stanley-Pool et de l'Équateur qu'il a traversés; mais il a généralement négligé les sources d'informations officielles. Sans doute, l'application fut et devait être limitée dans les débuts, et il a pu en résulter que les demandes d'impôts ont atteint, pendant quelque temps, les seuls villages dans un certain périmètre autour des stations; mais cette situation s'est améliorée progressivement au fur et à mesure que, les régions plus distantes se trouvant englobées dans la zone d'influence des postes gouvernementaux, le nombre des villages astreints à l'impôt s'est accru successivement et que les taxes ont pu être réparties sur un chiffre plus grand de contribuables. Le Gouvernement vise à ce que le progrès soit constant dans cette voie c'est-à-dire à ce que l'impôt soit le plus équitablement réparti et soit, autant que possible, personnel; le Décret du 18 Novembre, 1903, tend à ce but en prescrivant l'établissement de „rôles des prestations indigènes" de manière que les obligations de chacun des natifs soient nettement précisées. || „Chaque année, dit l'Article 28 de ce Décret, les Commissaires de District dresseront dans les limites de l'Article 2 du présent Règlement (c'est-à-dire dans la limite de quarante heures de travail par mois par indigène), les rôles des prestations à fournir, en espèce et en durée de travail par chacun des indigènes résidant dans les territoires de leur

district respectif." Et l'Article 55 punit „quiconque, chargé de la perception des prestations, aura exigé des indigènes, soit comme impôt en nature soit comme heures de travail, des prestations d'une valeur supérieure à celles prévues dans les rôles d'impositions."

Nul n'ignore que le recouvrement de l'impôt se heurte parfois au mauvais vouloir, et même au refus de payer. La démonstration qu'en fait le Rapport du Consul pour le Congo est corroborée par l'expérience faite, par exemple, dans la Rhodésia. || „The Ba-Unga (Awemba district), inhabitants of the swamps in the Chambezi delta, gave some trouble on being summoned to pay taxes." — „Although in many cases whole villages retired into the swamps on being called upon for the hut tax, the general result was satisfactory for the first year (Luapula district)." — „Milala's people have succeeded in evading taxes." — „A few natives bordering on the Portuguese territory, who, owing to the great distance they reside from the Native Commissioners' stations, are not under the direct supervision of the Native Commissioners, have so far evaded paying hut tax, and refused to submit themselves to the authority of the Government. The rebel Chief, Mapondera, has upon three occasions successfully eluded punitive expeditions sent against him. . . . . Captain Gilson, of the British South Africa Police, was successful in coming upon him and a large following of natives, and inflicting heavy losses upon them . . . . . His kraal and all his crops were destroyed. He is now reported to be in Portuguese territory . . . . Siji M'Kota, another powerful Chief, living in the northern parts of the M'toko district, bordering on Portuguese territory, has also been successful in evading the payment of hut tax, and generally pursuing the adoption of an attitude which is not acceptable to the Government. I am pleased to report that a patrol is at present on its way to these parts to deal with this Chief, and to endeavour to obtain his submission. It will be noted that the above remarks relate solely to those natives who reside along the borders of our territories, and whose defiant attitude is materially assisted by reason of this proximity to the Portuguese border, across which they are well able to proceed whenever they consider that any meeting or contact with the Native Commissioner will interfere in any way with their indolent and lazy life. They possess no movable property which might be attached with a view to the recovery of hut tax unpaid for many years, and travel backwards and forwards with considerable freedom, always placing themselves totally beyond the reach of the Native Commissioner." || C'est là un exemple de ces „punitive expeditions" auxquelles l'autorité se voit obligée de recourir parfois, et aussi de ce procédé des natifs, non spécial

aux indigènes Congolais, de se déplacer en territoire voisin pour se soustraire à l'exécution de la loi. — Que si, au Congo, dans le recouvrement des prestations indigènes, des cas, parmi ceux cités par le Consul, ont réellement dépassé les limites d'une rigueur juste et pondérée, ce sont là des circonstances de faits que des investigations sur les lieux pourront seules élucider, et des instructions seront, à cet effet, données à l'administration de Boma. || Il ne peut être davantage accepté, jusqu'à plus ample informé, les considérations du Rapport sur l'action des gardes forestiers au service de la Société A. B. I. R. et de „La Lugonga.“. Ces sous-ordres sont réprésentés par le Consul comme exclusivement préposés à „obliger par force la récolte du caoutchouc ou les approvisionnements dont chaque factorerie a besoin“. Une autre explication a cependant été donnée, mais elle n'émane pas d'un indigène, à savoir que ces gardes forestiers ont pour mission de veiller à ce que la récolte du caoutchouc se fasse rationnellement et d'empêcher notamment que les indigènes ne coupent les lianes. On sait, en effet, que la loi a prescrit des mesures rigoureuses pour assurer la conservation des zones caoutchoutières, a réglementé leur exploitation et a imposé des plantations et replantations, en vue d'éviter l'épuisement complet du caoutchouc, comme on l'a vu par exemple dans la „North-Eastern and Western Rhodesia“. Les Sociétés et particuliers exploitants ont de ce chef une lourde responsabilité et ont incontestablement une surveillance minutieuse à exercer sur les modes et procédés de récoltes. La raison d'être de ces gardes forestiers peut donc, en réalité, être tout autre que celle dite par le Consul; en tout cas, les plaintes formulées à ce sujet formeront l'un des points de l'enquête au Congo, de même que cette autre remarque du Rapport que l'armement de ces gardes forestiers serait excessif et abusif. Il faut dès à présent remarquer que dans ses évaluations du nombre des gardes armés, le Consul procède par déductions hypothétiques et qu'il dit lui-même: „I have no means of ascertaining the number of this class of armed men employed by the A. B. I. R. Company.“ Il donne le détail que le fusil d'un de ces hommes était marqué sur la crosse: „Dépôt 2210.“ Or, il est évident qu'une telle indication ne peut avoir la signification que voudrait lui donner le Consul que pour autant qu'il soit établi qu'elle se rapporte à un numérotage des armes utilisées dans la Concession, et tel n'est pas le cas, car cette marque: Dépôt . . . . . n'est employée ni par les Agents de l'Etat ni par la Société, et il est à supposer qu'elle constitute une ancienne marque, soit de fabrication, soit de magasin Quant à l'armement des capitas, le Consul ne doit pas ignorer que ce point — qui n'est pas sans difficulté, puisqu'il faut à la fois tenir compte

de la nécessité de la défense personnelle du capita et de l'écueil d'un usage abusif de l'arme qui lui est confiée — n'a cessé d'être l'objet de l'attention de l'autorité supérieure. Il n'y a pas que la seule Circulaire du 20 Octobre, 1900, reproduite par le Consul, qui ait traité la question il en est tout un ensemble, datant notamment des 12 Mars, 1897, 31 Mai et 28 Novembre, 1900, et 30 Avril, 1901. Nous les reproduisons en Annexes, comme témoignant de l'absolue volonté du pouvoir de faire appliquer strictement les dispositions légales en la matière (Annexe V) Nonobstant les précautions incessantes, le Consul a constaté que plusieurs capitas n'étaient pas porteurs de permis — ces permis ne se trouvaient-ils pas au siège de la Direction? — et que deux d'entre eux étaient armés d'armes de précision. Ces quelques infractions ne suffiraient évidemment pas pour conclure à une sorte de vaste organisation armée, destinée à terroriser les indigènes. Cette autre Circulaire du 7 Septembre, 1903, reproduite à l'Annexe VII du Rapport du Consul, montre, au contraire, le soin que met le Gouvernement à ce que les soldats noirs réguliers eux-mêmes soient en tout temps sous le contrôle des officiers Européens.

Telles sont les premières remarques que suggère le Rapport de M. Casement, et nous nous réservons de le raconter plus en détail, lorsque seront en possession du Gouvernement les résultats de l'enquête à laquelle les autorités locales vont procéder. Il sera remarqué que le Gouvernement, ne voulant pas paraître faire dévier le débat, n'a pas soulevé la question préjudicielle au sujet des formes, à coup sûr insolites, en lesquelles le Consul de Sa Majesté Britannique a agi en territoire étranger. Il n'échappera pas combien le rôle que s'est attribué le Consul en instituant des sortes d'enquêtes, en faisant comparaître des indigènes, en les interrogeant comme par voie d'autorité, en émettant même des espèces de jugements sur la culpabilité d'accusés, est en dehors des limites des attributions d'un Consul. Les réserves qu'appelle ce mode de procéder doivent être d'autant plus formelles que le Consul intervenait de la sorte en des affaires où n'étaient intéressés que des ressortissants de l'État du Congo et relevant exclusivement de l'autorité territoriale. M. Casement s'est chargé de se désavouer lui-même lorsque, le 4 Septembre, 1903, il écrivait au Gouverneur-Général: „I have no right of representation to your Excellency save where the persons or interests of British subjects dwelling in this country are affected.“ Il était donc conscient de ce qu'il outrepassait les devoirs de sa charge, lorsqu'il investiguait sur des faits d'administration purement intérieure et empiétait ainsi sur les attributions des autorités territoriales, à l'encontre des règles du droit Consulaire. „The grievances of the natives have been made known in this country

by . . . . . who brought over a Petition addressed to the King, praying for relief from the excessive taxation and oppressive legislation of which they complain." || Ces lignes sont extraites du „Report for 1903 de la British and Foreign Anti-Slavery Society", et les natifs dont il est question sont les indigènes des Iles Fiji. Ce Rapport continue: — „The case has been brought before the House of Commons. The grievances include forced labour on the roads, and restrictions which practically amount to slavery; natives have been flogged without trial by Magistrate's orders and are constantly subject to imprisonment for frivolous causes. Petitions lodged with the local Colonial Secretary have been disregarded. Mr. Chamberlain, in reply to the questions asked in Parliament, threw doubt upon the information received, but stated that the recently appointed Governor is conducting an inquiry into the whole situation in the Fiji Islands, in the course of which the matter will be fully investigated." Ces conclusions sont les nôtres au sujet du Rapport de M. Casement.

Anlagen*).

I.

Déclaration de Mgr. Van Ronslé, Évêque de Thymbrium, Vicaire Apostolique du Congo Belge.

Dans son numéro du 23 Octobre, le „West African Mail" publie une série de lettres du Révérend J. W. Weeks, missionaire Anglais, établi à Monsembe, district de Bangala. Ces lettres, émanant d'un auteur qui a habité la contrée de longues années et qui proteste d'ailleurs de sa parfaite sincérité et de sa bonne foi, m'offraient un intérêt particulier, ayant moi-même parcouru et habité la contrée depuis quatorze ans, et en étant revenu récemment. || Mr. Weeks fait preuve de prudence en limitant ses considérations à ce qu'il a vu sur les deux rives du Congo, entre Bokongo et Ikunungu, dans les villages Bangala, avoisinant Nouvelle-Anvers; mais il se hasarde un peu plus, en étendant ses affirmations à la plus grande partie du Congo navigable, c'est-à-dire, du Stanley-Poolà Bopoto. || Sa thèse est que, sur cet immense espace, les rives se dépeuplent et que les tribus dégénèrent sous l'oppression de l'Etat, au moyen d'un système d'impositions, de déportations, et d'amendes. || Nous le reconnaissons, l'auteur ne formule pas positivement cette thèse ainsi généralisée; mais après l'avoir formulée spécialement pour Nouvelle-Anvers, il continue à décrire la situation générale de manière à faire croire que les populations riveraines sont toutes

*) Einige Anlagen, die nur Befragungen von Eingeborenen enthalten, sind fortgelassen. Red.

décimées parce que toutes sont également opprimées par le Gouvernement. Le lecteur ne peut pas tirer d'autres conclusions de ses lettres, ni interpréter autrement certaines propositions qui les résument. || Le souci de la vérité nous engage à mettre le public en garde contre des conclusions aussi hâtives. || L'auteur sait que parmi les tribus *Bobangi* (citées sous les noms de Bwembe, Bolobo, Lukulela), qui sont un *unfortunate dying people* (un peuple qui dépérit), le Gouvernement n'a jamais fait de recrutement de soldats ni de travailleurs, et que les impositions qui ont été exigées de leurs nombreux villages, établis le long du fleuve sur un parcours de 100 lieues, consistent à ravitailler trois postes, dont celui de Yumbi seul est important, et à entretenir (depuis deux ans) la route de la ligne téléphonique — impositions réellement insignifiantes pour ceux qui y mettent quelque peu de bonne volonté. || C'est un fait, en outre, que ces populations subissaient de grandes pertes dès 1890, époque à laquelle les impositions étaient nulles; et c'est un autre fait que leurs voisins de la rive Française qui ne sont pas imposés, se meurent également, notamment ceux qui sont établis dans les environs de la Mission Catholique des Révérends Pères Français: Saint-Louis de Liranga. On pourrait d'ailleurs citer d'autres exemples de populations qui s'éteignent quoique à l'abri d'oppression. || Nous voilà donc en présence de dépeuplements qui ne sont certainement pas causés par l'oppression, et auxquels il faut chercher d'autres causes. Si donc les lettres de Mr. Weeks induisent en erreur pour la généralité des cas, il est dès lors permis de douter qu'elles nous exposent la situation véritable pour Nouvelle-Anvers. N'existe-t-il pas là aussi des causes autres que l'oppression? || A notre avis, ces causes existent réellement. Il y en a deux qui tendent non seulement au dépeuplement des rives, mais à l'extinction même des tribus de Nouvelle-Anvers. Elles ne sont pas spéciales à cette région, mais communes à tous les villages riverains du fleuve. Elles suffisent à elles seules à expliquer une diminution extraordinaire de la population. || La première et la principale, c'est l'épidémie qu'on nomme communément la maladie du sommeil. Que cette maladie a enlevé beaucoup de monde, Mr. Weeks en convient; mais il ajoute qu'il pense que le progrès de la maladie a été activé par l'oppression et que sans celle-ci le mal n'aurait pas été si tenace. Mr. Weeks a trop d'expérience de l'Afrique pour ne pas s'apercevoir qu'il avance ici une inexactitude et une erreur. || Il le pense, mais il n'en donne pas la preuve. Il est un fait avéré et reconnu par les médecins et par tous ceux qui ont observé la maladie du sommeil, c'est que ce fléau, une fois introduit dans une région, en abat lentement mais sûrement tous les habitants et reste, quoi qu'on fasse, maître du

terrain; une fois que ce mal a pris pied dans une population, il la détruit sans merci, quelles que soient les conditions de bien-être, de paix, et de tranquillité de cette population. || A l'appui de ceci, nous donnerons deux exemples de dépérissement que l'on ne pourra pas attribuer à l'oppression. || Notre Mission de Berghe-Sainte-Marie, contaminée par le contact des tribus Bobangi parmi lesquelles elle était située, a vu disparaître tous ses habitants jusqu'au dernier. Les 100 familles qui s'y étaient formées vivaient heureuses, dans des conditions presque idéales. || Autre fait: Les journaux ont relaté que dans l'Uganda, des Colonies Anglaises, on perd annuelement 50000 personnes. Et aujourd'hui, à propos d'une découverte qu'aurait faite le Colonel Bruce, dans la matière en question, un journal écrit un article qui finit comme suit: „La maladie du sommeil continue à faire d'enormes ravages dans l'Uganda. Dans l'Ile de Brevuna, qui comptait 82000 habitants, il n'y a plus que 22000 individus, alors que la population de la Province de Basaga est complètement éteinte." || Si le travail et les occupations avaient une influence sur la maladie, ils auraient plutôt un effet tout à fait contraire à celui qu'on leur attribue. Mais nous n'y insistons pas, parce que le travail lui-même n'est pas un remède, mais tout au plus une espèce de réactif temporaire. Jusqu'à présent aucun moyen n'a pu vaincre la ténacité de cette maladie; mais, à notre avis, ses ravages seraient plus rapides en terrain inerte et endormi qu'en terrain actif. || Et voilà six ans que cette peste, indépendamment de toute autre cause, fait journellement des victimes chez les riverains de Nouvelle-Anvers; rien d'étonnant donc que la population y diminue rapidement, comme partout ailleurs où la maladie règne.

La cause que je place au second rang, en raison de son importance, n'est pas signalée par le Révérend Mr. Weeks. Elle consiste dans la suppression du commerce des esclaves et dans le défaut de la natalité même l'hypothèse que les tribus Bangala fussent restées saines, cette cause les aurait rendues incapables de maintenir leur population à niveau, et aurait même eu pour effet de la diminuer considérablement. Mr. Weeks estime que la population de Nouvelle-Anvers atteignait les 50000 en 1890. Nous avons observé que parmi cette population, il y avait un nombre très considérable d'esclaves d'origine étrangère, notamment des Mongo. Disons qu'un tiers n'était pas originaire de Nouvelle-Anvers. Les Bangala les avaient acquis, soit par les guerres, soit par les rachats. Cette source d'acquisition leur a été fermée par le Gouvernement. || La natalité leur restait comme seul moyen de remplacer les morts. Or, même avant l'époque de la maladie, la moyenne des naissances était très basse. J'estime qu'elle ne dépassait pas l'unité par

femme. Je ne dis pas par famille, parce que les hommes libres y sont tous polygames, au détriment des hommes esclaves, qui le plus souvent, n'ont pas de femme. Avec une telle moyenne de naissances, il ne leur était pas possbile de conserver le même nombre d'habitants, et le défaut de la natalité, indépendamment de la maladie, causait nécessairement un recul. Or, depuis que l'épidémie a fait son apparition, ce défaut est doublé, et au moment où, à la suite des nombreux décès, le nombre des naissances aurait dû croître, il a diminué graduellement à mesure que la maladie devenait plus intense. || Le Révérend Mr. Weeks constate avec nous que les enfants sont si peu nombreux que le nombre de décès est de loin en avance sur celui des naissances, mais il attribue ce fait à l'expatriation des jeunes gens. || Qu'il veuille remarquer toutefois, que les jeunes Bangala qui ont été au service de l'État ou des Compagnies Commerciales étaient, à de rares exceptions près, d'anciens esclaves qui généralement, ne possédaient pas de femme. Cette considération infirme cette dernière manière d'expliquer le petit nombre de naissances, la situation polygame restant à peu près la même après comme avant le départ de ces jeunes gens. Je pourrais corrobérer ma manière de voir en citant l'exemple des tribus Bobangi, où il n'y a pas eu d'expatriations du tout. || Par ce qui a été dit, il est facile de comprendre que les deux causes précitées, de nature, indépendamment l'une de l'autre, au lieu de simplement réduire la population, sont assez puissantes pour l'éteindre complètement dans le cas où elles se combinent, comme à Novelle-Anvers et en général dans tous les villages riverains situés en aval de Bohaturaku; et nous pouvons déjà conclure que les assertions de Mr. Weeks, qui mettent tout le mal sur le compte de l'oppression, ne sont pas soutenables.
Il nous reste à signaler deux autres causes qui ne sont que secondaires. Elles n'ont pas eu d'influence sur le dépérissement constaté chez la race de Bangala: elles ont contribué relativement peu à diminuer le nombre d'individus appartenant à cette race; mais elles ont hâté le dépeuplement des rives du fleuve. || —L'une de ces causes, c'est l'abandon des emplacements riverains pour d'autres emplacements isolés à l'intérieur des terres, ou retirés dans les iles. — Peut-on légitimement conclure, comme le fait Mr. Weeks, que les populations quittent leurs villages pour échapper à des taxes qui les oppriment? Aucunement, à notre avis. Il suffit qu'il lui soit demandé un travail régulier quelconque aussi minime qu'il soit, pour que l'indigène mette tout en œuvre pour s'y dérober. S'il juge le déplacement comme un moyen sûr et efficace, il ne manquera pas d'y recourir. Le transport et la reconstruction de ses habitations ne lui demandent d'ailleurs pas grande besogne. || Il est passionné pour la liberté

sauvage qu'il goûtait avant l'arrivée des Européens, et par laquelle l'homme libre vivait dans un *dolce farniente*, passant ses journées à se reposer, à fumer, à boire, à „palabrer" et à commander à ses esclaves. || Il y a en outre chez le noir une tendance générale à éviter tout contact avec les Européens, et à reculer devant la civilisation. || Enfin, une mortalité extraordinaire est une cause suffisante pour expliquer les déplacements; l'indigène, soit par superstition, soit par motif d'hygiène, ne reste pas sur l'emplacement où les décès deviennent nombreux. || L'autre cause enfin consiste dans les expatriations des jeunes Bangala. || Les engagements volontaires, d'abord, ont été nombreux. Se dérober, prendre un terme de service à l'État ou aux Compagnies Commerciales, voyager, voir du pays et gagner de l'argent était à la mode chez les jeunes gens. Mais depuis trois ou quatre ans, le recrutement de travailleurs chez la population riveraine de Nouvelle-Anvers a été interdit par le Gouvernement. Un grand nombre, toutefois, de ceux qui se sont ainsi engagés volontairement ne sont pas rentrés dans leurs foyers, mais restent éparpillés — de plein gré — dans les différentes localités d'Européens, parce qu'ils préfèrent leur état actuel à celui dans lequel ils se trouvaient antérieurement dans leur village. On peut aussi compter qu'il y a eu parmi ces expatriés volontaires un grand nombre de décès, causés principalement par la dysenterie et la pneumonie, surtout parmi ceux qui formaient les équipages des vapeurs. || Viennent ensuite les recrutements de soldats. A ma connaissance, parmi les populations de Nouvelle-Anvers, l'État n'a pas fait des recrutements réguliers pour son armée permanente. Il a jadis recruté des Bangala dans des circonstances exceptionelles pour les employer comme auxiliaires dans certaines expéditions. Ces auxiliaires ont été rapatriés, ou ont eu l'occasion de l'être. || Les déplacements de villages et les expatriations doivent être considérés comme des causes partielles et secondaires, non pas du dépérissements des tribus, mais simplement de l'abandon des rives, et il n'est pas raisonnable d'en faire un grief au Gouvernement. L'aversion profonde pour tout travail l'attrait pour la sauvage indépendance chez l'homme libre; le désir de se soustraire à l'esclavage domestique et la passion des voyages, chez la classe inférieure, voilà le fond où il faut chercher les motifs de ces faits. || En examinant en détail les lettres de Mr. Weeks, je n'aurais pas de peine à y trouver d'autres considérations dignes d'être contredites, mais je crois avoir fait un travail suffisant en montrant que la dégénérescence et le dépeuplement constatés à Nouvelles-Anvers sont le résultat de causes et d'influences étrangères à ce que l'auteur des lettres appelle l'oppression.

Le 14 Novembre, 1903. (Signé) C. van Ronslé.

II.

(A.)

Circulaire Interprétative des Prescriptions concernant les Formalités du Permis de Port d'Armes.

Boma, le 12 Mars, 1897.

J'ai constaté, au sujet des prescriptions concernant les formalités du permis de port d'armes, des divergences d'interprétation qu'il convient de dissiper. || Certaines personnes pensent, à tort, qu'il suffit de se munir *d'un seul* permis de port d'armes, sans avoir à tenir compte ni de l'usage qui sera fait des armes importées, ni de leur lieu de destination. || Ainsi que le dit le dernier paragraphe de ma Circulaire A, VI, 58, du 8 Juillet, 1893, la taxe de 20 fr., exigée pour la délivrance des permis de port d'armes, ne doit être perçue *qu'une seule fois par permis, quelle que soit la quantité d'armes y figurant;* mais il doit être bien entendu qu'il faut un permis *distinct par destination des armes*, c'est-à-dire, qu'autre le permis individuel, il a le permis par établissement et par bateau. || Les capitas qui, dans le Haut-Congo, parcourent le pays pour compte de commerçants et qui sont pourvus d'un fusil, doivent également être munis d'un permis de port d'armes. || Je rappelle à ce propos que les capitas ne peuvent avoir en leur possession aucune arme perfectionnée autre que le fusil à piston *non rayé*; des permis de port d'armes ne pourront, en conséquence, leur être délivrés que pour des fusils de l'espèce, et ceux concernant des fusils, „Albini" ou „Chassepot" qui se trouveraient entre leurs mains devraient être retirés. || Les commerçants peuvent seuls disposer, pour la défense éventuelle de leurs factoreries et bateaux de fusils „Albini", „Chassepot" ou autres armes rayées. || Jusqu'ici on s'était servi d'un imprimé, uniforme pour la délivrance de permis de port d'armes. || Afin que des erreurs ne puissent plus se produire à l'avenir, il sera fait usage, selon le cas, des imprimés dont les modèles sont ci-contre. || Celui portant la lettre (A) est l'imprimé ancien dont l'emploi sera exclusivement réservé à la délivrance de permis individuels. || Celui portant la lettre (B) est l'imprimé qui servira aux permis à délivrer pour des armes destinées à la défense d'un établissement ou d'un bateau. || Celui portant la lettre (C) est l'imprimé à utiliser pour les permis se rapportant aux fusils à piston confiés aux capitas. Ces permis ne doivent pas indiquer les noms des capitas qui en sont porteurs; ils peuvent être établis au nom d'un établissement et chaque permis a une durée de validité de cinq années pour une *même* arme. || Les Commissaires de District, Chefs de Zone, et Chefs de Poste ou leurs délégués ont à exercer une surveillance très

sérieuse pour empêcher que les armes perfectionnées dont disposent les commerçants ne passent aux mains des indigènes. || Ils ont à vérifier minutieusement les permis de port d'armes et à faire procéder à des poursuites lorsque ceux-ci ne sont pas strictement en règle. Ils ont notamment à examiner si le nombre d'armes existant correspond bien à celui renseigné sur les permis, et à faire saisir les armes pour lesquelles les formalités prescrites n'auraient pas été accomplies. || Je crois utile de rappeler, au sujet des permis de port d'armes, le § 2 de l'Article VI du Décret du 10 Mars, 1892 („Bulletin Officiel" de 1892, p. 14), sur les armes à feu: || „Le porteur d'un permis de port d'armes peut être requis en tout temps, par le Commissaire de District compétent de justifier de la possession de l'arme ou des armes renseignées sur ce permis; à défaut de cette justification, il encourra les pénalités prévues par l'Article IX du Décret."

Le Gouverneur-Général,
(Signé) Wahis.

(B.)

Circulaire rappelant les Prescriptions sur l'Importation et la Détention des Armes à Feu perfectionnées.

Boma, le 31 Mai, 1900.

J'ai acquis la certitude que les commerçants établis sur le territoire de l'État ne font aucun effort, malgré les pressantes recommandations qui leur ont été adressées, pour remplir les obligations imposées par la législation sur les armes à feu. || Quantité d'armes qu'ils ont été autorisés à importer pour la défense des établissements de négoce, des bateaux et la protection des capitas de négoce ne sont pas inscrites sur les permis réglementaires ou figurent sur des permis périmés, ou encore ont disparu sans qu'ils en aient été donné connaissance aux autorités. || J'ai l'honneur d'attirer encore l'attention des intéressés sur les dispositions législatives en vigueur en cette matière, en les prévenant que je donne les ordres les plus sévères pour la recherche des infractions et l'application rigoureuse des pénalités édictées par l'Article 9 du Déret du 10 Mars 1892, reproduit ci-après: || „Quiconque commettra ou laissera commettre par ses subordonnés des infractions au présent Décret, ainsi qu'aux Arrêtés et Règlements d'exécution, sera puni de 100 fr. à 1000 fr. d'amende et de servitude pénale n'excédant pas une année, ou de l'une de ces peines seulement. . . . ." || L'importation de toute arme perfectionnée, y compris le fusil à *piston non rayé*, est subordonnée à la délivrance d'un permis de port d'armes. || Celui-ci se subdivise, suivant la destination des armes, en trois catégories: || 1. Le permis individuel ou particulier; || 2. Le permis collectif applicable aux armes destinées à la

défense des établissements de commerce ou des bateaux; il peut comprendre, suivant le cas, vingt-cinq ou quinze fusils, maximum d'armes autorisées par le Gouvernement, pour un établissement ou un bateau; || 3. Le permis de capita. Celui-ci ne peut comprendre qu'une seule arme, le fusil à piston *non rayé*. Il ne doit pas indiquer le nom du capita qui en est porteur, mais le nom de l'établissement auquel ce dernier est attaché. || Ce sont là les trois cas bien déterminés, où l'importation et l'usage des armes perfectionnées sont autorisés. || Les armes ne peuvent, en aucune circonstance, être distraites, sans autorisation préalable, de leur première destination. || Elles ne peuvent, sous aucun prétexte, être employées à des incursions à l'intérieur des terres. La répression de séditions ou d'actes de brigandage est *inclusivement* réservée aux autorités de l'État. || Tout permis de port d'armes est valable pour cinq ans. || Le porteur d'un permis peut être requis en tout temps par les Commissaires de District, leurs délégués ou les agents du service des finances, de justifier de la possession de l'arme ou des armes renseignées sur ce permis; à défaut de cette justification, il encourra les pénalités prévues par l'Article 9 du Décret du 10 Mars, 1892. (Article 6 du Décret du 10 Mars, 1892, et Arrêté du 26 Mars, 1900.) || Si, dans certaines circonstances, des chefs de factoreries avaient à diriger des convois de négoce, soit par voie d'eau, soit par terre, à travers des régions qu'ils jugeraient peu sûres, ils auraient, dans chaque cas, à demander l'escorte nécessaire au Commissaire du District dans lequel ils se trouvent, ou au Chef du Poste de l'État le plus rapproché. || Cette escorte ne peut, en aucune circonstance, être constituée par des agents à leur service, à moins qu'il n'aient obtenu à ce sujet, un permis qui ne pourra être délivré que par le Commissaire de District, et qui devra se trouver entre les mains du chef de l'escorte et pouvoir être exhibé à tout agent de l'État chargé du contrôle des armes. || Les contraventions aux différentes prescriptions ci-dessus édictées, pourront amener, outre les pénalités, la fermeture des établissements qui auront contrevenu à la loi.

Le Gouverneur-Général,
(Signé) Wahis.

(C.)

Circulaire relative aux Prescriptions sur la Détention des Armes à Feu perfectionnées à l'Usage des Maisons de Commerce.

Boma, le 28 Novembre 1900.

Je constate par des rapports qui me sont adressés des diverses parties du territoire, que les prescriptions en matière d'armes à feu perfectionnées à l'usage des Sociétés commerciales ne reçoivent pas leur exécution. || Depuis la publication, en Juin dernier, de ma Circulaire

No. 30/g du 31 Mai, 1900, qui a été adressée à tous les chefs des firmes commerciales établies dans l'État, ces derniers auraient pu se mettre en règle vis-à-vis de la loi, soit en demandant des permis de port d'armes, soit en requérant les modifications nécessaires aux permis qu'ils possèdent déjà, mais qui ne correspondent plus à l'armement de leurs factoreries, ou au nombre maximum fixé par la loi, pour un établissement. || Ils auraient pu donner des instructions formelles à leurs agents, à l'effet de leur défendre de faire servir les armes à tir rapide à d'autres usages qu'à celui de la défense des établissements de négoce, et les fusils à piston à couvrir des convois de négoce, sans autorisation préalable. || Il m'a été signalé que ces dernières armes étaient parfois confiées à des indigènes non munis de licences. || L'inobservation des dispositions législatives et réglementaires régissant l'importation et la détention des armes à feu, doit amener des désordres qu'il faut empêcher. || Ce n'est qu'en sévissant avec rigueur contre les personnes en faute qu'on parviendra à faire respecter la loi. || Je prescris donc à tous les fonctionnaires chargés des fonctions d'officier de police judiciaire et notamment les Commissaires de District, les Chefs de Zone, et leurs Chefs de Poste, de vérifier, chacun dans son ressort, les permis de port d'armes et l'armement des factoreries qui y sont établies. Toutes les infractions seront constatées par procès-verbaux dont une expédition me sera transmise concurremment avec celle qui doit être remise au Parquet. || Les armes, objet du délit, devront être saisies. || Ces vérifications doivent commencer dès la réception de la présente Circulaire. || Les autorités territoriales me feront rapport, à bref délai, sur les prescriptions qui y sont contenues.

Le Gouverneur-Général,

(Signé) Wahis.

(D.)

Circulaire faisant suite à l'Arrêté du 30 Avril, 1901, sur les Permis de Port d'Armes édictant des Règles en ce qui concerne le système qui sera dorénavant suivi en cette matière, ainsi que concernant certaines mesures précautionnelles que les Commissaires de District et les Chefs de Zone pourront prescrire et la sanction administrative qui y sera attachée.

Boma, le 30 April, 1901.

De récents événements ont encore démontré que les prescriptions en matière d'armes à feu étaient à chaque instant violées par les chefs ou gérants des établissements de commerce en dépit des nombreux avis de l'autorité. || Il a aussi été établi que le dépôt d'un certain nombre de fusils perfectionnés dans ces établissements pouvait, à d'autres égards, compromettre la sécurité publique, en ce que les armes pouvaient à un

moment donné être utilisées par le personnel indigène de l'établissement pour former des bandes armées dont les premiers méfaits portaient sur la vie des Européens qui les employaient et sur leur propriété. || Le danger est d'autant plus grand que le personnel indigène des établissements de commerce est constitué souvent par d'anciens militaires, qui connaissent bien le maniement des armes perfectionées. || Il y a donc lieu de prendre de nouvelles mesures non seulement pour renforcer les moyens que la loi met à la disposition de l'autorité pour faire respecter par les gérants d'établissements de commerce les prohibitions édictées notamment par ma Circulaire No. 30/g du 31 Mai, 1900, mais également pour empêcher que les dépôts d'armes perfectionnées autorisées par le Gouvernement dans les établissements de commerce ou à bord des bateaux, et pour la défense des ces établissements ou de ces bateaux, ne donnent point à des rebelles à la loi la possibilité de commettre les pires méfaits. | En ce qui concerne le premier point, mon Arrêté en date de ce jour a pour but d'assurer l'action répressive contre ceux qui, contrairement aux règles qui avaient été déterminées, notamment par ma Circulaire 30/g du 31 Mai, 1900, déplaceraient les armes dont l'introduction et la détention ont été permises pour la défense des établissements de commerce ou des bateaux. || D'après le système qui sera dorénavant suivi, les permis de port d'armes (B) de la Circulaire du 12 Mars, 1897, seront délivrés au nom du Directeur ou Chef en Afrique de la Société ou de l'entreprise qui a sollicité l'introduction et la détention de ces armes; le permis devra stipuler, en vertu de l'Article 1er de l'Arrêté en date de ce jour, à quel établissement les armes, ainsi que les munitions y afférentes, sont destinées, et prescrire l'obligation de justifier l'emploi de celles-ci. || Les anciens permis délivrés en conformité avec la Circulaire du 12 Mars, 1897, seront modifiés endéans le délai de six mois; les Directeurs ou Chefs des Sociétés ou entreprises seront invités par le Receveur des Impôts compétent à représenter les permis actuellement existants, et à former des demandes en conformité avec l'Article 2 de mon Arrêté en date de ce jour. L'Administration en délivrant de nouveaux permis stipulera que les armes et les munitions y afférentes ne pourront sortir des établissements auxquels elles sont destinées. || La délivrance de permis pour les armes destinées à de nouveaux établissements se fera dans les mêmes conditions. || La sanction pénale pourra s'exercer ainsi, en conformité avec l'Article 9 du Décret du 12 Mars, 1892, contre le gérant de l'établissement qui se servirait des armes et des munitions dans un but autre que celui pour lequel le permis a été délivré, et le cas échéant, contre le Directeur de la Société ou entreprise. || Les permis devront être

renouvelés, ou ont au moins modifiés, lorsque la direction de la Société ou de l'entreprise sera donnée à une autre personne que celle au nom de laquelle le permis a été délivré. || Les permis pour capita, permis (C) de la Circulaire du 12 Mars, 1897, seront également délivrés à titre individuel soit par le Commissaire de District ou Chef de Zone, soit par un agent désigné par eux. || La même sanction prévue par l'Article 9 du Décret du 12 Mars, 1892, atteindra, l'individu qui serait porteur d'un fusil à piston sans avoir de permis régulier délivré en son nom, et, le cas échéant, le Directeur ou Gérant de la Société, de l'établissement, ou de l'entreprise. || De plus, sans préjudice aux poursuites répressives éventuelles, les infractions aux règles prescrites, notamment par mon Arrêté en date de ce jour, en ce qui concerne les armes pour lesquelles un permis est délivré, pourront avoir pour suite le retrait du permis, quelles que soient les conséquences qui en résulteraient pour l'établissement. Pour satisfaire à l'autre intérêt que je signale au début de cette Circulaire, je soumets de plus la délivrance du permis (B) et (C) à l'engagement pour les chefs d'établissements d'admettre et de respecter les mesures précautionnelles que le Commissaire de District ou Chef de Zone croira devoir prescrire pour prévenir tout danger, et qui pourront être différentes selon les circonstances; ainsi ces fonctionnaires pourront, et devront dans la majorité des cas, prescrire: — || (*a.*) Que les armes perfectionnées, et les munitions destinées à l'établissement ou au bateau (ou même les fusils à piston du moment que leur nombre est supérieur à cinq), soient remises dans un local spécial, présentant des garanties suffisantes de solidité pour empêcher l'effraction, fermé soigneusement, et de telle sorte que l'accès ne puisse en être possible qu'au blanc qui en détient les clefs; || (*b.*) Que la garde en soit confiée à un homme sûr; || (*c.*) Que l'établissement lui soumette mensuellement la liste du personnel indigène qu'il emploie en renseignant, pour chacun des membres de celui-ci, la tribu à laquelle il appartient, ses services antérieurs, et tous autres renseignements utiles, notamment quant à son esprit, et sans préjudice aux prescriptions de l'Article 14 du Décret du 8 Novembre, 1888, de l'Article 11 de l'Arrêté du 1er Janvier, 1890, celles de l'Article 46 du Décret du 4 Mai, 1895, et celles de l'Arrête du 4 Avril, 1899. || Les Commissaires de District et Chefs de Zone veilleront à la stricte observation des mesures qu'ils auront édictées à ce sujet; ils visiteront, soit par eux mêmes, soit par délégués, le plus souvent possible, les établissements auxquels des permis (B) et C) ont été accordés, s'assureront que les prescriptions légales ou administratives à ce sujet sont rigoureusement respectés et contrôleront le personnel. Dans le cas où des infractions à la loi ou aux mesures précautionnelles qu'ils

auraient édictées seront relevées, ou que d'une façon quelconque et par suite de circonstances spéciales, le dépôt d'armes perfectionnées auxquelles s'appliquent les permis collectifs (B) et (C) serait une cause de danger pour la sécurité générale, ils m'en référeront en me faisant connaître d'une façon détaillée les infractions ou la situation, de façon à me mettre à même de juger en connaissance de cause s'il y a lieu ou non de retirer le permis. || Ils veilleront, dans tous les cas où il y aura eu révocation ou retrait du permis, à ce que les armes et munitions qui y sont portées soient déposées dans un entrepôt public pour telle suite qu'il conviendra.

Le Gouverneur-Général,

(Signé) Wahis.

Nr. 13460. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Brüssel. Er ist befriedigt, daß die Kongoregierung eine Untersuchung über die Vorwürfe gegen die Verwaltung veranlassen will.

Foreign Office, April 19, 1904.

Sir, || the „Notes" prepared by the Congo Government, and handed to you on the 13th ultimo as a preliminary reply to Mr. Casement's report, contain statements, to the careful consideration of which some time must be devoted. || His Majesty's Government desire, however, to express at once their great satisfaction at learning that the Congo Government concur in their view of the general principles which should prevail in dealing with the native African races, and at the announcement that a searching and impartial inquiry will be made into the allegations against the administration of the Free State, and that if real abuses or the necessity for reform should be thereby disclosed, the central Government will act as the necessities of the case may demand. || His Majesty's Government have every confidence that an investigation of this character will be followed by the redress of any grievances or actual wrongs which may be proved to exist, and that if the present administrative system should be found to provide no adequate security against the abuse of power by those who are employed by the State, or by the Companies over which the State has control, the necessary steps will be taken to remedy these grave defects. His Majesty's Government have been actuated in this matter by no other motive than a desire to arrive at the truth, and to fulfil the obligation which is incumbent upon all the Powers who were parties to the Berlin Act, „to watch, so far as each may be able, over the preservation of the native tribes, and to care

for the improvement of the conditions of their moral and material well-being". They are, therefore, glad to observe that the notes do not indorse the regrettable and unfounded insinuation contained in M. de Cuvelier's communication of the 17th September, 1903, that the interests of humanity have been used in this country as a pretext to conceal designs for the abolition and partition of the Congo State. || The request made in the notes for the full text of Mr. Casement's report raises a question of considerable difficulty. || Personal names and indications of place and date were suppressed, not from any want of confidence in the central Government at Brussels, but from the knowledge that if these particulars were published they would of course be accessible to the very officials in the Congo to whom abuses are attributed. The knowledge of these particulars would have given these persons opportunities for exercising pressure upon those who gave evidence, or for concealing the evidence of their own malpractices, so as to render impossible that effective inquiry which it is the object of the Congo Government to secure. These apprehensions appear, in some degree at least, to be borne out by the fact, mentioned in the „Notes" when quoting M. Bosco's report, that those who gave evidence in the Epondo Case had taken flight, and that all efforts to find them had been fruitless. His Majesty's Government are naturally desirous to further, so far as lies in their power, the inquiry which they are now assured will take place. They feel bound, however, to proceed on this point with the utmost caution, and, before considering whether they can hand over the complete text of the report, they must ask whether the Congo Government will accept full responsibility for the manner in which the information thus furnished is used, and whether they will communicate to His Majesty's Government the measures which they are prepared to adopt and enforce in order to protect the witnesses, both European and native, from any violence or acts of retaliation on the part of those against whom they have given evidence. || With regard to the application, renewed in the „Notes", for previous reports from British Consular officers, it is necessary to explain that these reports, though forwarding testimony upon which reliance could apparently be placed, were founded on hearsay, and lacked the authority of personal observation, without which His Majesty's Government were unwilling to come to any definite conclusion unfavourable to the administration of the Congo State. Moreover, some of the reports are of old date; the Congo State have admittedly been very active in pushing forward occupation of the country and it would be unjust to bring forward statements regarding a condition of affairs which may have entirely passed away.

In the despatch of the 8th August, 1903, His Majesty's Government explicitly declared that they were unaware to what extent the allegations made against the Congo State might be true, and it was in order to obtain direct and personal information as to the state of things actually existing that Mr. Casement undertook the journey of which the results are recorded in his report. || I request you to read this despatch to M. de Cuvelier, and to hand a copy of it to his Excellency. Copies will be transmitted to the Powers with which, as Parties to the Berlin Act, His Majesty's Government have been in communication.

(Signed) Lansdowne.

Nr. 13461. **GROSZBRITANNIEN.** — Der Konsul in Boma an den Minister des Ausw. Übersendet ein Urteil des Appellhofes über Grausamkeiten gegen Eingeborne.

Boma, April 7, 1904.

(Extract.) || I have the honour to transmit herewith, for your Lordship's information, a copy of the Judgment in Appeal in the cases of M. Caudron and Silvanus Jones. || I am informed that the Procureur d'État demanded the severest punishment for Caudron, accusing him of being the direct cause of the murder in cold blood of over 122 natives (this is the number verified, but many more are supposed to have been murdered of which there is no record) during his expeditions and raids in the Mongalla district for the obtainment of rubber, in order to reap a handsome commission on his extortions from the natives. || The lawyer for the defence sought, on the other hand, to prove by documents and other evidence that Caudron committed no individual act save the accidental shooting of the women at Muibembetti; that the whole of the responsibility of the régime in vogue in Mongalla lay at the door of the State, who employed the Société Commerciale Anversoise as its tax collector, the State itself being half shareholder and taking three-fourths of all the profits of the Company; that the Company operated on the Domaine Privé of the State, having no lands of its own; that all the attacks on the natives were ordered by the Commissaire-General of the district, who gave written orders to his deputies, and that Caudron was only requisitioned to accompany those expeditions as being the only person who knew every nook and corner of the Mongalla River. || As your Lordship will observe, Caudron's sentence was reduced from twenty years' penal servitude to fifteen years', whilst that of Silvanus Jones, of ten years, was upheld, but with a strong recommendation for a speedy

reduction of the sentence, which was the least the Court could impose. After the Judgment in Appeal, I obtained permission from the Vice-Governor-General to go and visit Jones in prison, and inclosed I send a note of my interview with him. || On speaking to the Director of Justice, after my interview with Jones, I mentioned the fact that the man had not been defended by counsel, to which the Director replied that his case ran concurrently with that of Caudron's, and that there was no necessity for him to employ counsel. || As a matter of fact, Jones was not asked whether he wished to employ counsel to defend him, neither was he (according to his statement) aware of the nature of the charges made against him. He had money, and would have engaged some one to defend him had he known what those charges were. He was, he said, under the impression that he had been brought to Boma as a witness against Caudron. || I inclose a further note, given me by the Director of Justice, which gives the different Decrees dealing with arms and showing the infractions committed by Jones. || „Out of evil comes good" is an old saying, and it is my opinion that, if the Upper Congo were thrown open to free trade and the concessionnaire Companies done away with, when once confidence were restored amongst the natives and they were given to understand that they could bring in and sell their produce to whomsoever they pleased, the Congo State would in a short while become the biggest export market for rubber in the world. || The African native is a born trader, and now it is so well known the value the white men set upon rubber they would naturally commence to bring it in when once confidence were fully restored. The State would reap its reward in the trading licenes and export duties. And that is all it is fairly entitled to. || Before closing I would call your Lordship's attention to the fact that, in the „Bulletin Officiel" (No. 12) for last December there is a Decree published giving powers to the agents of the Katanga Company to collect the State taxes. This means that the same abuses may go on in the Katanga country as have hitherto gone on in the Mongalla district, unless most stringent measures are adopted to prevent them.

Anlage I.

Judgment in Appeal respecting the Cases of M. Caudron and S. Jones.

Le Tribunal d'Appel de Bome, siégeant en Matière Pénale, a rendu l'Arrêt suivant: — || Audience Publique du 15 Mars, 1904. || (No. du role 395.) || En cause: Ministère Public contre — || (1) Caudron, Phillip Charles François, né à Auderlecht, Belgique, Chef de Zone commercial de

la Melo, au service de la Société Anversoise du Commerce au Congo; et || (2) Jones, Silvanus, originaire de Lagos, clerc au service de la même Société:

Prévenus — le premier à la fin de l'année 1902, et au commencement de l'année 1903, alors qu'il était Chef de Zone commercial de la Melo, au service de la Société Anversoise du Commerce au Congo: || 1. D'avoir fait attaquer pendant la nuit le village de Liboké par les hommes à fusil de la Société armés d'Albini, provoquant ainsi directement la mort d'un certain nombre d'indigènes du dit village de Liboké; || 2. D'avoir circulé avec une troupe composée de soixante soldats de l'État et de vingt hommes à fusil de la Société Anversoise du Commerce au Congo, armés d'Albini, et avoir fait attaquer par cette troupe, divisée en petits détachements, les indigènes des villages Magugu, Tariba, Mandingia, Muibembetti, et Kakoré, provoquant ainsi directement la mort d'un grand nombre d'indigènes des dits villages; || 3. D'avoir à Muibembetti volontairement fait des blessures à la femme Menniegbiré, en lui tirant un coup de fusil de chasse dans les seins; || 4. D'avoir fait détenir arbitrairement à Mimbo, pendant près d'un mois, une vingtaine de prisonniers fait au cours des expéditions dans les villages Magugu, Teriba, Mandingia, Muibembetti, et Kakoré; || 5. D'avoir à Mimbo été la cause directe de la mort d'un prisonnier, ayant antérieurement donné aux sentinelles armées sous ses ordres la consigne de tuer tout prisonnier qui tenterait de s'enfuir; || 6. D'avoir au poste de Binga-État donné l'ordre aux sentinelles de tuer un Chef Mogwande, ordre qui a été exécuté par le soldat Kamassi; || 7. D'avoir établi ou laissé établir à Bussu-Baya, et à Dengeseke, des factoreries de commerce où se trouvaient installés des travailleurs armés d'Albini et de cartouches faisant partie de l'armement des factoreries de Mimbo et de Binga, ces armes et munitions ayant été déplacées sans autorisation, et ayant servi à commettre les infractions pour lesquelles sont poursuivis Jones, Silvanus, chef de la factorerie de Bussu-Baya, et Bangi, le domestique du précédent; || 8. D'avoir, au poste de Mimbo, remis à son Capita Kassango, 100 cartouches d'Albini, appartenant à l'État, et au poste de Binga, en avoir remis 200 à Houart, chef de cette factorerie; ces faits constituant une soustraction frauduleuse de cartouches au préjudice de l'État, ou subsidiairement une infraction aux dispositions sur les armes à feu — infractions prévues par les Articles 1^er^, 2, 3, 4, 11, 18, 19 du Code Pénal, 101 *bis*, 101 (4), du Code Pénal, Décret du 27 Mars, 1900; 2 et 9 du Décret du 10 Mars, 1892; et l'Arrêté du 30 Avril, 1901, sur les armes à feu.

Le second d'avoir, à la fin de l'année 1902, envoyé des travailleurs

de la Société Anversoise du Commerce au Congo, armés de fusils Albini, dans les environs de la factorerie de Bussa-Baya, en leur donnant l'ordre de tuer les indigènes, et avoir ainsi été la cause directe de la mort d'une femme de Bassango, tuée d'un coup d'Albini par son domestique Bangi — infractions prévues par les Articles 1er et 9 du Décret du 10 Mars, 1892, et l'Arrêté du 30 Avril, 1901, sur les armes à feu, et 1 et 2 du Code Pénal; || Vu la procédure à charge des prénommés; vu le Jugement du Tribunal de Première Instance du Bas-Congo, en date du 12 Janvier, 1904, condamnant le premier à une servitude pénale de vingt ans et aux sept huitièmes de frais du procès; le second à une servitude pénale de dix ans, et à un huitième des frais du procès; || Vu les appels interjetés contre le dit Jugement par le Ministère Public et le prévenu Caudron, suivant déclarations reçues au Greffier du Tribunal d'Appel le 12 Février, 1904; || Vu les notifications des dits appels au Ministère Public, et aux prévenus en date du même jour; || Vu l'assignation donnée aux prévenus par acte du 22 Février, 1904; || Ouï le Juge Albert Sweerts en son rapport; || Vu l'instruction faite devant le Tribunal d'Appel; || Ouï M. le Procureur d'État en ses réquisitions; || Ouï les prévenus en leurs dires et moyens de défense présentés pour Caudron par M. de Neutor, défenseur agréé par le Tribunal; || Attendu que le Tribunal d'Appel est saisi par l'appel du prévenu Caudron, et en même temps par l'appel du Ministère Public relatif à ce dernier et à l'autre prévenu, Jones, Silvanus; || Que l'appel du prévenu Caudron n'est pas recevable, l'appelant n'ayant pas consigné préalablement les frais conformément à l'Article 78 du Décret du 27 Avril, 1889; || Que, cependant, l'appel du Ministère Public remet tout en question même dans l'intérêt des intimés; || En ce qui concerne le prévenu Caudron; || Sur les première et deuxième préventions: — || Attendu qu'il est établi par les dépositions des témoins et par les pièces versées au dossier: || 1. Que, dans la nuit du 15 au 16 Octobre, 1902, au poste d'Akula dans la région de la Melo, le prévenu Caudron, Chef de Zone de la Société Anversoise du Commerce au Congo dans cette région, pour punir les indigènes du village de Liboké de ne pas avoir fourni les corvées qu'il exigeait d'eux, a donné ordre à cinq de ses travailleurs, armés d'Albini, de se rendre au dit village et de tirer sur les indigènes, ordre que les travailleurs ont exécuté, en tuant le Chef et plusieurs indigènes de ce village; || 2. Que, dans le courant des mois de Janvier, Février, et Mars 1903, dans le but de forcer les indigènes de la région des Banga à augmenter la récolte du caoutchouc, il a fait une expédition dans la dite région avec vingt de ses travailleurs, armés d'Albinis, et accompagné d'un sous-officier et de cinquante soldats de

l'État; que, au cours de cette expédition, il a envoyé les travailleurs armés d'Albini, et les soldats divisés en petits détachements, dans les localités de Mogugu, Teriba, Bongu, Muibembetti, et Kakoré, avec ordre de tirer sur les indigènes qu'ils auraient rencontrés, ordre que les travailleurs et les soldats ont exécuté, causant ainsi la mort d'un grand nombre d'indigènes; || Que le prévenu reconnaît ces faits dans leur ensemble, mais qu'il allégue pour sa défense d'avoir agi d'accord avec l'autorisation, et même par ordre de l'autorité, représentée lors du fait de Liboké par M. Nagant, et lors de l'expédition chez les Banga par M. Jamart — tous les deux Chefs du Poste de Police de Binga; || Attendu, en ce qui concerne le fait de Liboké, que tous les témoins interrogés à ce sujet à l'audience de Première Instance et d'Appel ont nié de la manière la plus formelle que M. Nagant aurait été à Akula lors de l'attaque du dit village, et qu'il ait pu par conséquent ratifier par sa présence l'ordre donné par le prévenu Caudron, ainsi que celui-ci le soutient; || Que, cependant, existent au dossier les copies certifiées conformes de deux lettres qui auraient été adressées par M. Collet, gérant du poste d'Akula, à M. Nagant, la première en date du 12 Octobre, 1902, demandant son intervention contre le village de Liboké, et la deuxième en date du 16 Octobre, c'est-à-dire, au lendemain de l'attaque, le remerciant de son intervention et l'informant que les indigènes s'étaient présentés le matin au poste et s'étaient engagés à fournir régulièrement les impositions; que l'accusation conteste l'authenticité de ces lettres, et soutient qu'elles ont été forgées après pour les besoins de la cause; || Que, cependant, le fait qu'elles ont été versées au dossier par le Magistrat-Instructeur, qu'elles ont été trouvées dans les bureaux du poste de police, et le fait qu'elles ont été confirmées par M. Collet à l'instruction préparatoire ne permettent pas de les considérer comme fausses et de les écarter; || Que puisqu'un doute subsiste il faut admettre la version la plus favorable au prévenu, c'est à-dire, que le Chef du Poste de Police Nagant se trouvait à Akula lors de l'attaque de Liboké, et qu'il a connu et autorisé cette attaque; || Que, par conséquent, tout supplement d'instruction relativement aux dites circonstances serait, dans l'intérêt de la défense, absolument inutile; || Attendu, en ce qui concerne l'expédition chez les Banga, que la présence dans cette expédition du Chef du Poste de Police Jamart avec cinquante soldats de l'État n'est pas contestée, et qu'il est aussi prouvé que le prévenu a agi dans cette occasion toujours de parfait accord avec lui; qu'il reste donc à examiner si la présence et l'autorisation de ces représentants de l'autorité pourraient justifier le fait du prévenu; || Attendu que c'est un principe de droit consacré même

expressément dans les Codes dont notre législation s'est inspirée que, pour qu'il n'y ait pas d'infraction, il ne suffit pas que le fait ait été commandé par l'autorité, mais qu'il faut en même temps qu'il soit ordonné par la loi; qu'il est hors de doute qu'il s'agit dans l'espèce uniquement de délits de droit commun, c'est-à-dire, d'homicides commis pour un intérêt privé dans le but de forcer les indigènes à fournir leur travail ou leur produits; || Que, quoiqu'on ait parlé parfois vaguement de rétablissement de l'ordre il résulte bien formellement des déclarations de tous les témoins et même des rapports adressés par le prévenu au Directeur de la Société, et de ses lettres aux gérants de sa zone, qu'il ne visait dans les actes d'hostilité posés contre ces indigènes que l'intérêt de son commerce, et notamment l'augmentation de la récolte du caoutchouc; || Que si un doute pouvait être soulevé en ce qui concerne l'expédition précédemment faite chez les Gwakas, aucun doute ne peut exister à cet égard pour les faits objet de la prévention; || Que, en tout cas, il est bien établi qu'au moment où ces faits se sont passés, l'ordre n'avait été nullement troublé ni à Liboké ni chez les Banga; qu'il ne résulte pas que les victimes de ces faits aient commis d'autre faute que de ne pas avoir fourni à la Société la quantité de travail qu'elle exigeait; || Attendu, d'autre part, que le seul fait de ne pas avoir payé les impôts, même s'ils étaient légalement dus (ce qui n'était pas dans l'espèce, puisqu'aucune loi ne les avait encore autorisés), ne pourrait jamais justifier des répressions sanglantes; || Qu'on pourrait encore moins parler dans l'espèce de faits de guerre, car ce n'est certainement pas faire la guerre que d'attaquer des populations tranquilles et de tirer des coups de feu sur des individus isolés et inoffensifs; || Qu'il est prouvé par les dépositions des témoins, et par les déclarations du prévenu lui-même, que jamais au cours de ces faits les indigènes n'ont attaqué ou posé un acte d'hostilité quelconque; || Que ni parmi les soldats, ni parmi les hommes de la Société, il y a eu un seul tué ou un seul blessé; || Qu'il serait donc absurde de parler de guerre; que tuer dans ces conditions ne peut que constituer un crime qu'aucune loi, aucune nécessité n'autorise, et qui tombe sous l'application de la Loi Pénale, qu'il soit commis par un particulier ou par un agent de l'autorité; || Attendu, d'autre part, que le prévenu ne peut non plus invoquer en sa faveur l'excuse de l'obéissance hiérarchique, car cette excuse n'existe que pour les agents de l'autorité qui exécutent l'ordre d'un supérieur hiérarchique et dans les limites du ressort de celui-ci; || Que le prévenu n'était pas agent de l'autorité; qu'il ne devait obéissance hiérarchique à personne; qu'il ne rentrait aucunement dans ses attributions d'agent de Société de coopérer à des actes de répression; qu'il

avait donc tout le droit de refuser d'exécuter les ordres qu'on pouvait lui donner à ce sujet, et que s'il les exécutait, c'était à ses risques et périls; || Qu'il est du reste de principe que même l'obéissance hiérarchique ne constitue plus une excuse lorsque l'illégalité de l'ordre est évidente; || Attendu, d'ailleurs, qu'il est tout à fait contraire à la vérité que le prévenu n'aurait fait, ainsi qu'il l'affirme, qu'exécuter les ordres des Chefs du Poste de Police; || Que la vérité, au contraire, est que ces derniers étaient en fait sous ses ordres; Qu'un simple sous-officier comme Nagant, un simple adjoint militaire (caporal) comme Jamart, ne pouvait certainement avoir aucune autorité sur le prévenu qui occupait la haute position de Chef de Zone de la Société Anversoise du Commerce au Congo, et qui avait sous ses ordres un nombreux personnel blanc et noir; || Que tous les témoins ont été d'accord pour déclarer que dans toutes les expéditions qu'il a faites avec les Chefs du Poste de Police, c'était lui qui commandait, qui donnait des ordres, et qui punissait, non seulement ses hommes, mais même les soldats de l'État; que notamment, en ce qui concerne l'expédition contre les Banga, il est bien évident que le Caporal Jamart, tout jeune homme, à peine arrivé en Afrique, ne connaissant ni la langue, ni le pays, et pour surplus malade au point de devoir se faire presque toujours porter et rester en arrière même de plusieurs jours, n'était qu'un simple comparse dont le prévenu se servait dans la croyance de pouvoir, par sa présence, couvrir les illégalités qu'il commettait, et enchaîner à la sienne la responsabilité de l'État.

Que c'est en vain donc que le prévenu invoque sa bonne foi pour avoir agi d'accord avec les représentants de l'autorité; || Qu'il savait bien qu'on ne pouvait pas tuer et d'autant moins dans un intérêt commercial; || Il savait que les lois de l'État ne le tolèrent pas; || Il savait aussi que plusieurs de ses prédécesseurs et de ses collègues dans la même région, et dans la même Société, avaient été très sévèrement condamnés par les Tribunaux pour des faits semblables; || Il a cru être plus adroit que les autres en tachant de couvrir sa responsabilité en se servant des agents de l'État; || Mais si cette précaution se montre à la preuve impuissante, s'il s'aperçoit trop tard que la responsabilité pénale ne peut pas s'éluder si facilement, il n'a pas le droit de se dire la victime d'une erreur; || Que s'il s'est trompé, c'est non pas sur la moralité des actes qu'il posait, mais sur la valeur de la ruse qu'il a employée pour les couvrir; || Attendu, cependant, que le prévenu insiste sur la demande qu'il avait déjà présentée en Première Instance; que le Tribunal ordonne un supplément d'instruction pour faire verser au dossier les rapports politiques envoyés par les autorités supérieures administratives de la région

au Gouvernement local, d'où il résulterait que les dites autorités avaient connu et approuvé les faits qui lui sont reprochés, et même d'autres expéditions antérieures et postérieures qu'il aurait faites avec les troupes de l'État, que le Gouvernement local, interpellé par le Magistrat-Instructeur, a déclaré qu'en principe il ne croyait pas pouvoir donner communication de ces pièces, que, du reste, elles ne renfermaient rien pouvant se référer aux faits indiqués par le prévenu; || Que la défense conteste ces déclarations en droit et en fait; || Attendu qu'en principe on ne pourrait certainement pas contester le droit de l'autorité judiciaire de demander et même de rechercher en tout lieu public ou privé toute pièce pouvant servir à conviction ou à décharge; || Que ce droit, qui est donné à l'autorité par la loi, ne pourrait être limitée que par la loi elle-même; que ni la législation Congolaise, ni la législation dont elle s'est inspirée ne fixent aucune limitation en faveur des Administrations publiques; || Que si on reconnaît une exception en faveur des agents diplomatiques, c'est à cause de la fiction d'exterritorialité de leur résidence; qu'il n'existe pas de lieu d'asile; || Attendu, toutefois, qu'il est du devoir de l'autorité judiciaire de procéder en cette matière avec la plus grande réserve et dans le seul cas où les pièces requises pourraient être d'une utilité évidente pour l'accusation ou la défense; || Que dans l'espèce la défense croit pouvoir déduire de ces pièces l'approbation et en tous cas la tolérance de l'autorité relativement à ces agissements; || Qu'ainsi qu'on l'a ci-dessus exposé même l'ordre formel et à plus forte raison la tolérance des autorités ne pourrait justifier des faits contraires à la loi; que ce principe a été déjà depuis longtemps et à plusieurs reprises affirmé par les Tribunaux de l'État; || Que par conséquent dans aucun cas le prévenu ne pourrait trouver dans les pièces dont il demande la production la justification des faits mis à sa charge: || Que, tout au plus, il pourrait invoquer la tolérance des autorités comme circonstance atténuante; || Qu'à cet égard, il y a lieu d'observer que la preuve d'une certaine tolérance de la part des autorités résulte des pièces même du dossier et des dépositions des témoins; || Qu'en effet, la présence et la coopération des Chefs du Poste de Police de Binga lors des affaires de Qiboko et de l'expédition chez les Banga ont été admises par le Tribunal; qu'il résulte aussi des dépositions des témoins que précédemment et postérieurement le prévenu avait fait d'autres expéditions de répression contre les indigènes accompagné d'agents et de soldats de l'État; || Que cela suffit pour faire tout au moins supposer la tolérance des autorités supérieures de la région, et pour faire admettre cette tolérance comme circonstance atténuante en faveur du prévenu; || Que par conséquent tout supplément d'instruction à ce sujet, s'il pourrait servir à prouver la re-

sponsabilité d'autres personnes, ne pourrait avoir aucune utilité pour le prévenu;

Sur la troisième prévention: || Attendu qu'il est prouvé par les dépositions des témoins et qu'il est reconnu par les prévenus qu'à Muibembetti au cours d'une expédition contre les Banga s'étant mis en colère pour un retard des porteurs, il a déchargé sur eux son fusil de chasse chargé à petit plomb; qu'un des deux coups a blessé une femme indigène au dos; que la blessure a été légère et n'a entraîné aucune incapacité de travail;

Sur la quatrième prévention: || Attendu que le prévenu reconnaît avoir fait détenir à la factorerie de Mimbo une vingtaine d'indigènes faits prisonniers au cours de l'expédition contre les Banga et que leur détention n'avait d'autre but que de forcer leurs villages à la récolte de caoutchouc; qu'il allègue pour sa défense que ces gens avaient été arrêtés avec l'autorisation et le concours du Chef du Poste de Police Judiciaire Jamart; qu'ils attendaient à Mimbo les instructions du Commandant des troupes de police; qu'il soutient que ce fait était parfaitement légal, puisque le Gouvernement avait, depuis le mois d'Avril 1901, autorisé la Société Anversoise du Commerce au Congo à exiger le caoutchouc à titre d'impôt de la population indigène, et avait édicté en cas de refus la peine de la contrainte par corps; || Attendu qu'en effet le Ministère Public a déclaré à l'audience de Première Instance avoir été autorisé à declarer qu'il existe une lettre du Gouverneur-Général au Commissaire de District de Nouvelle-Anvers, donnant le droit à la Société Anversoise du Commerce au Congo d'exiger le caoutchouc à titre d'impôt; que cette lettre ajoute que le commandant du corps de police pourra, en cas de refus, exercer la contrainte par corps; qu'il pourra déléguer ce droit même à un agent de la Société Anversoise du Commerce au Congo, mais qu'il appartiendra toujours à lui de décider s'il faut ou non maintenir la détention; || Attendu qu'il est trop évident qu'on ne pouvait pas, par simple lettre, établir des impôts, et édicter la contrainte par corps en cas de non-paiement; || Que le droit d'établir des impôts sur les populations et fixer des peines, ne peut appartenir qu'au Roi-souverain, ou à l'autorité par lui légalement déléguée à cet effet; || Que le pouvoir judiciaire manquerait à son devoir et à sa mission s'il reconnaissait à d'autre autorité les pouvoirs qui sont réservés à l'autorité souveraine; || Qu'il aurait fallu donc une loi dûment édictée et publiée; || Qu'une pareille loi n'a paru que tout dernièrement très longtemps après les faits objet de la prévention, et qu'elle exige d'ailleurs pour l'application de la contrainte par corps des conditions qui n'existent pas dans l'espèce; || Que par consé-

quence la lettre du Gouverneur-Général, ne pouvant pas déroger à la loi pénale, ne pourrait pas justifier l'atteinte portée à la liberté individuelle; || Qu'on conçoit bien que le prévenu ait pu se tromper sur ce point, mais que la bonne foi, pour erreur de droit, ne peut pas être admise; qu'il est juste toutefois d'en tenir compte pour appliquer sur ce chef au prévenu des circonstances atténuantes dans la mesure la plus large possible;

Sur la cinquième prévention: || Attendu qu'il est établi et reconnu par les prévenus qu'un des prisonniers détenus à Mimbo, ayant tenté de s'évader pendant la nuit, fût tué d'un coup d'Albini par la sentinelle de garde; || Que le prévenu soutient être absolument étranger à ce fait; || Attendu que, quoiqu'il soit établi par les dépositions des témoins que le prévenu avait toujours donné à ses hommes la consigne de tirer sur les prisonniers qui tentaient de s'évader, il n'est pas prouvé, cependant, que la sentinelle qui a tiré était un des hommes placés directement sous ses ordres; || Qu'il paraît, au contraire, résulter des débats que c'était un travailleur du poste de Mimbo et qu'il avait été placé de sentinelle par le gérant de cette factorerie; || Que ce meurtre, par conséquent, ne pourrait pas être imputé au prévenu;

Sur la sixième prévention: || Attendu que le prévenu reconnaît qu'au retour de son expédition chez les Banga un Chef indigène a été tué dans la prison du poste de police de Banga par les soldats de ce poste; || Qu'il reconnaît qu'à deux reprises les soldats, alors qu'il se trouvait avec Jamart, étaient venus demander des instructions relativement à ce prisonnier, qui causait du désordre; qu'il reconnaît aussi qu'il se trouvait présent dans la prison lorsque le prisonnier a été tué; qu'il affirme cependant que ni lui, ni Jamart, n'avait donné aucun ordre aux soldats, et qu'il s'était rendu à la prison uniquement pour induire le prisonnier à rester tranquille; || Attendu que tous les témoins entendus sur ce fait à l'instruction préparatoire, et à l'audience, ont, de la manière la plus précise et concordante dans les moindres détails, affirmé que le prévenu a donné deux fois l'ordre de tuer: une première fois au Sergent Tangua, qui était allé demander des instructions, et une deuxième fois au même sergent, et au soldat Rixassi, lorsqu'ils étaient revenus pour se faire confirmer l'ordre et que c'est le prévenu même, qui, dans la prison, après que le sergent eut tiré sur le prisonnier, en lui manquant, a passé le fusil au soldat Rixassi, qui l'a tué; || Que ce dernier détail a été donné aussi par le témoin Houart, détenu à la prison de Boma alors que les autres témoins se trouvaient encore dans la haute rivière; qu'il est impossible donc qu'il ait été inventé; || Que ces deux circonstances, absolument établies même

par des dépositions autres que celles des témoins noirs, que le prévenu se trouvait dans la prison, et qu'il a passé le fusil à l'homme qui a tiré, confirment de la manière la plus certaine que c'est bien lui qui a donné l'ordre de tuer, ordre que les soldats, qui revenaient de l'expédition, où ils avaient considéré toujours le prévenu comme Commandant, ne pouvaient pas hésiter à exécuter; || Qu'il est du reste très évident qu'ils n'auraient certainement pas tué sans ordre, même en la présence du prévenu;

Sur la septième prévention: || Attendu que les faits indiqués à l'assignation sont établis et reconnus par le prévenu qu'ils constituent des contraventions aux dispositions sur les armes à feu;

Sur la huitième prévention: || Attendu qu'ainsi que l'a déclaré le premier Juge, il ne s'agit dans l'espèce que d'un simple échange de la munition entre les troupes de l'État et les hommes armés de la Compagnie; qu'un simple échange ne peut constituer ni une soustraction frauduleuse, ni (lorsqu'il s'agit de cartouches, et non pas de l'arme elle-même) une contravention aux dispositions sur les armes à feu; || Attendu que, pour les motifs repris ci-dessus, le prévenu doit être déclaré coupable de meurtres avec préméditation, comme auteur moral, pour abus d'autorité, des faits mis à sa charge par les première, deuxième, et sixième préventions; de coups et blessures pour la troisième prévention; de détention arbitraire pour la quatrième; de contravention aux dispositions sur les armes à feu pour la septième prévention; et qu'il doit être renvoyé des fins de la poursuite pour le surplus de la prévention; || Attendu qu'il y a lieu d'accorder au prévenu des circonstances atténuantes, non seulement à raison des considérations exposées aux numéros un, deux, et quatre de la prévention, mais à raison aussi de ses bons antécédents pendant son long séjour en Afrique, et des graves difficultés dans lesquelles il a dû se trouver devant accomplir sa mission au milieu d'une population absolument réfractaire à toute idée de travail, et qui ne respecte d'autre loi que la force, ne connaît d'autre persuasion que la terreur; || Qu'il faut reconnaître qu'il doit être bien difficile de se tenir dans la légalité dans un pays encore absolument barbare et sauvage, et notamment lorsque les lois à suivre dans ce pays sont les mêmes qui régissent les peuples les plus civilisés; || Qu'il est en fin équitable de tenir compte que, quoique les faits soient en euxmêmes très graves, ils perdent cependant une partie de leur gravité lorsqu'ils sont mis en rapport avec le milieu, où, d'après la coutume séculaire, la vie humaine n'a pas de valeur, et où le pillage, le meurtre, et le cannabalisme ont constitué jusqu'à hier la vie habituelle;

En ce qui concerne le prévenu Jones, Silvanus: || Attendu qu'il est demeuré établi par les dépositions concordantes des témoins et par les contradictions même du prévenu, que dans le courant du mois d'Octobre 1902, alors qu'il était Chef du Poste de la Société Anversoise de Commerce au Congo à Bussa-Baya, il a ordonné aux hommes placés sous ses ordres de se rendre dans les environs de la factorerie et de tuer les indigènes qu'ils avaient rencontrés, pour les punir de ne pas avoir fourni une quantité suffisante de caoutchouc, ordre que son domestique Bongi a exécuté en tuant une femme; || Attendu que le prévenu soutient subsidiairement qu'en tout cas il aurait agi, ainsi qu'en d'autres circonstances, d'après les ordres de ses supérieurs, et notamment du Chef de Zone M. Caudron; || Attendu que, quoique ces ordres ne soient pas bien établis, les procédés employés par le Chef de Zone Caudron pour obtenir du caoutchouc des indigènes, et le fait que le prévenu avait été placé à Bussa-Baya clandestinement, et qu'on avait armé ce poste de huit fusils Albini sans permission, permet tout ou moins de supposer, dans l'intérêt du prévenu, que réellement il n'a fait que suivre les instructions de ses Chefs; || Que cependant, pour les raisons déjà exposées, ces ordres ne pourraient en aucun cas justifier ou excuser le prévenu; || Qu'on ne pourrait pas même le considérer comme un instrument passif et inconscient entre les mains de ses Chefs, puisque, quoique noir, il a une certaine culture d'esprit et appartient à un pays déja en partie civilisé; || Qu'il devait bien savoir que tuer est un crime; || Qu'il a agi d'ailleurs aussi, dans son intérêt particulier, puisqu'il était payé en proportion du caoutchouc qu'il percevait; || Que cependant il est juste de lui faire application des circonstances atténuantes dans la mesure la plus large possible, en tenant compte du milieu où il se trouvait et des exemples qu'il recevait de ces Chefs; qu'il faut reconnaître que bien difficilement un noir aurait pu se soustraire à l'influence des exemples; || Que le Tribunal d'Appel, par conséquent, exprime le vœu que la libération conditionnelle vienne, aussitôt qu'il sera possible, tempérer pour ce prévenu la rigueur de la peine que, par application de la loi, il est forcé de confirmer; || Par ces motifs et ceux non contraires du premier juge;

Le Tribunal d'Appel: || Vu les Articles 78 du Décret du 27 Avril, 1889; 3, 4, 11, 98, 101 *bis*, et 101 (4) du Code Pénal, 2 et 9 du Décret du 10 Mars, 1892, et l'Arrêté du 30 Avril, 1901, déclare l'appel du prévenu Caudron non recevable; || Et statuant sur l'appel du Ministère Public; || Émendant le Jugement dont appel relativement au prévenu Caudron, en ce qui concerne la peine prononcée, le condamne, du chef de meurtres avec prémédiation; de coups et blessures, de détentions

arbitraires, et de contraventions aux dispositions sur les armes à feu, avec circonstances atténuantes, à cinq ans de servitude pénale; || Confirme pour le surplus le Jugement dont appel même en ce qui concerne l'autre prévenu, Jones, Silvanus; || Dit que les frais d'appel resteront à charge de l'État. || Ainsi jugé et prononcé en audience publique, où siégeaient — M. Giacomo Nisco, Président; MM. Albert Sweerts et Michel Cuciniello, Juges; M. Fernand Waleffe, Ministre Public; M. Paul Hodüm, Greffier.

Le Président

(Signé) G. Nisco.

Les Juges

(Signé) Sweerts,

M. Cuciniello.

Le Greffier

P. Hodüm.

Anlage 2.

Acting Consul Nightingale's Interview with Silvanus Jones, a Native of Lagos, under Sentence of Ten Years' Penal Servitude, in the Prison at Boma, for certain Atrocities committed whilst in the Employ of the S. C. A. (Société Congolaise Anversoise).

Q. How long have you been in the employ of the S. C. A.? — *A.* I served five years, and then went home to Lagos, and after staying at home some time I returned to the Congo, and was re-engaged by the same Company. I am now completing the second year of my new contract. || *Q.* In what capacity were you engaged by the S. C. A.? — *A.* As a carpenter. || *Q.* How is it that, being engaged as a carpenter, you were buying rubber? — *A.* There was no more carpentering to be done, and as I had not completed my contract, I was ordered to buy rubber. Formerly I used to buy rubber at the same time as I was doing the carpentering. || *Q.* Have you ever killed, ill-treated the natives, or burnt down their houses? — *A.* On my oath, I never have. || *Q.* Do you understand the nature of an oath? — *A.* Yes; and if there were a Bible here I would swear on it. || *Q.* Can you read and write? — *A.* Only a very little — just my name . || *Q.* Were you aware that people were being shot or otherwise ill-treated, and that their villages were burnt? — *A.* Yes; I heard of such things going on, but I never witnessed anything of the sort except on one occasion at my own station. It was one day (the 9th December, 1902) when I was lying down, and suddenly I heard firing from outside, and a shot came through my house and nearly hit me. When I went outside I found a white agent of the Company, who had ordered his men (soldiers) to fire on a man and woman from about

120 yards' distance. They were both killed. The woman was pregnant. When I asked the white agent (whose name I cannot remember) why he came and upset the people of my station, he replied, „How dare you speak to me, you black man; don't you see that I am a white man, and can give what orders I like!" || *Q.* Were you ever ordered to go and punish the natives? — *A.* Yes. On one occasion, especially, I was ordered to send and punish some people who had fled into the bush. So I thought for a time as to what I should do, and at last resolved to send four soldiers into the bush to try and catch the people and bring them to me to see if I could make friends with them. I ordered the soldiers not to shoot any one, and sent my boy (a Bangala) with them to see that no shooting was done. They caught a man and a woman in the bush and took them to Little Basango (about three hours from my station), instead of coming back to me. It was my Bangala boy who shot the woman whilst she was stooping down at the side of the river, and she fell into the water and was carried away. I never saw the woman or her corpse, as it was carried away by the stream. I went down the river (about two and a-half hours' journey in a canoe going there, and about six hours to come back) to report the affair to the white agent at the post there. It is for this affair, I am given to understand, that I am punished. But really I am not to blame, as I gave strict orders to the soldiers not to shoot any one. || *Q.* Did you know when you were sent for to come to Boma that you were going to be tried for committing certain outrages on the natives? — *A.* No. || *Q.* Were you brought down to Boma under a military escort? — *A.* No; I came down alone; but when I arrived at Boma I was met by a guard of soldiers, and was taken to the prison, where I remained five days, and was then let out. || *Q.* Did you know that you were going to be tried for various outrages committed on the natives? — *A.* No; I was under the impression that I had been called as a witness against that man. [Jones pointed to a man who was writing at a desk in the gaoler's office, who, I was told, was M. Candron.] || *Q.* You knew absolutely nothing about your being kept in Boma to be tried for serious offences you were accused of having committed? — *A.* I knew absolutely nothing. || *Q.* Would you have employed an advocate to defend you had you known that you were going to be tried for such serious offences against the laws of the country? — *A.* Most certainly I would. I brought down with me 3500 fr., and the Judge has got 3000 fr. of that sum, which I wish you to mind for me. I think you have the receipt. || [*Note.* — The receipt was handed to Mr. Nightingale by a Lagos man named Shanu a few

days ago.] || *Q.* You know, I suppose, that you have been sentenced to ten years' penal servitude? — *A.* Yes; I was sentenced to ten years by the first Judge, but the second Judge reduced it to two and a-half years, and they say that if I behave properly that I may get my liberty in six months. || [*Note.* — Jones has misunderstood his sentence. The sentence of ten years passed in the Court of First Instance was upheld in the Appeal Court.] || *Q.* What work have they given you to do here? — *A.* I am employed on the carpentering work of this building (pointing to a stone house that is in course of construction). || *Q.* You declare you are perfectly innocent of the charges brought against you, and for which you have been condemned to ten years' penal servitude? — *A.* Yes, Sir; I am innocent. || *Q.* You wish me to hold the 3000 fr. for you. — *A.* Yes; if you please, Sir.

A. Nightingale.
(Signed)

Boma, March 21, 1904.

Anlage 3.

Note.

Jones, Silvanus, originaire de Lagos, clerc au service de la Société Commerciale Anversoise, prévenu d'avoir, à la fin de l'année 1902, envoyé des travailleurs de la Société Anversoise du Commerce au Congo, armés de fusils Albini, dans les environs de la factorerie de Bussu-Baya et avoir ainsi été la cause directe de la mort d'une femme de Bassanga, tuée d'un coup d'Albini, par son domestique Bangi — infractions prévues par les Articles 1 et 9 du Décret de 10 Mars, 1892, et l'Arrêté du 30 Avril, 1901, sur les armes à feu et 1 et 2 du Code Pénal. || L'Article 1 du Décret du 10 Mars, 1892 (B.O., 1892, p. 14), interdit l'importation, le trafic, le transport, et la détention d'armes à feu quelconques, ainsi que la poudre, de balles et de cartouches. L'Article 9 du même Décret punit toute infraction à cette disposition d'une amende de 100 fr. à 1000 fr. et d'une servitude pénale n'exédant pas une année, ou de l'une de ces peines seulement. L'Arrêté du 30 Avril, 1901 (R.M., p. 86), subordonne à certaines formalités les demandes pour la délivrance de permis de port d'armes. L'Article 1 du Code Pénal (L. 11) définit l'homicide et les lésions corporelles volontaires. L'Article 2 définit le meurtre et le punit de la servitude pénale à perpétuité.

Nr. 13462. **KONGOSTAAT.** — Denkschrift als Antwort auf das vorige.

Brüssel, 14. Mai 1904.

Memorandum.

La dépêche de Lord Lansdowne du 19 Avril, 1904, dont copie a été remise par Son Excellence Sir Constantine Phipps au Gouvernement du Congo

le 27 Avril suivant, appelle quelques considérations. || Relativement à l'appréciation contre laquelle s'élève cette dépêche „that the interests of humanity have been used in this country as a pretext to conceal designs for the abolition of the Congo State", l'on voudra bien se souvenir qu'un membre de la Chambre des Communes déclarait qu'il préférerait „voir la vallée du Congo passer d'une Puissance étrangère", et que des pamphlets indiquaient comme „absolute and immediate necessities", „Disruption of the Congo Free State", „Partition of the Congo Free State among the Powers", et suggéraient même les bases d'un tel partage, tandis que des organes de la presse Anglaise envisageaient soit l'alternative „advocated by the more thorough-going critics of the present Administration, namely, the disruption of the Congo Free State", soit l'alternative de „the partition of the Congo territory among the Great Powers whose possessions in Africa border those of the Congo State", ou déclaraient „what Europe ought to do, under the leadership of Great Britain, is summarily to sweep the Congo Free State out of existence". La Note de l'État du Congo du 17 Septembre a relevé ces suggestions, dont nous n'indiquons ici que la tendance et qui toutes avaient pour objet de spolier le Roi-Souverain, de le déposséder de l'État qui était sa création personnelle — suggestions qui se concilient bien mal avec le respect du droit et des Traités, et avec les motifs d'ordre purement humanitaire et philanthropique dont se disent exclusivement animés les adversaires de l'État dans la campagne passionnée qu'ils mènent contre lui. || En réponse aux objections que le Gouvernement de Sa Majesté élève contre la communication du texte intégral du Rapport de Mr. Casement, le Gouvernement de l'État du Congo fait remarquer qu'il a demandé la communication de ce Rapport complet en vue précisément de le transmettre aux autorités judiciaires et administratives compétentes, sans quoi cette communication serait sans objet. Le souci d'une enquête impartiale et les droits de la défense exigent impérieusement que les accusés connaissent, d'une manière précise et dans leurs détails, les faits mis à leur charge, et l'appréhension que les personnes accusées pourraient, de par la connaissance qu'elles auraient de ces détails, influencer ou supprimer des témoignages ne semble pas justifiée par ce seul fait que des indigènes, qui, dans l'affaire Epondo, avaient fourni au Consul des informations mensongères, ont évité par la suite de se représenter devant le Magistrat enquêteur; la fuite de ces témoins s'explique plus naturellement par le sentiment de la faute grave qu'ils avaient commise en trompant sciemment le Consul Anglais. Si le Gouvernement du Congo peut donner, et donne volontiers, l'assurance que tout acte ou toute tentative de sub-

ornation de témoins serait poursuivi, il n'est évidemment pas en son pouvoir de préjuger ou d'enrayer les mesures légales que croiraient devoir prendre, dans l'intérêt de leur honneur ou de leur considération, des personnes qui se trouveraient avoir été faussement accusées. || Le Gouvernement de l'État du Congo regrette que le Gouvernement de Sa Majesté Britannique n'estime pas devoir lui communiquer les autres Rapports Consulaires antérieurs auxquels faisait allusion la dépêche de Lord Lansdowne du 8 Août, 1903. Ainsi que le disaient les notes du 12 Mars dernier, ces rapports présentaient l'intérêt d'avoir été écrits à une date à laquelle le débat actuel n'était pas né. || Une copie de ce Mémorandum sera adressée aux Puissances auxquelles a été transmise la copie de la dépêche de Lord Lansdowne du 19 Avril dernier.

Nr. 13463. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Brüssel. Die geplante Untersuchung garantiert nicht die Unabhängigkeit der Zeugen. — Denkschrift zur Widerlegung des vorigen. Foreign Office, June 6, 1904.

Sir, || With reference to my despatch of the 19th April, I transmit to you, for communication to the Congo Government, a Memorandum on the remaining points in the „Notes" handed to you on the 13th March which would appear to His Majesty's Government to call for observation. || I request you, in presenting this Memorandum, to take the opportunity of stating that His Majesty's Government much regret that, in M. de Cuvelier's Memorandum of the 14th May, a more definite reply is not returned to the inquiries which they deemed it necessary to make before considering whether they could furnish the full text of Mr. Casement's Report. My despatch explained that the names in the Report had been suppressed, not from any want of confidence in the Central Government of the Congo State, but from apprehension that the information, if made generally public, whould place it in the power of persons charged with abuses to procure the suppression or repudiation of evidence, or to punish those who had given it. His Majesty's Government asked, therefore, whether the Congo Government would accept full responsibility for the use which would be made of the information, and would communicate the measures they were prepared to adopt and enforce in order to protect the witnesses who gave evidence to Mr. Casement from the possibility of exposure to acts of intimidation or retaliation. It was clearly incumbent upon His Majesty's Government to provide as far as possible for the

safety of those at any rate whose statements to a British officer were made with no knowledge that they would be cited by name as responsible for charges upon which public proceedings would be based. They entertained therefore no doubt that the Congo Government would appreciate their motives, and would willingly undertake, in furtherance of the object which both Governments have in view, to meet, so far as lay in their power, the requirements of the case. The Memorandum handed to you by M. de Cuvelier, after dwelling upon the necessity of full information for the purpose of investigation, merely declares that the Government of the Congo are ready to give an assurance that proceedings will be taken against all who attempt to suborn witnesses, but that they cannot prejudice or prevent legal measures instituted in defence of their honour or reputation by those who may have been falsely accused. || His Majesty's Government cannot accept as adequate or satisfactory an answer which implies that the information which they are asked to supply will be accessible to the very persons whose conduct has been impugned, before any measures have been taken to shield the witnesses from the exercise of improper pressure. They have, of course, never entertained the idea that the Congo Government would connive at any such malpractice as the subornation of witnesses. They have not asked, and have never intended to suggest, that legal remedies should be denied to those against whom unfounded accusations have been publicly brought, nor do they desire that those, if any, who have given such false evidence should be shielded from the proper legal penalty for their offence. What they require is that the Congo Government, in accordance with the recognized principles of civilized administration, will take every means to secure that the witnesses, if their names should be divulged, will suffer no harm in their property or persons from the unlawful violence of those to whose desire for revenge they may be exposed. No argument can be entertained to the effect that acts of violence are improbable or impossible under a system such as that revealed by the Judgment pronounced by the Court of Appeal at Boma in the Caudron Case, and His Majesty's Government earnestly trust that the Congo Government will recognize the immense service that will be rendered both to the cause of humanity and to the credit of their own officers by promoting unreservedly a full and public investigation by a Tribunal of recognized competence and impartiality into the charges made against their agents and against their system of administration. || There is another point to which His Majesty's Government must call attention. The inquiry promised in the „Notes“ is, no doubt, intended to be af a searching and

impartial character, and His Majesty's Government hoped that they would before now have received some indication of the measures designed to carry out this intention. In the peculiar circumstances which have arisen, strict impartiality will hardly be attributed to an investigation conducted as in the Epondo case solely by the officers of the State or by the agents of the Concessionary Companies, nor will the result carry conviction to the degree which seems essential. The matter is one which must be left to the decision of the Congo Government, and it is only because, in the judgment of His Majesty's Government, the whole question at issue turns in a great measuse upon the position and character of those charged with the inquiry that they feel justified in mentioning the point, and in suggesting that a Special Commission should be appointed, composed of Members of well-established reputation, and in part, at least, of persons unconnected whith the Congo State, to whom the fullest powers should be intrusted both as regards the collection of evidence and the measures for the protection of witnesses. Were a Commission of this character appointed His Majesty's Government would be prepared to place at the disposal of the Members, for their own use and guidance, all the information they possess respecting the position of affairs in the Congo, and would give them every assistance, in the confident belief that an independent Commission such as they have suggested would elicit the thruth, and effect in a manner commanding general acceptance a settlement of the existing controversy. || You will read this despatch to M. de Cuvelier and give a copy of it to his Excellency. Copies of the despatch and of the inclosed Memorandum will also be forwarded to the Powers who were Parties to the Berlin Act.

Lansdowne.

Anlage.

Memorandum.

The first portion of the „Notes" refers to the desire expressed by the Congo Government for the production of the previsious Reports of His Majesty's Consuls alluded to in the Circular of His Majesty's Government of the 8th August last. This matter has already been dealt with in the despatch addressed to Sir C. Phipps on the 19th of April. || The next point in the „Notes" is the statement made by Mr. Casement that the population has decreased in certain districts; doubt is expressed as to how, in the course of his rapid visits, he was able to arrive at the figures which he gives, and attention is drawn to alleged discrepancies in those figures. With regard to Mr. Casement's ability to form an

opinion on the subject, it is to be observed that the means at his disposal for doing so were neither greater nor less than those of Mgr. van Ronslé, viz., personal knowledge of what the population had been in former years and what it appeared to him to be at the date of his last visit. The alleged discrepancy in his figures consists in the fact that, having estimated the population of the entire community of the F line of villages at 500, a few lines further on he estimates that of „several villages whose task it is to keep the wood post victualled" at 240. The explanation is to be found in the fact that in the first instance Mr. Casement alluded to all the villages comprising the Settlement, whereas in the second he referred only to the inhabitants of that portion of the Settlement whose business it was to supply food for the neighbouring wood-cutting post. || The Congo Government admit that Mr. Casement attributes, equally with Mgr. van Ronslé, a large share of the diminution of the population to the sleeping sickness, but attach to another cause, viz., the facility with which the natives are able to migrate, greater weight than appears to His Majesty's Government to be justifiable, since more than one reference in the Consul's Report shows that the natives are not allowed to leave their own districts. || On p. 4 of the „Notes" (p. 3, *supra*) the complaint is made that Mr. Casement's Report contains, not exact, precise, and proved facts, but statements and declarations by natives. It is difficult, however, to see how the facts dealt with can be proved without hearing the statements and declarations of natives: the grounds of their complaints at all events can be learnt exactly and precisely from them alone. || In the last paragraph of p. 4 (p. 3, *supra*) an attempt is made to show that because during his journey into the interior of the Congo State, Mr. Casement was not the guest of the authorities, and because during that journey he visited his countrymen, therefore his presence must „inevitably" have been considered by the natives as antagonistic to „established authority". Mr. Casement was, however, obviously at liberty to move about his Consular district without previous consultation with the authorities, and he was at special pains to impress on the people that he had no authority to set things right. It is clear from his Report, as indeed is borne out by the „Notes", that he was careful to refer the natives to the Government of the State. As a matter of fact, in many parts of the country the natives did not know who he was, while it is equally certain that the rumour of the „campagne menée contre l'État du Congo" to which allusion is made as having influenced the inhabitants could not possibly have reached them, since it is difficult to imagine that a population who are represented as

among the most savage and backward of mankind, and dwelling in the heart of Africa, could be aware of debates in a European assembly, or of the press comments made thereon. || Mr. Casement could not, as asserted, have appeared to all the natives of the Lulongo River in the character attributed to him, and this is shown in a letter the agent of the Lulanga Company at Bokakata addressed to Mr. Ellery, of the Congo Balolo Mission at Ikau, on the 28th August. || Mr. Casement had found women hostages tied up and guarded by two sentries of that Company who told him how it was these women came to be captured and detained, in order to compel their husbands to bring in rubber. || This letter begins by stating that — || „Avant-hier, disent les indigènes, des missionnaires de la Congo Balolo Mission se sont rendus à Yvumi (ifomi), où ils ont été recueillir certaines réclamations après au préalable avoir fait instiguer les habitants de ce village par le personnel du steamer." | The letter then seeks to show that the scene Mr. Casement had witnessed had no foundation in fact, and ends with the request that Mr. Ellery should communicate its contents „au monsieur qui s'est rendu à Yvumi. Je regrette, ne le connaissant pas, de ne pouvoir m'adresser à lui."

It is evident from this letter that neither the natives of the village referred to, the sentries placed shere, nor the European agent reponsible for placing them there had any knowledge of the rôle of „redresseur des griefs" which is now attributed to Mr. Casement. || This is the more significant, since Mr. Casement had passed Bokakata the day before this letter was written, on his way to Ikau, whither the Lulanga Company's steamer, with the Director on board, followed on the 28th August in search of an unknown traveller who the natives said was a missionary. || That Mr. Casement travelled independently of Government assistance was a perfectly legitimate action on his part, and one calling for neither comment nor explanation. The necessity for this, moreover, is made clear by that passage in his Report (p. 24) wherein he points out the difficulty of getting suitable accommodation on the Government steamer „Flandre", by which he had at first thought of quitting Leopoldville. || It may also be observed that it was only when he failed to find a French steamer available at Brazaville (which he visited in that hope on the 25th and 26th June) that he decided to seek the loan of a steamer belonging to an American Mission. || A visit to his countrymen was a correct proceeding on his part, and it was but natural that he should be assisted by them. As their Consul, it was right he should visit his compatriots dwelling in isolated stations amid savage surroundings; and

since he was desirous of coming to an independent judgment on the conditions of native life, it was much more natural that he should choose his own means of separate, independent conveyance than restrict himself to the not always convenient intinerary of Government steamers or place himself under the guidance or conduct of local authorities, who, if abuses did exist, were hardly likely to disclose them. His Majesty's Government can in no way accept the view that Mr. Casement necessarily fell under the influence of the missionaries, neither can they think that the English Protestant missionaries are opposed, still less necessarily antagonistic, to the Government of a friendly State in which they reside. Mr. Casement moreover visited several American mission stations, and it is not the case, as asserted in the „Notes", that it was only by English missionaries that he was assisted. The steamer he travelled on was the property of the American Baptist Missionary Union, lent to him by their Board; the Mission station at which he spent the longest time is an American station, and he had on several occasions Americans with him as his guests on board and during his visits to the natives. || The Congo Government endeavour to support their assertion that Mr. Casement's attitude was one of antagonism to established authority by alleging as „characteristic" the fact that while he was at Bonginda the natives collected on the banks of the river, and as the agents of the Lulanga Company went by shouted out, „Votre violence est finie; elle s'en va; les Anglais seuls restent! Mourez vous autres!" || Had the incident referred to occurred as recorded, it would indicate not so much that the natives of the locality named were excited against „established authority", as against the agents of a trading Company. || But the above is hardly a correct description of the occurrence, as the Congo Government must admit, seeing that they have themselves placed on record a totally different version of the incident. || On the 2nd December, 1903, the Secretary-General of the Congo State, in drawing the attention of Dr. H. Grattan Guinness of the subject of this pretended „disorder" of the natives, described it in the following terms: — || „On a vu dernièrement, après le voyage du Consul Britannique dans la Lulanga, des indigènes en rapport avec la mission de la Congo Balolo Mission, établie à Bonginda, s'attrouper au passage d'un agent de l'État, en s'écriant dans leur dialecte — || ‚Votre violence est finie; elle s'en va; les Anglais seuls restent: Mourez vous autres!' || „Ces propos séditieux étaient proférés en présence de missionnaires de Bonginda." || Without further enlargement upon so trivial an altercation as that which actually occurred between the canoe boys of a passing trader and some natives of the neigh-

bourhood, it is only necessary to call attention to the discrepancy which exists between M. de Cuvelier's complaint of the 2nd December and the terms in which it is now formulated. || In the former communication the Secretary of the Congo Government addressed the Congo Balolo Mission in terms of reproof upon a subject upon which he was obviously but imperfectly informed, since he asserted the incident to have occurred after Mr. Casement's departure from Bonginda, and the offensive words to have been addressed to a Government official. Dr. Guinness, however, explained to M. de Cuvelier that the incident occurred when Mr. Casement was present, that it had no significance, and that the canoe jeered at by the natives contained, not a State Agent, but an agent of the Lulanga Company; further, that the words used were, in reality, not those imputed, but: „The rubber is finished; the people refuse to work rubber." Yet in spite of this explanation, which seems amply sufficient, the „Notes" still maintain that the incident shows that Mr. Casement's attitude was incorrect. || The next subject discussed in the „Notes" is what has come to be known as the Epondo Case. || This is dealt whith at great length, and the explanation for so doing is afforded by a statement that His Majesty's Consul himself attributed a capital importance to it. The inference that it is intended to draw would seem to be that since the result of the investigations made by the local authorieties, subsequent to Mr. Casement's departure, is said to have demonstrated quite other facts than those he had too hastily assumed, the rest of his Report need not be taken seriously. || From a consideration of the Consul's Report, it will be seen that the case of this boy Epondo is dealt with in one single paragraph of thirty-seven lines of print on p. 56, and is referred to again in some few lines of p. 58, in all less than one page of a document of thirty-nine pages; while in the Appendix of nearly twenty-three pages of print a copy of the notes taken by Mr. Casement in the case at Bosunguma extends to less than two pages.

On the other hand, the Congo Government, in their reply, devote some six or seven pages of a document of eighteen pages in all to endeavouring to show that in the case of this one mutilated individual, the boy's hand had not been cut off by a sentry, but had been bitten off by a wild boar; and in the Appendix to the „Notes", which comprises nineteen pages of small print, more than ten pages are devoted to extracts from the proceedings in this one case. || Thus, of a document running to thirty-seven pages in all, almost one-half is assigned to a single incident which, in Mr. Casement's Report, had given occasion for some two and a quarter pages of remark and notes out of nearly sixty pages of printed

matter. || Far from having attributed capital importance to this incident, it is evident from the Report itself that it was but one of many cases calling for explanation brought to Mr. Casement's notice during his journey, and that he himself by no means attributed to it undue weight. || To show how far he was from generalizing from this one incident, it is only necessary to cite a letter he addressed to the Governor-General on the 4th September when in the Lopori River, 150 miles away from Bosunguma (of the existence of which he did not then know), written some days before the cases of mutilation on the Lower Lulongo were brought to his notice. In that letter which dealt mainly with certain illegalities he had observed in the Abir territory at Bongandanga, he said: — || „I am sure your Excellency would share my feelings of indignation had the unhappy spectacles I have witnessed of late come bofore your Excellency's own eyes. || I cannot believe that the full extent of the illegality of the system of arbitrary impositions, followed by dire and illegal punishments, which is in force over so wide an area of the country I have recently visited, is known to, or properly appreciated by, your Excellency or the Central Administration of the Congo State Government." || Also after recording some of the outrages practised upon women and children he had witnessed in order to obtain food supplies, or compel the production of india-rubber, he said, in referring to one of these so-called trading factories: — || „I must confess with pain and astonishment that, instead of visiting a trading or commercial establishment, I felt I was visiting a penal settlement." || A study of the case will show the successive steps by which the statement made on p. 7 of the „Notes" (p. 5, *supra*) is reached: — || „L'enquête montre Epondo, enfin acculé, retractant ses premières affirmations au Consul, et avouant avoir été influencé par les gens de son vllage." || The facts throw a light on the motives which inspired, or the influences which compelled, this retractation by the mutilated boy other than the „Notes" afford, and show that a not unimportant part of the inquiry was conducted under conditions which scarcely merit the description of an „enquête judiciaire dans les conditions normales en dehors de toute influence étrangère", as, on p. 6 of the „Notes" (p. 4, *supra*), it is said to have been. || A noteworthy illustration of the method adopted to arrive at an impartial finding in this case will be found to consist in the fact that an inquiry into grave charges preferred against an agent of the Lulanga Company was conducted in part through agents of that Society — itself primarily involved; that the Substitut du Procureur d'État visited the district as the guest of that Company, putting up at its stations and travelling on its steamer

in company with its agents, and that the „retractation“ of Epondo only took place when the boy had been removed to the head-quarters of that Company, on the steamer of that Company, surrounded, not by friends, but by the agents of the very Company which had an obvious interest in securing a withdrawal of the charge. || Had the „retractation“ of Epondo, first made at Mampoko, the head-quarters of the Lulanga Company, on the 8th October (see p. 31, „Notes“) (p. 35, *supra*) been sincere and quite uninfluenced by the environment to which he found himself removed at Bonginda, its sincerity would best have been demonstrated by its being repeated before Mr. Armstrong at Bonginda, whence the boy had just been removed. || Mr. Armstrong had cognizance of the case from the first. Bonginda lies only some 8 miles from Mampoko, and it would have been but just to Mr. Armstrong, as well as much more convincing, if, when the boy altered his statement, he had been taken back to where only the day before (see p. 29, „Notes“) (p. 33, *supra*) he had reiterated in the presence of Mr. Armstrong the original charge against Kelengo. || Instead of adopting this simple course, however, the boy, having been brought to „retract“, was carried off to Coquilhatville — fully 80 miles away — and a week later a declaration is required from Mr. Faris, a missionary, whose residence was situated far from the scene of the occurrences, who had no knowledge of the boy's antecedents, or any means of testing his statement by cross-examination or otherwise. || A retractation by a lad of some 15 years of age brought about at Mampoko under influences not unfavourable to the accused sentry cannot be held as satisfactory. That the authorities at Coquilhatville did not themselves consider it convincing is clear from their action in calling upon Mr. Faris to furnish an extraneous support to the decision arrived at by their own magisterial inquiry at Mampoko. || Epondo's „retractation“ was made on the 8th October at Mampoko, and one statement in it, as given on p. 31 of the „Notes“ (p. 35, *supra*), throws doubt on much of the rest. || *Question* (by the Substitut): „Depuis combien de temps cet accident vous est-il arrivé?“ || *Answer* (Epondo): „Je ne me rappelle pas: c'est depuis longtemps.“ || When Mr. Casement visited Bosunguma on the 7th September the boy's mutilated stump had evident signs of not being then completely healed: blood showed still in two places, over which the skin had not entirely formed, and it was wrapped up in a cloth. || The „Notes“ (p. 9) (p. 7, *supra*) allude to the attitude of the missionaries in the following words: — || „Et le fait n'est pas non plus sans importance, si l'on veut exactement se rendre compte de la valeur des témoignages, de la présence aux côtés de Mr. Casement,

qui interrogeait les indigènes de deux missionaires Protestants Anglais de la région, présence qui, à elle seule, a dû nécessairement orienter les dépositions." || If it is permissible to cast this reflection upon the attitude towards the Government of the missionaries of the district, it is certainly relevant to point out that the presence beside Lieutenant Braeckman (who conducted the preliminary inquiry) and the Substitut du Procureur d'État of the agents of the Company having a deep interest in the charge against its employé, and the part those agents were permitted to take in the inquiry, must have vitally affected the testimony of the witnesses who deposed at Mampoko that the charge against the Lulanga sentry was inspired solely by a desire on the part of the natives to escape their rubber dealings with that firm. || It appears that there were two inquiries: the first conducted by Lieutenant Braeckman, at which the original witnesses against the sentry and others reaffirmed their accusation that it was he who had mutilated Epondo. At the second inquiry, conducted by the Substitut, which took place some fortnight later, none of the original witnesses against Kelengo appeared (see „Ordonnance de Non-Lieu", p. 8, „Notes") (p. 6, *supra*); but a number of persons — some of them servants of the Lulanga Company — made statements, contradictory in many respects, but agreeing with much unanimity that a wild boar, which no one of them had seen, at a date no one could assign, in an indeterminate locality, had eaten off the hand of this lad of 14 or 15 years of age, who, according to the first deposition cited (that of Efundu, on the 28th September, at Coquilhatville, p. 24, Annexe III) (p. 29, *supra*), had attempted to catch the wounded and infuriated creature by the ears! || It is obvious that the „conclusions posées" as the result of his inquiry by Lieutenant Braeckman (see „Ordonnance de Non-Lieu" of the 9th October, p. 8 of „Notes") must, in part, have rested on evidence of natives he had interrogated at Bosunguma, in Mr. Armstrong's presence, on the 14th September. || In this „Ordonnance" we find, however, that while the „conclusions" of Lieutenant Braeckman are accepted, the evidence on which those „conclusions", in some part, must have rested is rejected on the ground that the witnesses took flight, and did not reappear at the second inquiry. || If the „conclusions" are accepted, the evidence on which they are founded should be also admissible. || There is, moreover, open contradiction if one turns to the evidence of the „Chief Bofoko, of Ikundja", cited on p. 30 of Annexe III in the „Notes" (p. 34, *supra*). || This deponent appeared before the Substitut at Mampoko on the 8th October, and in the course of his interrogatory it is asserted that he was one of those who had originally testified

against Kelengo before the British Consul. || *Question* (by Substitut): „Pourquoi vous-même avez-vous déclaré au Consul Anglais avoir vu la main coupée par terre, le sang coulait, et les habitants du village qui couraient dans toutes les directions?“ || *Answer* (Bofoko): „Je n'ai pas parlé avec les Anglais. Je ne les ai pas même vus. Quand ils sont arrivés à Bosunguma, je n'étais pas là.“ || *Substitut:* „Vous mentez, parce que le Consul Anglais déclare avoir parlé avec vous.“ || *Answer* (Bofoko): „Oui, c'est vrai. J'y étais. J'ai dit comme les autres“, &c. || Despite this record by himself on the 8th October of the *procès-verbal* of the evidence of Bofoko, the Substitut, on the following day, draws up his „Ordonnance de Non-Lieu“, wherein, in the third paragraph, he states that — || „Attendu que tous les indigènes qui ont accusé Kelengo, soit au Consul de Sa Majesté Britannique, soit au Lieutenant Braeckman, convoqués par nous, Substitut, ont pris la fuite, et tous les efforts faits pour les retrouver n'ont abouti à aucun résultat: que cette fuite discrédite évidemment leurs affirmations“ — (p. 8 of „Notes“). || In view of a discrepancy of this kind, it is, perhaps, needless further to investigate the character of evidence upon which a sustained effort is made to discredit Mr. Casement's testimony. || It may be observed that the natives cited by the Congo Government concurred in describing the accusation against the Lulanga Company's sentry as prompted by the wish of the natives to escarpe from their rubber dealings with that Company. || If these dealings are but those of commerce, as has been repeatedly asserted (*e. g.*, „Bulletin Officiel“, June 1903), there would not appear to be any sufficient pretext for the accusation these natives are said to have brought against that Company's sentry. || We find it stated that the „liberté du commerce“ the men of Bosunguma enjoyed presented itself to them in the following guise: — || „Pour ne pas faire de caoutchouc: Kelengo est sentinelle du caoutchouc. (Efundu, the 28th September, 1903, p. 24.) || Oui; j'ai entendu les indigènes se plaindre qu'ils travaillent beaucoup pour rien; que les Chefs s'emparaient des mitakos que les blancs payaient pour la récolte du caoutchouc; enfin, qu'ils mouraient de faim. Ils ajoutaient qu'ils avaient réclamé plusieurs fois inutilement“, &c. (Mongombe, the 28th September, 1903, p. 25.) || Parce qu'ils étaient fatigués de faire du caoutchouc, qui n'était plus dans leur forêt. Ils ont cru qu'avec l'intervention des Anglais ils pourraient se soustraire à un travail très dur, &c. . . . . Ils ont parlé avec les habitants, qui se plaignaient de ce qu'ils devaient travailler beaucoup. Ils disaient que le caoutchouc n'était plus dans leur forêt, qu'ils voulaient faire un travail moins dur“, &c. (Liboso, the 6th October, 1903, p. 27, „Notes“.) || Parce qu'ils trouvent que le travail du caout-

choue est trop dur, et ont cru de pouvoir s'en libérer, et pour les induire à s'en occuper ils sont allés leur conter des mensonges." (Bofoko, the 8th October, 1903, p. 30, „Notes".) || If, as the Congo „Notes" assert on p. 6 (p. 5, *supra*), these „dépositions sont typiques, uniformes, et concordantes, elles ne laissent aucun doute sur la cause de l'accident, attestent que les indigènes ont menti au Consul, et révèlent le mobile auquel ils ont obéi" — they unquestionably leave no doubt that the relations of the Lulanga Company to the natives of the surrounding country were not those of a trading Company engaged in exclusively commercial dealings, but of an organization compelling, with the approval and support of the Executive, a widespread system for which no legal authority exists. || Whatever may have been the truth of the charge against the sentry, the very evidence cited to disprove it attests that the natives spoke truly as to their abject condition, and shows that in a region repeatedly visited by Government officials, traversed weekly by Government steamers, lying close to the head-quarters of the Executive of the district, the trading operations of a private Company depended for their profits upon the „obligation de l'impôt".

The appended Table of exports and imports of the Congo State, taken from the „Bulletin Officiel" for April 1903 (No. 4), will suffice to indicate the larger aspect of the situation of the native producer: —

	Exports from Congo State.	Imports to Congo State.
	Fr.	Fr.
1895	10 943 019	10 685 847
1896	12 389 599	15 227 776
1897	15 146 976	21 181 462
1898	22 163 481	23 084 446
1899	36 067 959	22 325 846
1900	47 377 401	24 724 108
1901	50 488 394	22 102 064
1902	50 069 514	18 080 909

The export of native produce („le négoce des autres produits indigènes" — „Bulletin Officiel", April 1903, p. 65), it is seen, have enormously increased. They have considerably more than trebled in the six years from 1897 to 1902. || During the same period the imports into the Congo State — a small portion of which are trade goods for the pur-

chase of produce or the remuneration of the producers — remained not merely stationary, but even decreased by 4000000 fr. during the last year. || These figures, as they stand, are remarkable. Their significance is increased when it is borne in mind that the population of the regions exporting this great increase of native produce has enormously decreased during the same period. That decrease is admitted by the authorities. („Du reste, il n'est malheureusement que trop exact que la diminution de la population a été constatée" — „Notes", p. 2) (p. 2, *supra*). We thus find that a diminishing population, diminishing market-value of the article produced and a diminishing means of purchase have been accompanied during a period of only six years by a more than trebled production. || It may permitted to doubt wheter this state of affairs is adequately explained anywhere in the Congo Government „Notes". || It is not met by the statement on p. 14 (p. 9, *supra*) of this document: — || „Qu'il s'est agi de faire contracter l'habitude de travail à des indigènes qui y ont été réfractaires de tout temps. || Et si cette idée du travail peut être plus aisément inculquée aux natifs sous la forme de transaction commerciales entre eux et des particuliers, faut-il nécessairement condamner ce mode d'action?" &c. || On the same page of the „Notes" (14) it is sought to institute a comparison between the system of taxation in force on the Congo and that in operation in North and Eastern Rhodesia, and the conclusion is drawn that, since the latter is justified in a British Colonial administration, no exception can be taken to the former. || It is only necessary to point out that in North and Eastern Rhodesia, or in any other British Colony where direct taxation of the natives exists by law, the tax collector is a Government officer responsible for the sums levied to a central authority, not a trading agent having a direct personal interest in the amount of the „obligation de l'impôt. || The native under the British system knows the fixed amount of his obligation, and, once discharged from it, he is free to seek, where he will, labour or leisure. The Congo taxpayer with an ever-present perpetually-recurring, weekly, or fortnightly imposition to make good, may not even leave his village, save as a fugitive, and is a close bondsman to these endless tasks. || With regard to the arming of the sentries or „forest guards" in the employ of the trading Companies on the Upper Congo, the „Notes" throw doubt on the estimate Mr. Casement formed of the number of these guns, and the use to which they are put, and it cites Circulars of the Governor-General of the Congo State, dating from the 12th March, 1897, to the 30th April, 1901, as evidence that the Executive authority had been careful to guard against a possible misuse of the arms. || But the

issue of successive Circulars, which, by their own terms, show clearly that the law had been ignored or evaded, cannot be claimed as are effective fulfilment of a weighty obligation of the Executive. || It must further be borne in mind that the Congo Executive were themselves the direct agency for placing all the arms these Circulars refer to in the hands of those who are there shown to have ignored the law. || Every gun misused on the Upper Congo, with its accompanying ammunition, was carried to its destination by the vessels of the Government flotilla, which charged a considerable sum for their transport. They were housed in Government stores *en route*, for which a charge of „magasinage" is levied, and were distributed to the „factories" from Government steamers by Government Agents, who having made a profit from their agency in the matter, subsequently issued circular instructions to those into whose hands they knowingly gave the weapons. || „Les capitas qui, dans le Haut-Congo, parcourent le pays pour compte de commerçants, et qui sont pourvus d'un fusil, doivent également être munis d'un permis de port d'armes." || (Circular of the 12th March, 1897. Annexe V. „Notes", p. 34.) || „On a voulu y voir l'attribution aux Directeurs de ces Sociétés, et même à des agents subalternes, du droit de diriger des opérations militaires offensives, ‚de faire la guerre' aux populations indigènes; d'autres, sans même s'inquiéter d'examiner quelles pourraient être les limites de ce droit de police, se sont servis de moyens que cette délégation avait mis entre leurs mains, pour commettre les abus les plus graves. || Les armes perfectionnées que les Sociétés posséderaient dans leurs diverses factoreries ou établissements, et qui doivent faire l'objet comme les armes d'autres Sociétés n'ayant pas le droit de police, d'un permis Modèle B, ne peuvent en aucun cas sortir des établissements pour lesquels elles ont été délivrées. Quant aux fusils à piston, ils ne peuvent être mis en dehors des factoreries qu'entre les mains des capitas et à condition que ceux-ci aient un permis suivant Modèle C." || (Circular of the 20th October, 1900; see p. 78, Mr. Casement's Report.) || If the native sentries or capitas of these factories ranged the country with unlicensed arms, if these „Commercial" Companies made war on the natives, it was the Congo Government which carried those arms to their destinations and placed them in the hands of those who used them illegally. || „Nonobstant les précautions incessantes, le Consul a constaté que plusieurs capitas n'étaient pas porteurs de permis." || („Notes" of the Congo Government, the 12th March, 1904.) || The law prescribes clearly that no weapon can be issued for individual use save on the authority and personal licence of the Government. || That this law can be effectively observed was evi-

denced in Mr. Casement's own case. A Winchester rifle for his use arrived on the Congo while he was in the interior. It could not be dispatched to him from Boma to Stanley Pool (where he found it on coming down river) until a licence had been granted. This rifle was branded and numbered according to law and the thax of 20 fr. levied. " A law thus rightly obligatory in the case of a foreign official, who could not be suspected of misuse of the weapon he had imported, should have had at least as stringent application to the capitas, and forest guards and sentries of the numerous Companies, which are shown by the Government Circulars quoted to have been recognized for years as seeking to evade the law. || That the Congo Government have intimate cogniziance of the exact number of guns in use by the commercial Companies on the Upper Congo is evident, since every case of rifles and „ballot de fusils" imported into the Congo State has to enter the custom-house of Boma or Matadi, where it can only be withdrawn by authority. || Its subsequent transport to the interior is effected often by direct Government carriage, and always under Government control and supervision. || The Government of the Congo State, in concluding these preliminary „Notes" on Mr. Casement's Report, formulate a complaint as to the manner in which he proceeded in investigating native statements brought to his notice. || This complaint has application to the one case of the boy Epondo, and to that case alone. || In no other instance did he attempt to interrogate, „comme par voie d'autorité", any of the many natives whose homes he visited during his journey. In that one case it may be urged that, however unusual were the proceedings, it was clearly his duty not to turn a deaf ear to the appeal the people of Bosunguma addressed to him. || Whether they spoke truly or falsely in accusing the sentry of the act of mutilation, he had no option but to seek to arrive at the truth if he wished his intervention with the local authorities to have any effect. || Had he contented himself with merely listening to and reporting the accusation the natives of Bosunguma brought to him at Bonginda, the officials at Coquilhatville would have said he had formulated a grave charge against an individual on mere native report, whitout having taken the trouble to satisfy himself of its truth. || He could not, clearly, leave the mutilated boy in the town, where his assailant was represented as terrorizing the inhabitants. || It was his obvious duty to go to the spot, to see with his own eyes what truth lay in the report brought to him at Bongiuda. || Once in Bosunguma, the only way to arrive at anything like the truth was to see the accusers and the accused face to face and to hear what each said. || He distinctly dis-

claimed any right of intervention or power to help; but if he was going to report the charge made against the sentry, and to ask for investigation, it was clearly necessary that he should first find out whether there was good ground for addressing the local authorities. || With regard to the question of mutilation, His Majesty's Government note with interest that the Congo Government are aware that Mr. Casement is not alone in his opinion that such atrocities occur (§ 5, p. 5, of „Notes") (§ 5, p. 4, *supra*). The accusation as to „forced labour on the roads and restrictions which practically amount to slavery in Fiji" are due to an imperfect understanding of the communal system under which land is held there. || Individual land ownership does not exist, and the members of each commune have to perform their share of the necessary work, whatever it may be. || There is also the custom of „lala", under which the local Chiefs are entitled to exact a certain number of days' work from their commoners for the purpose of planting their gardens, building their houses, &c. || The Chiefs are bound to feed the workers so employed, and it is nothing more than a contribution towards their maintenance, paid by the commoners in work instead of taxes. || Instances have, no doubt, occurred in which these rhights have been abused, but every effort is made to prevent them. || The whole system has been in force for centuries, and when His Majesty's Government took over the islands it was thought expedient to continue it. It is understood by the natives, and is eminently suited to the needs of a primitive and half savage race. || The allegation as to the flogging of natives is, doubtless, an allusion to a case which occurred in 1902, of which the facts are briefly as follows: — || A native was arrested for two cases of indecent assault upon European women. He was tried according to native custom by the Commissioner and Chiefs of the island to which he belonged, having first been given his choice of being tried in this way or being referred to the Supreme Court. He pleaded guilty to one assault, and there was strong evidence against him in the other case. He was, accordingly, sentenced to be flogged. || Although for various reasons this summary procedure was advantageous, the case should properly have been referred to the Supreme Court. The Commissioner was, therefore, severely censured for his action. || The statement that the natives are constantly subject to imprisonment for frivolous causes is not borne out by any evidence in the possession of His Majesty's Government.

Nr. 13464. **GROSZBRITANNIEN.** — Der Gesandte in Brüssel an den Minister des Ausw. Unterredung mit dem belgischen Minister über die Untersuchungskommission.

Brussels, July 4, 1905.

My Lord, I communicated to the Belgian Minister for Foreign Affairs your Lordship's despatch of the 6th ultimo, and its inclosure. In the course of a conversation which ensued, Baron de Favereau, after remarking that he would not speak authoritatively on administrative questions connected with the Independent State, observed that he had found the Congo Government fully alive to the fact that an inquiry into the questions affecting the Congo Administration raised by Mr. Casement's Report was expedient, and he had every confidence that such inquiry would be impartial in character. || I remarked that, in my belief, those who had criticized the Congo State with such conviction would never declare themselves satisfied, were the Commission of Inquiry to be composed exclusively of persons in the direct employ of the Congo State; at any rate, I hoped the considerable non-Belgian element represented in the Congo would take part in any inquiry. His Excellency expressed his conviction that those who attacked the Congo State with such interested bitterness would never be silenced, but observed that the Caudron judgment and other sentences passed on delinquent employés might well establish confidence in the independence and impartiality of the superior State officials. I said that I should be glad to think that such a man as Baron Nisco, one of the Judges of Appeal, might take part in any inquiry, and that, when so many persons of different nationalities were to be found in the Congo, it ought not to be difficult to constitute an inquiry the result of which ought to satisfy even those with prejudiced views.

Constantine Phipps.

Nr. 13465. **KONGOSTAAT.** — Denkschrift als Antwort auf Nr. 13463. Die unparteiliche Untersuchung ist gesichert. — Anlage über Einsetzung der Untersuchungskommission.

Memorandum.

La dépêche de Lord Lansdowne du 6 Juin, 1904, et le Mémorandum qui y est annexé, publiés au „Parliamentary Paper", „Africa No. 7 (1904)", et transmis aux Puissances Signataires de l'Acte de Berlin, ont été communiqués par son Excellence Sir Constantine Phipps au Gouvernement

de l'État du Congo et ont fait l'objet de son examen. || Le Mémorandum annexé à cette dépêche trouve sa réponse dans le document ci-joint. | Lord Lansdowne, exposant ses vues au sujet de la communication du texte complet du Rapport de Mr. Casement, veut bien préciser qu'il la subordonne à ce que le Gouvernement du Congo „will take every means to secure that the witnesses, if their names should be divulged, will suffer no harm in their property or persons from the unlawful violence of those to whose desire for revenge they may be exposed." Le Gouvernement du Congo considère naturellement que la plus grande liberté doit être assurée aux témoins pour qu'ils produisent leurs témoignages en toute indépendance et en toute sécurité; que tout acte ou que toute tentative pour suborner des témoins doit être poursuivi et puni; qu'enfin tout acte ou toute tentative de représsailles sur la personne ou les biens des témoins, de la part de ceux contre lesquels ils auront déposé, doit être atteint des peines édictées par la loi. Ce sont là les principes de droit commun, et reconnus, pour employer les termes de la dépêche du 6 Juin, par toute Administration civilisée; ce sont ceux qui sont d'application au Congo. || Mais il n'est pas plus au pouvoir de l'État du Congo que de tout autre, en pareille occurrence, de garantir les témoins contre n'importe quel acte de mauvais gré. De tels actes sont toujours possibles, et en tous pays où ils se produisent il n'est d'autre mesuse prise que de les frapper d'une répression immédiate. Ce que l'État du Congo peut garantir, et il en prend l'entière responsabilité, c'est qu'au cas où semblable éventualité se présenterait dans l'occurrence, les délinquants seraient punis sans aucun délai, conformément à la loi, en vue précisément de protéger les témoins, aussi bien ceux „who gave evidence to Mr. Casement" que tous autres qui seront entendus. || En ce qui concerne l'enquête qu'annonçaient les „Notes" du 12 Mars dernier, le Gouvernement de Sa Majesté Britannique se rencontre avec celui de l'État du Congo, en exprimant le sentiment qu'elle soit minutieuse et impartiale. C'est de cette préoccupation dominante que s'est inspiré le Gouvernement de l'Etat en instituant la Commission appelée à poursuivre cette enquête. Le Décret du 23 Juillet, 1904 — dont copie est ci-jointe — a confié les fonctions de Commissaires à M. Edm. Janssens, Avocat-Général à la Cour de Cassation de Belgique, dont la haute situation et la compétence sont reconnus; à M. le Baron Nisco, qui remplit depuis plusieures années les fonctions de Président du Tribunal d'Appel de Boma avec une impartialité et une indépendance hors de discussion; enfin, à M. le Dr. Edm. de Schumacher, Conseiller d'État et Chef du Département de la Justice du Canton de Lucerne. || Une copie de la présente note et de ses Annexes

sera transmise aux Puissances auxquelles a été envoyée copie de la dépêche de Lord Lansdowne du 6 Juin, 1904.

Anlage.

Extrait du „Bulletin Officiel de l'État Indépendant du Congo", No. 7, Juillet 1904.

Léopold II, Roi des Belges, Souverain de l'État Indépendant du Congo, || A tous présents et à venir, Salut: || Considérant qu'il est allégué que, en certaines parties du territoire, des actes de mauvais traitement seraient commis à l'égard des indigènes, soit par des particuliers, soit par des Agents de l'État; || Qu'il importe qu'une enquête complète et impartiale soit faite sur les faits signalés; || Sur la proposition de notre Secrétaire d'État, || Nous avons décrété et décrétons:

Article 1er. Il est institué une Commission spéciale, composée de trois membres, pour procéder à la dite enquête, conformément aux instructions de notre Secrétaire d'État. || Art. 2. Sont nommés pour faire partie de la Commission — || (1.) M. Edm. Janssens, Avocat-Général à la Cour de Cassation de Belgique, Président; || (2.) M. le Baron Nisco, Président *ad interim* du Tribunal d'Appel de Boma; || (3.) M. le Dr. Edm. de Schumacher, Conseiller d'État et Chef du Département de la Justice du Canton de Lucerne. || Il sera pourvu par notre Secrétaire d'État à la nomination du Secrétaire de la Commission. || Art. 3. Il est conféré par la présente disposition aux membres de la Commission, agissant collectivement ou individuellement, les pouvoirs attribués par la loi aux officiers du Ministère Public à l'effet d'entendre tous témoignages utiles à la manifestation de la vérité, dresser procès-verbaux des dépositions, et saisir, le cas échéant, les Tribunaux des faits délictueux qui seraient relevés par l'enquête. La Commission prendra, conformément aux lois, les mesures qu'elle jugera nécessaires pour que les témoignages se produisent en toute liberté, et déférera aux Tribunaux tout acte ou tentative de subornation de témoin, ou toute atteinte à leur personne ou à leurs biens dont les témoins seraient l'objet de la part de ceux contre lesquels ils auraient déposé. Elle pourra requérir la production de tous documents administratifs ou judiciaires se rapportant à l'objet de sa mission, et qu'elle jugerait utiles à ses investigations. || Art. 4. En cas d'empêchement de l'un des membres, l'enquête se continuera valablement par les deux autres Commissaires. || Art. 5. Il sera fait par la Commission à notre Secrétaire d'État rapport sur ses opérations et les résultats de ses travaux en signalant éventuellement les améliorations utiles, et en formulant, au cas où l'enquête aurait constaté des abus, les propositions sur les meilleurs

modes d'y mettre fin, en vue du bon gouvernement des territoires et du bien-être de leurs habitants. || Art. 6. Notre Secrétaire d'État est chargé de l'exécution du présent Décret.

Donné à Bruxelles, le 23 Juillet, 1904.

(Signé) Léopold.

Par le Roi-Souverain:
Au nom du Secrétaire d'État:
Les Secrétaires-Généraux,

(Signé) Chevalier De Cuvelier.
H. Droogmans.
Liebrechts.

Anlage.

Notes sur le Mémorandum joint à la Dépêche de Lord Lansdowne du 6 Juin, 1904.

Le Mémorandum explique que Mr. Casement a été à même de chiffrer la dépopulation de certaines régions en raison de sa connaissance personnelle de ce qu'était la population dans les années antérieures, et de ce qu'elle lui apparut („appeared") être à la date de sa dernière visite. On peut penser que cet unique facteur n'est pas suffisant pour étayer un recensement sérieux. Déjà, les agents locaux qui ont eu connaissance du Rapport de Mr. Casement contestent certains de ses chiffres: c'est ainsi que le Chef de Poste de Bikoro (Lac Mantumba) a constaté que la population des villages des rives du lac est diminuée, par suite des ravages de la variole, non pas, comme le dit le Rapport (p. 31), de 60 ou 70 pour cent, mais de 30 pour cent environ. Le Commissaire du district de l'Équateur fait remarquer que le Consul, en ne faisant que toucher Irebu, n'a pu se rendre compte de ce que les tribus d'Irebu, revenues sur la rive de l'État (Rapport, p. 30), s'y sont réinstallées en de nouveaux emplacements, et, par conséquent, la phrase du Rapport „this village had entirely disappeared" ne peut être entendue en ce sens que la population elle-même aurait totalement disparue. Que cette région d'Irebu n'est pas dépeuplée se déduit du fait, consigné dans le Rapport (p. 30), que de très grandes quantités de „native food" y sont trouvées. Ces détails ne sont donnés que pour confirmer l'appréciation des notes du 12 Mars, 1904, à savoir que la valeur des informations du Rapport reste subordonnée à une vérification minutieuse. || Rencontrant cette autre cause d'une apparente dépopulation — c'est-à-dire la facilité avec laquelle se déplacent les agglomérations indigènes — le Mémorandum estime qu'une importance

trop grande a été donnée à cette considération, puisque, dit-il, „more than one reference in the Consul's Report shows that the natives are not allowed to leave their own districts". Le Consul lui-même cependant dans son Rapport, tire argument des exodes et des déplacements d'indigènes, ce qui se concilie mal avec les entraves qui seraient apportées à la liberté de leurs mouvements. La situation est exposée par le Gouverneur-Général en ces termes: — || „Une question qui a été souvent agitée, et que le Gouvernement Local vient encore de soulever, est celle du déplacement des populations. Il est connu que les tribus natives ont une tendance marquée à changer aisément de résidence, et ce pour des raisons qui, le plus souvent, ne relèvent nullement de l'action administrative. On voit des villages se déplacer parce qu'il se produit un décès dont les causes sont inexpliquées — qu'un féticheur en a ainsi ordonné — que les pluies ont été trop abondantes ou la récolte mauvaise — ou enfin qu'il a été constaté de cas des maladie du sommeil ou de variole. Ces déplacements le long des rives du fleuve ont parfois créé l'impression, pour un observateur superficiel, que la population avait diminué ou disparu. Les inconvénients résultant de ces déplacements continuels sont patents. Il en résulte, sur un même point, une accumulation de populations trop nombreuses pour que leur subsistance soit assurée. Les indigènes, dépossédés par les nouveaux venus des terres dont ils avaient la jouissance, se défendent par des moyens souvent violents; l'ordre et la tranquillité publics s'en trouvent compromis, et c'est là une des causes des luttes de villages à villages ou des tribus à tribus, luttes intestines dont, ailleurs aussi, on constate l'effet désastreux sur le chiffre de la population, comme par exemple au Soudan, pour lequel les données du Rapport de Lord Cromer en 1903 ne sont que trop concluantes." || Contrairement à ce que ferait penser le Mémorandum, il n'a jamais été dit que les affirmations des natifs ne fussent pas un élément à prendre en considération; mais ce qui sera affirmé et attesté par quiconque a été en rapport avec les indigènes, c'est que leurs déclarations doivent être soigneusement vérifiées et qu'à elles seules, elles ne suffisent pas pour former une conviction. „Une longue expérience des choses d'Afrique," dit le Gouverneur-Général, „m'a démontré avec quelle circonspection, pour ne pas dire avec quelle défiance, doivent être acceptées les affirmations des noirs. Leur mentalité spéciale les rend enclins à une facilité de mensonge qui déconcerte, et les Magistrats sont obligés de diriger leurs enquêtes et interrogatoires avec une réelle habileté et une patience inlassable pour parvenir à discerner la vérité au milieu des inexactitudes et des réticences des témoins de couleur. C'est dire combien les récits de faits à sensation

colportés par les indigènes sont souvent dénaturés par eux, quand ils ne sont pas simplement inventés, et quels mécomptes se préparent ceux qui les accueillent trop aisément. Un exemple typique s'en trouve dans le cas d'un missionnaire Protestant qui s'est vu accusé par des indigènes d'avoir porté au mécanicien noir du steamer de la Mission des coups et blessures ayant occasionné la mort. L'instruction judiciaire mit à néant cette accusation qui avait été forgée de toutes pièces par les indigènes afin de se venger du missionnaire, avec lequel ils étaient en différend à propos d'une question de salaire. Et cependant, les indigènes accusateurs n'avaient pas un instant cessé, malgré les preuves du contraire, de maintenir leurs affirmations mensongères avec une persistance et une ténacité qui étaient de nature à faire impression. Il est à regretter que Mr. Casement n'ait pas été mis en garde contre les affirmations des noirs, notamment par cet incident, qu'il ne pouvait ignorer, puisque le missionnaire dont il s'agit l'accompagnait lors de l'enquête sur le cas d'Épondo, que des indigènes prétendaient aussi avoir été la victime d'un acte criminel." || Le Mémorandum cherche ensuite à contester que le Consul ait apparu aux populations indigènes comme une sorte de défenseur, tout disposé à accueillir leurs plaintes. „As a matter of fact," dit-il, „in many parts of the country the natives did not know who he was." Tel ne paraît pas être l'avis du Rév. Armstrong, de la Mission de Bonginda dont le sentiment a d'autant plus de valeur qu'il s'est trouvé dans la région pendant tout le temps du voyage du Consul et qu'il a eu de fréquents rapports avec Mr. Casement. C'est de ce missionnaire qu'émane cette appréciation relevée dans les Notes, qui semble avoir échappé à l'attention du Mémorandum: „The Consul was here at the time, and the people were much existed, and evidently thought themselves ‚on top'. We are accused of having told the people that the rubber work was finished. This is an entirely false accusation. They have got this idea into their heads of themselves, consequent, I suppose, upon the Consul's visit. The consequence has been that many villages of the Lulonga Company have not brought in rubber lately." Cette appréciation est évidemment en désaccord avec le caractère d'incognito que le Mémorandum attribue au voyage du Consul. En s'en tenant d'ailleurs aux seules déclarations du Rév. Armstrong — corroborées par d'autres témoignages — il est à constater que dans un interrogatoire du 13 Septembre, 1903, il explique que des indigènes ont fait leurs réclamations à Mr. Casement parce „qu'ils l'ont pris comme étant une personnalité puissante", et il déclare le 15 Septembre, „qu'avant l'arrivée de M. le Consul, j'ai vu une pirogue indigene qui montait à Bassankussu, et j'ai entendu moi-même que les

gens de cette pirogue disaient que le grand chef des Anglais venait d'arriver à Lulonga." De tels détails démentent le rôle, presque effacé ou obscur, que le Mémorandum attribue maintenant au Consul, appréciation rendue difficilement acceptable lorsque l'on voit encore, par le Rapport lui-même (pp. 54 et suivantes), qu'à peine le Consul est arrivé à la Mission Protestante de Bonginda, toute une succession de groupes d'indigènes, et du village de L——, et du village de M——, et du village de N——, et du village de P——, viennent, en quelques heures, défiler devant lui. Le Rapport ajoute même: „other people were waiting desirous of speaking with me". Le fait que les indigènes venaient ainsi tout naturellement au Consul, alors que le Rapport affirme qu'ils évitaient de se plaindre à l'autorité, autorisait les Notes à dire que les indigènes considéraient le Consul comme le redresseur de leurs griefs, et cette coïncidence n'est pas sans paraître étrange de toutes ces venues d'indigènes arrivant le même jour, la même heure, au siège d'une Mission Protestante où venait précisément de s'installer le Consul.

La lettre de M. Spelier à M. Ellery, du 28 Août, ne signifie nullement que la présence du Consul et ses opérations dans la contrée fussent inconnues. „Ne sachant pas," a déclaré M. Spelier le 6 Novembre, 1903, „que c'était le Consul lui-même qui avait fait la visite (à Ivumi) et supposant que c'était un missionnaire, j'écrivis à M. Ellery, missionnaire d'Ikau, mon voisin, en lui disant que je me mettais à sa disposition pour l'éclairer et lui démontrer que les plaintes des indigènes n'avaient aucun fondement. Il me répondit que ce n'était pas un missionnaire, mais le Consul lui-même qui avait fait un tour d'inspection et qu'il aurait été enchanté de me voir à son prochain passage à Bokakata. Quelques jours après, le Consul passa par Bokakata mais ne s'arrêta pas." M. Spelier n'ignorait donc pas que Mr. Casement se trouvait dans la région, et si réellement les indigènes eux-mêmes d'Ivumi n'ont pas connu préalablement la venue du Consul, il a fallu les circonstances exceptionnelles que Mr. Casement énonce à la page 46 de son Rapport, reconnaissant par là que son arrivée n'était pas toujours „quite unexpected" et „unpreceded by any rumour of his coming". ‖ Le Mémorandum conteste qu'il puisse être tiré aucune conclusion des relations continues et presque exclusives que le Consul a eues avec les Missions Protestantes. Mr. Casement semble en avoir pensé autrement, puisque son Rapport s'est appliqué à ne faire aucune mention de ses points de contact avec les missionnaires de la Lulonga, et que, même dans certains des documents officiels annexés à son Rapport, et publiés au „Parliamentary Paper", se sont trouvés omis les passages d'où résultait la coopération des missionnaires de Bonginda

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à ses investigations. Étant connu que les accusations dirigées contre l'État émanent de missionnaires Protestants, il est à se demander s'ils étaient bien les collaborateurs indiqués pour que le Consul „come to an independent judgment on the conditions of native life", et à cet égard, il est noté que, selon le Mémorandum, le procédé suivi dans le cas Epondo ne fut pas exceptionnel et que „on several occasions, Mr. Casement had American missionaries with him during his visits to the natives". Il n'a jamais été fait grief à Mr. Casement de ne pas, comme dit le Mémorandum, „place himself under the guidance or conduct of local authorities", mais ce restera le vice indélébile de son enquête de ne pas avoir été contradictoire, d'avoir enregistré l'accusation sans acter la défense et d'avoir conclu sans aucune „cross-examination". || En dépit de l'effort fait par le Mémorandum pour atténuer l'importance de cet incident rappelé dans les Notes — des indigènes à Bonginda insultant un Agent Européen pendant le séjour du Consul en cette localité — il n'en conserve pas moins sa signification. Le Mémorandum s'appuie sur des détails, éclaircis par la suite, touchant les fonctions de l'Agent injurié, et le moment précis où l'incident se serait produit; le fait reste que chose sans précédent dans la région avant le voyage du Consul, un Agent Européen personnifiant l'élément blanc vis-à-vis des populations indigènes, peu importe qu'il appartînt au personnel d'une Société Commerciale, s'est vu outragé par des indigènes, en présence de missionnaires Protestants; et la circonstance admise par le Mémorandum, que le fait s'est passé précisément pendant le séjour du Consul, en accentue le sens. Quant aux termes des insultes proférées, le Mémorandum signale que la version de l'Agent en cause diffère de celle de Mr. Armstrong; il n'est pas de raison d'admettre cette dernière, alors surtout que le Rév. Armstrong, ainsi du reste que son collègue, Mr. Steel, interrogés le 15 Septembre, ont déclaré, dans leurs dépositions signées, qu'ils n'avaient pas compris les cris poussés par les indigènes. || A propos du cas Epondo, le Mémorandum constate d'abord que les Notes de l'État du Congo s'y étendent beaucoup plus longuement que ne l'a fait le Rapport du Consul. Cela s'explique aisément lorsqu'on sait que c'est la seule affaire sur laquelle le Consul a remis à l'autorité locale du district les procès-verbaux de son enquête. C'est donc aussi la seule sur laquelle cette autorité a pu immédiatement à son tour porter ses investigations, et c'est la seule sur laquelle le Gouvernement se soit trouvé documenté lors de la rédaction des Notes du 12 Mars dernier. Cette circonstance met aussi en relief l'importance que le Consul attribuait à l'affaire (importance que maintenant conteste le Mémorandum, nonobstant les citations du Consul lui-même.

rappelées aux pages 8 et 9 des Notes); si réellement les faits, dont parle sa lettre au Gouverneur-Général du 4 Septembre, s'étaient imposés à son attention avec la même importance que l'affaire Épondo, n'en aurait-il pas saisi immédiatement, sur place et sans délai, les autorités de Coquilhatville, comme il l'a fait pour cette seule et unique affaire? || En ce qui concerne les critiques formulées par le Mémorandum contre l'enquête judiciaire faite en cette affaire Epondo, il est à déclarer d'abord que le Gouvernement ne sait à quelle circonstance fait allusion l'affirmation du Mémorandum que l'enquête „sur une accusation dirigée contre un agent de la Société Lulonga a été conduite en partie par des agents de cette Société". C'est le 10 Septembre, 1903, que Mr. Casement saisit de l'affaire, à Coquilhatville, M. le Commandant Stevens et le 11, ce dernier commissionnait l'officier de police judiciaire Braeckman, en résidence à Coquilhatville, pour procéder sur les lieux à une information préliminaire, ce qu'il fit les 12 et 13 Septembre. Le 14 Septembre, Kelengo, l'auteur présumé de la mutilation, était amené à Coquilhatville à la disposition du Parquet. Le Substitut du Procureur d'État y commence l'enquête. Il la continue ensuite à Mampoko et à Bonginda, où Mr. Casement avait renvoyé l'enfant estropié. On ne voit pas dans toute cette procédure intervenir les agents de la Société de la Lulonga, autrement que comme témoins.

Le Mémorandum déclare que la rétraction du boy Épondo ne peut être tenue pour satisfaisante: — || 1. Parce qu'elle s'est produite pour la première fois à Mampoko, où se trouve là Direction de la Société „La Lulonga". Si le Mémorandum entend dire par lá que cette rétractation a été influencée par des intéressés, une argumentation analogue pourrait faire remarquer que le boy n'a pas longtemps maintenu sa première version dès qu'il s'est trouvé en dehors de linfluence de la Mission de Bonginda. En présence des nombreux témoignages contraires aux dires d'Épondo, le Substitut a fait chose utile à la manifestation de la vérité, en le changeant de milieu et en le transportant à Mampoko, où l'appelait sans doute la nécessité des confrontations. Il ne peut, au surplus, être admis à aucun degré que l'enquête n'aurait pas conservé toute son impartialité, uniquement parce que le Substitut aurait opéré en la localité où la Compagnie Lulonga avait son centre principal. || 2. Parce que les autorités elles-mêmes, ont, dit le Mémorandum, demandé à Mr. Faris, une attestation supplémentaire de la rétractation du boy Épondo. Il faut remarquer que si ce boy a, le 16 Octobre, été confié à ce missionnaire Protestant, c'est que déjà, le 10 Septembre précédent, M. le Consul l'avait conduit à cette même Mission de Bolengi. Il ne résulte pas de la décla-

ration du Rév. Faris, du 18 Octobre, 1903, que cette déclaration lui ait été demandée. Le point importe d'ailleurs peu en quelles circonstances le missionnaire Faris a fait cette déclaration; ce qui s'impose, c'est que la déclaration de ce missionnaire est l'expression de la vérité, ce que ne peut contester et ne conteste pas le Mémorandum, et que par conséquent l'enfant — qui, dès le lendemain du jour où il avait quitté la Mission de Bonginda, avait donné la version réelle de son accident — n'a cessé de la maintenir par la suite, alors même qu'il ne pouvait avoir aucun rapport avec les agents de la Société Lulonga. Il est à noter qu'il a fait la même retractation à Mgr. Derikx, Prélat des Prémontrés, qui le rencontra à Coquilhatville, et que Mr. Faris, dans une lettre postérieure du 31 Décembre, 1903, livrée à la publicité, écrit que l'enfant qui, à ce moment se trouvait depuis plus de deux mois à la Mission de Bolengi, en seul contact avec le Rév. Faris, n'a plus varié un instant dans ses affirmations, et „all efforts on my part", ajoute-t-il, „to ascertain . . . . . the inducement, if any, to make the change of testimony were unavailing".

La valeur de la rétractation d'Épondo est mise en doute parce qu'il a déclaré que l'accident „lui était arrivé depuis longtemps" alors, dit le Mémorandum, qu'au moment de la visite du Consul à Bosunguma, le 7 Septembre, les blessures étaient incomplètement cicatrisées. L'examen médical auquel il a été procédé par le Dr. Mardiglia, a cependant abouti, le 12 Octobre, 1903, à la conclusion que les blessures „dataient certainement d'un an et peut-être de plus encore". || L'argumentation du Mémorandum disant que „if the conclusions of Lieutenant Braeckman are accepted, the evidence on which they are founded should be also admissible", n'est pas acceptable puisque, précisément, ces conclusions, en raison des contradictions des témoignages „faisaient naître des soupçons assez graves sur la vérité des accusations". || Enfin on ne voit pas de contradiction entre le fait que le Chef Bofoko, primitivement interrogé par le Consul, a été entendu par le Substitut, et la constatation faite par ce dernier dans son Ordonnance que tous les indigènes qui avaient accusé Kelengo au Consul avaient pris la fuite: il en résulterait seulement que Bofoko a pu, après sa fuite, être retrouvé et ramené à Mampoko. Lorsque l'Ordonnance ajoute que „tous les efforts faits pour retrouver les témoins n'ont abouti à aucun résultat", elle parle évidemment en termes généraux de l'ensemble des témoins qui ont pris la fuite et qui n'ont pu être replacés collectivement à la disposition de la justice. || Le Mémorandum prend acte des témoignages produits dans l'affaire Épondo pour qualifier la situation des indigènes de „abject condition", et cela parce que de ces témoignages il résulte l'affirmation très

nette du désir chez le noir de ne pas travailler. Ce sentiment de paresse commun aux nègres, est chose connue, et qu'il s'agisse de récolter le caoutchouc, de se livrer au portage ou de cultiver la terre, l'indigène, il n'est pas à le méconnaître, préférerait ne pas avoir à travailler et ne pas être soumis à l'impôt. Le Mémorandum trouve une preuve de la malheureuse condition des indigènes dans le chiffre des exportations de l'État, supérieur à celui des importations. L'argument perd immédiatement de sa valeur quand on sait que les marchandises exportées sont renseignées aux statistiques à leur prix de vente sur les marchés d'Europe et que les importations sont renseignées à leur valeur, non pas au lieu de consommation, mais au port d'importation. Selon le raisonnement du Mémorandum, plus le prix des produits exportés est rémunérateur, plus pénible serait la condition du producteur indigène. „Au reste," comme le dit le Gouverneur-Général, „le prix des marchandises données en échange à l'indigène est, en Afrique comme partout, déterminé par la loi de l'offre et la demande, et tel objet de pacotille peut avoir pour le nègre d'Afrique une toute autre valeur que son prix indiqué sur les marchés d'Europe. C'est l'un des bénéfices, parfaitement légitimes, du commerce d'importation pénétrant dans les pays nouveaux." || Lorsqu'on tire, des chiffres des exportations, la conclusion que les indigènes se trouveraient exploités en raison du rendement progressif du caoutchouc, on oublie que l'exportation de tous les produits, autres que le caoutchouc, tels que les arachides, cacao, café, huile de palme, noix palmistes, &c., est également en progression. En prenant les chiffres de l'année 1902, on constate même que les exportations de caoutchouc sont en diminution sur celles de l'année 1901, tandis que se développe, dit le Rapport du 30 Avril, 1903 („Bulletin Officiel", 1903, p. 65), le négoce des autres produits indigènes. Le Mémorandum n'a pas saisi que ces termes qu'il cite: „Le négoce des autres produits indigènes" visent précisément tous les produits autres que le caoutchouc. En réalité, comme le dit le Gouverneur-Général, „le reproche d'inhumanité se trouve démenti par la prospérité économique croissante, car il serait au moins étrange qu'un régime qui va, affirme-t-on, jusqu'à dépeupler la contrée, produise en même temps ce résultat inattendu d'accroître le chiffre général des exportations". || En ce qui concerne les critiques relatives à l'importation des armes à feu, il suffira de remarquer que les données officielles récentes ne confirment pas les appréciations du Mémorandum. || „L'importation des armes n'est pas anormale. Les fusils de système perfectionné — ce sont en général des armes de chasse ou de précision à l'usage personnel des importateurs — ont été déclarés au chiffre de 881 en 1901 et de 1164 en 1902. Ces chiffres ne sont pas

hors de proportion avec le nombre d'Européens résidant au Congo qui était en 1902, par exemple, de 2365. Les fusils à piston importés étaient de 728 en 1901 et de 391 en 1902. Quant aux fusils à silex dont les accords internationaux ne permettraient pas d'interdire l'importation, les chiffres des années 1901 et 1902 sont en diminution sur celui des années précédentes. Des infiltrations d'armes ont été constatées par les frontières intérieures; d'un autre côté, il est affirmé que les fusils à silex, déclarés comme tels, sont transformés sur place en fusils à piston. L'autorité vise à détruire ceux de ces fusils qui sont trouvés en la possession des indigènes. C'est ainsi qu'il est recommandé aux chefs militaires d'exiger, lors de la fixation des conditions de paix, la remise par les indigènes de leurs fusils à piston qui sont ensuite détruits." — (Rapport du Gouverneur-Général.)

Nr. 13466. KONGOSTAAT. — Nähere Bestimmungen über die Behandlung der Zeugen.

Brüssel, 15. Juli 1904.

Auszug aus dem *„Bulletin Officiel de l'État Indépendant du Congo"*, *Juli 1904.*

Code de Procédure Pénale et Code Pénal. Dispositions additionnelles.

Léopold II, Roi des Belges, Souverain de l'État Indépendant du Congo, à tous présents et à venir, Salut: || Sur la proposition de notre Secrétaire d'État,

Nous avons décrété et décrétons: || Article 1er. L'Article 22 du Décret du 27 Avril, 1899, est complété par la disposition suivante, qui le remplace: — || „Les officiers du Ministère Public dresseront procès-verbal de toutes leurs opérations. || Toute personne citée pour être entendue en témoignage sera tenue de comparaître et de satisfaire à la citation; sinon elle pourra y être contrainte par l'officier du Ministère Public, qui, à cet effet, sans autre formalité ni délai et sans appel, prononcera une amende qui n'excédera pas 100 fr., et pourra ordonner que la personne citée sera contrainte par corps à venir donner son témoignage. || Le témoin ainsi condamné à l'amende sur le premier défaut et qui sur la seconde citation produira devant l'officier du Ministère Public des excuses légitimes, pourra être déchargé de l'amende." || Art. 2. La disposition suivante est ajoutée au Code Pénal: — || „51 *bis*. Les peines portées par les Articles 50 et 51 seront applicables dans le cas où l'on aura outragé ou frappé des témoins à raison de leurs dépositions." ||

Art. 3. Notre Secrétaire d'État est chargé de l'exécution du présent Décret.

Donné à Bruxelles, le 15 Juillet, 1904.

(Signé) Léopold.

Par le Roi-Souverain:
Au nom du Secrétaire d'État:
Les Secrétaires-Généraux,
(Signé) Chevalier de Cuvelier.
H. Droogmans.
Liebrechts.

Auszug aus dem „*Code Pénal*."

Section XIV. — *Des Outrages et des Violences envers les Dépositaires de l'Autorité ou de la Force Publique.*

50. Est puni de six mois, au maximum, de servitude pénale et d'une amende de 25 fr. à 200 fr., ou d'une de ces peines seulement, celui qui a outragé par fait, paroles gestes ou menaces, un Magistrat, fonctionnaire ou agent de l'autorité ou de la force publique, dans l'exercice ou à l'occasion de l'exercice de ses fonctions. || 51. Celui qui a frappé un Magistrat, fonctionnaire ou agent de l'autorité ou de la force publique dans l'exercice ou à l'occasion de l'exercice de ses fonctions est puni de six mois à deux ans de servitude pénale et d'une amende de 200 fr. à 1000 fr., ou d'une de ces peines seulement.

Nr. 13467. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Brüssel. Öffentlichkeit der Sitzungen der Untersuchungskommission erwünscht.

Foreign Office, August 10, 1904.

Sir, || I have received your despatch of the 31st ultimo, in which you forward a Decree of the Congo Government appointing a Special Commission to inquire into the charges made against the Administration of the Congo Free State in regard to the treatment of natives. || The Commission is composed of — || 1. M. E. Janssens, Advocate-General in the Court of Appeal of Belgium; || 2. Baron Nisco, President *ad interim* of the Court of Appeal at Boma; || 3. Dr. E. de Schumacher, Councillor of State and Head of the Department of Justice of the Canton of Lucerne.

In my despatch of the 6th June last I stated, with reference to the, „Notes" handed to you by M. de Cuvelier on the 13th March, that

although the manner in which the promised inquiry should be conducted must be left to the decision of the Congo Government, its results must in a great measure depend upon the position and character of those who were charged with its conduct. His Majesty's Government therefore suggested that a Special Commission should be appointed, composed of members of well-established reputation, and, in part at least, of persons unconnected with the Congo State, to whom the fullest powers should be intrusted both as regards the collection of evidence and the measures for the protection of witnesses. || His Majesty's Government will watch with interest the proceedings of the Commission, the composition of which corresponds in some degree to that which they recommended, and the distinguished position which the members hold, as well as their judicial qualifications, justify them in the expectation that their investigations will be of a searching and impartial character. || After nominating the Commission, the Decree proceeds to empower the members to hear all necessary evidence, to prepare *procès-verbaux*, and to refer to the Tribunals, should necessity arise, such offences as the inquiry may disclose. His Majesty's Government trust that the widest interpretation may be given to this provision of the Decree, and that all the authorities in the Congo State will do their utmost to facilitate the inquiry. || It is possible that further regulations are contemplated with regard to the conduct of the proceedings, but His Majesty's Government think it right to urge at once that the sittings of the Commissions should be held in public, and that any persons, including missionaries of all denominations and nationalities, should be permitted to give evidence if they desire to do so. Provisions to this effect would, in the opinion of His Majesty's Government, contribute materially to the opportunities of eliciting the truth, and would thus lend weight to any conclusions at which the Commission may arrive. || His Majesty's Government desire further to impress upon the Congo Government the need of affording ample time for the purposes of this inquiry. It will be incumbent upon the Commissioners to hear a large number of witnesses and to sift contradictory evidence. Personal observations and visits to remote districts in the large areas affected will no doubt be necessary, and undue haste or superficiality of procedure would fatally impair the value of the Commissioners' Report. || With reference to the protection of those who give evidence, the Decree enables the Commission to provide that witnesses shall be free to appear before it, and that the Courts shall deal with any attempt at subornation and with any act of violence on the part of those against whom evidence has been tendered. || This point is also dealt

with in the Memorandum of the 30th ultimo, handed to you by M. de Cuvelier. || The Congo Government concur in the views set forth in my despatch on this subject, and state that, while it is impossible to devise any absolute guarantee of immunity for witnesses, they are willing to undertake the fullest responsibility for the prompt repression and punishment in accordance with te law of any attempt to pervert or defeat the ends of justice. This assurance relates both to the witnesses who come before the Commission and to those who gave evidence to Mr. Casement. || His Majesty's Government note with satisfaction this assurance on the part of the Congo Government. The exercise of proper vigilance, the issue of a public warning that all offences against witnesses will be severly dealt with, and the infliction of prompt and exemplary penalties upon those who disregard it, will, they hope, inspire confidence in the natives, and enable the Commission to achieve the object for which it has been appointed. || You will read this despatch to M. de Cuvelier, and hand a copy of it to his Excellency. Copies will also be sent to the Powers who were parties to the Berlin Act. Lansdowne.

Nr. 13468. **GROSZBRTIANNIEN.** — Der Gesandte in Brüssel an den Minister des Ausw. Die Öffentlichkeit der Sitzungen ist unmöglich.

Brussels, August 12, 1904.

My Lord, || I read to M. de Cuvelier yesterday — the day it reached me — your Lordship's despatch of the 10th instant on the subject of the Special Commission of Inquiry in the Congo, leaving a copy with him, in accordance with your Lordship's instructions.

M. de Cuvelier appeared to greet with some satisfaction your Lordship's observations as to the satisfactory composition of the Commission in regard to the individuality of its members, remarking that it would have been difficult to have selected gentlemen better suited for their task. He proceeded, during the reading, to make a few personal observations as to the various points raised. || He remarked, in regard to the hope that the Congo authorities would do their utmost to assist the inquiry, that the Commission could require the production of all documents and subpœna anybody: the assistance of the authorities was therefore assured. As to the paragraph suggesting that the sittings of the Commission should be held in public, whilst he did not entertain the slightest doubt that every publicity would eventually be given to all proceedings which might take place, his remarks were to the effect that obligatory dublic

sittings would obviously enable all those who held *ex parte* views to arrive at a previous understanding as to what language each should hold when examined. The missionaries, he felt confident, would back up each others' tales, whilst the experience of such an absurd, though informal, inquiry as that held by Consul Casement into the Epondo case certainly did not encourage the advisability of a public inquiry when natives were in question. It was already very difficult or impossible at any time to induce negroes to tell the truth, and both the Consul's examination of the Epondo case as well as the counter-inquiry proved that the negroes gave evidence exactly as their momentary interests dictated. Trials, he said, might well be conducted in public, but the very essence of an inquiry consisted in „le recueillement" and in patient efforts to arrive at the truth in a calm atmosphere. According to all the precepts and provisions of Belgian and Congolese Law, an inquiry, especially of this nature, could not be publicly conducted. || As to permission being accorded to missionaries of all denominations to give evidence if desirous to do so, M. de Cuvelier called my attention, in Article 3 of the Decree, to the fact that the members had the power to hear all evidence „utile à la manifestation de la vérité", and would undoubtedly exercise it in the case of missionaries who had led and inspired the attacks against the Administration. It cannot be doubted that the power will be exercised in the case of the Catholic missionaries, who have hitherto maintained silence, and it is certain that such Baptist missionaries as Messrs. Scrivener, Harris, and Weeks will be given every chance of having their tales of wrong sifted by M. Janssens. || As to the term to be occupied by the inquiry, M. de Cuvelier said that confidence might be felt that it would not be unduly hurried. M. Janssens had only three months' leave at first, but it could be extented as long as necessary, in reason. || The other paragraphs in your Lordship's despatch merely placed on record the conditions and circumstances under which the inquiry was to be conducted, and, beyond aquiescence, excited no observations from the Congo Secretary. Constantine Phipps.

Nr. 13469. **KONGOSTAAT.** — Denkschrift. Antwort auf Nr. 13467.

Le Gouvernement de l'État Indépendant du Congo a pris connaissance de la dépêche de Lord Lansdowne du 10 Août dernier. || Le Décret du 23 Juillet, 1904, instituant la Commission d'Enquête, lui donne des pouvoirs d'investigation sans limites pour l'accomplissement de sa tâche — c'est

à-dire que ces pouvoirs existent dans la plus large extension en ce qui concerne les témoignages à recueillir, et il en résulte naturellement que toutes personnes quelconques, y compris, les missionaires de toutes dénominations et de toutes nationalités, seront non seulement admises à donner leurs témoignages, si celles le désirent — comme le dit la dépêche du 10 Août — mais seront même tenues, sous les sanctions légales, de comparaître et de déposer devant la Commission, si celle-ci juge leur audition utile. En plus, si, l'indication officielle était donnée au Gouvernement de l'État de personalités en mesure de fournir des renseignements circonstanciés et précis, le Gouvernement les signalerait à la Commission pour être entendues, désireux de provoquer la lumière par tous les moyens qui, conformément aux principes et aux précédents, ne constitueraient pas d'intervention étrangère dans les affaires intérieures de l'État. || Les autorités et agents de l'État auront le devoir, qui leur sera d'ailleurs marqué par le Gouvernement, de faciliter l'enquête de la manière la plus complète. || Le Décret ne stipule pas de restriction ou de limitation ni quant au champ d'opération de la Commission, ni quant à la durée de son mandat. Le Gouvernement a entendu par là laisser à la Commission toute liberté de diriger ses investigations où elle le jugerait utile et toute latitude d'y consacrer le temps qu'elle estimerait nécessaire. Il entre notamment dans son programme de se rendre dans l'intérieur du pays, comme l'a fait M. le Consul Casement, et d'y procéder jusqu'à ce que son travail d'information et de constatations personnelles ait éclairé sa religion et formé sa conviction. || En ce qui concerne la publicité des audiences, le Gouverement estime ne pouvoir restreindre les pouvoirs illimités qu'il a donnés à la Commission, laquelle, ayant mission de rechercher et découvrir la vérité, doit être juge, sur place, des conditions les meilleures et des modes les plus favorables pour y atteindre, et apprécier notamment si et quand la publicité des audiences aiderait ou ferait obstacle au but poursuivi, à savoir, la manifestation entière et complète de la vérité. L'obligation imposée d'une publicité absolue, telle que le suggère la dépêche de Lord Lansdowne, n'y viserait pas, si cette publicité, contraire du reste aux règles d'usage général qui régissent la procédure pour la recherche des preuves et des charges, devait, comme il est à craindre, avoir pour résultat de rendre aisées des ententes ou des collusions entre témoins, de faciliter des indiscrétions de nature à dicter ou à orienter les dépositions ultérieures, et en rendant publiques les directions dans lesquelles se porteront les recherches de la Commission, de mettre des tiers intéressés dans tel ou tel sens à même d'exercer certaines pressions ou de faire disparaître des témoins, appréhension que formulait la dépêche

antérieure de Lord Lansdowne; si, enfin, une telle publicité, en donnant le spectacle de divergences éventuelles entre témoins de race blanche, encourageait chez le noir sa tendance naturelle au mensonge dans la pensée d'accentuer ces divergences, de créer des divisions et d'opposer les uns aux autres les blancs dont il n'est que trop porté à affaiblir le prestige. || C'est surtout par son caractère contradictoire que l'enquête présentera de réelles garanties. Il s'entend par là que les témoins, dont les dépositions seront contradictoires, seront confrontés devant la Commission, étant ainsi à même de défendre leurs affirmations personnelles et de combattre celles qui seraient divergentes. L'opportunité sera de la sorte donnée à tout témoin de connaître et de discuter lui-même les autres témoignages non conformes aux siens, et il sera dressé par la Commission procès-verbal de ces confrontations, comme de toutes ses autres opérations. || Le Gouvernement de Sa Majesté Britannique a exprimé le sentiment que les résultats de l'enquête doivent, en grande partie, dépendre de la position et du caractère de ceux qui seront chargés de la conduire. La dépêche du 10 Août dernier, notant, à cet égard, „the distinguished position which the members hold, as well as their judicial qualifications", le Gouvernement de l'État estime devoir leur laisser la plus grande liberté „in regulating the scope and order of the inquiry", comme le disait, dans un sens analogue, Mr. Chamberlain au Commissaire de Sa Majesté Britannique dans l'enquête de Sierra Leone. || Copie du présent Mémorandum sera adressée aux Puissances auxquelles a été communiquée la dépêche de Lord Lansdowne du 10 Août, 1904.

Bruxelles, le 5 Septembre, 1904.

Nr. 13470. **GROSZBRITANNIEN.** — Der Gesandte in Brüssel an den Minister des Ausw. Sicherung der Zeugnisse.

Brussels, September 6, 1904. (September 8.)

My Lord, || With reference to your Lordship's despatch of the 18th ultimo as to any further measures being contemplated by the Congo Government for the protection of witnesses before the approaching Commission of Inquiry, M. de Cuvelier expressed to me his conviction that ample precautions had been adopted against the intimidation of these witnesses. The 43rd Article of the Penal Code of the Congo State (of which copy is herewith inclosed) imposed penal servitude on persons guilty of influencing or intimidating witnesses. A special Decree had been already drawn up some days ago assimilating the Special Commission to „les Tribunaux", as mentioned in the Decree. || This Article and Article 51 *bis* (see Congo Decree of the 15th July last) afforded, he

trusted, ample protection to witnesses before the Commission in the case of acts of intimidation and of retaliation. All such acts would be „déférés aux Tribunaux" by the Commission, in compliance with the Decree whereby it is constituted.

I have, &c.

(Signed) Constantine Phipps.

Anlage.

Article 43 of Penal Code.

Section XII. — Du Faux Témoignage et du Faux Serment.

Article 43. Le faux témoignage devant les Tribunaux est puni de servitude pénale. La peine peut s'élever à cinq ans. || Si l'accusé a été condamné soit à la servitude pénale à perpétuité, soit à la peine de mort, le faux témoin qui a déposé contre lui peut être condamné à la peine de servitude pénale à perpétuité. || Le coupable de subornation de témoin est passible de la même peine que le faux témoin, selon la distinction des deux Articles précédents.

Nr. 13471. **GROSZBRITANNIEN.** — Derselbe an Denselben. Die Kommission wünscht den ganzen Konsularbericht vom 11. Dezember 1603 (Nr. 13377) kennen zu lernen.

Brussels, September 14, 1904. (September 14.)

(Telegraphic.) || Speaking on behalf of the Commission of Inquiry Baron Nisco expressed to me their wish to be furnished with the full text of Consul Casement's Report, with a view to facilitating their inquiries. It would be accepted by them on the understanding that it would be for their own sole use; at the same they consider that on the close of their inquiry they would be obliged to hand it over with other documents to the Congo Government. || I have not yet spoken to M. de Cuvelier on the subject. The Acting British Consul at Boma could communicate the Report to the Commissioners.

Nr. 13472. **KONGOSTAAT.** — Instruktion für die Untersuchungskommission.

Auszug aus dem „*Petit Bleu*" vom 14. September 1904.

Les Instructions de la Commission d'Enquête au Congo.

Le Secrétaire-Général du Département des Affaires Étrangères de l'État Indépendant, M. le Chevalier de Cuvelier, a adressé aux membres

de la Commission d'Enquête, MM. Ed. Janssens (Président), Baron Nisco, et de Schumacher, les instructions suivantes: —

„Messieurs, || J'ai l'honneur de vous transmettre le Décret du 23 Juillet, 1904, instituant une Commission d'Enquête et vous désignant comme membres de cette Commission. || Le Gouvernement n'a d'autres instructions à donner à la Commission que celle de consacrer tous ses efforts à la manifestation pleine et entière de la vérité. Il entend lui laisser, dans ce but, toute sa liberté, son autonomie, et son initiative. || Le Gouvernement ne se départira de cette règle de non-intervention que pour donner à ses fonctionnaires et agents de tous grades des ordres formels et rigoureux pour qu'ils prêtent à la Commission une aide et un concours sans réserve, en vue de lui faciliter l'accomplissement de sa tâche. || Le Décret du 23 Juillet dernier, en conférant aux membres de la Commission les pouvoirs attribués par loi aux officiers du Ministère Public, les munit de pouvoirs sans limites pour recevoir tous témoignages quelconques. La Commission est donc à même d'entendre, non seulement les témoins qu'elle citera à comparaître, mais encore ceux qui, spontanément, se présenteront devant elle. D'autre part, il est pouvoir de la Commission de contraindre les témoins défaillants. || Le Gouvernement ne fixe à la Commission aucune limitation, ni quant au champ de ses opérations, ni quant à la durée de son mandat. Elle dirigera ses investigations où elle le jugera utile et pendant le temps qu'elle estimera nécessaire. Elle n'a, à cet égard, à s'inspirer que de son souci de recueillir les informations et de faire les constatations personnelles suffisantes pour lui permettre de se former ses convictions. || Les mesures législatives se trouvent édictées pour que les témoignages se produisent devant la Commission en toute sincérité et en toute sécurité. Les dispositions du Code Pénal relatives au faux témoignage devant les Tribunaux et à la subornation de témoins ont été rendues applicables à la procédure d'enquête devant la Commission; des textes de la Loi Pénale frappent également quiconque porterait atteinte à la personne ou aux biens des témoins. Des instructions spéciales seront données au Parquet pour que toute infraction de l'un de ces genres qui viendrait à se produire au cours de l'enquête soit déferée sur-le-champ aux Tribunaux, et punie sans délai des peines portées par la loi. Il appartiendra à la Commission de veiller à ce que les mesures légales visant à assurer la sincérité des dépositions et la sécurité des témoins reçoivent la plus large publicité effective. || La Commission trouvera, annexé à la présente, pour son information, un dossier de renseignements se rapportant à l'objet de sa mission."

Nr. 13473. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Brüssel. Antwort auf Nr. 13471.

Foreign Office, September 28, 1904.

Sir, || I have had under my consideration your telegram of the 14th instant, in which you inform me that the Congo Commission are desirous of being furnished with the full text of Consul Casement's Report. You add that they would receive it on the understanding that it would be for their use only, but that they consider that it would be their duty at the close of their inquiries to hand it over with other documents to the Government of the Free State. || His Majesty's Government are quite ready to communicate copies of the Report in question to the Commission on these terms, provided that they receive a similar assurance as to the manner in which they will make use of its contents from the Congo Government, to whom, indeed, the terms on which His Majesty's Government have always been ready to communicate the full text of the Report are well known. || You should address a note in this sense to M. de Cuvelier, adding that copies of the report were forwarded by the steamer of the 16th instant to the Acting British Consul at Boma with a view to its being possible to instruct him, by telegraph, to hand them to the Commissioners so soon as His Majesty's Government should have received the assurance asked for.

(Signed) Lansdowne.

Nr. 13474. **GROSZBRITANNIEN.** — Derselbe an Denselben. Die Garantien für die Unparteilichkeit genügen noch nicht.

Foreign Office, September 28, 1904.

Sir, || I have had under my consideration your despatch of the 6th instant, inclosing a Memorandum by the Congo Government on the subject of the attributions and composition of the Commission of Inquiry. || His Majesty's Government note with satisfaction that, on some points, such as the procedure of the Commission in regard to the preparation of *procès-verbaux*, the co-operation of local authorities whith a view to facilitating the inquiries of the Commission, and the admission of evidence from missionaries or others who may whish to tender it, the decisions of the Congo Government are in accordance with the suggestions which you were instructed to put forward. They regret the more, therefore, the disinclination of that Government to accept the suggestion that the sittings of the Commission should be held in public, and that

some person, duly authorized and deputed for that purpose by His Majesty's Government, should be permitted to attend them. || The latitude of discretion allowed to the Commission by the Instructions, of which you inclosed a copy in your despatch of the 14th instant, does, no doubt, in some degree, mitigate those feelings of disappointment; but His Majesty's Government feel bound to observe that, whatever force there may be in the argument that publicity would, in the present state of public controversy, militate against a judicial and dispassionate examination of facts, the Congo Government do not even allege that the interests of truth would be endangered by the attendance in Court of a single spectator designated by His Majesty's Government for this purpose. The objection raised that the mere presence of a foreigner, although invested with no judicial authority whatewer, would be in itself derogatory to the sovereign and independent status of the Free State, is incomprehensible to His Majesty's Government. They need make no other comment upon it than to point out its obvious inconsistency with M. de Cuvelier's attitude in regard to Mr. Casement's Report. According to this view, the success of the inquiry would appear to depend materially on whether the Commission are or are not placed in possession of the original text of that Report, with the names of the witnesses whose evidence it records. That the Report of a foreign Consul to a foreign Government on the internal administration of the Congo may safely be made the ground for an inquiry without prejudice to national prestige, which will, nevertheless, be gravely impaired by the presence of another Representative of the same Government at the investigation, is a proposition so self-contradictory that his Majesty's Government cannot believe that it will be seriously maintained. || Should the Congo Government, however, persist in their decision, they cannot, in the opinion of His Majesty's Government, feel surprised or aggrieved if the result should be to destroy in advance all the moral authority which might otherwise attach to the Commission in the eyes of independent observes. Hopes may still be entertained that the inquiry will be productive of good results, but they will be hopes founded solely on the character of the Commission and the intentions professed by the Congo Government, and not on the expectation of obtaining corroborative evidence of the kind which could probably have been provided by the attendance of an impartial and legally-trained observer at the sittings. || In the penultimate paragraph of the Memorandum an allusion is made to the inquiry instituted into the disturbances in Sierra Leone. His Majesty's Government cannot recognize, in the circumstances of that inquiry, anything analogous to those

which have originated the investigation proposed by the Congo Government. Such a prescedent might perhaps have been cited with propriety had the Congo Government adopted the course which His Majesty's Government adopted on that occasion, and taken independent action themselves before Mr. Casements' Report was brought to their notice, but it is irrelevant to an inquiry prompted by the friendly representations of a foreign Government. || You should read this despatch to M. de Cuvelier, and leave a copy with him, at the same time explaining that copies will be sent to the various Powers to whom the previous despatches on the subject have been communicated.

Nr. 13475. **GROSZBRITANNIEN.** — Der Gesandte in Brüssel an den Minister des Ausw. Behandlung des englischen Konsularberichts (Nr. 13473).

Brussels, October 4, 1904. (October 4.)

(Telegraphic.) || Referring to your Lordship's despatch of the 28th ultimo, the Congo Government are willing to undertake that, in the event of the Report being communicated both to themselves and to the Commission through the Governor-General at Boma, it will be treated as only for their own use and for purposes of inquiry by the Commission. It must obviousty form an essential basis of such inquiry. || It will accordingly not be published until after the termination of the inquiry, nor will it be communicated to officials against whom accusations have been made. || The Congo Government do not wish, however, to undertake that the Report in question shall not, in common with other documents used in the inquiry, be published with the final Report of the Commission.

Nr. 13476. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Brüssel. Dasselbe.

Foreign Office, October 6, 1904.

(Telegraphic.) || His Majesty's Government have no objection to communicating complete text of report on terms mentioned in your telegram of the th instant. They prefer, however, that it should be handed by the Acting British Consul at Boma direct to the Commission, and not, as suggested, through the Governor-General. In the event of the Congo Government agreeing, instructions will at once be sent to Mr. Nightingale to hand to the Commission the three copies already sent to him, and copies will be sent to you for communication to the Congo Government.

Nr. 13477. **KONGOSTAAT.** — Der Staatssekretär an den englischen Gesandten in Brüssel. Der Konsulatsbericht soll einstweilen nicht veröffentlicht werden*)

Bruxelles, le 10 Octobre, 1904.

M. le Ministre, || Comme suite à la lettre de votre Excellence du 3 courant et à nos conversations relatives à la communication au Gouvernement de l'État et à la Commission d'Enquête du texte complet du Rapport de M. le Consul Casement, j'ai l'honneur de confirmer à votre Excellence l'assurance que j'ai eu l'occasion de lui donner que ce Rapport ne sera pas rendu public dans sa forme intégrale pendant le cours des travaux de la Commission. || Le Gouvernement de l'État, au surplus donne l'assurance à votre Excellence qu'il ne sera fait usage de ce Rapport que „for the own use only" de la Commission étant entendu que cet usage comporte pour la Commission la faculté, au cours des interrogatoires et dépositions, d'utiliser les indications et déclarations du Rapport concernant soit les témoins, soit les personnes mises en cause dans ce Rapport. || Le Gouvernement, conformément à la dépêche du 3 Octobre, fait savoir par télégraphe au Gouverneur-Général que le Consul Britannique intérimaire à Boma recevra de son Gouvernement l'instruction de remettre à la Commission les exemplaires du Rapport qui lui ont été transmis. Ch. de Cuvelier.

Nr. 13478. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Konsul in Boma. Soll versuchen, den Sitzungen der Kommission beizuwohnen.

Foreign Office, November 2, 1904.

(Telegraphic.) || Sir C. Phipps reported in his despatch of the 6th September last, of which you will already have received a copy, that M. de Cuvelier stated that, so far as concerned the presence of persons deputed to watch the proceedings of the Commission of Inquiry, no restriction had been imposed. I take this to mean that the Commissioners are at liberty to admit individual spectators to be present at their sittings. You should therefore repeat to them the suggestion previously made to M. de Cuvelier that, with a view solely to strengthen public confidence in them, either you or some other Representative of His Majesty's Governement should be permitted to attend their sittings.

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*) Am 13. Oktober befiehlt Lansdowne dem englischen Konsul in Boma telegraphisch, der Kommission 3 Tage den Bericht zu übergeben. Red.

Nr. 13479. **GROSZBRITANNIEN.** — Der Konsul in Boma an den Minister des Ausw. Die Sitzungen sind öffentlich.

Boma, December 11, 1904.

(Telegraphic.) || In accordance with the instructions contained in your telegram of the 2nd November, I communicated with the Commission of Inquiry, and have received the following reply: — || „Les audiences de la Commission d'Enquête sont publiques, et elle ne voit aucun inconvénient à ce que vous ou toute autre personne assistiez à toutes les audiences, ainsi que le font déjà tous les missionaires."

Nr. 13480. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Konsul in Boma. Ein Spezialbevollmächtigter wird an den Sitzungen teilnehmen.

Foreign Office, December 15, 1904, 5.30 P. M.

(Telegraphic.) || Your telegram of the 11th December. || I have learnt with much satisfaction the decision of Commissioners that sittings shall be public, and that a Representative of His Majesty's Government is therefore at liberty to attend. || In order not to interfere for too long with the discharge of your ordinary duties I propose to send out for the purpose Vice-Consul Mackie. In the meantime, can you arrange to be present at some of the next sittings?

Bündnisse, Verträge, Konventionen, Protokolle usw.

Nr. 13481. **BELGIEN und LUXEMBURG.** — Abkommen über Entschädigung bei Arbeiterunfällen.

15. April 1905.

Convention.

Son Altesse Royale le Grand-Duc de Luxembourg et Sa Majesté le Roi des Belges, également animés du désir d'assurer aux ressortissants de Leurs États respectifs le bénéfice réciproque de la législation en vigueur sur la réparation des dommages résultant des accidents tu travail, ont résolu de conclure à cet effet une convention et ont nommé pour Leurs Plénipotentiaires, savoir: || Son Altesse Royale le Grand-Duc de Luxembourg, M. le Comte de Marchant d'Ansembourg, Chambellan de S. A. R. le Grand-Duc de Luxembourg et de S. M. la Reine des Pays-Bas, Commandeur de première classe avec plaque de l'ordre d'Adolphe de Nassau, Officier de l'Ordre de la Couronne de Chêne, Commandeur de l'Ordre de Léopold, etc., etc., Son Chargé d'affaires près Sa Majesté le Roi des Belges, et || Sa Majesté le Roi des Belges, M. le Baron de Favereau, Membre du Sénat, Chevalier de l'Ordre de Léopold, Chevalier de l'Ordre de la Couronne de Chêne, etc., etc., Son Ministre des Affaires Étrangères; || lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

Art. 1. Les ouvriers luxembourgeois victimes d'accidents du travail en Belgique, ainsi que leurs ayants-droit, seront admis au bénéfice des mêmes indemnités et des mêmes garanties que les sujets belges. Par réciprocité, les ouvriers belges victimes d'accidents du travail dans le Grand-Duché de Luxembourg, ainsi que leurs ayants-droit, seront admis au bénéfice des mêmes indemnités et des mêmes garanties que les sujets luxembourgeois. || Art. 2. Il sera cependant fait exception à la règle précédente lorsqu'il s'agira d'ouvriers, sans distinction de nationalité, qui sont occupés passagèrement, c'est-à-dire pendant six mois au plus, sur le territoire de celui des deux États contractants où l'accident est survenu, mais qui sont attachés à une entreprise située sur le territoire de

l'autre État, auquel cas la législation de ce dernier État sera seule applicable. || Art. 3. Les dispositions de l'art. 48, n° 2, et de l'art. 49, alinéa 4, de la loi luxembourgeoise du 5 avril 1902 sont suspendues expressément au profit des ayants-droit de nationalité belge. || Art. 4. Les dispositions des art. 1, 2 et 3 de la présente Convention seront semblablement applicables aux personnes que les lois de chacun des États contractants assimilent aux ouvriers en ce qui concerne la réparation des dommages résultant des accidents du travail. || Art. 5. Les exemptions prononcées en matière de timbre, de greffe et d'enregistrement, et la délivrance gratuite stipulée par la législation luxembourgeoise sur les accidents du travail, sont étendues aux actes, certificats et documents visés par cette législation qui seront passés ou délivrés aux fins d'exécution de la loi belge. Réciproquement, les exemptions prononcées et la délivrance gratuite stipulée par la législation belge sont étendues aux actes, certificats et documents visés par cette législation et qui seront passés ou délivrés aux fins d'exécution de la loi luxembourgeoise. || Art. 6. Les autorités luxembourgeoise et belges se prêteront mutuellement leurs bons offices en vue de faciliter de part et d'autre l'exécution des lois relatives aux accidents du travail. || Art. 7. La présente Convention sera ratifiée et les ratifications seront échangées à Bruxelles le plus tôt possible.

Elle entrera en vigueur dix jours après la publication dans les formes prescrites par la législation des deux pays, et demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Parties contractantes l'aura dénoncée.

En foi de quoi les Plénipotentiaires ont signé la présente Convention et y ont apposé leurs cachets.

Fait en double à Bruxelles, le 15 avril 1905.

(L. S.) Le Comte d'Ansembourg. (L. S.) Favereau.

(La Convention ci-dessus a été ratifiée et l'échange des ratifications a eu lieu à Bruxelles, le 25 octobre 1905.)

Nr. 13482. GROSZBRITANNIEN und SCHWEDEN. — Zusatzabkommen zum Postvertrag.

1./8. Dezember 1900.

Additional Articles to the Convention for an exchange of Money Orders between the United Kingdom of Great Britain and Ireland and the Kingdom of Sweden, dated the 7:th/12:th of September 1881.

The Postmaster General of the United Kingdom of Great Britain and Ireland and the Director General of Posts of the Kingdom of Sweden have agreed as follows:

Article I.

Between the United Kingdom of Great Britain and Ireland and the Kingdom of Sweden there shall be an exchange of Telegraph Money Orders for sums not exceeding the maximum amount allowed in the case of ordinary Money Orders exchanged between the two countries. The Postal Administrations of the two countries shall each indicate to the other the Offices which they admit to this exchange of Telegraph Money Orders.

Article II.

The sender of a Telegraph Money Order shall be required to pay, in addition to the commission to be charged on an ordinary Money Order, the cost of a telegram of advice from one country to the other. ||

Independently of the charges above-mentioned, the British Post Office reserves to itself the right to levy from the sender of each Telegraph Money Order from the United Kingdom to Sweden a supplementary charge, the amount of which will be fixed and retained by the British Post Office.

Article III.

All Telegraph Money Orders payable in the United Kingdom shall be transmitted to the Central Telegraph Office in London, but those payable in Sweden shall be transmitted direct to the paying Office. || In cases of telegrams of advice to places in Great Britain and Ireland except London the words „viâ London" shall appear in the preamble as a service instruction.

The telegram of advice shall be in the French language, as follows: Mandat [number of the order at the Post Office of issue.] || Postes . [name of the Office of payment.] || [name of the remitter or remitters, in accordance with the regulations for ordinary Money Orders.] || paye ..... [amount in figures and words in the money of the country of payment.] || pour .. [name and address in full of the payee or payees, in accordance with the regulations applying to ordinary Money Orders.] || The remitter of a Telegraph Money Order is allowed, on paying at the ordinary rate for the extra words required, to add to the official telegram of advice any communication, which he may wish to send to the payee.

Article IV.

The correspondence relative to Telegraph Money Orders which cannot be paid on account of insufficient or incorrect address or other irregularities, shall be always conducted between the Post Offices in London and Malmö, the British Paying Office having in such case to transmit

to the Post Office of London and the Swedish Paying Office to the Post Office of Malmö all undeliverable Telegraph Money Orders received, together with an official notice of the cause of the non-delivery.

Article V.

The Telegraph Money Orders or the corresponding advices of the same shall be delivered to the payees in accordance with the provisions of Articles LXV and XLVII of the Service regulations appended to the International Telegraph Convention (Revision of Budapest).

Article VI.

As in the case of ordinary Money Orders, the Administration of the country of issue shall account to the Administration of the country of payment for one half of one per cent on the total amount of the Telegraph Money Orders advised. To this end, the Telegraph Money Orders shall be entered separately by the respective Offices of Exchange at the end of the Advice Lists for ordinary Money Orders, with the heading „Advised by Telegraph".

Article VII.

In cases of fictitious Orders in which it may be impossible to determine in which country a fraud may have been committed, or in cases of fraud or error in connexion with the transmission of telegrams of advice over the Telegraph lines of intermediate countries or of Cable Companies, the responsibility for any losses involved shall be shared equally by the British and Swedish Postal Administrations.

Article VIII.

In cases not expressly mentioned in these Additional Articles Telegraph Money Orders shall be subject to the same general conditions as ordinary Money Orders exchanged between the United Kingdom of Great Britain and Ireland and the Kingdom of Sweden.

Article IX.

The provisions of the above Articles shall come into operation on the 1:st of January 1901 and shall have the same duration as the above mentioned Convention of the 7:th/12:th of September 1881.

Done in duplicate and signed at London on the 8:th day of December 1900, and at Stockholm on the 1:st day of December 1900.

(L. S.) Londonderry.

Nr. 13483. SCHWEDEN und RUSZLAND. — Postvertrag.

Stockholm, 24. Januar 1899.

Déclaration.

En vue d'améliorer les relations postales entre la Suède et la Russie le Directeur Général p. i. des Postes de Suède et le Directeur Général des Postes et des Télégraphes de Russie ont signé, sous la réserve de l'approbation de leurs Gouvernements respectifs, un Arrangement dont la teneur est mot pour mot comme suit:

Arrangement concernant les relations postales entre la Suède d'un côté et la Russie (la Finlande y comprise) de l'autre côté.

Prenant en considération que certaines dispositions de la Convention concernant les relations postales entre la Suède et la Russie du 16/4 mai 1895 sont en désaccord avec celles de la Convention internationale concernant l'échange des colis postaux à laquelle la Russie a adhéré lors du dernier congrès postal à Washington, les soussignés ont arrêté, d'un commun accord, sous réserve de l'approbation de leurs Gouvernements respectifs, en dérogation des articles 4, 5, 6 et 10 de la Convention du 16/4 mai 1895, les stipulations suivantes:

Article 1.

1. Les colis avec ou sans valeur déclarée, ne répondant pas aux conditions fixées à la Convention internationale concernant l'échange des colis postaux, ou ceux qui ne peuvent être soumis au régime de cette Convention à cause de leur provenance ou destination, seront traités d'après les règles suivantes: || 2. Ces colis seront compris sous la dénomination de „colis de messagerie".

3. Les colis de messagerie, avec ou sans valeur déclarée, seront passibles des taxes internes (port, droit d'assurance etc.) des Etats contractants, calculées depuis les pointsfrontière d'entrée et de sortie et perçues au profit respectif de ces Etats. Ils devront être expédiés affranchis jusqu'à la frontière, ou, si faire se peut, affranchis jusqu'à destination. | Les droits d'assurance pour les colis de messagerie avec valeur déclarée, originaires de Suède à destination de Finlande et vice versa, transmis par la voie directe, seront perçus conformément aux prescriptions de l'Arrangement international en vigueur concernant l'échange des lettres et des boîtes avec valeur déclarée. || Les colis réexpédiés ou renvoyés seront soumis aux taxes légales pour les nouveaux parcours à effectuer.

4. En cas de perte, spoliation ou avarie des colis de messagerie sans valeur déclarée, dépassant le poids reglementaire fixé par la Convention

internationale en vigueur concernant l'échange des colis postaux, les Administrations contractantes seront responsables dans des limites proportionnées à celles tracées par la Convention précitée, savoir, actuellement, à 5 francs par kilogramme. || 5. Les Administrations contractantes ne se chargent pas de responsabilité pour les colis de messagerie perdus ou avariés pendant le transport maritime d'hiver lorsque la perte ou l'avarie est due à des circonstances de force majeure. || 6. Les Administrations contractantes ne seront pas responsables des pertes, spoliations ou avaries des colis précités s'étant produites sur le territoire ou dans le service d'un pays étranger, si elles ne sont pas liées avec les pays ou Offices en question par des Conventions particulières prévoyant le payement de l'indemnité. || Elles s'engagent cependant à faire gratuitement toutes les démarches utiles pour sauvegarder les intérêts des réclamants. || 7. En tout ce qui n'est pas prévu par les stipulations du présent Arrangement et par celles de la Convention du 16/4 mai 1895 en tant que ces dernières ne sont pas dérogées par le présent article, les dispositions de la Convention internationale en vigueur concernant l'échange des colis postaux, y compris celles régissant la responsabilité en cas de perte, spoliation ou avarie des colis postaux avec ou sans valeur déclarée, sont applicables aux colis de messagerie échangés entre les parties contractantes et, autant que possible, aux envois qu'elles se livrent réciproquement à destination d'antres pays.

Article 2.

Le présent Arrangement entrera en vigueur le $\frac{1 \text{ Janvier } 1899}{20 \text{ Décembre } 1898.}$ Il demeurera obligatoire aussi longtemps qu'une des parties contractantes n'en aura pas dénoncé la résiliation une anné d'avance.

Article 3.

Cet Arrangement sera approuvé par un échange de Déclarations Ministérielles, qui aura lieu, si faire se peut, avant le $\frac{1 \text{ Janvier } 1899}{20 \text{ Décembre } 1898.}$

Fait en double original à Stockholm et à St. Pétersbourg le 28/16 Décembre 1898.

Le Directeur Général p. i. des Postes du Royaume de Suède
F. H. Schlytern.

Directeur Général des Postes et des Télégraphes de Russie
N. Petroff.
Lieutenant Général.

Le soussigné, Ministre des Affaires Etrangères de Sa Majesté le Roi de Suède et de Norvège, dûment autorisé à cet effet, déclare que le dit Arrangement est confirmé en tous points par la présente Déclaration

destinée à être échangée contre une Déclaration semblable du Ministre des Affaires Etrangères de Sa Majesté l'Empereur de Russie.

(L. S.) Douglas.

Déclaration.

En vue d'améliorer les relations postales entre la Russie et la Suède le Directeur Général des Postes et des Télégraphes de Russie et le Directeur Général des Postes p. i. de Suède ont signé, sous la réserve de l'approbation de leurs Gouvernements respectifs un Arrangement dont la teneur est mot pour mot comme suit:

(inseratur)

Le soussigné, Ministre des Affaires Etrangères de Sa Majesté l'Empereur de Russie, dûment autorisé à cet effet, déclare que le dit Arrangement est confirmé en tous points par la présente Déclaration destinée à être échangée contre une Déclaration semblable du Ministre des Affaires Etrangères de Sa Majesté le Roi de Suéde et de Norvège.

St. Petersbourg le $\frac{28 \text{ Janvier}}{9 \text{ Février}}$ 1899.

Cte Mouravieff.

(L. S.)

Nr. 13484. VEREINIGTE STAATEN und BELGIEN. — Postvertrag.

19. November 1904.

Convention concernant l'échange réciproque des colis postaux entre la Belgique et les Etats-Unis d'Amérique.

Animés du désir d'améliorer les relations entre la Belgique et les Etats-Unis d'Amérique, les soussignés, M. le baron Moncheur, Ministre de Belgique à Washington, et Robert J. Wynne, Postmaster-General des Etats-Unis d'Amérique, ont, en vertu des pouvoirs qui leur sont conférés, arrêté les dispositions ci-après:

Article 1.

Les dispositions de la présente Convention s'appliquent exclusivement à l'échange des colis postaux, suivant les règles qu'elle établit. Elles ne modifient rien aux arrangements de la Convention postale universelle, lesquels restent en vigueur comme par le passé. Toutes les dispositions qui suivent visent uniquement les dépêches échangées en exécution des articles de la présente Convention.

Article 2.

1. Peuvent être échangés aux conditions de la présente Convention les marchandises et tous autres objets postaux, à l'exclusion des lettres, cartes postales et écrits de toute nature, lorsqu'ils sont admis au transport en trafic interne dans le pays d'origine; toutefois, les colis ne pourront avoir une valeur supérieure à 250 francs. Les colis ne peuvent dépasser ni le poids de 2 kilogrammes (4 livres 6 onces) ni les dimensions suivantes: longueur maxima dans n'importe quel sens: 105 centimètres (3 pieds 6 pouces), longueur maxima et circonférence réunies: 180 centimètres (6 pieds). || Chaque colis doit être emballé de manière à permettre aux fonctionnaires de la douane et aux agents des postes et du chemin de fer délégués d'en vérifier facilement le contenu. || Sont exclus du transport, outre les articles que se notifieront mutuellement les deux pays: || Les publications qui enfreignent les lois sur la propriété littéraire en vigueur dans le pays de destination; les poisons et les matières explosibles ou inflammables; les substances grasses, liquides ou facilement liquéfiables; les confitures et les pâtes; les animaux morts ou vivants sauf les insectes et les reptiles complètement déséchés; les fruits et les végétaux qui se décomposent facilement: les substances qui exhalent une mauvaise odeur; les billets, annonces ou circulaires de loteries; tous les objets obscènes ou immoraux; les objets qui sont de nature soit à endommager ou à détruire les dépêches, soit à blesser les personnes qui les manient. || 2. Les colis admis par la présente Convention seront exempts de toute visite et de tout stationnement autre que ceux nécessités pour l'accomplissement des formalités en douane, ils seront transportés à destination par les moyens et voies les plus prompts tout en restant soumis aux lois et règlements respectifs du pays où ils voyagent.

Article 3.

1. Aucune lettre ni communication ayant le caractère d'une correspondance personnelle ne peut être jointe au colis, y être inscrite ou enfermée. || 2. Si une lettre ou une communication de l'espèce est découverte et si elle peut être enlevée au colis, elle sera remise à la poste; si elle ne peut être séparée du colis, celui-ci sera refusé. Toutefois, si les lettres ou des communications de même nature sont transportées par inadvertance, le pays de destination pourra les taxer au double du port conformément aux stipulations de la Convention postale universelle. || 3. Aucun colis ne peut contenir d'autres colis ou objets qui seraient revêtus d'adresses autres que celle qu'il porte. Si de semblables colis ou

objets sont découverts dans un colis, ils sont expédiés séparément et taxés comme des envois distincts.

Article 4.

1. L'affranchissement des colis est obligatoire. Les taxes à payer au départ sont les suivantes: || 2. Au départ de la Belgique, pour un colis pesant 2 kilogrammes et moins (4 livres 6 onces): 1 fr. 75 c. || 3. Au départ des Etats-Unis d'Amérique, pour un colis dont le poids n'excède pas une livre (455 grammes): 12 cents; pour chaque livre ou fraction de livre, en sus 12 cents. || 4. Les colis sont délivrés aux destinataires par les bureaux désignés dans les adressesfrancs de tous frais de transport; cependant chaque pays peut, à son gré, percevoir du destinataire, pour factage et frais de formalités en douane, une taxe ne dépassant pas: 25 centimes en Belgique et cinq cents dans les Etats-Unis.

Article 5.

1. Au moment du dépôt d'un colis, le bureau où le colis est remis au transport, délivre à l'expéditeur un récépissé. Au départ des Etats-Unis d'Amérique, il est fait usage du formulaire conforme au modèle I ci-annexé. || 2. L'expéditeur peut faire enregistrer son colis conformément aux règlements du pays d'origine. || 3. Sur demande formulée par l'expéditeur d'un colis enregistré, il lui sera envoyé un avis de réception de son envoi; chacun des pays pourra exiger, de ce chef, de l'expéditeur le payement préalable d'une taxe n'excédant pas cinq cents pour les Etats-Unis d'Amérique et vingt-cinq centimes en Belgique. || 4. Les destinataires de colis enregistrés sont avisés de l'arrivée des colis par le bureau de destination.

Article 6.

1. L'expéditeur doit dresser, pour chaque colis, une déclaration en douane, établie sur formulaire spécial (voir annexe 2 à la présente convention), qu'il collera sur le colis ou y attachera. Cette déclaration doit mentionner la description générale du colis, l'indication précise de son contenu et de sa valeur, la date d'expédition, la signature et le lieu de résidence de l'expéditeur. || 2. Les colis sont soumis, dans les pays de destination, à tous droits et à tous règlements de douane qui y sont en vigueur pour assurer la perception des revenus douaniers; les droits de douane régulièrement dus sont perçus à la livraison conformément aux règles douanières du pays de destination.

Article 7.

Chaque pays conserve, à son profit, la totalité de l'affranchissement et des frais d'enregistrement et de remise à domicile qu'il perçoit à charge

des colis; conséquemment la présente Convention ne donne pas lieu à décomptes spéciaux entre les deux pays.

Article 8.

1. Les colis feront l'objet de dépêches distinctes à échanger directement entre les Etat-Unis d'Amérique et la Belgique. Le pays d'origine doit expédier ses dépêches au pays de destination à ses frais et à l'aide des moyens dont il dispose. Les colis doivent être enfermés, au choix du pays d'origine, soit dans les récipients construits spécialement pour cet usage, soit dans des sacs ordinaires à dépêches, marqués „Parcel post" „colis postaux" et clos solidement à l'aide de cachets à la cire ou autrement conformément aux dispositions qui seront arrêtées de commun accord dans les règles pour l'exécution de la présente Convention. || 2. Chaque pays renverra au bureau expéditeur par le plus prochain courrier, tous les sacs et récipients vides, sauf arrangement contraire à intervenir à ce sujet entre les deux administrations. || 3. Bien que les envois tombant sous l'application de la présente Convention soient transportés entre bureaux d'échange comme il vient d'être dit ci-dessus, les colis doivent être emballés de façon à garantir leur contenu contre les risques de perte, d'avarie ou de soustraction pendant leur transport à découvert du bureau de départ au bureau d'échange du pays d'origine et du bureau d'échange du pays de destination au bureau d'arrivée. || 4. Chaque dépêche doit être accompagnée d'un relevé dressé en double expédition, mentionnant tous les colis expédiés, leur numéro d'ordre, le nom de l'expéditeur, le nom du destinataire et son adresse, le contenu du colis et sa valeur déclarée pour la douane. Ce relevé, conforme au formulaire annexe 3 à la présente Convention, doit être enfermé dans l'un des récipients ou dans l'un des sacs dont se compose la dépêche.

Article 9.

Les dispositions du présent Arrangement s'appliquent exclusivement aux dépêches à échanger en exécution de la présente Convention, entre le bureau de New-York ainsi que les bureaux de poste qui pourraient être désignés ultérieurement par la direction générale des postes des Etats-Unis, d'une part, et le bureau d'Anvers (Bassins et Entrepôt) ainsi que les bureaux belges qui pourraient être désignés ultérieurement par l'administration des chemins de fer de Belgique, d'autre part.

Article 10.

1. Dès que la dépêche parvient au bureau d'échange destinataire, celui-ci en vérifie le contenu. || 2. Si le relevé des colis n'est pas joint,

il est dressé d'office. || 3. Toutes les erreurs d'inscriptions découvertes lors de la vérification sont reconnues, par un second employé, redressées et annotées pour être signalées au bureau expéditeur par bulletin de vérification envoyé sous enveloppe spéciale. || 4. Si un colis inscrit au relevé n'est pas parvenu, le manquant est attesté par un second employé, puis l'inscription est biffée et le fait signalé immédiatement. || 5. S'il est constaté qu'un colis est insuffisamment affranchi, il n'est pas suppléé à l'insuffisance d'affranchissement, mais le fait est signalé par bulletin de vérification. || 6. S'il est constaté à l'arrivée qu'un colis est avarié ou mal conditionné, l'irrégularité est signalée en détail au bureau de départ. || 7. Si celui-ci ne reçoit ni bulletin de vérification ni avis d'irrégularité, il considère la dépêche comme régulière sous tous les rapports et comme valablement livrée.

Article 11.

1. Tout colis qui ne peut être livré à son adresse ou qui est refusé doit être renvoyé sans frais au bureau d'échange expéditeur, trente jours après son arrivée au bureau de destination; le pays d'origine peut réclamer à l'expéditeur, pour le renvoi du colis, une taxe équivalente à celle payée au départ. Toutefois, les colis prohibés aux termes de l'article 2 et ceux qui ne réunissent pas les conditions de dimensions, poids et valeur prescrites par le même article ne doivent pas obligatoirement être renvoyés au pays d'origine et il peut en être disposé sans recours, conformément aux lois et règlements de douane du pays de destination. || 2. Les colis contenant des articles sujets à détérioration ou à corruption peuvent être détruits immédiatement ou, s'il est possible, vendus sans avis préalable ni formalités judiciaires au profit de l'ayant droit; procès-verbal de la vente doit être adressé par le bureau de destination à celui de départ. || 3. Toute demande de renvoi d'un colis doit être appuyé du montant du port dû pour la réexpédition de l'envoi au bureau d'origine calculé d'après les taxes postales ordinaires.

Article 12.

L'administration de chacun des pays contractants n'est responsable ni de la perte ni de l'avarie d'un colis et, par conséquent, ni l'expéditeur, ni le destinataire ne sont fondés à réclamer aucune indemnité; cependant chaque pays est libre d'indemniser l'expéditeur d'un colis égaré ou avarié sur son territoire.

Article 13.

Le directeur général des postes des Etats-Unis d'Amérique et l'administration des chemins de fer de l'Etat pour la Belgique, sont autorisés

à arrêter de commun accord telles mesures d'ordre et de détail ultérieures qu'ils jugeraient nécessaires à l'exécution de la présente Convention. Ils peuvent, après entente préalable, décider l'admission, sous certaines conditions, de colis contenant un ou plusieurs des objets prohibés en vertu de l'article 2.

Article 14.

La présente Convention entrera en vigueur et ses dispositions seront applicables à partir du premier jour de février 1905. Elle restera en vigueur jusqu'à ce que les deux Parties contractantes y mettent fin de commun accord, mais elle peut être dénoncée en tout temps sur le désir de l'une d'elles et moyennant avis donné à l'autre, six mois à l'avance.

Fait en double et signé à Washington, le dix-neuvième jour de novembre mil neuf cent quatre.

(L. S.) Baron Moncheur,
Belgian Minister at Washington.
Robert J. Wine,
(L. S.) Postmaster-General of the United States of America.

Nr. 13485. FRANKREICH und KONGOSTAAT. — Handelsvertrag.

31. Oktober 1901.

Convention entre l'État Indépendant du Congo et la République Française.

Sa Majesté Léopold II, Roi des Belges, Souverain de l'État Indépendant du Congo, || et || Le Président de la République Française, || Désirant faciliter les relations commerciales entre l'État Indépendant du Congo et la France, ont décidé de conclure une convention à cet effet et ont nommé pour leurs Plénipotentiaires respectifs: || Sa Majesté Léopold II, Roi des Belges, Souverain de l'État Indépendant du Congo: || M. le Chevalier de Cuvelier (A.), Secrétaire Général du Département des Affaires Étrangères de l'État Indépendant du Congo, Chevalier de l'Ordre de Léopold, etc. || Le Président de la Republique Française: || M. Gérard, Envoyé, Extraordinaire et Ministre Plénipotentiaire de la République Française à Bruxelles, Commandeur de la Légion d'Honneur, Grand Officier de l'Ordre de Leopold, etc. || Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit:

Article Premier.

Les denrées coloniales de consommation suivantes: café, cacao, poivre, piment, amomes et cardamomes, cannelle, cassia lignea, muscades, macis,

girofles, vanille et thé, originaires de l'État Indepedant du Congo, bénéficieront, à leur importation en France, en Algérie, dans les colonies et possessions françaises, dans les pays de protectorat de l'Indo-Chine et de la Tunisie, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

Article 2.

Réciproquement, les produits naturels et fabriqués originaires de France, d'Algérie, des colonies et possessions françaises, des pays de protectorat de l'Indo-Chine et de la Tunisie, bénéficieront sans aucune restriction ni réserve, à leur importation dans l'État Indépendant du Congo, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

Article 3.

Les certificats d'origine qui seraient exigés pour l'admission des marchandises aux régimes de faveur stipulés par la présente convention, seront visés par les Consuls et agents des deux pays, en gratuité des taxes consulaires de Chancellerie.

Article 4.

La présente convention sera ratifiée par les deux Gouvernements aussitôt que faire se pourra, et les ratifications en seront échangées à Bruxelles. Elle entrera en vigueur immédiatement après l'échange des ratifications et demeurera exécutoire jusqu'à l'expiration d'une année, à partir du jour où l'une des Hautes Parties contractantes aura notifié son intention d'en faire cesser les effets. || En foi de quoi les Plénipotentiaires, mentionnés ci-dessus, ont signé la présente convention et y ont apposé leurs cachets.

Fait en double exemplaire à Bruxelles, le trente et un octobre mil neuf cent un.

(L. S.) Chr. de Cuvelier. (L. S.) A. Gérard.

Les ratifications ont été échangées le 18 février 1902.

Nr. 13486. KONGOSTAAT und KONGOBAHNGESELLSCHAFT. — Tarifvertrag.

12. November 1901.

Convention.

Entre l'État Indépendant du Congo, d'une part, || Et la Société anonyme belge Compagnie Du Chemin de Fer du Congo, d'autre part, || Il a été convenu ce qui suit:

Article premier.

La Compagnie du Chemin de fer du Congo s'engage à créer, à partir du 1er janvier 1902, un tarif spécial A pour le transport de ce qui est nécessaire à la construction et à l'exploitation de nouveaux chemins de fer au Congo supérieur. || Ce tarif spécial sera établi sur la base du „prix coûtant" réel de ces nouveaux transports, lequel sera calculé et appliqué de la façon qu'il est dit à l'article 8. || Ce tarif spécial à la montée s'appliquera non seulement à tout le matériel, matériaux, matières, objets et outils généralement quelconques, rien excepté, destinés à la construction et à l'exploitation des nouveaux chemins de fer au Congo supérieur, mais aussi à tous les vivres, denrées, provisions, bières, vins, eaux minérales, vêtements, mobiliers destinés à tout le personnel de la construction et de l'exploitation de ces chemins de fer et des services de navigation annexes. || Il en sera de même pour le matériel de télégraphie, et de téléphonie, ainsi que pour tous les matériaux, matières, machines, etc., devant servir à la construction des bateaux, remorqueurs, allèges, destinés au service de la construction, de l'exploitation et des services de transport affluents ou annexes des lignes de chemin de fer. || Le personnel blanc de ces chemins de fer ou services annexes sera transporté à 50 p. c. du tarif, le personnel noir et les travailleurs seront transportés à 40 p. c. du tarif. La réduction accordée aux hommes de couleur voyageant en groupe ne sera pas applicable à ces transports.

Article 2.

Il sera créé à la montée, un tarif spécial *B*, au taux de fr. 0,50 la tonne kilométrique utile. L'État Indépendant du Congo indiquera, sous les conditions d'application prévues à l'article 4, les marchandises qui jouiront du bénéfice de ce tarif *B*. || Les pièces détachées, les coques et les machines pour bateaux, allèges ou remorqueurs ne jouiront pas de ce tarif spécial.

Article 3.

A l'effet de développer le commerce, l'industrie et l'agriculture, ainsi que les exploitations forestières et minières du Congo, la Compagnie du Chemin de fer s'engage à créer un tarif spécial *C* à la descente au taux de $4^1/_2$ centimes la tonne kilométrique utile, applicable à tous les transports de marchandises généralement quelconques, à l'exception de l'ivoire et du caoutchouc. La Compagnie n'est pas responsable des avaries et pertes des marchandises transportées à ce tarif, pour autant que la Compagnie se soit conformée aux règlements d'exploitation. Au moment où les transports à la descente atteindront 90 p. c. des transports à la montée,

ce tarif sera revisé de manière à tenir compte des dépenses supplémentaires occasionnées pour la remonte des wagons vides nécessaires pour transporter à la descente les marchandises en excédent sur celles à la montée. Ce tarif sera mis en vigueur à partir du 1er janvier 1902.

Article 4.

Les réductions de tarif du Chemin de fer du Congo prévues à l'article 21 du cahier des charges ne seront pas applicables uniformément à tous les transports effectués par le chemin de fer, mais, dans l'ensemble, la somme des diminutions qui en résultera devra équivaloir à celle qui résulterait de leur application uniforme à tous les transports. Pour l'application non uniforme des réductions, on prendra pour base, par catégories, par prix perçus et par quantités, les marchandises transportées pendant l'année qui aura précédé celle de la dernière réduction de tarif. Par exemple, la recette brute de l'exercice 1899-1900 a été de fr. 13, 182, 800.84 La réduction de 5 p. c. du 1er juillet comportait donc une somme de 659 140 francs. L'État du Congo aurait, s'il le décidait, le droit d'appliquer l'entièreté de cette réduction de 659 140 francs aux tarifs des provisions, conserves, vins et liqueurs, et de ne rien réduire des autres tarifs ou de l'appliquer à la réduction des tarifs d'un certain nombre de marchandises ou du tarif des voyageurs, pour des quotités différentes, tout en maintenant au tarif ancien toutes les autres marchandises. || La réduction de 5 p. c. appliquée uniformément à tous les tarifs le 1er juillet 1901 sera revisée et appliquée comme il est dit au présent article. || L'État indépendant du Congo aura seul le droit de déterminer les catégories de marchandises qui devront être degrevées et leur quotité de dégrèvement. En aucun cas, ce dégrèvement ne pourra faire baisser le tarif de n'importe quelle catégorie de marchandises à la montée au-dessous du prix du tarif spécial *B* prévu à l'article 2 ci-dessus. Dès qu'une marchandise aura été ainsi classée au tarif spécial *B*, elle ne pourra plus jamais être déclassée et rentrer dans le tarif général. || Il est entendu toutefois que les étoffes, les baguettes de laiton et les perles ne pourront être dégrevées d'une quotité supérieure à la réduction proportionnelle en pour-cent.

Article 5.

L'État Indépendant du Congo s'engage à ne pas exercer avant le 1er juillet 1916 le droit de rachat de la concession tel qu'il est défini dans les articles 30, 31, 32 du cahier des charges. Pendant le même laps de temps, la Compagnie ne pourra élargir ni doubler la voie sans l'assentiment de l'État.

Article 6.

L'État Indépendant du Congo donne, pendant deux ans, à la Compagnie du Chemin de fer du Congo, l'option de relever à 15 300 francs le minimum de 8000 francs de recette kilométrique prévu au paragraphe 2 de l'article 21 du cahier des charges, pourvu que la Compagnie fasse, au moment où elle usera de cette option, une réduction de 25 p. c. dans les conditions de l'article 4 ci-dessus. La Compagnie, dans ce cas, aurait le droit de ne plus faire de réduction de tarif avant le 1er juillet 1907, étant entendu que, pour la première réduction subséquente, il ne faudra plus que la recette de 15 300 francs ait été réalisée pendant trois années consécutives. || Les relèvements de tarifs prévus à l'article 22 du cahier des charges ne seront jamais applicables à cette réduction, ni à celles consenties aux articles 1, 2, 3 ci-dessus.

Article 7.

Si la Compagnie use du droit d'option stipulé à l'article précédent, il est entendu qu'en cas de rachat par l'État Indépendant du Congo, à partir du 1er juillet 1916, le prix à payer ne pourra être supérieur au prix de rachat de l'État belge tel qu'il est établi par les conventions en vigueur à ce jour, pour autant que le Congo restera indépendant et aura à sa tête un membre descendant de Léopold 1er et de la famille royale actuelle de Belgique.

Article 8.

Il a été convenu, en principe, que la Compagnie du Chemin de fer du Congo effectuera tous les transports nécessaires pour la construction des chemins de fer du Congo supérieur au „prix coûtant". On doit comprendre cette expression dans ce sens que la Compagnie du Chemin de fer du Congo ne réalisera aucun bénéfice ni ne subira non plus aucune perte du chef de ces transports. || A cette fin, à la fin de chaque exercice, le prix de revient du transport à la tonne kilométrique (tares comprises) sera dressé en divisant le chiffre des dépenses totales d'exploitation des marchandises, y compris l'intérêt à 4 p. c. et l'amortissement en dix ans des dépenses du matériel roulant nécessaire pour faire face à l'augmentation du trafic, par le nombre de tonnes kilométriques marchandises (tares comprises) transportées. La diminution du prix de revient sur les prix actuels provenant de l'augmentation du trafic sera alors calculée. || En établissant cette diminution du prix de revient, on tiendra compte à la Compagnie du Chemin de fer de l'économie qu'elle pourrait avoir apportée sur ses dépenses de l'exercice précédent en dehors de celles provenant de l'augmentation de trafic. Dans tous les cas, le tarif *A* ne pourra jamais être inférieur au prix de la traction proprement dite. || S'il

n'y a pas accroissement du trafic autre que celui résultant des transports des dits nouveaux chemins de fer, l'économie totale résultant de la diminution du prix de revient sera applicable à ces transports. Si, au contraire, il y a accroissement du trafic proprement dit de la Compagnie du Chemin de fer du Congo, il y aura un partage proportionnel de ladite économie entre les transports de la Compagnie du Chemin de fer du Congo et ceux des chemins de fer du Congo supérieur. || Les nouveaux chemins de fer auront la faculté de fournir le matériel roulant et de traction pour leurs transports au lieu d'en payer l'intérêt et l'amortissement. || Au cours de l'exercice, les transports des chemins de fer nouveaux seront facturés tares comprises, au taux de 0,11 la tonne kilométrique et à la fin de chaque exercice, les comptes définitifs étant dressés comme il est dit ci-dessus, il sera fait ristourne des sommes payées en trop et vice versa. || Il est convenu que les transports nécessaires à la construction des chemins de fer nouveaux jouiront seuls de la prime d'économie, et que les transports nécessaires pour l'exploitation des dits chemins de fer seront effectués au prix de revient des transports, tels qu'ils résultent des comptes de la Compagnie.

Article 9.

L'intention des parties contractantes en ce qui concerne les tarifs *B* et *C* est que les transports auxquels ils s'appliqueront doivent être effectués aux prix auxquels ils reviennent réellement à la Compagnie, augmentés de 25 p. c. Si l'expérience prouve que les prix fixés aux tarifs sont trop élevés ou trop bas, les tarifs de l'exercice suivant seront abaissés ou relevés en conséquence.

Article 10.

Les tarifs *A*, *B* et *C* ne s'appliqueront pas aux marchandises dont le transport exigerait l'emploi d'un matériel spécial que ne posséderait pas la Compagnie du Chemin de fer.

Article 11.

La présente convention sera considérée comme nulle et non avenue si elle n'est pas ratifiée d'ici au 25 décembre 1901 par l'assemblée générale des actionnaires de la Compagnie du Chemin de fer du Congo. || Ainsi fait et double expédition, au siège du Gouvernement de l'État Indépendant du Congo, à Bruxelles, le 12. novembre 1901.

Pour l'État Indépendant du Congo:
Au nom du Secrétaire d'État:
Les Secrétaires Généraux,
(*s.*) H. Droogmans.
Chevalier de Cuvelier.
Liebrechts.

Pour la Compagnie
du chemin de fer
du Congo:
(*s.*) E. Despert.
Alb. Thys.

Annexe.

TARIF B

Établi par application des articles 2 et 4 de la convention du 12 novembre 1901.

Dégrèvement de 5 p. c. du 1er juillet 1901 et de 5 p. c. du 1er juillet 1902.

Somme à dégrever: 1 318 000 francs.

Sont admises à titre définitif au tarif *B* les marchandises suivantes:

	Sommes à dégrever.
Sel	Fr. 318 000
Chaux et ciment, carreaux céramiques et briques réfractaires	„ 55 000
Viandes et poissons salés, séchés ou fumés, légumes secs	„ 18 000
Machines, matériel agricole et matériel industriel	„ 2 500
Matériel télégraphique	„ „
Meubles, lits et literies	„ 2 000
Porcelaines, faïences, grès, gobeleteries, verreries et verres à vitre (sans responsabilité pour le transporteur)	„ 4 000
Pétrole, parfumeries, bougies et savons, huiles et graisses	„ 23 000
Outils, hachettes et vélocipèdes	„ 6 000
Livres	„ „
Sacs vides et tonneaux démontés, emballages	„ 500
Fontes, fers et aciers bruts, laminés ou façonnés, etamés ou émaillés, à l'exception des pièces de steamer	„ 5 000
Pommes de terre et oignons, grains, graines et semences, plantes vivantes	„ 16 000
Chaussures, lingeries et vêtements façonnés ou fabriqués	„ 5 000
Couleurs	„ 28 000
Quincailleries, malles, etc.	„ 32 000
	Fr. 515 000

Sont admises au tarif *B* les marchandises suivantes, sous réserve que les dégrèvements portés en face de chaque marchandise soient contrôlés et revisés d'après les documents statistiques, avant le 15 mai prochain:

Vins de moins de 15 p. c.	Fr. 346 000
Eaux minérales	„ 23 000
Farine	„ 406 000
Sucre	„ 24 000
Dégrèvement provisoire	Fr. 799 000
Dégrèvement définitif	„ 515 000
Total	Fr. 1 314 000

Nr. 13487. VEREINIGTE STAATEN und JAPAN. — Postvertrag.

30. Juni 1904.

For the purpose of making better postal arrangements between the Empire of Japan and the United States of America the undersigned, Takahira Kogoro, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Japan at Washington, and Henry C. Payne, Postmaster-General of the United States of America, duly empowered thereto, have agreed upon the following articles for the establishment of a Parcels-Post System of exchanges between the two countries.

Article I.

The provisions of this Convention relate only to parcels of mail-matter to be exchanged by the system herein provided for, and do not affect the arrangements now existing under the Universal Postal Convention, which will continue as heretofore; and all the arrangements hereinafter contained apply exclusively to mails exchanged under these Articles, directly between the offices of Yokohama, Kobe, and Nagasaki and such other offices in the Empire of Japan, as may be hereafter designated by His Imperial Majesty's Minister of State for Communications, and the offices of San Francisco, Seattle, Tacoma, Honolulu, and such other offices of the United States as may be hereafter designated by the Postmaster-General of the United States; such matter to be admitted to the mails under these Articles as shall be sent through such exchange offices from any place in either country to any place in the other.

Article II.

There shall be admitted to the mails exchanged under this Convention, articles of merchandise and mail-matter — except letters, post-cards and written matter of all kinds — that are admitted under any conditions to the domestic mails of the country of origin, except that no parcel must exceed fifty dollars ($ 50) or its equivalent in value, 4 pounds 6 ounces (525 momme) in weight, nor the following dimensions: Greatest length in any direction, three feet six inches (3 shaku 5 sun); greatest length and girth combined, six feet (6 shaku); and must be so wrapped or inclosed as to permit the contents to be easily examined by customs officers and by post-masters duly authorized to do so; and except that the following articles are prohibited: || Publications which violate the copyright laws of the country of destination; poisons, and explosive or inflammable substances; fatty substances; liquids, and those which easily liquefy; confections and pastes; live or dead animals, except dead insects

and reptiles when thoroughly dried; fruits and vegetables which easily decompose, and substances which exhale a bad ordor; lottery tickets, lottery advertisements, or lottery circulars; all obscene or immoral articles; articles which may in any way damage or destroy the mails, or injure the persons handling them.

Article III.

A letter or communication of the nature of personal correspondence must not accompany, be written on, or inclosed with any parcel. || If such be found, the letter will be placed in the mails if separable, and if the communication be inseparably attached, the whole parcel will be rejected. If, however, any such should inadvertently be forwarded, the country of destination may collect on the letter or letters double rates of postage according to the Universal Postal Convention. || No parcel may contain parcels intended for delivery at an address other than that borne by the parcel itself. If such inclosed parcels be detected, they must be sent forward singly charged with new and distinct parcels-post rates.

Article IV.

The parcels in question shall be subject in the country of destination to all customs duties and all customs regulations in force in that country for the protection of its customs revenues, and to the following rates of postage, which shall in all cases be required to be Fully Prepaid, viz: || In the Empire of Japan; for a parcel not exceeding 120 momme (1 pound) in weight, 24 sen; and for each additional 120 momme (1 pound) or fraction thereof, 24 sen. || In the United States; for a parcel not exceeding one pound (120 momme) in weight, 12 cents: and for each additional pound (120 momme) or fraction of a pound, 12 cents.

Article V.

The sender of each parcel must make a Customs Declaration, upon a special form provided for the purpose (see Form 1, „A“, annexed hereto), giving the address, a general description of the parcel an accurate statement of the contents and value, date of mailing, and the sender's signature and place of residence; which declaration must accompany the parcel to destination. || Either country may authorize the post-office where the parcel is mailed to deliver to the sender of the parcel at the time of mailing, a certificate of mailing on a form like Form 2 annexed hereto. || The sender of a parcel may have the same registered by paying the registration fee required for registered articles in the country of origin, and on demand therefor, will receive a return receipt, without additional charge.

Article VI.

The addressees of registered articles shall be advised of the arrival of a parcel addressed to them, by a notice from the post-office of destination. || The parcels shall be delivered to addressees at the post-offies of address in the country of destination free of charge for postage; but the customs duties properly chargeable thereon shall be collected on delivery in accordance with the customs regulations of the country of destination; and the country of destination may, at its option, levy and collect from the addressee for interior service and delivery a charge not exceeding ten sen in the Empire of Japan and five cents in the United States, on each single parcel of whatever weight.

Article VII.

The parcels shall be considered as a component part of the mails exchanged direct between the Empire of Japan and the United States, and shall be dispatched by the country of origin at its own cost and by such means as it provides to the country of destination; but must be forwarded, at the option of the dispatching office, either in boxes prepared especially for the purpose or in ordinary mail sacks, to be marked „Parcels-Post" and not to contain any other articles of mail-matter, and to be securely sealed with wax, or otherwise, as may be mutually provided by regulations hereunder. || Each country shall promptly return empty to the dispatching office by next mail, all such bags and boxes, but subject to other regulations between the two Administrations. || Although articles admitted under this Convention will be transmitted as aforesaid between the exchange offices, they should be so carefully packed as to be safely transmitted in the open mails of either country, both in going to the exchange office in the country of origin and to the office of address in the country of destination. || Each dispatch of a parcels-post mail must be accompanied by a descriptive list, in duplicate, of all the parcels sent, showing distinctly the list number of each parcel, the name of the sender, the name of the addressee, with address of destination, and the declared contents and value; and must be inclosed in one of the boxes or sacks of such dispatch. (See Form 3 annexed hereto.)*)

Article VIII.

As soon as the mail shall have reached the office of destination, that office shall check the contents of the mail. || In the event of the parcel bill not having been received, a substitute should be at once

*) Diese Beilagen sind weggelassen. Red.

prepared. || Any errors in the entries on the parcel bill which may be discovered, should, after verification by a second officer, be corrected and noted for report to the dispatching office on a form „Verification certificate", which should be sent in a special envelope. || If a parcel advised on the bill be not received, after the non-receipt has been verified by a second officer, the entry on the bill should be canceled and the fact reported at once. || Should a parcel be received in a damaged or imperfect condition, full particulars should be reported on the same form. || If no verification certificate or note of error be received a parcels mail shall be considered as duly delivered, having been found on examination correct in all respects.

Article IX.

If the parcels cannot be delivered as addressed, or if they are refused, they should be reciprocally returned without charge, directly to the dispatching office of exchange, at the expiration of thirty days from their receipt at the office of destination, and the country of origin may collect from the sender for the return of the parcel, a sum equal to the postage when first mailed. || Provided, however, that parcels prohibited by Article II and those which do not conform to the conditions as to size, weight and value prescribed by said Article, shall not necessarily be returned to the country of origin, but may be disposed of without recourse, in accordance with the customs laws and regulations of the country of destination. || When the contents of a parcel which cannot be delivered are liable to deterioration or corruption, they may be destroyed at once, if necessary, or if expedient, sold, without previous notice or judicial formality, for the benefit of the right person, the particulars of each sale being noticed by one post-office to the other.

Article X.

The Post Office Department of either of the contracting countries will not be responsible for the loss or damage of any parcel; but either country is at liberty to indemnify the sender of any parcel which may be lost or destroyed in its territory.

Article XI.

Each country shall retain to its own use the whole of the postages, registration and delivery fees, it collects on said parcels; consequently, this Convention will give rise to no separate accounts between the two countries.

Article XII.

His Imperial Majesty's Minister of State for Communications and the Postmaster-General of the United States of America shall have

authority to jointly make such further regulations of order and detail as may be found necessary to carry out the present Convention from time to time; and may, by agreement, prescribe conditions for the admission in parcels exchanged under this Convention of any of the articles prohibited by Article II.

Article XIII.

This Convention shall take effect and operations thereunder shall begin on the first day of August 1904, and shall continue in force until terminated by mutual agreement, but may be annulled at the desire of either Department upon six months' previous notice given to the other. Done in duplicate, and signed at Washington the 30th day of June, One thousand nine hundred and four.

K. Takahira,
Envoy Extraordinary
and Minister Plenipotentiary of His Majesty the Emperor of Japan.
Henry C. Payne,
Postmaster-General of the United States of America.

Nr. 13488. **GROSZBRITANNIEN und RUSZLAND.** — Abkommen über Aktiengesellschaften und andere wirtschaftliche Vereinigungen.

$\frac{16.}{29.}$ Dezember 1904.

Arrangement.

Le Gouvernement de Sa Majesté Britanique et le Gouvernement Impérial de Russie ayant jugé utile de régler réciproquement dans le Royaume-Uni de la Grande-Bretagne et d'Irlande et dans l'Empire de Russie la situation des sociétés par actions (anonymes) et autres associations commerciales, industrielles ou financières, les Soussignés, en vertu de l'autorisation qui leur a été conférée, sont convenus de ce qui suit: | 1. Les sociétés par actions (anonymes) et autres associations commerciales industrielles ou financières domiciliées dans l'un des deux pays et à condition qu'elles y aient été validement constituées conformément aux lois en vigueur, seront reconnues comme ayant l'existence légale dans l'autre pays et elles y auront notamment le droit d'ester en justice devant les tribunaux, soit pour intenter une action, soit pour s'y défendre. ‖ 2. En tout cas les dites sociétés et associations jouiront dans l'autre pays des mêmes droits qui sont ou seront accordés à des sociétés similaires de tout autre pays. ‖ 3. Il est entendu que la stipulation qui précède ne concerne point la question de savoir si une pareille société constituée dans

l'un des deux pays sera admise ou non dans l'autre pays pour y exercer son commerce ou son industrie, cette admission restant toujours soumise aux prescriptions qui existent à cet égard dans ce dernier pays. || 4. Il est entendu que les dispositions qui précèdent s'appliquent aussi bien aux sociétés et associations constituées antérieurement à la signature du présent arrangement qu'à celles qui le seraient ultérieurement. || Le présent arrangement entrera en vigueur à partir du jour de sa signature et ne cessera ses effets qu'un an après la dénonciation qui en serait faite de part ou d'autre.

Fait en double à St.-Pétersbourg, le 29 (16) Décembre, 1904.

(L. S.) Charles Hardinge.
(L. S.) Comte Lamsdorff.

Protocole.

Les Soussignés se sont réunis aujourd'hui à l'Hôtel du Ministère Impérial des Affaires Étrangères pour procéder à la signature d'un arrangement entre le Royaume-Uni de la Grande-Bretagne et d'Irlande et la Russie concernant les sociétés par actions (anonymes) et autres associations commerciales, industrielles ou financières. || Après lecture des instruments respectifs, lesquels ont été trouvés en bonne et due forme, la signature de l'arrangement a eu lieu selon l'usage. || En foi de quoi les Soussignés ont dressé la présent protocole et l'ont revêtu de leurs cachets.

Fait en double à St.-Pétersbourg, le 29 (16) Décembre, 1904.

(L. S.) Charles Hardinge.
(L. S.) Comte Lamsdorff.

Nr. 13489. **GROSZBRITANNIEN und VEREINIGTE STAATEN.** — Abkommen über die Jurisdiktion in Sansibar.

25. Februar 1905.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, acting in the name of His Highness the Sultan of Zanzibar, and the United States of America have, for the purposes hereinafter stated, appointed as their Plenipotentiaries, namely: || His Britannic Majesty, the Right Honourable Sir Henry Mortimer Durand, G.C.M.G., K.C.S.I. K.C.I.E., his Ambassador Extraordinary and Plenipotentiary near the Government of the United States; and || The President of the United States of America, the Honourable John Hay, Secretary of State of the

United States of America; || Who, after having communicated each to the other their respective full powers, found in good and due form, have agreed upon the following articles:

Article I.

The United States of America agrees to renounce in the British Protectorate of Zanzibar, and in that part of the mainland dominions of His Highness the Sultan of Zanzibar which lies within the Protectorate of British East Africa, the extraterritorial rights secured to it by the treaty of September 21, 1833, between the United States and the Sultan of Muscat, and the treaty of July 3, 1886, between the United States and Zanzibar. || The jurisdiction exercised thereunder by consular courts of the United States in the British Protectorate of Zanzibar and in that part of the mainland dominions of His Highness the Sultan of Zanzibar which is under British protection, and all the exceptional privileges, exemptions, and immunities enjoyed by citizens of the United States as a part of or appartenant to such jurisdiction, shall absolutely cease and determine. It being understood, however, that this renunciation shall not take effect until such time as the rights of extraterritoriality enjoyed in Zanzibar by other nations shall have been likewise renounced.

Article II.

In consideration of this renunciation by the United States of America, the Government of His Britannic Majesty agrees to empower the competent British courts which have been established in the British Protectorate of Zanzibar and in that part of the mainland dominions of His Highness the Sultan of Zanzibar which is under British protection, to exercise jurisdiction over citizens of the United States the same as over British subjects and British protected persons, and that citizens of the United States shall have in and before said courts all the rights and privileges that belong and are accorded therein to British subjects and to British protected persons.

Article III.

The present Convention shall be ratified by His Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and the ratification shall be exchanged at Washington as soon as possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in duplicate at the City of Washington this twenty-fifth day of February, in the year of our Lord one thousand nine hundred and five.

(L. S.) H. M. Durand.

(L. S.) John Hay.

Nr. 13490. **GROSZBRITANNIEN und CHINA.** — Vertrag über Verwendung chinesischer Arbeiter in den britischen Besitzungen.

13. Mai 1904.

Whereas a Convention between Her Majesty Queen Victoria and His Majesty the Emperor of China was signed at Peking on the 24th October, 1860, by Article V of which His Imperial Majesty the Emperor of China consented to allow Chinese subjects, wishing to take service in British Colonies or other parts beyond the seas, to enter into engagements with British subjects, and to ship themselves and their families on board of British vessels at the open ports of China in conformity with Regulations to be drawn up between the two Governments for the protection of such emigrants: || And whereas the aforesaid Regulations have not hitherto been framed, 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 China have accordingly appointed the following as their respective Plenipotentiaries, that is to say:— || His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the Most Honourable Henry Charles Keith Petty-Fitzmaurice, Marquess of Lansdowne, His Majesty's Principal Secretary of State for Foreign Affairs; and || His Majesty the Emperor of China, Chang Têh-Yih, Brevet Lieutenant-General of the Chinese Imperial Forces, His Imperial Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of 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 the said Plenipotentiaries having met and communicated to each other their respective full powers, and found them in good and due form, have agreed upon and concluded the following Articles:—

Article I.

As the Regulations to be framed under the above-mentioned Treaty were intended to be of a general character, it is hereby agreed that on each occasion when indentured emigrants are required for a particular British Colony or Protectorate beyond the seas, His Britannic Majesty's

Minister in Peking shall notify the Chinese Government, stating the name of the particular Colony or Protectorate for which the emigrants are required, the name of the Treaty port at which it is intended to embark them, and the terms and conditions on which they are to be engaged; the Chinese Government shall thereupon, without requiring further formalities, immediately instruct the local authorities at the specified Treaty port to take all the steps necessary to facilitate emigration. The notification herein referred to shall only be required once in the case of each Colony or Protectorate, except when emigration under indenture to that Colony or Protectorate from the specified Treaty port has not taken place during the preceding three years.

Article II.

On receipt of the instructions above referred to, the Taotai at the port shall at once appoint an officer, to be called the Chinese Inspector, who, together with the British Consular Officer at the port, or his Delegate, shall make known by Proclamation and by means of the native press the text of the Indenture which the emigrant will have to sign, and any particulars of which the Chinese officer considers it essential that the emigrant shall be informed, respecting the country to which the emigrant is to proceed, and respecting its laws.

Article III.

The British Consular Officer at the port, or his Delegate, shall confer with the Chinese Inspector as to the location and installation of the offices and other necessary buildings, hereinafter called the Emigration Agency, which shall be erected or fitted up by the British Government, and at their expense, for the purpose of carrying on the business of the engagement and shipment of the emigrants, and in which the Chinese Inspector and his staff shall have suitable accommodation for carrying on their duties.

Article IV.

1. There shall be posted up in conspicuous places throughout the Emigration Agency, and more especially in that part of it called the Depôt, destined for the reception of intending emigrants, copies of the Indenture to be entered into with the emigrant, drawn up in the Chinese and English languages, together with copies of the special Ordinance, if any, relating to immigration into the particular Colony or Protectorate for which the emigrants are required. || 2. There shall be kept a Register in English and in Chinese, in which the names of intending indentured emigrants shall be inscribed, and in this Register there shall not be

inscribed the name of any person who is under 20 years of age, unless he shall have produced proof of his having obtained the consent of his parents or other lawful guardians to emigrate, or, in default of these, of the Magistrate of the district to which he belongs. After signature of the Indenture according to the Chinese manner, the emigrant shall not be permitted to leave the Depôt, previously to his embarkation, without a pass signed by the Chinese Inspector, and countersigned by the British Consular Officer or his Delegate, unless he shall have, through the Chinese Inspector, renounced his agreement and withdrawn his name from the register of emigrants. || 3. Before the sailing of the ship each emigrant shall be carefully examined by a qualified Medical Officer nominated by the British Consular Officer or his Delegate. The emigrants shall be paraded before the British Consular Officer or his Delegate and the Chinese Inspector or his Delegate, and questioned with a view to ascertain their perfect understanding of the Indenture.

Article V.

All ships employed in the conveyance of indentured emigrants from China under this Convention shall engage and embark them only at a Treaty port, and schall comply with the Regulations contained in the Schedule hereto annexed and forming part of the Convention.

Article VI.

For the better protection of the emigrant, and of any other Chinese subject who may happen to be residing in the Colony or Protectorate to which the emigration is to take place, it shall be competent to the Emperor of China to appoint a Consul or Vice-Consul to watch over their interests and well-being, and such Consul or Vice-Consul shall have all the rights and privileges accorded to the Consuls of other nations.

Article VII.

Every Indenture entered into under the present Articles shall clearly specify the name of the country for which the labourer is required, the duration of the engagement, and, if renewable, on what terms, the number of hours of labour per working day, the nature of the work, the rate of wages and mode of payment, the rations, clothing, the grant of a free passage out, and where such is provided for therein, a free passage back to the port of embarkation in China for himself and family, right to free medical attendance and medicineis, whether in the Colony or Protectorate or on the voyage from and to the port of embarkation in China, and any other advantages to which the emigrant shall be entitled. The

Indenture may also provide that the emigrant shall, if considered necessary by the medical authorities, be vaccinated on his arrival at the Depôt, and, in the event of such vaccination being unsuccessful, revaccinated on board ship.

Article VIII.

The Indenture shall be signed, or in cases of illiteracy marked, by the emigrant after the Chinese manner, in the presence of the Chinese Inspector or his Delegate and of the British Consular Officer or his Delegate, who shall be responsible to their respective Governments for its provisions having been clearly and fully explained to the emigrant previous to signature. To each emigrant there shall be presented a copy of the Indenture drawn up in Chinese and English. Such Indenture shall not be considered as definitive or irrevocable until after the embarkation of the emigrant.

Article IX.

In every British Colony or Protectorate to which indentured Chinese emigrants proceed, an officer or officers shall be appointed, whose duty it shall be to insure that the emigrant shall have free access to the Courts of Justice to obtain the redress for injuries to his person and property which is secured to all persons, irrespective of race, by the local law.

Article X.

During the sejourn of the emigrant in the Colony or Protectorate in which he is employed, all possible postal facilities shall be afforded to him for communicating with his native country, and for making remittances to his family.

Article XI.

With regard to the repatriation of the emigrant and his family, whether on the expiration of the Indenture or from any legal cause, or in the event of his having been invalided from sickness or disablement, it is understood that this shall always be to the port of shipment in China, and that in no case shall it take place by any other means than actual conveyance by ship, and payment of money to the returning emigrant in lieu of passage shall not be admissible.

Article XII.

Nothing in any Indenture framed under these Articles shall constitute on the part of the employer a right to transfer the emigrant to another employer of labour without the emigrant's free consent and the approval of his Consul or Vice-Consul; and should any such transfer or

assignment take place, it shall not in any way invalidate any of the rights or privileges of the emigrant under the Indenture.

Article XIII.

It is agreed that a fee on each indentured emigrant shipped under the terms of this Convention shall be paid to the Chinese Government for expenses of inspection, but no payment of any kind shall be made to the Chinese Inspector or any other official of the Chinese Government at the port of embarkation. The above fee shall be paid into the Customs bank previous to the clearance of the ship, and shall be calculated at the following rate: — 3 Mexican dollars per head for any number of emigrants not exceeding 10000, and two dollars per head for any number in excess thereof, provided they are shipped at the same Treaty port, and that not more than twelve months have elapsed since the date of the last shipment. || Should the port of embarkation have been changed or a space of more than twelve months have elapsed since the date of the last shipment, inspection charges shall be paid as in the first instance.

Article XIV.

The English and Chinese text of the present Convention have been carefully compared, but in the event of there being any difference of meaning between them, the sense as expressed in the English text shall be held to be the correct sense.

Article XV.

The present Convention shall come into force on the date of its signature and remain in force for four years from that date, and after such period of four years it shall be terminable by either of the High Contracting Parties on giving one year's notice.

In witness whereof the Plenipotentiaries have signed the present Convention, and have affixed thereto their seals.

Done at London in four copies, two in English and two in Chinese this thirteenth day of May of the year 1904.

(L. S.)	(Signed)	Lansdowne.
(L. S.)	(Signed)	T. Y. Chang.

Schedule.

Regulations.

Ships employed in the transport of indentured emigrants from China under this Convention must be seaworthy, clean, and properly ventilated, and, with regard to the following matters, shall comply with conditions

as far as possible equivalent to those in force in British India with reference to the emigration of natives from India: — || Accommodation required on board (*vide* section 57 of „The Indian Emigration Act, 1883"). || Sleeping accommodation, consisting of wooden sheathing to the decks or sleeping platforms (*vide* rule regarding „iron decks", as amended the 16th August, 1902, in Schedule „A" to the rules under „The Indian Emigration Act, 1883"). || Rules as to space on board (*vide* section 58 of „The Indian Emigration Act, 1883"). || Carriage of qualified surgeon, with necessary medical stores. | Storage of drinking water (*vide* rule 113, as amended the 24th February, 1903, under „The Indian Emigration Act, 1883"). || Provision of adequate distilling apparatus (*vide* Schedule „C" to the rules under „The Indian Emigration Act, 1883"). || The dietary for each indentured emigrant on board ship shall be as follows per day:—

	Not less than
Rice, not less than $1^1/_3$ lb., or flour or bread stuffs	$1^1/_2$ lb.
Fish (dried or salt) or meat (fresh or preserved) .	$0^1/_2$ „
Fresh vegetables of suitable kinds	$1^1/_3$ „
Salt	1 oz.
Sugar	$1^1/_2$ „
Chinese tea	$0^1/_3$ „
Chinese condiments in sufficient qualities.	
Water, for drinking and cooking	1 gallon.

or such other articles of food as may be substituted for any of the articles enumerated in the foregoing scale as being in the opinion of the doctor on board equivalent thereto.

Exchange of Notes between the Marquess of Lansdowne and Chang Ta-jên, Mai 13, 1904.

Foreign Office, May 13, 1904.

Sir, || By Article VI of the Convention about to be concluded between Great Britain and China with regard to Chinese subjects leaving the Treaty ports of China under Indenture for service in British Colonies or Protectorates it is provided that: — || „For the better protection of the emigrant and of any other Chinese subject who may happen to be residing in the Colony or Protectorate to which the emigration is to take place, it shall be competent to the Emperor of China to appoint a Consul or Vice-Consul to watch over their interests and well-being, and such Consul or Vice-Consul shall have all the rights and privileges accorded to the Consuls of other nations." || His Majesty's Government consider it specially important that the persons appointed to occupy, for the pur-

pose named, the position of Consul or Vice-Consul should be experienced officers of Chinese nationality, that they should be exclusively in the service of the Emperor of China, and that in each case the name of the person selected should be communicated to His Majesty's Government, and their agreement to the appointment obtained. || I have the honour to inquire whether the Chinese Government are prepared to meet the wishes of His Majesty's Government in the matter. If so, and if you will inform me accordingly, this note and your reply might be attached to the Convention in order to place on formal record the arrangement to concluded.

Chang Ta-Jên, Lansdowne.

&c., &c., &c.

Chinese Legation, May, 13, 1904.

My Lord Marquess, || In reply to your Lordship's note of this date, I have the honour to state that the Chinese Government are in entire accord with His Britannic Majesty's Government as to the great importance they attach to the Consuls and Vice-Consuls to be appointed under Article VI of the Convention about to be concluded between these two Governments being men of great experience, and will consider it a duty which they owe to the emigrant to confine the selection of the officers to such as in all respects conform to the requirements specified in the note above referred to, which, together with the present one, it has been mutually agreed shall, in proof of this understanding, be appended to the said Convention.

The Marquess of Lansdowne, K. G., T. Y. Chang.

&c., &c., &c.

England und Tibet 1889 – 1903*).

Nr. 13491. **GROSZBRITANNIEN.** — Die Regierung von Indien an den Staatssekretär von Indien. Verhandlungen mit China über die Grenze zwischen Tibet und Sikkim.

Simla, the 21st October, 1889. (the 11th November, 1889.)

(Extract.) || We have the honour to forward, for the information of Her Majesty's Government, papers relating to further proposals submitted by Mr. James Hart for the settlement of the Sikkim-Tibet dispute. In a letter to the Political Officer at Darjiling, dated 23rd September, Mr. Hart wrote that he had informed the Imperial Chinese Government of the decision of the Government of India that it had determined to fall back upon the proposal made by His Excellency the Chinese Resident in January last and to close the Sikkim incident, so far as China is concerned, without insisting upon a specific agreement. He had been instructed to say in reply that the Sikkim affair ought not to end thus, and that a specific agreement is essential for future good understanding on all sides. He therefore proposed on behalf of China — || 1st, that the boundary between Sikkim and Tibet should be the crest of the range of mountains separating waters, the Tibetans being allowed pasturage; || 2nd, that England shall have sole protectorate over Sikkim; || 3rd, that neither army shall cross the Sikkim-Tibet frontier; and || 4th, that trade shall hereafter be arranged for separately. || And he asked the Government of India to depute officials to meet the Chinese Resident at Gnatong and arrange a treaty on this basis. These proposals were forwarded to us by the Lieutenant-Governor of Bengal who was of opinion that they might be accepted. That fresh proposals should have been made in spite of the withdrawal of the bulk of our troops is no doubt satisfactory, as showing that the Chinese are really anxious to come to terms, and their anxiety for a specific agreement may probably be taken as the

*) Blaubuch Cd. 1920. Vgl. Europ. Geschkal. 1904. — Die eingeklammerten Daten geben das Datum der Ankunft in London. Red.

measure of the strength of our position without one. But after careful consideration, we regret to say that we are unable to regard the new proposals as any great advance on those already made or as containing any material concession to our view. Of the first proposal it is only necessary to observe that the frontier suggested is the same as that upon which we have hitherto insisted, and across which we have driven the Tibetan intruders. We are perfectly able to maintain our right to this frontier, and it is not apparent how any agreement with China would strengthen our hold upon it. With regard to the reservation of pasturage, it is no doubt the case that where two countries are separated by a watershed, pasturage rights are frequently excercised on both sides of the border by the residents immediately adjoining it. We may find it advisable to allow the Tibetans a certain amount of latitude in this respect, but this would be widely different from admitting that they have a treaty right to pasture their flocks upon the Sikkim side of the border. To this extent it appeared to us that the acceptance of Mr. Hart's proposals would alter our position for the worse. With regard to te second proposal made by Mr. Hart, we may observe that the expression „sole protectorate" appears to have been used on one occasion in the course of the negotiations last winter at Gnatong. We have, nevertheless, preferred the words „undivided supremacy," which probably express our meaning more accuratelly, and in any case the particular term used would have to be carefully considered with reference to its Chinese equivalent. What, however, is most remarkable in connection with this proposal is the complete omission of all reference to the letters and presents which formerly passed between the Raja of Sikkim and the Chinese and Tibetan authorities. The recent attempt to re-open negotiations broke down in consequence of the Chinese insistance upon the retention of this right, and it seems extremely doubtful whether we should now be justified in passing over the matter, *sub silentio*. If it be admitted that there is any ambiguity in the import of the words „sole protectorate," it is clear that China will contend that they did not exclude the idea of continuing these acts of homage. This point is one which ought certainly not to be left open to doubt. The course of the recent discussions has shown how much importance is due to these apparent formalities, and, after all that has taken place, we were of opinion that it would be most undesirable that we should consent to a new arrangement which merely shirked the difficulty. The third proposal submitted by Mr. Hart: — „That neither army shall cross the Sikkim-Tibet frontier" — appears to be either a superfluous or a mischievous stipulation. It is superfluous

if it means that, while we are at peace, we should not send our troops across the frontier. It would be mischievous if the agreement should be so framed as to give the Chinese a right to object to our sending an expedition across the border to punish the Tibetans in the event of its becoming necessary for us to do this. With regard to the fourth proposal we need only remark that we have throughout been ready to provide for a separate arrangement such as that proposed, and that there will be no objection on our part to enter into a trade convention irrespectively of the political issues in dispute.

Nr. 13492. GROSZBRITANNIEN. — Vertrag über die Grenze zwischen Sikkim und Tibet.

17. März 1890.

Whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the Emperor of China, are sincerely desirous to maintain and perpetuate the relations of friendship and good understanding which now exist between their respective Empires; and whereas recent occurrences have tended towards a disturbance of the said relations, and it is desirable to clearly define and permanently settle certain matters connected with the boundary between Sikkim and Tibet, Her Britannic Majesty and His Majesty the Emperor of China have resolved to conclude a Convention on this subject and have, for this purpose, named Plenipotentiaries, that is to say; || Her Majesty the Queen of Great Britain and Ireland, His Excellency the Most Honourable Henry Charles Keith Petty Fitzmaurice, G.M.S.I., G.C.M.G., G.M.I.E., Marquess of Lansdowne, Viceroy and Governor-General of India, || And His Majesty the Emperor of China, His Excellency Shêng Tai, Imperial Associate Resident in Tibet, Military Deputy Lieutenant-Governor. || Who having met and communicated to each other their full powers, and finding these to be in proper form, have agreed upon the following Convention in eight Articles: —

Article I. — The boundary of Sikkim and Tibet shall be the crest of the mountain range separating the waters flowing into the Sikkim Teesta and its affluents from the waters flowing into the Tibetan Mochu and northwards into other rivers of Tibet. The line commences at Mount Gipmochi on the Bhutan frontier and follows the above-mentioned water-parting to the point where it meets Nipal territory. || II. — It is admitted that the British Government, whose protectorate over the Sikkim State is hereby recognised, has direct and exclusive control over the internal

administration and foreign relations of that State, and except through and with the permission of the British Government, neither the Ruler of the State nor any of its officers shall have official relations of any kind, formal or informal, with any other country. || III. — The Government of Great Britain and Ireland and the Government of China engage reciprocally to respect the boundary as defined in Article I., and to prevent acts of aggression from their respective sides of the frontier. || IV. — The question of providing increased facilities for trade across the Sikkim-Tibet frontier will hereafter be discussed with a view to a mutually satisfactory arrangement by the High Contracting Powers. || V. — The question of pasturage on the Sikkim side of the frontier is reserved for further examination and future adjustment. || VI. — The High Contracting Powers reserve for discussion and arrangement the method in which official communications between the British authorities in India and the authorities in Tibet shall be conducted. || VII. — Two Joint-Commissioners shall, within six months from the ratification of this Convention, be appointed, one by the British Government in India, the other by the Chinese Resident in Tibet. The said Commissioners shall meet and discusse the questions which by the last three preceding Articles have been recerved. || VIII. — The present Convention shall be ratified, and the ratifications shall be exchanged in London as soon as possible after the date of the signature thereof.

In witness whereof the respective negotiators have signed the same and affixed thereunto the seals of their arms. || Done in quadruplicate at Calcutta this seventeenth day of March in the year of our Lord one thousand eight hundred an ninety, corresponding with the Chinese date the twenty-seventh day of the second moon of the sixteenth year of Kuang Hsü.

[Seal] (Sd) Lansdowne. [Chinese seal and signature.]

Nr. 13493. **GROSZBRITANNIEN und CHINA.** — Zusatzvertrag zum vorigen. Handel, Verkehr, Weide.

5. Dezember 1893.

I. — A trade-mart shall be established at Yatung on the Tibetan side of the frontier, and shall be open to all British subjects for purposes of trade from the first day of May, 1894. The Government of India shall be free to send officers to reside at Yatung to watch the conditions of British trade at that mart.

II. — British subjects trading at Yatung shall be at liberty to travel freely to and fro between the frontier and Yatung, to reside at Yatung, and to rent houses and godowns for their own accommodation, and the storage of their goods. The Chinese Government undertake that suitable buildings for the above purposes shall be provided for British subjects, and also that a special and fitting residence shall be provided for the officer or officers appointed by the Government of India under Regulation I. to reside at Yatung. British subjects shall be at liberty to sell their goods to whomsoever they please, to to purchase native commodities in kind or in money, to hire transport of any kind, and in general to conduct their business transactions in conformity with local usage, and without any vexatious restrictions. Such British subjects shall receive efficient protection for their persons and property. At Lang-jo and Ta-chun, between the frontier and Yatung where rest-houses have been built by the Tibetan authorities, British subjects can break their journey in consideration of a daily rent.

III. — Import and export trade in the following Articles — || arms. ammunition, military stores, salt, liquors, and intoxicating or narcotic drugs, || may at the option of either Government be entirely prohibited, or permitted only on such conditions as either Government on their own side may think fit to impose.

IV. — Goods, other than goods of the descriptions enumerated in Regulation III., entering Tibet from British India, across the Sikkim-Tibet frontier, or *vice versâ*, whatever their origin, shall be exempt from duty for a period of five years commencing from the date of the opening of Yatung to rade, but after the expiration of this term, if found desirable, a tariff may be mutually agreed upon and enforced. || Indian tea may be imported into Tibet at a rate of duty not exceeding that at which Chinese tea is imported into England, but trade in Indian tea shall not be engaged in during the five years for which other commodities are exempt.

V. — All goods on arrival at Yatung, whether from British India or from Tibet, must be reported at the Customs Station there for examination, and the report must give full particulars of the description, quantity, and value of the goods.

VI. — In the event of trade disputes arising between British and Chinese or Tibetan subjects in Tibet, they shall be enquired into and settled in personal conference by the Political Officer for Sikkim and the Chinese frontier officer. The object of personal conference being to ascertain facts and do justice, where there is a divergence of views the law of the country to which the defendant belongs shall guide.

VII. — Despatches from the Government of India to the Chinese Imperial Resident in Tibet shall be handed over by the Political Officer for Sikkim to the Chinese frontier officer, who will forward them by special courier. || Despatches from the Chinese Imperial Resident in Tibet to the Government of India will be handed over by the Chinese frontier officer to the Political Officer for Sikkim, who will forward them as quickly as possible.

VIII. — Despatches between the Chinese and Indian officials must be treated with due respect, and couriers will be assisted in passing to and fro by the officers of each Government.

IX. — After the expiration of one year from the date of the opening of Yatung, such Tibetans as continue to graze their cattle in Sikkim will be subject to such Regulations as the British Government may from time to time enact for the general conduct of grazing in Sikkim. Due notice will be given of such Regulations.

General Articles.

I. — In the event of disagreement between the Political Officer for Sikkim and the Chinese frontier officer, each official shall report the matter to his immediate superior, who in turn, if a settlement is not arrived at between them, shall refer such matter to their respective Governments for disposal.

II. — After the lapse of five years from the date on which these Regulations shall come into force, and on six months' notice given by either party, these Regulations shall be subject to revision by Commissioners appointed on both sides for this purpose, who shall be empowered to decide on and adopt such amendments and extensions as experience shall prove to be desirable.

III. — It having been stipulated that Joint Commissioners should be appointed by the British and Chinese Governments under the 7th Article of the Sikkim-Tibet Convention to meet and discuss, with a view to the final settlement of the questions reserved under Articles 4, 5 and 6 of the said Convention; and the Commissioners thus appointed having met and discussed the questions referred to, namely: Trade, Communication and Pasturage, have been further appointed to sign the agreement in nine Regulations and three General Articles now arrived at, and to declare that the said nine Regulations and the three general Articles form part of the Convention itself.

In witness whereof the respective Commissioners have hereto subscribed their names.

Done in quadruplicate at Darjeeling this 5th day of December in the year one thousand eight hundred and ninety-three, corresponding with the Chinese date the 28th day of the 10th moon of the 19th year of Kuang Hsü.

(Signed)	Ho Chang-Jung, James H. Hart,	(Signed).	A. W. Paul,
(Seal)	*Chinese Commissioners.*	(Seal)	*British Commissioner.*

Nr. 13494. GROSZBRITANNIEN. — Die Regierung von Indien an den Staatssekretär. Verhandlungen mit China über Vertragsverletzungen durch Tibet.

Simla, the 25th June, 1895. (the 15th July, 1895.)

Our despatch, dated the 21st February, 1894, forwarded, for the information of Her Majesty's Government, a copy of the Agreement concluded by the British and Chinese Joint Commissioners regarding trade, communication and pasturage on the Sikkim-Tibet frontier, and mentioned that the 1st May, 1894, had been fixed as the date for the opening of the trade mart at Yatung. Recent developments on the Sikkim-Tibet border, render it desirable to sketch the subsequent course of events and explain the present position.

2. In May, 1894, Mr. J. C. White, Political Officer for Sikkim, visited Yatung to attend the opening of the mart and to report on the general situation as regards trade. Mr. White was instructed not to raise the question of demarcating the frontier, but to undertake, if the subject was mooted by the Chinese officials, that their views and suggestions should be laid before the Government of India. Mr. White's report and our orders thereon are enclosed.*) In communicating copies of these papers to Her Britannic Majesty's Minister at Peking in August, 1894, we left His Excellency to judge whether any hint could be conveniently conveyed to the Yamên on the subject; and said that, recognizing the necessity for extreme patience in dealing with the Tibetans, we had decided that it would be premature to make any formal complaint of their obstructiveness. Mr. O'Conor replied, under date the 22nd September, 1894, that he would take an early opportunity of calling the Yamên's attention to the attitude of the Tibetan authorities. He at the same time suggested that the imposition of a 10 per cent. *ad valorem* duty at Phari should be very strongly protested against as contrary to treaty stipulations.

*) Die Anlagen sind fortgelassen. Red.

3. The Viceroy, in his letter of the 9th August, 1894, had drawn the attention of the Chinese Resident in Tibet to the reported occupation by Tibetan soldiers of certain places within the north-east boundary of Sikkim, and had invited the Resident's opinion as to the advisability of taking steps to arrange that the frontier officers on both sides should acquire a practical acquaintance with the actual border line. The Chinese Resident readily accepted the suggestion, and proposed to demarcate also. He was informed that for climatic considerations it was desirable that the examination of the frontier should be commenced between the 1st May and the 1st July. It was subsequently arranged, at the suggestion of the Chinese Resident, that Mr. White should proceed to Yatung in April to discuss with the Chinese and Tibetan delegates the best time and place for starting the joint work of demarcation. At this conference it was agreed that the delegates should meet Mr. White below the Pemberingo Pass on the 7th May. In a report recently received from Mr. White, he mentions that there was some obstruction on the part of the Tibetan members, but the local authorities apparently attached no importance to this at the time.

4. On the 18th May the Chinese delegates, who had been delayed by difficulties in obtaining transport and who were not accompanied by the Tibetan representatives, joined Mr. White at the Jeylap La, and fixed with him the site for a boundary pillar on that pass. It was settled that they should meet Mr. White again on the 1st June at the Doka La, and that in the meantime Mr. White should erect a pillar on the Donchuk La, which the Chinese would afterwards examine. Subsequently, Mr. White received a despatch from the Chinese Resident in Tibet, stating that the Lamas of the three great monasteries were full of suspicion, and asking that demarcation might be postponed.

5. The Lieutenant-Governor of Bengal recommended that, if the Chinese and Tibetan delegates were unable to at once join Mr. White, he should be authorised to proceed alone to lay down the boundary where no dispute is known to exist. Demarcation was not, however, provided for in the Treaty of 1890; no serious practical inconvenience had apparently arisen through the frontier being undemarcated, and under all the circumstances we considered it preferable that Mr. White should not proceed alone beyond the Doka La. We accordingly directed that, if the Chinese delegates failed to meet him there on or about the 1st June, he should explain matters by letter to the Chinese Resident and return to Gantok.

6. Mr. White subsequently reported that the pillar erected at the Jeylap La had been demolished by Tibetans, and that the pillar on the

Donchuck La had been wilfully damaged. The Lieutenant-Governor wished us to bring pressure to bear on the Chinese Resident in order to secure reparation. There is, however, at present no evidence that the mischief is to be directly attributed to Tibetan officials, and it is in our opinion necessary to make allowances for the difficulties of the Chinese Resident's position in respect to the Tibetans. The Government of Bengal were addressed accordingly and requested to instruct Mr. White that, pending the receipt of further communications from the Chinese Resident or his delegates, he should at any rate withdraw from the immediate neighbourhood of the border, unless there was reason to anticipate that his retirement might encourage any turbulent or mischievous spirits among the Tibetans to attempt to violate the frontier. Our views are fully stated in the Viceroy's letter to the Chinese Resident, dated the 13th June, 1895. The Tibetan Commissioners have since expressed a wish to again confer with Mr. White at Yatung. We have also been informed that telegraphic orders to the Resident have been received from the Tsungli Yamên requiring him to carry out the demarcation, and we have approved of Mr. White standing fast until it is seen what action the Resident takes on the telegram from Peking. We see no reason to apprehend any serious complications.

(Unterschriften.)

Annexure.

Letter from the Viceroy and Governor-General of India, to His Excellency Kwei Hwan, Chinese Imperial Commissioner for the Settlement of the Frontier Questions between India and Tibet, Chinese Resident in Tibet, and Manchu Brigade-General, dated Simla, the 13th June, 1895.

I have very recently received a copy of the despatch which Your Excellency addressed on the 14th May last to Mr. White, the Political Officer for Sikkim, in which you requested Mr. White to postpone for a time the work of demarcation in order that you might give certain explanations to the Lamas of the three great monasteries.

I noticed with satisfaction that the Tibetan Council of State had assented to the arrangements made for commencing the demarcation of the boundary.

Before Your Excellency's despatch reached Mr. White, he had been met on the Jeylap La by Major Tu and Messrs. Yea and Chang, in conjunction with whom he fixed tha site for a boundary pillar on that pass. It was arranged that Your Excellency's representatives should meet Mr. White again on the 1st June at the Doka La, and that meanwhile

he should erect a pillar on the Donchuk La, which Major Tu and his colleagues would subsequently inspect.

Under these circumstances Mr. White informed Your Excellency that work on the demarcation had commenced before the receipt of your despatch.

Upon being informed of the state of affairs, I caused Mr. White to be instructed that, if Your Excellency's delegates failed for any reason to meet him at the Doka La on or about the 1st June, he would write to Your Excellency explaining that he had proceeded to that point under the arrangement made with Major Tu at the Jeylap La on the 18th May; but would now return to Gantok. Mr. White was also authorised to inform Your Excellency of the latest date by which demarcation should be recommenced if it was to be completed this year, and to invite Your Excellency to advise him as early as possible whether the work could be jointly proceeded with this season.

I have read in a subsequent report received from Mr. White that the pillar which he erected at the Jeylap La has been demolished by Tibetans. Should this information be correct, I am sure that Your Excellency will have received it with regret. Mr. White has now been ordered, pending the receipt of further communications from Your Excellency or your delegates, to retire from the immediate neighbourhood of the border, unless he sees reason to anticipate that his withdrawal might encourage any turbulent or mischievous spirits among the Tibetans to attempt to violate the frontier.

This, however, I hope and believe to be an unlikely contingency; and I have every confidence that Your Excellency will issue suitable orders to your border officials.

I shall await with interest any communication Your Excellency may have to make in regard to the completion of the demarcation. No doubt Your Excellency will agree with me that, when once the work of demarcating the boundary has been taken in hand, it is desirable to carry it to an early conclusion.

(Sd.) Elgin,
Viceroy and Governor-General of India.

Nr. 13495. **GROSZBRITANNIEN.** — Dieselbe an Denselben — Dasselbe.

Simla, the 3rd September, 1895. (the 23rd September, 1895.)

Our Despatch, dated the 25th June, 1895, informed Her Majesty's Government of the position of affairs on the Sikkim-Tibet border. We

have since been in further correspondence with Sir Nicholas O'Conor, and on the 10th August instructions were issued that our demarcation party should break up and that Mr. White should return to Gantok. || 2. The Chinese Resident in Tibet suggested postponement of demarcation until after five years from the date on which the Trade Regulations attached to the Convention of 1890 came into force. His Excellency the Viceroy has declared his inability to seriously discuss such a suggestion and has communicated to the Chinese Resident a hope that nothing will prevent the work being carried out amicably next year. || 3. Copies of the correspondence are enclosed, and a comparative statement of the returns of trade with Tibet during the past ten years is appended for ready reference. A copy of this despatch, with enclosures, will be transmitted to Sir Nicholas O'Conor for information.

(Unterschriften.)

Nr. 13496. **GROSZBRITANNIEN.** — Die Handelskammer von Bradford an den Staatssekretär für Indien. Tibet muß dem Handel erschlossen werden.

Bradford, Yorkshire, 21st November, 1895.

The Council of this Chamber, being impressed with the importance of developing British trade with Tibet, have requested me to address Your Lordship on the subject. || Tibet, as you are aware, has an area of some 700000 square miles, and is said to have a population of six or seven millions. The mean altitude of the country being about 15000 feet above sea level, the inhabitants require warm clothing, blankets, and other articles of British manufacture. These might be exchanged for the natural products of the country, which include not only gold, silver, and other minerals, and skins, furs, &c, but articles in which the Bradford district is particularly interested, viz., the hair of the shawl goat, and a very soft wool, suitable in every respect for the Bradford trade. There is a large quantity of this wool available, and, with greater freedom of trade and improved facilities for transport. Tibetan wool would undoubtedly become an important article of import into the United Kingdom. || A railway to Darjeeling has been open for some years, and it is believed that access into the interior can now be easily obtained. This, however, is of little practical advantage so long as the trade in the interior is, as it present, practically restricted to a comparatively small number of officials. The Tibetans themselves, it is believed, are desirous of entering into commercial intercourse with other countries,

India especially; and it may be noted that during the last few years there has been a steady growth of the indirect trade with India through Nepaul, in spite of the heavy duties levied by that State on both imports and exports, whilst the trade *viâ* Darjeeling and Sikkim (where no duties are levied) has increased rapidly, chiefly in consequence of a small concession having been made by the Lama, permitting British subjects to establish themselves at Yatung (a town near the Sikkim frontier) and carry on business there. If this privilege were extended so as to permit British subjects to trade in the interior, as far as Lhasa, an immense impetus would be given to the trade with this country. || The Council are firmly convinced that in Tibet will be found a „new market" of great value to Great Britain, and they earnestly trust that Her Majesty's Government will do all in their power to further the opening up of that country, either by means of a Treaty with the Emperor of China or with the Grand Lamas of Tibet direct, or by such other means as may be deemed expedient.

(Signed) Thos. Arthur Duncan,
President.

Nr. 13497. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Schlägt Verhandlungen über einen tibetanischen Landanspruch vor.

15th February 1896.

(Telegraphic.) || Please see our letter of 3rd September, 1895, and your despatch of 6th December, 1895. There are grounds for believing that the Tibetans possess reasonable claims in the extreme north of Sikkim to a tract of land which is excluded from Tibet by the boundary line laid down in the Convention. The tract in question is of no value to Sikkim. Would you approve of my intimating our willingness to meet the Tibetans' claims and of my addressing the Chinese Resident with a proposal for a joint enquiry into them? If there are existing grievances that are capable of being removed I hope an impetus will be given to trade.

Nr. 13498. **GROSZBRITANNIEN.** — Der Staatssekretär von Indien an den Vizekönig. Genehmigt die Verhandlungen.

2nd March, 1896.

(Telegraphic.) || Your telegram of 15th February. Your proposal is approved by Her Majesty's Government, but the completion of the demar-

cation (*vide* your letter of 3rd September) must be made a condition of the surrender of any territory to Tibet.

Nr. 13499. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an die Regierung von Indien. Wünscht Vorschläge über die Regelung des Handels mit Tibet.

6th October, 1898.

In perusing the Administration Report of Sikkim for 1897—98, and the comments thereon made by the Government of Bengal in Mr. Bolton's letter to your Foreign Secretary, dated 27th August, 1898, my attention has again been drawn to the trade and frontier relations between Sikkim and Tibet. || 2. In view of the termination next year of the period of five years referred to in the fourth clause of the Agreement of 1893 and the possibility therein contemplated of the introduction of a tariff on trade at Yatung, I shall be glad to receive from Your Excellency's Government a full report both on the progress made since the date of that Agreement towards the settlement of the frontier, and on the extent to which the trade stipulations of the Treaty and Convention have been operative. || 3. I shall also be glad to know whether the experience of the last four years has suggested to Your Excellency's Government any practical measures for securing more fully the facilities for trade which the Treaty of 1890 and the Convention of 1893 were intended to provide.

(Signed) George Hamilton.

Nr. 13500. **GROSZBRITANNIEN.** — Die Regierung von Indien an den Staatssekretär. Antwort auf das vorige.

Fort William, the 30th March, 1899. (the 15th April, 1899.)

With reference to Your Lordship's despatch, dated the 6th October 1898, we have the honour to transmit a copy of correspondence which has recently passed with the Government of Bengal and with the Chinese Imperial Commissioner for Tibetan affairs on the subject of trade and frontier relations between Sikkim and Tibet. || 2. As explained by the Bengal Government, no real progress has yet been made towards the settlement of the frontier, while the stipulations as to trade have been practically inoperative. The fact is that there has never been any actual trade at Yatung, which place can never be expected to be a real mart. Your Lordship is aware of the concessions to which Lord Lansdowne's

Government consented when the present regulations were under arrangement. We are prepared to add to them by revising the frontier, so as to leave to Tibet the lands in the neighbourhood of Giaogong which the Tibetans are so desirous of retaining. We can, however only agree to this arrangement on condition that Phari is thrown open to native traders from British India, and that these traders are not hindered from conducting business there directly with the Tibetans. We do not at present wish to insist on permission for Europeans to reside at Phari for trading purposes, but we should retain the option of sending a British official to visit Phari and to reside there if this should prove desirable. When it is remembered that natives of Nepel and Bhutan already have free access not only to Phari but to Lhasa, and that Hindu traders from India are believed to go freely to Tibet through Nepal and to have engaged in trade there, the reasonableness of our demand for access to Phari will be apparent. || 3. We shall now await a reply from the Chinese Imperial Resident to the Viceroy's letter of the 25th March, and we shall be glad to be favoured with any advice which Her Majesty's Government may have to offer in the matter. At the same time we do not desire to conceal from Your Lordship our opinion that negotiations with the Chinese Resident — although they now have the sanction of long usage, and although the attempts that have so far been made to open direct communication with the Tibetan authorities have resulted in failure — are not likely to be productive of any serious result. We seem, in fact, in respect of our policy towards Tibet, to be moving in a vicious circle. If we apply to Tibet, we either receive no reply, or are referred to the Chinese Resident. If we apply to the latter, he excuses his failure by his inability to put any pressure upon Tibet. As a policy this appears to us to be both unproductive and inplorious. We shall be grateful for Your Lordship's opinion as to the advisability of any modification of it in the near future. || 4. A copy of the present despatch, with enclosures, is under transmission to Her Britannic Majesty's Minister at Peking. (Unterschriften.)

Nr. 13501. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an die Regierung von Indien. Das Ausw. Amt empfiehlt Verhandlungen mit Tibet.

2nd June, 1899.

On receipt of Your Excellency's letter, of the 30th March last, on the subject of trade and frontier relations between Sikkim and Tibet,

I referred it to the Foreign Office, and I have now received an expression of Lord Salisbury's views on the subject. A copy of the correspondence*) is enclosed. || 2. Your Excellency will observe that His Lordship fully concurs in the terms of your letter to the Chinese Commissioner of the 25th March last, but he is not sanguine as to the result of bringing diplomatic pressure to bear on the Chinese Government. On the other hand, Lord Salisbury considers that in the existing circumstances the preferable course would be to open direct negotiations with the Tibetans, and, should this be found possible, to endeavour to obtain from them free access to Phari for Native Indian traders, in exchange for a rectification of their frontier. This suggestion may be acted upon; but I am doubtful as to the expediency of insisting upon the right of sending a British official to visit or reside at Phari, since it might cause complications and delay the settlement of the essential part of the negotiations.

(Signed) Georg Hamilton.

Nr. 13502. **GROSZBRITANNIEN.** — Das ausw. Amt an das indische Amt. Dasselbe. 24th July, 1899.

(Extract.) || It was stated in my letter of the 15th of May, that Sir Claude MacDonald would be consulted as to whether any diplomatic pressure could be exercised at Peking to secure a pledge from the Chinese Government respecting acces to Phari and freedom of trade there, in the event of a rectification of the frontier between Sikkim and Tibet being conceded. I am directed by the Marquess of Salisbury to inform you that Sir C. MacDonald does not consider it probable that any representations by Her Majesty's Legation at Peking would lead to much effectual result. He suggests, however, that it would perhaps be best to ask the assistance of the Tsungli Yamên in the first instance. If they raise difficulties, the Government of India might then commence direct negotiations with the Tibetan authorities. I am to enquire whether Lord George Hamilton desires that any instructions should be sent to Her Majesty's Chargé d'Affaires at Peking in view of the opinions expressed by Sir C. MacDonald.

Nr. 13503. **GROSZBRITANNIEN.** — Die Regierung von Indien an den Staatssekretär für Indien. Verhandlungen mit dem chinesischen Residenten in Tibet.

Simla, the 26th October, 1899. (the 13th November, 1899.)

With reference to Your Lordship's despatches**) marked in the margin, and in continuation of our despatch, dated the 30th March, 1899, we

*) Hier fortgelassen. Red.

**) Anmerkung Nr. 13 501 und eine fortgelassene vom 4. August 1899.

have the honour to forward copies of the correspondence cited in the accompanying list, on the subject of trade and frontier relations between Sikkim and Tibet. || 2. The reply of the Chinese Imperial Resident to the Viceroy's letter of the 25th March was received in May last. It is of the usual evasive and unsatisfactory type. The further communication which the Resident promised has not arrived, and it has since been reported that he is not on good terms with the Tibetans, and that he had asked permission to proceed to Pekin in order to report in person on the proposals of the Government of India. So far, therefore, as the Chinese officials in Tibet are concerned, we are as far as ever from any satisfactory settlement of the pending questions relating to the frontier and to trade. || 3. The correspondence with the Government of Bengal, now forwarded, will explain to Your Lordship the action which we have taken with a view to open direct communication with the Tibetan authorities. The Lieutenant-Governor of Bengal is making a guarded use, as an intermediary, of Ugyen Kazi, the Bhutan Vakil, who resides in Darjiling, and who has previously visited Lhasa. Captain Le-Mesurier also, the Political Officer in Sikkim, recently met at Giagong a Tibetan Jongpen, who had been sent to meet him by the Teshu Lama of the Monastery at Shigatze, and took the opportunity to send to the Lama a friendly letter with some presents to which he may receive a reply. For the present we must await the return of Ugyen Kazi from Phari and the result of the letter which he has undertaken to address to the Dalai Lama. In the meantime, though we are not sanguine as to the result, we think that, as suggested in the letter from the Foreign Office, dated 24th July, 1899, Sir C. Macdonald may be instructed to address the Tsungli Yamên and to endeavour to obtain the assistance of the Chinese Government in regard to the free access to Pharei of Native traders from India and the freedom of trade there. It is probable that the Chinese Imperial Resident at Lhasa has already addressed the Tsungli Yamên on the subject. If it proves, as we anticipate, that the Chinese are unable or unwilling to give the assistance asked for, there need be the less hesitation in prosecuting our attempts to enter into direct correspondence with the Tibetans. || 4. It is not impossible that the Tibetan Lamas may prove more amenable to the compliment of direct intercourse than the Government of Bengal anticipates. We agree with Lord Salisbury in thinking that more is to be hoped for from such a policy than from any representations at Pekin, and we shall lose no opportunity that presents itself of encouraging its prosecution. Unterschriften.

Nr. 13504. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Generalgouverneur von Indien. Billigt das Vorgehen. 8th December, 1899.

I have received and considered the letter of your Excellency's Government, in the Foreign Department, dated the 26th October, 1899, on the subject of trade and frontier relations between Sikkim and Tibet. || 2. From the enclosed correspondence,*) your Excellency will observe that Her Majesty's Government approve the course of action adopted by your Government, in regard to the establishment of direct correspondence with the Tibetans, and that the Secretary of State for Foreign Affairs has instructed Her Majesty's Minister at Peking by telegram to endeavour to obtain the assistance of the Chinese Government in securing for native traders from India access to, and freedom for, trade in Phari. (Signed) Georg Hamilton.

Nr. 13505. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Der Zar hat einen Gesandten Tibets empfangen.

St. Petersburgh, October 17, 1900. (October 22.)

I have the honour to enclose an extract from the official column of the „Journal de Saint-Pétersbourg" of the 2nd (15th) instant, announcing the reception by His Majesty the Emperor on the 3rd instand of Aharamba-Agvan-Dorjief, who is described as „first Tsanit Hamba to the Delai-Lama of Tibet". || I have not been able, so far, to procure any precise information with regard to this person or to the mission on which he is supposed to come to Russia.

Anlage.

Extract from the „Journal de Saint-Pétersbourg" of Oktober 2 (15), 1900.

Sa Majesté l'Empereur a reçu le Samedi, 30 Septembre, au Palais de Livadia, Aharamba-Agvan-Dorjiew, premier tsanit-hamba près le delaïlama du Tibet.

Nr. 13506. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Eine neue tibetanische Mission wird erwartet.

St. Petersburgh, June 13. 1901. (June 17.)

I have the honour to report, on the authority of a telegram from Odessa to the „Novoe Vremya", that a special Mission from Tibet, con-

*) Hier fortgelassen. Red.

sisting of seven persons, headed by the Lama Doroshiyeff, now on its way to St. Petersburgh, is shortly expected at Odessa on the steamer „Tamboff".

Nr. 13507. **GROSZBRITANNIEN.** — Derselbe an Denselben. Lamsdorf über die tibetanische Mission.

St. Petersburgh, July 4, 1901. (July 8).

(Extract.) || With reference to my despatch of the 1st instant, I have the honour to transmit herewith, in translation, further extracts from the Russian press referring to the arrival in Russia of a so-called Tibetan Mission.*) Count Lamsdorff, in the course of conversation with me yesterday, characterized as ridiculous and utterly unfounded the conclusion drawn in certain organs of the Russian press that these Tibetan visitors were charged with any diplomatic or political mission. Count Lamsdorff said, that the Lama Akban was a Mongolian Buriat of Russian origin, who came occasionally to Russia with the object, he believed, of making money collections for his Order from the numerous Buddhists in the Empire. He said that on the occasion of Akban's last visit in autumn to Yalta, the Emperor had received him, and he himself had had an opportunity of learning some interesting details from him of life in Tibet. The Russian Geographical Society took an interest in his visit, which had no official character whatever, although he was accompanied on this visit by other Tibetans. Count Lamsdorff said that Dr. Badmeyeff, who takes a special interest in Tibet and Lama Akban's visit, was an eccentric charakter, but it was difficult to understand how the Russian press, in view of the international position of Tibet as a dependency of China, could have attributed an official or diplomatic character to the Lama's visit to Russia.

Nr. 13508. **GROSZBRITANNIEN.** — Derselbe an Denselben. Dasselbe. Empfang der Mission durch den Zaren.

St. Petersburgh, July 10, 1901. (July 15.)

(Extract.) || With reference to my despatch of the 4th instant, I have the honour to report that the members of the Tibetan Mission arrived in St. Petersburgh on the 1st instant, and, according to the enclosed announcement in the official Gazette, were received on the 6th instant

*) Hier fortgelassen. Red.

at Peterhof by the Emperor, and subsequently by the Empress Marie Feodorowna as Envoys Extraordinary of the Dalai Lama of Tibet. As the Russian press had also announced that the Envoys had paid visits to Count Lamsdorff and M. Witte, I had an opportunity at my interview with Count Lamsdorff on the 8th instant of ascertaining some further particulars of information. His Excellency said that, although the Tibetan visitors had been described as Envoys Extraordinary of the Dalai Lama, their mission could not be regarded as having any political or diplomatic character. The office and attributes of a Dalai Lama were more of a Buddhist Pontiff who was, he understood, even venerated by the Buddhists, of whom there was a very large number in the Russian Empire, as an incarnation of Buddha, and according to a very curious costum was always succeeded on his death by an infant in whom the reincarnation was held to be continued. The Mission was of the same character as those sent by the Pope to the faithful in foreign lands. The principal member of the present Mission, Hambo Akhvan Dorgiew, was a member of the Russian Geographical Society, and at present held some post of confidence in the Dalai Lama's service, but his Excellency believed that he still retained his original Russian nationality. He had brought Count Lamsdorff an autograph letter from the Dalai Lama which was found on translation to be very concise and simple. It merely expressed a hope that Count Lamsdorff was in the enjoyment of good health and prosperous, and informed him that the Dalai Lama was happy to be able to say that he himself enjoyed excellent health. Count Lamsdorff had been fortunate enough to find an officer of a Cossack regiment of Buriat origin who was conversant with the language of Tibet, and had acted as interpreter at the audience which the Emperor accorded to the Envoys and their suite.

Anlage.

Extract from the „Messager Officiel" of June 25 (July 8), 1901.

Sa Majesté l'Empereur a reçu le Samedi, 23 Juin, au Grand Palais de Peterhof, les Envoyés Extraordinaires du Dalaï-Lama du Thibet: Hambo Akhvan Dorgéview et Loubsan Kaïntchok Hambo Donir. || Après la réception des Envoyés, a eu l'honneur d'âtre présenté à Sa Majesté l'Empereur le Secrétaire de la Mission, Djantsan Zombon Tsitong Puntsok, Chef de l'Arrondissemsnt du Tibet. || En même temps a eu l'honneur d'être présenté à Sa Majesté l'Empereur le Capitaine en Second Oulanow, du 1er Régiment de Cosaques du Don, attaché à la Mission Thibétaine comme interprète. || Le même jour, la Mission Thibétaine a été reçue par Sa Majesté l'Impératrice Marie Féodorovna.

Nr. 13509. **GROSZBRITANNIEN.** — Die Regierung von Indien an den Staatssekretär. Weitere Verhandlungen mit Tibet.

Simla, the 25th July. 1901. (the 12th August, 1901.)

(Extract.) || In despatch dated the 8th December, 1899, Your Lordship approved of the measures which we had adopted with the object of establishing direct communication with the Tibetans. We have now the honour to forward correspondence which shows the further action taken in the matter. When our despatch dated the 26th October, 1899, was written, we were awaiting the return of Ugyen Kazi, the Bhutan Vakil, from Tibet and the outcome of a letter which he had undertaken to deliver to the Dalai Lama. That letter having met with an unfavourable response, we decided to defer making any further attempt to obtain access to the Dalai Lama by the Sikkim route, and to seek some new channel of communication. Enquiries were accordingly instituted as to the possibility of despatching a suitable emissary to the Tibetan capital either through Yunnan, or through Nepal, or by way of Ladakh. Our resident in Nepal, who was verbally consulted, advised against any attempt being made to reach Lhasa *viâ* Nepal, except with the knowledge and consent of the Nepalese Darbar, to whom we were not prepared to refer. The agent whom we suggested to the Government of Burma as a possible emissary for the mission through Yunnan was reported to be unsuitable. The proposal to communicate through Ladakh, however, seemed to offer some prospect of success. The plan suggested by our Resident in Kashmir was that the Assistant Resident who annually visits Leh should enter into negotiations with the Joint Governors of Western Tibet, known as the Urkhus of Gartok, by whose agency it was hoped that communication with the chief authorities at Lhasa might be secured. Upon this suggestion we authorised Captain Kennion to visit Gartok in the autumn of 1900. He was entrusted with a letter addressed by the Viceroy to the Dalai Lama, and was instructed to hand it over to the Urkhus, should there appear to be a reasonable prospect that it would be forwarded to its destination. The letter was delivered to the Chaktar Urkhu, who undertook to transmit it to the Dalai Lama. After a delay of six months, the letter was returned to Captain Kennion with the intimation that the Urkhus had not dared, in the face of the regulations against the intrusion of foreigners into Tibet, to send it to Lhasa. This enterprise having failed, we determined to make one more effort to procure the delivery of a letter to the Dalai Lama through Ugyen Kazi.

A favourable opportunity was presented by the fact that he had recently purchased two elephants on commission for the Dalai Lama, and could, therefore, proceed to Lhasa without exciting suspicion. We have accordingly entrusted Ugyen Kazi with a second letter addressed by the Viceroy to the Dalai Lama, in which stress is laid upon the forbearance shown by the British Government in their relations with Tibet, and a warning is conveyed that, if the overtures which we have made with a view to establishing friendly intercourse are still treated with indifference, we reserve the right to take such steps as may seem necessary and proper to enforce the terms of the Treaty of 1890, and to ensure that the trade regulations are observed. Should this letter meet with the fate of its predecessor, we contemplate, subject to the approval of His Majesty's Government, the adoption of more practical measures with a view to securing the commercial and political facilities, which our friendly representations will have failed to procure. As to the exact form which our altered policy should assume, we shall, if necessary, address Your Lordship at a later date. But we may add, that before long, steps may require to be taken for the adequate safeguarding of British interests upon a part of the frontier where they have never hitherto been impugned. We trust that our proceedings, as indicated in the correspondence forwarded with this despatch, will meet with the approval of His Majesty's Government.

Nr. 13510. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Generalgouverneur. Lansdowne legt der tibetanischen Angelegenheit große Wichtigkeit bei.

16th August, 1901.

(Extract.) || With reference to your letter of the 25th July last, I transmit, for the information of your Excellency in Council, copies of correspondence*) which has passed between this Office and the Foreign Office, relative to the reception of a Mission from the Dalai Lama of Tibet at St. Petersburgh. Your Excellency will observe that the Marquess of Lansdowne desires to be kept fully informed as to the intentions and actions of the Government of India in regard to Tibet. The correspondence which accompanies your letter, and reports which have been previously received from your Government, show that your relations with Tibet have not been satisfactory, and that, in respect to the attitude

(* Hier fortgelassen. Red.

of the Dalai Lama, the continued occupation by the Tibetans of a corner of British territory, the destruction of frontier pillars, and restrictions imposed upon Indian trade, together with the impossibility of communicating with him on these subjects, you would be justified in adopting strong measures. At the same time I cannot doubt that any such movement on the part of India would be viewed with much disquietude and suspicion; and it must be remembered that Tibet is politically subordinate to China. The character of the country, rugged and sparsely inhabited, is against the conduct of important military operations in that region, and diplomatic pressure for closer relations with your Government would be likely to increase distrust of our intentions. In these circumstances it is necessary to proceed with due consideration, and I request that your Excellency in Council will consult me before any steps are taken that may involve a risk of the complications that I have indicated. The proceedings reported in your letter under reply are approved by His Majesty's Government.

Nr. 13511. **GROSZBRITANNIEN.** — Der Botschafter in Petersburg an den Minister des Ausw. Hat Lamsdorff die englische Auffassung der Tibetfrage mitgeteilt.

St. Petersburgh, September 2, 1901. (September 9.)

(Extract.) || In compliance with the instructions in Your Lordship's despatch of the 16th ultimo, I took the opportunity of a farewell visit to Count Lamsdorff to-day to inform His Excellency that I had reported to Your Lordship the language which he had recently held to me in regard to the visit to St. Petersburgh of a Mission from the Dalai Lama of Tibet, and I said that Your Lordship had desired me to let him know that his statement, to the effect that no political or diplomatic significance could be attached to this Mission, had been communicated to the Government of India, and had been received with satisfaction. His Majesty's Government, I added, would naturally not regard with indifference any proceedings that might have a tendency to alter or disturb the existing status of Tibet. His Excellency repeated his former statement that the Mission was chiefly concerned with matters of religion, and had no political or diplomatic object or character.

Nr. 13512. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Der Dalai-Lama hat seinen Brief nicht angenommen.

29the October, 1901.

(Telegraphic.) || Your despatch of 16th August. Ugyen Kazi, who has returned from Lhasa, reports that my letter was delivered by him

to the Dalai Lama, but that the latter declined to reply to it, stating, as his reason, that the matter was not one for him to settle, but must be discussed fully in Council with the Amban, the Ministers and the Lamas; and further that he was afraid that Ugyen Kazi might be killed were it to become known that an answer had been given to him.

Nr. 13513. **GROSZBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

3rd November, 1901.

(Telegraphic.) || My telegram of 29th October. My letter has been brought back by Ugyen Kazi with the seal intact. Ugyen Kazi reports that the Dalai Lama refused to accept it, stating, as his reason for so refusing, that he was bound by agreement not to enter into any correspondence with Foreign Governments without consulting the Chinese Ambans and the Council.

Nr. 13514. **GROSZBRITANNIEN.** — Derselbe an Denselben. Schlägt Vertreibung der Tibetaner aus Sikkim vor.

Fort William, the 13th February, 1902. (the 3rd March, 1902.)

(Extract.) || In the Viceroy's telegram, dated the 3rd November, 1901, Your Lordship was informed that Ugyen Kazi, who was entrusted with a letter from the Viceroy for delivery to the Dalai Lama, had brought back the letter to India with the seals intact, and had reported that the Dalai Lama refused to accept it on the ground that he was bound by agreement not to correspond with foreign Governments without consulting the Council of the State and the Chinese Amban. We now have the honour to forward copies of papers, including an account of the interviews which Ugyen Kazi is stated to have held with the Dalai Lama. We also take the opportunity of forwarding copies of some recent correspondence regarding the import of Indian tea into Tibet. While retaining some doubt as to whether the Viceroy's letter was actually tendered to the Dalai Lama, we are forced to the conclusion that the attempt to enter into negotiations with the central Tibetan authority by the means hitherto, employed must now be regarded as impracticable. We have, therefore, to consider the action that should be taken to place our future relations with Tibet upon a more satisfactory footing. Your Lordship is fully aware of the present position of affairs, and of the manner in which the Tibetans have evaded their obligations under the Convention of 1890 and

the Trade Regulations of 1893. According to Article IV of these Regulations, Indian tea should now be imported into Tibet at a rate of duty not exceeding that imposed on China tea imported into England. But we are informed by the Government of Bengal that an attempt which was made last year by the Indian Tea Association to introduce Indian tea into Tibet was rendered fruitless by the obstruction of the local Lamas and officials. It may possibly be argued that, by No. II of the General Articles attached to the Regulations, the tariff for tea must first be fixed by Commissioners appointed for the purpose; but this is not, we consider, the obvious and rational interpretation of the Regulations, and in any case we entertain little doubt that proposals for amending and extending these Regulations would only lead to protracted and unproductive negotiation. We still adhere to the view that more is to be hoped for from direct communication with the Tibetans than from any representations at Peking, and we propose, with the approval of His Majesty's Government, to continue to act upon that assumption. It has been suggested by Mr. White, the Political Officer for Sikkim, that an effective and simple method of securing compliance with the Convention would be to occupy the Chumbi valley. Although we consider that grounds for strong action on our part are far from lacking, we are not, at present, in favour of any such proposal. Another possible and legitimate course would be to stop all Tibetan trade with India and all intercourse between the two countries. Such a step would, doubtless, prove a serious obstacle to Tibetan trade, and might tend to force the authorities to enter into negotiations with us; but it would also entail hardship upon our own traders, and might ultimately result in the diversion of the Tibetan trade to Nepal. We propose, therefore, with Your Lordship's sanction, to adopt the only alternative policy which appears to us to be feasible at the present moment. As Your Lordship is aware, the Tibetans are now occupying a corner of Sikkim territory to which, under the Convention of 1890, they have no right. In this tract lie the grazing grounds of Giaogong, which are some miles to the south of the watershed laid down in the Convention as the boundary between Sikkim and Tibet. It will be within Your Lordship's recollection that in 1895 it was arranged, in communication with the Chinese Resident, to examine and demarcate the boundary laid down in the Convention. The Chinese delegates, in conjunction with Mr. White, fixed the site for a pillar, which Mr. White erected, at the Jeylap La, they agreed to his erecting another pillar, which the Chinese were subsequently to examine, at the Donchuk La, and they arranged to met him again at the Doka La. The Tibetan

delegates failed, however, to put in an appearance; the Chinese delegates did not fulfil their engagement to meet Mr. White at the Doka La, and the demarcation accordingly came to an end. The three pillars which Mr. White erected were almost immediately destroyed or removed. We propose now to secure compliance with the stipulations of the Convention, if not with the concurrence of the Tibetans, — since this appears to be out of the question — then in independence of them. Our proposal is that the Political Officer should tour along the frontier, as laid down by the Convention, during the forthcoming summer, erecting boundary pillars where this may be found necessary or desirable, excluding the Tibetans from the grazing grounds at Giaogong or elsewhere on the British side of the border, of which they may be found in illicit occupation, or taking from them such fees as it may be decided to impose, be necessary first to give notice of the regulations for this object, and we would propose to send to the Chinese officer ample warning in advance. Under Article IX of the Trade and Pasturage Regulations of 1893, it will The Political Officer will require a small escort which might consist of one company of Gurkhas with a second company in reserve. Mr. White does not apprehend that the task will be attended with any practical difficulty. Should the Tibetans remain inactive, we shall have secured the long delayed observance of the Convention. Should they resist the progress of the Political Officer or destroy the pillars erected by him, or endeavour to assert Tibetan claims to Giaogong, they would only have themselves to thank for any collision that might ensue. Even should this be the outcome, it might predispose the Tibetan authorities to those negotiations which they at present so obstinately avoid. Should they adopt an attitude of permanent hostility and of continued aggression across the border, it would be a matter for discussion whether we should not occupy the Chumbi valley and hold it until the Tibetans had signified their willingness to come to terms, and to open negotiations at Lhasa. These proposals are the minimum that we can recommend with any regard to our Treaty rights and to the manner in which they have been defied or ignored. We have now for years carried the policy of forbearance and inaction to almost unreasonable limits. We have tried every means of effecting a compromise, but without success. We have endeavoured to negotiate with the Tibetan authorities through the Chinese Government, and to establish direct relations with them ourselves. All these attempts have been attended with equal failure; and the time seems to us to have arrived when we should decline any longer to allow our boundary to be transgressed, our trade to be strangled, and the rights secured to us by

Treaty defied. The policy of isolation pursued by the Tibetan Government is one that, from its own point of view, it may not be difficult to comprehend. But it is not compatible either with proximity to the territories of a great civilised power at whose hands the Tibetan Government enjoys the fullest opportunities both for intercourse and trade, or with due respect for the treaty stipulations into which the Chinese Government has entered on its behalf. It is, indeed, the most extraordinary anachronism of the 20th century that there should exist within less than 300 miles of the borders of British India a State and a Government, with whom political relations do not so much as exist, and with whom it is impossible even to exchange a written communication. Such a situation cannot in any case be lasting. But it seems desirable that it should be brought to an end with as little delay and commotion as possible, since there are factors in the case that might at a later date invest the breaking down of these unnatural barriers with a wider and more serious significance. We commend these views to the favourable consideration of His Majesty's Government, and we trust that our plans may be approved.

Nr. 13515. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an die Regierung von Indien. Ist einverstanden mit dem vorigen.

11th April, 1902.

I have considered Your Excellency's letter, dated the 13th of February, 1902, proposing that the Political Officer should tour along the frontier laid down according to the Convention of 1890, and exclude the Tibetans from the grazing grounds at Giaogong or elsewhere on the British side of the frontier. || 2. I assume that the officer whom you despatch will be directed not to cross the border in any event, and that he will be in a position to enforce the exclusion of the Tibetans from the British side of the frontier. (Signed) George Hamilton.

Nr. 13516. **GROSZBRITANNIEN.** — Die Regierung von Indien an den Staatssekretär. Änderung des Vorgehens in der Sikkim- Tibetfrage.

Simla, the 10th July, 1902. (the 28th July, 1902.)

We have the honour to refer to Your Lordship's despatch, dated the 11th April, 1902, regarding the proposed tour of our Political Officer

for Sikkim on the Sikkim-Tibetan border. || 2. We enclose copies of correspondence with the Government of Bengal, from which Your Lordship will observe that the plan indicated in our despatch, dated the 13th February, 1902, has been shomewhat modified to suit the local conditions. In view of the information contained in the letter from the Government of Bengal, dated the 23rd April, 1902, we considered that it was undesirable, without further enquiry, to frame any general rules for the conduct of grazing in Sikkim, and that the most suitable method of asserting our Treaty rights, under present conditions, would be to exclude from Sikkim such Tibetan posts and officials as might be found on our side of the boundary. With this object in view, the Political Officier for Sikkim has been directed to march to the Giaogong plateau with a small escort 150 men. It will be his duty to direct the withdrawal from Sikkim territory of any Tibetan posts near Giaogong or elsewhere on the Sikkim side of the border, and he will also take the opportunity to enquire into and report on the question of the levy of grazing fees. || 3. We do not propose to order the erection of boundary pillars in the neighbourhood of Giaogong, since we anticipate that, after Mr. White's return from the frontier, they would certainly not be left undisturbed, and the instructions to this effect and for the demarcation of the frontier, which are contained in the Bengal Government's letter to the Commissioner of the Rajshahi Division, dated 9th June, 1902, have been modified by our telegram to that Government of the 11th June. We doubt also the desirability of restoring the pillars originally erected on the Jelap, Donchuk and Doko passes, unless we can secure their preservation. On this point we shall await Mr. White's report. Your Lordship will observe that we have directed that Mr. White should be careful to avoid crossing the frontier at any point. || 4. We trust that our proceedings will be approved.*)

(Unterschriften.)

Nr. 13517. **GROSZBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Gerüchte über Auslieferung Tibets an Rußland.

Peking, August 2, 1902. (August 2.)

There has been going the rounds of the press an Agreement in regard to Tibet alleged to have been secretly made between Russia and China. In return for a promise to uphold the integrity of China, the

*) Anmerkung. Geschah am 15. August 1802. Red.

entire interest of China in Tibet would be relinquished to Russia. A Chinese newspaper published in Soochow seems to have originated this rumour.

Nr. 13518. **GROSZBRITANNIEN.** — Derselbe an Denselben. Übersendet den angeblichen Vertrag zwischen China und Rußland über Tibet.

Peking, August 5, 1902. (September 29.)

Extract from the „China Times" of July, 18, 1902.

The twelve clauses of a Secret Agreement between Russia and China concerning Tibet have just come to light. They furnish interesting reading: — || 1. The Chinese Government, conscious that China's power is weakening, agrees to relinquish her entire interest in Tibet, with all privileges and benefits, to Russia, in exchange for Russian support and assistance in maintaining the integrity of the Chinese Empire. || 2. Russia pledges herself so soon as her interests in Tibet have been secured to assist China in every way to uphold the integrity of the Empire. || 3. In the event of any trouble occurring in the interior of China which the Chinese Government finds itself unable to cope with, Russia undertakes to suppress it. || 4. Russia will hereafter establish Government officers in Tibet, and control Tibetan affairs. || 5. China will have the privilege (or right) of appointing Consuls to Tibet. || 6. Russia undertakes to protect all Chinese trading in Tibet. || 7. Chinese criminals escaping to Tibet will be arrested by the Russian authorities and handed back to China. || 8. Chinese merchandize imported into Tibet shall be either duty free or very lightly taxed. || 9. Russian officials in Tibet will not be allowed to oppress the Tibetans. || 10. Russia undertakes not to introduce the Christian religion forcibly into Tibet. || 11. All mining and railway interests will be in Russian hands, but Chinese will be allowed to participate. || 12. Russia undertakes in the construction of railway lines or forts not to destroy or interfere with temples or other sacred spots.

Nr. 13519. **GROSZBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. China wünscht Aufschub des Vorgehens gegen Tibet.

Peking, August 30th, 1902.

I learn from Prince Ch'ing that a report from the Resident in Tibet states that the Sikkim Political Officer had proceeded to Giaogong with

over 100 troops, and that he had pitched camp in the Nachin pass and destroyed the barrier there. || He says he is not aware of the object of White's being on the frontier, and that he had received no previous intimation from the Government of India. He has requested the Dalai Lama to at once send a Representative to take part in the negotiation, and has deputed the Prefect Ho to proceed to Khamba and confer with White. || The Prince asks that the Officer Commanding the troops may be instructed to refrain from any action pending arrival of Chinese officer, when matters can be discussed amicably. He fears that proceedings of British Resident are likely to be misunderstood by the Tibetans.

Nr. 13520. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Soll China vor einem solchen Vertrag über Tibet warnen.

September 1, 1902.

With reference to your telegram of the 2nd ultimo, referring to Russia and Tibet. The Chinese Government should be warned against the conclusion of any arrangement of this kind; and you should intimate to them at the same time that His Majesty's Government would, in that event, be certainly forced to take steps for protecting the interests of Great Britain.

Nr. 13521. **GROSZBRITANNIEN.** — Derselbe an Denselben, Antwort auf Nr. 13519.

September 4, 1902.

With reference to your telegram of the 30th ultimo: You should inform the Chinese Government that the Tibetans have consistently refused to observe both trade and boundary clauses of the 1890 Convention. Hoping that an arrangement might be possible, we have left them undisturbed in one portion of Sikkim territory; but since all attempts at negotiations have proved unsuccessful, we propose to make effective our Treaty right to the corner of Sikkim, which they now occupy. The withdrawal from Sikkim territory of any Tibetan posts near Giaogong or elsewhere on the Sikkim side of the border is being directed by the Political Officer for Sikkim, who has proceeded thither with an escort for that purpose.

Nr. 13522. **GROSZBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. China leugnet die Existenz eines Vertrags über Tibet.

Peking, September 8, 1902.

To-day I saw Prince Ch'ing and the Ministers of the Foreign Board with reference to Your Lordship's telegram of September 1st. I gave them warning in Your Lordship's words, and said, that His Majesty's Government would regard any alteration of the political *status quo* in Tibet most seriously. The Prince strongly denied that there was any such agreement, and begged me to state this in his name to Your Lordship. Ch'ü, who is a member of the Grand Council, and is also one of the Ministers, made the same declaration. They both declared that no such arrangement had ever formed a subject of discussion between the Chinese and Russian Governments.

Nr. 13523. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Rußland erhebt Vorstellungen wegen angeblicher Bedrohung Tibets.

October 22, 1902.

(Extract.) || The Russian Chargé d'Affaires called at this Office on the 11th instant and informed Sir T. Sanderson that he had received a telegram from his Government stating that they had heard from Peking that British troops were being sent to Tibet to protect the construction of a line of railway. The Russian Government thought that, in the present state of excitement and unrest, measures of this kind were dangerous and might produce a renewal of the Boxer agitation. Sir T. Sanderson told Baron Grævenitz that he had never heard that there was an idea of a railway to Tibet; it was a project which would present the greatest engineering difficulties. The only foundation for the rumour could be that some British officers, with an escort, were restoring some frontier pillars on the boundary between Sikkim and Tibet, which the Tibetans had a practice of removing. Baron Grævenitz replied that he, himself, had thought the report a very singular one.

Nr. 13524. **GROSZBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. China schickt einen Spezialgesandten nach Tibet.

December 6, 1902.

Tibet Frontier Question. Wai-wu-Pu writes that Throne attaches much importance to question and has consequently appointed Yu Tai

to be Chinese Resident in Tibet with orders to proceed at once and negotiate in an amicable spirit with Mr. White. Ministers request that Mr. White may be instructed by telegraph to discuss matter with new Resident. They expressed a hope that all previous misunderstandings may be thus removed and an early settlement of Tibet question arrived at.

Nr. 13525. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Vizekönig. Soll seine Meinung zum vorigen äußern. 17th December, 1902.

(Telegraphic.) || With reference to the telegram to the Foreign Office, dated 6th December, regarding the Chinese Resident in Tibet, wich Mr. Townley repeated to you, please state your views as to the reply which should be given to the Wai-wu-Pu by the Foreign Office, and as to whether trade and general relations should be included among the subjects of negotiation. Is a request that a representative of Tibet should be associated with the Chinese Resident advisable? In whatever way the negotiations may terminate, it is obvious that China, by making this overture, implicitly accepts responsibility for the affairs of Tibet.

Nr. 13526. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Besorgnis vor einer militärischen Expedition gegen Tibet.
Dezember 31, 1902.

(Extract.) || The Russian Chargé d'Affaires inquired of me to-day, with reference to his conversation with Sir T. Sanderson on the 22nd October, whether there was any truth in the rumour that we had contemplated a military expedition to Lhasa, and had only abandoned it for the moment. I referred him to the explanations which had been given to him on the occasion referred to, and told him that the story was, so far as I was aware, entirely without foundation.

Nr. 13527. **GROSSBRITANNIEN.** — Die Regierung von Indien an den Staatssekretär für Indien. Überblick über die Tibetfrage. Vorschlag, eine Mission nach Lhassa zu schicken.
Camp Delhi, the 8th January, 1903. (the 14the January, 1903.)

(Extract.) || We desire to address Your Lordship upon the serious questions arising out of recent incidents in connection with Tibet. These

questions have not now for the first time obtruded themselves upon our notice. They have already during the past two years been the subject of frequent correspondence between the Government of India and Your Lordship, and a brief summary will suffice to recall to mind the various stages by which we have arrived at the present point. We need not carry our recapitulation of past events further back than our despatch, dated 25th July, 1901, in which we narrated the unsuccessful result of two attempts made by us to obtain access to the Tibetan Government by means of a personal letter from His Excellency the Viceroy to the Dalai Lama, and in which we announced our intention to take advantage of an impending visit of Ugyen Kazi, the Bhutan Vakil, to Lhasa, to make a third attempt to deliver a similar letter. We added: "Should this letter meet with the fate of its predecessor, we contemplate, subject to the approval of His Majesty's Government, the adoption of more practical measures, with a view to securing the commercial and political facilities which our friendly representations will have failed to procure. As to the exact form which our altered policy should assume, we shall, if necessary, address Your Lordship at a later date." On 16th August, 1901, Your Lordship replied to us that "strong measures on the part of the Government of India would be viewed with much disquietude and suspicion; and it must be remembered that Tibet is politically subordinate to China. The character of the country, rugged and sparsely inhabited is against the conduct of important military operations in that region, and diplomatic pressure for closer relations with your Government would be likely to increase distrust of our intentions. In these circumstances, it is necessary to proceed with due consideration, and I request that Your Excellency in Council will consult me before any steps are taken that may involve a risk of the complications that I have indicated." To the arguments contained in the above extract we shall revert later on. We will for the moment resume the thread of our narrative. The third attempt to obtain access to the Dalai Lama through Ugyen Kazi was not more successful than its predecessors had been, and in our despatch of 13th February, 1902, we reported to Your Lordship its failure, and we proceeded to recommend the more practical measures which we had foreshadowed seven months earlier. These were that our Political Officer in Sikkim, Mr. J. C. White, should proceed to the frontier in the neighbourhood of Giaogong, upon which the Tibetans had not ceased to encroach ever since the Convention of 1890, and should reassert British rights in the tract in question, if necessary expelling the Tibetans from the British side of the frontier; and we once again in the concluding

paragraph of our despatch pressed upon Your Lordship the serious nature of the situation, and the impossibility of a continued acquiescence in a state of affairs so discreditable to British prestige, and of so unprecedented a description. In a despatch, dated 11th April, 1902, Your Lordship agreed to our proposal for the employment of Mr. White, and you forwarded to us copy of a letter from the Foreign Office dated March 26th, in which the Marquess of Lansdowne expressed his concurrence with us in believing that further negotiations on the subject of our relations with Tibet with the Chinese Government would not be likely to lead to any satisfactory result, and that it would be necessary to resort to local action in order to vindicate British rights under the Convention of 1890. Mr. White conducted his Mission during the past summer with expedition and success. In a despatch, dated 10th July, 1902, we explained to Your Lordship the revised instructions which we issued to him before starting and which he duly observed; and we now have the honour to forward the correspondence contained in the attached list, showing the results of his tour. The Tibetans who were in occupation of the Giaogong plateau were directed by Mr. White to withdraw beyond the frontier, and our right to insist upon the observance of the boundary laid down by the Convention of 1890 was clearly asserted. We have since learned from Mr. White that the grazing rights on the Sikkim side of the border which had been usurped by the Tibetans are, in fact, balanced by similar rights which are conceded to the Sikkimese across the Tibetan border, and that the *status quo* is probably the most convenient arrangement, in the interest of both parties. The immediate consequence of Mr. White's Mission and action was that at the end of July the Viceroy received a letter from the Chinese Imperial Resident at Lhasa asking for an explanation of the object and reasons of his proceedings. This communication was replied to in the Viceroy's letter of 2nd September. Simultaneously Mr. White received a communication from Mr. Ho Kuang Hsi, a Chinese Prefect, who had been sent to Yatung, to the effect that he had been selected by the Chinese Resident at Lhasa to proceed to the border, and, in conjunction with Captain Parr, the Chinese Customs Commissioner at Yatung, to discuss frontier matters with Mr. White. Mr. Ho arranged to visit Mr. White, but was at first prevented from doing so by ill-health. Subsequently Mr. White received private information that instructions had reached Mr. Ho from Lhasa to postpone his visit, pending discussion of the situation in the Tibetan Council. Later on Mr. Ho was recalled from the frontier, and it is stated that the Chinese Amban wrote to Captain Parr that, since he had memorialised

the Throne regarding the frontier question, matters must rest in abeyance until a reply came from Peking. In November we learned that information had been received from a confidential source at Lhasa that the rupture of negotiations with Mr. Withe was owing to orders from Peking More recently we heard from His Britannic Majesty's Chargé d'Affaires at Peking early in December that the Chinese Government had written to say that they attached much importance to the question of the Tibetan frontier, and had appointed Yu Tai to be Chinese Resident in that country, with orders to proceed at once and negotiate in an amicable manner with Mr. White. The Chinese Government requested that Mr. White might be instructed by telegraph to discuss matters with the Resident, and they expressed a hope that all previous misunderstanding might be thus removed, and an early settlement of the Tibetan question arrived at. On 17th December Your Lordship telegraphed to us asking for our views as to the reply to be made by the Foreign Office to the Chinese Government and as to the inclusion of trade and general relations among the subjects of negotiation. You further enquired if it was advisable to ask that a Tibetan representative should be associated with the Chinese Resident. These are the questions to which we will now endeavour to reply. Before doing so, there are two aspects of the case which require to be borne in mind. The first is that although Mr. White carried through his mission with entire success, and obtained useful information, the result of his proceedings has not been materially to improve our position upon the border, or to effect anything more than a timely assertion of British authority upon the spot. Even the annual reassertion of this authority at Giaogong — which, if the amicable arrangement suggested by the Bengal Government be acquiesced in, might not be required — would not put us in a position to exercise much pressure upon the Tibetan Government; and it is probable that the chief advantage derived from Mr. White's mission up to the present time consists in the fear inspired among the Tibetans that it is the prelude to some further movement — an advantage which would be wholly sacrified when the discovery was made that no such consequence was likely to ensue. If, therefore, we now enter upon negotiations with no other vantage ground than the successful reassertion of our authority on a very inconspicuous section of the border, it does not appear that there is much reason for anticipating a more favourable solution of the Tibetan problem than has attended our previous efforts, unless, indeed, we are prepared to assume a minatory tone and to threaten Tibet with further advance if the political and commercial relations between us are allowed any

longer to be reduced to a nullity by her policy of obstinate inaction. The second combination of circumstances that has materially affected the situation is the rumoured conclusion of a Secret Agreement by which the Russian Government has acquired certain powers of interference in Tibet. We have ourselves reported to Your Lordship circumstantial evidence derived from a variety of quarters all pointing in the same direction and tending to show the existence of an arrangement of some sort between Russia and Tibet. This, then, is the situation with which we are confronted at the moment when we are asked by Your Lordship to advise as to the answer that should be returned to the Chinese proposals for the re-opening of negotiations with our Political Officer on the Tibetan Frontier. It is obvious that any such negotiations are thereby invested with a far more than local importance, and that what we are concerned to examine is not the mere settlement of a border dispute, or even the amelioration of our future trading relations with Tibet, but the question of our entire future political relations with that country, and the degree to which we can permit the influence of another great Power to be exercised for the first time in Tibetan affairs. The previous attitude and utterances of His Majesty's Government leave us in no doubt as to the manner in which His Majesty's Government must regard the situation thus created; for within the last eighteen months official declarations of their views have been communicated under instructions from the Secretary of State for Foreign Affairs, both to the Russian and Chinese Governments. In August, 1901, owing to the visit of certain Lamas from Tibet to Russia, Sir C. Scott was authorised to inform Count Lamsdorff, the Russian Foreign Minister, that "His Majesty's Government could not regard with indifference any proceedings that might have a tendency to alter or disturb the existing status of Tibet": and, in his despatch of 2nd September, 1901, Sir C. Scott informed the Marquess of Lansdowne that he had made this communication to Count Lamsdorff, who had expressed his "assent and repeated his former statement that the mission was chiefly concerned with matters of religion, and had no political or diplomatic object or character." A year later, in September, 1902, Sir E. Satow, British Minister in Peking, was similarly instructed by the Marquess of Lansdowne to intimate, and did intimate to the Chinese Government that, should any agreement affecting the political status of Tibet be entered into by China with another Power, His Majesty's Government would be compelled to take steps for the protection of British interests. It is unnecessary for us to remind Your Lordship that the Russian border nowhere even touches that of Tibet, and that the nearest

point of Russian territory is considerably more than a thousand miles short of the Tibetan capital, which is situated in the extreme south, and in close proximity to the northern frontier of the Indian Empire. Neither need we point to the historical fact that no other States or Powers have, during the time that the British dominion has been established in India had any connection with Tibet, but, firstly, Chine who possesses a nominal suzerainty over the country, secondly, Nepal, a State in close political connection with India, and, thirdly, the British Government itself. The policy of exclusiveness to which the Tibetan Government has during the last century become increasingly addicted has only been tolerated by us, because anomalous and unfriendly as it has been, it carried with it no element of political or military danger. At no time during that century do we imagine that Great Britain would have permitted the creation of a rival or hostile influence in a position so close to the Indian border and so pregnant with possibilities of mischief. We are of opinion that the only way in which to counteract the danger by which we regard British interests as directly threatened in Tibet, is to assume the initiative ourselves, and we regard the Chinese proposals for a conference as affording an excellent opportunity for pressing forward and carrying out this policy. We are in favour, subject to a qualification that we shall presently mention, of accepting the Chinese proposals, but of attaching to them the condition that the conference shall take place not upon our frontier, but at Lhasa, and that it shall be attended by a representative of the Tibetan Government, who shall participate in the proceedings. In this way alone does it appear to us that we shall escape the ignominious position of having an Agreement which has been formally concluded with the Chinese subsequently repudiated by the Tibetans; and in no other way do we regard it as in the least likely that the wall of Tibetan impassivity and obstruction will be broken down. We might find many precedents in the history of India for missions with a not altogether dissimilar object. But it is perhaps more to the point to show that, in the case of Tibet, we are merely reviving a policy which has actually been put into execution in the past, and which during the past quarter of a century alone has on more than one occasion been under serious contemplation and on one occasion has approached to the verge of realisation. We need not carry back the history of missions from the Government of India to Lhasa to the attempts, partly successful, partly unsuccessful, that were made to open up relations with the Tibetan Government in the latter part of the 18th century; but we may refer to the first revival of a similar proposal in more modern times. This was

contained in a despatch, dated 14th July, 1874, from Mr. (afterwards Sir) T. Wade, British Minister in China, to Earl Granville, in which is to be found, strange to say (as emanating from Peking), the first suggestion that the Chinese Government might be left entirely out of the proceedings. These were M. Wade's words—" If the trade (*i.e.*, between India and Tibet) be worth the effort, I think that it might possibly be opened, were a mixed official and commercial mission pushed forward without reference to the Court of Peking, which is always carefult to declare that in this or in any other matter Tibet may act as she pleases, and if that mission were authorised in the first instance to spend money rather freely." The Government of India of that date, who were asked for their opinion on this suggestion by the Secretary of State, replied in an unfavourable sense, not being impressed, as our records show, with the trade prospects. The Secretary of State (the Marquess of Salisbury) while disposed, as then advised, to agree in the view that it would not be expedient to despatch a mission of the character referred to into Tibet without reference to the Court of Peking, saw no reason for the belief that the Chinese would throw difficulties in the way of purely commercial intercourse with Tibet, and accordingly suggested surveys for a road through Sikkim territory to the frontier. In 1885 the idea of a British Mission to Lhasa was revived by the then Lieutenant-Governor of Bengal (Sir Rivers Thompson), who recommended that an Indian officer should be deputed to Peking to explain the matter and to secure the assent of the Chinese Government. The Secretary of State (Lord R. Churchill) authorised Mr. Macaulay to be deputed to Peking where the attitude of the Chinese Government was reported to be most favourable. Before the end of the year their consent had been received and a Chinese passport and orders had been issued. However, the importance of a Burmese settlement appears to have so impressed itself upon all parties that the Lhasa Mission was sacrificed in July, in order that the signature of the Chinese Government to the Burma Convention might be obtained. At this later date we cannot pretend to contemplate this decision with any satisfaction; and we regard it as a grave misfortune that the Government of India should have been diverted from a project of unquestioned importance, to which they had, owing to a happy combination of circumstances, secured the assent of all the interested parties, by the exigencies of political considerations that had not the remotest connection with Tibet. The incident, however, is of value as showing that, as recently as 16 years ago, the idea of a commercial mission to Lhasa was energetically espoused by the Secretary of State, was accepted by the Chinese

Government, was provided for by the Government of India, and was on the verge of execution, when for extraneous reasons it was incontinently withdrawn. We now recommend the revival of this precedent and a firm pursuance of the policy that was then abandoned. A little while back we spoke of acceptance of the Chinese proposals subject to a qualification. What we meant was this. In our view the attempt to come to terms with Tibet through the agency of China has invariably proved a failure in the past, because of the intervention of this third party between Tibet and ourselves. We regard the so-called suzerainty of China over Tibet as a constitutional fiction—a political affectation which has only been maintained because of its convenience to both parties. China is always ready to break down the barriers of ignorance and obstruction and to open Tibet to the civilising influence of trade; but her pious wishes are defeated by the short-sighted stupidity of the Lamas. In the same way Tibet is only too anxious to meet our advances, but she is prevented from doing so by the despotic veto of the suzerain. This solemn farce has been re-enacted with a frequency that seems never to deprive it of its attractions or its power to impose. As a matter of fact, the two Chinese Ambans at Lhasa are there not as Viceroys, but as Ambassadors; and the entire Chinese soldiery by whom the figment of Chinese suzerainty is sustained in Tibet consists of less than 500 ill-armed men. Our views, as His Majesty's Government are aware, have been for som time in favour of dealing with Tibet alone; and it is upon these lines that we have proceeded, with the consent of His Majesty's Government, in attempting to open up direct communication with the Dalai Lama. At the same time we are aware that His Majesty's Government have, as a general rule, favoured the policy of regarding China as more or less responsible for Tibet. Our attempts to negotiate with the latter Power have in the large majority of cases been made through Chinese channels; and quite recently the warning, already cited, that if China were in any way to alienate her rights over Tibet, we should hold her responsible, may be regarded as a presumptive recognition of her titular claims. We think it probable, therefore, that His Majesty's Government will, upon the present, as upon previous occasions, prefer to follow the diplomatic methods hitherto pursued. If it be decided by His Majesty's Government once again to trust to the interposition of China, we earnestly hope that this may be accompanied by a resolute refusal to be defeated by the time-honoured procedure. We hope that it will not be thought necessary to seek the permission or the passports of China for a British Mission to proceed to Lhasa; but that, if this plan be decided upon, it will be adhered to

in the face of whatever protestations. We hope further that, once decided upon, it will not be dropped, as it was in 1886 owing to the pressure of extraneous causes. Finally, if and when a new Treaty is concluded it is imperative that it should not be signed by the British and Chinese alone, but by a direct representative of the Tibetan Government also. Otherwise we may have repeated the absurd situation, with which we were recently confronted, when we were informed by the Tibetans that they did not know that they were violating the Convention of 1890, because it had never been shown to them by the Chinese Amban, and had not been signed or confirmed by any Tibetan representative. We may remark that there are, in the present circumstances of Tibet, special reasons for insisting that Tibet herself shall be a prominent party to any new Agreement. For the first time for nearly a century that country is under the rule of a Dalai Lama, who is neither an infant nor a puppet, but a young man, some 28 years of age, who, having successfully escaped from the vicissitudes of childhood, is believed to exercise a greater personal authority than any of his predecessors, and to be *de facto* as well *de jure* sovereign of the country. In other words, there is for the first time in modern history a ruler in Tibet with whom it is possible to deal instead of an obscure junta masked by the Chinese Amban. Our proposal, therefore, is that, assuming it to be decided by His Majesty's Government to respond in a favourable sense to the overtures of the Waipupu, the Chinese Government shall be informed that we can undertake the negotiations nowhere else than at Lhasa, and that a British commercial Mission will start for that place at a suitable date in the forthcoming spring, there to meet the Chinese Resident and a duly-appointed high official of the Tibetan Government. We propose that the negotiations should cover not merely the small question of the Sikkim frontier, but the entire question of our future relations, commercial and otherwise, with Tibet; and we think that they should culminate in the appointment of a permanent British representative, Consular or Diplomatic, to reside at Lhasa. In our view any country of Government or Empire has a right to protect its own interests; and if those interests are seriously imperilled, as we hold ours to be in Tibet, by the absolute breakdown of the Treaty arrangements hitherto made through the medium of China, by the obstructive inertia of the Tibetans themselves, and still more by arrangements freshly concluded with another great Power to our detriment, we hold that the first law of national existence which is self-preservation, compels us to take such steps as will avert these dangers and place our security upon an assured and impregnable footing.

In view of the contingency of opposition, we think that the mission, if decided upon, should be accompanied by an armed escort, sufficient to overawe any opposition that might be encountered on the way, and to ensure its safety while in Lhasa. The military strength of the Tibetans is beneath contempt, and serious resistance is not to be contemplated. It would, however, be unwise to run any risk, for reports have reached us that an attempt is now made to drill the Tibetan troops at Lhasa, and that breech-loaders and other munitions of war have actually already been secretly imported into the capital. At the same time the most emphatic assurances might be given to the Chinese and Tibetan Governments that the mission was of an exclusively commercial character, that we repudiated all designs of a political nature upon Tibet, that we had no desire either to declare a Protectorate or permanently to occupy any portion of the country, but that our intentions were confined to removing the embargo that at present rests upon all trade between Tibet and India, and to establishing those amicable relations and means of communication that ought to subsist between adjacent and friendly Powers. The remains one suggestion to which it is important to refer. We should contemplate acting in complete unison with the Nepalese Durbar throughout our proceedings, and we would even invite them, if thought advisable, to take part in our mission. We believe that the policy of frank discussion and co-operation with the Nepalese Durbar would find them prepared most cordially to assist our plans. Not the slighest anxiety has been evinced at our recent forward operations on the Sikkim frontier; and we think that, with judicious management, useful assistance may confidently be expected from the side of Nepal. Our anticipations on this point have been confirmed by a recent interview between His Excellency the Viceroy and the Prime Minister of Nepal, Maharaja Chandra Shamsher Jang, at Delhi. The Nepalese Government regards the rumours of intrigue in Tibet with the most lively apprehension, and considers the future of the Nepal State to be directly involved; and, further, the Maharaja is prepared to co-operate with the Government of India in whatever way may be thought most desirable, either within or beyond the frontier, for the frustration of designs which he holds to be utterly inconsistent with the interests of his own country. We accordingly commend our proposals to Your Lordship's favourable consideration, and to that of His Majesty's Government, in the firm conviction that, if some such step be not taken as we have here advocated, a serious danger will grow up in Tibet, which may one day, and perhaps at no very distant date, attain to menacing dimensions. We believe that our terri-

torial position and our indubitable rights, enhanced as they are by the complete disrespect shown by the Tibetans for all existing stipulations, place it in our power to nip any such danger in the bud before it has developed; and we earnestly hope that the opportunitly may not be lost. We regard the situation as one in which the opinions of the Government of India, upon a matter immediately affecting the frontiers which we are called upon to defend with Indian resources, are entitled to carry weight with His Majesty's Government: and we entertain a sincere alarm that, if nothing is done and matters are permitted to slide, we may before long have occasion gravely to regret that action was not taken while it was still relatively free from difficulty. Should His Majesty's Government decide in favour of the despatch of a British Mission the Lhasa in the forthcoming spring, which should be ready to start in all probability in the month of April, we shall be glad of early information, in order that requisite steps may be taken for the construction or repair of roads to the frontier. We shall also be prepared to submit the necessary plans.

Nr. 13528. **RUSZLAND.** — Die Botschaft in London an den englischen Minister des Ausw. Wünscht Auskunft über die englischen Truppenbewegungen und Eisenbahnbauten an der Grenze Tibets.

Foreign Office, February 2, 1903.

Depuis les assurances données par le Cabinet de Saint-James au sujet d'une expédition militaire et de construction de chemin de fer au Tibet, de nouvelles informations de source autorisée sont parvenues au Gouvernement Impérial. Il paraîtrait qu'une expédition de troupes Anglaises aurait atteint Komba-Ovaleko se dirigeant vers le nord par la Vallée de Tchumbi. || L'importance majeure que le Cabinet Impérial attache à écarter toute cause de troubles en Chine lui ferait considérer une pareille expédition au Tibet comme de nature à produire une situation d'une gravité considérable qui, le cas échéant, pourrait forcer le Gouvernement Impérial à prendre des mesures pour sauvegarder ses intérêts dans ces parages. || C'est pour éviter tout malentendu que le Gouvernement Impérial croit devoir attirer l'attention du Gouvernement de Sa Majesté Britannique sur les informations récemment parvenues à Saint-Pétersbourg.

Nr. 13529. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Die russischen Befürchtungen sind grundlos*).

6th February, 1903.

(Telegraphic.) || The authoritative information of the Russian Ambassador regarding Tibet, it is needless to say, is without the smallest foundation. We urge that immediate action be taken in the sense of our despatch of 8th January. Ho-Kwang-si has returned suddenly to Yatung, where he has asked White to meet him to discuss in friendly spirit frontier and other matters. A letter has also been received from Amban Yu proposing to discuss frontier matters. We request that we may be permitted to make preparations for the proposed mission, and to reply to Amban that we are quite ready for friendly discussion.

Nr. 13530. **GROSZBRITANNIEN.** — Der Staatssekretär des Ausw. an den Botschafter in Petersburg. Unterredung mit dem russischen Botschafter über Tibet. Überreichung eines Memorandums.

11th February, 1903.

(Extract.) || The Russian Ambassador called upon me to-day, and we had some conversation upon the subject of the note left at this Office on the 2nd instant by M. Poklewski-Koziell. I told his Excellency that the language of this communication seemed to me to be unusual and, indeed, almost minatory in tone. I referred especially to the statement that the Imperial Government might, in consequence of our action in a country which immediately adjoins the frontiers of India, find it necessary to take measures to protect Russian interests in those regions. I could not conceive why it was necessary for Russia to evince her interest in this manner. I trusted that his Excellency would forgive me for saying that this was not the only case in which complaints, which seemed to me gratuitous, had been addressed to us by the Russian Government in consequence of action which was within our undoubted rights. His Excellency would, I said, always find me ready to give him information as to events which might be of interest to both our Governments, but it would be much easier for me to do this if the Russian Government would avoid the appearance of taking us to task upon such occasions. His Excellency hoped that I would not attach too much importance to

*) Anmerkung. Der Staatssekretär war am 4. Februar telegraphisch zur Äußerung aufgefordert worden. Red.

the form in which M. Koziell's communication was couched. It was not to be regarded as a written or official communication, but merely a rough note of the substance of a telegram which the Russian Embassy had received. I then told His Excellency that I had ascertained that the „authoritative information" which had been supplied to the Russian Government was without the smallest foundation. We had been unable to discover the situation of the place described as Komba-Ovaleko in M. Koziell's note, but the Chumbi Valley was immediately contiguous to the Indian frontier, and had been constantly used as a trade route between India and Tibet. There had, I believed, been a dispute as to some boundary pillars erected on the Sikkim-Tibet frontier, and we had been obliged to send an officer to insist on their re-erection. Count Benckendorff expressed his opinion that these exaggerated rumours were spread designedly in order to create ill-feeling between Great Britain and Russia, and thought we should spare no pains in order to dissipate them. There was no reason whatever why the two Governments should have any trouble over Tibet. Russia had no political designs upon the country, and he presumed that we had not. I said that if I were invited to say that we had no desire to annex Tibetan territory I should unhesitatingly answer in the affirmative, but I was bound to be careful how I gave general assurances, the import of which might hereafter be called in question, as to our future relations with Tibet. It was natural that the Indian Government should desire to promote Indian trade in that country, and they would, no doubt, take whatever measures seemed to them necessary for this purpose. His Excellency admitted that this was only natural. I promised to supply his Excellency with a short Memorandum in regard to M. Koziell's inquiry, and I subsequently sent him a Memorandum, of which the enclosed is a copy.

Anlage.

Memorandum communicated to Count Benckendorff.

A note was left at the Foreign Office on the 2nd instant by M. Poklewski-Koziell, in which it was stated that, according to recent information received by the Russian Government from an authoritative source, an expedition of British troops had already reached Komba-Ovaleko in Tibet and were marching northwards by the Valley of Chumbi, and that such an expedition might give rise to a situation of considerable gravity which might compel the Russian Government to take measures to protect their interests in those regions. His Majesty's Government have the honour to state that the authoritative information which had

been supplied to the Russian Government is without the smallest foundation. It has been found impossible to discover the situation of the place mentioned as Komba-Ovaleko; but the Chumbi Valley is immediately contiguous to the Indian frontier, and has been constantly used as a traders' route between India and Tibet for many years past. || There has been, according to the information received by His Majesty's Government, a dispute with regard to the boundary on the northern frontier between Tibet and Sikkim, which is a protected Indian Native State, as laid down in the Convention of 1890. The Political Officer in Sikkim was directed to proceed to the spot for the purpose of securing compliance with the terms of the Convention. He was accompanied by a small escort. Having made clear the rights of the Government of India on their side of the line he deturned to his head-quarters in Sikkim without having entered Tibetan territory.

Nr. 13531. **GROSZBRITANNIEN.** — Derselbe an Denselben. Neue Unterredung mit Benckendorff über Tibet.

February 18, 1903.

During my conversation with the Russian-Ambassador to-day I recurred to the question of Tibet, which we had discussed on the 11th instant. || I told his Excellency that since our interview I had communicated with the India Office upon the subject. The Government of India had been seriously perturbed by the communication made to the Foreign Office on the 2nd instant by M. Poklewski-Koziell. The interest of India in Tibet was, I said, of a very special character. With a map of Central Asia before me I pointed out to his Excellency that Lhasa was within a comparatively short distance of the northern frontier of India. It was, on the other hand, considerably over, 1000 miles distant from the Asiatic possessions of Russia, and any sudden display of Russian interest or activity in the regions immediately adjoining the possessions of Great Britain could scarcely fail to have a disturbing effect upon the population, or to create the impression that British influence was receding and that of Russia making rapid advances into regions which had hitherto been regarded as altogether outside of her sphere of influence. || I felt it, moreover, my duty to tell His Excellency that His Majesty's Government had received from apparently trustworthy sources reports to the effect that Russia had lately concluded Agreements for the establishment of a Russian Protectorate over Tibet, and also, that if she had not already done so, she intended to establish Russian agents or Consular officers

at Lhasa. || I thought it of the utmost importance that as his Excellency had disclaimed on the part of Russia all political designs upon Tibet, I should be in a position to state whether these rumours were, or were not, without foundation. || Count Benckendorff replied that he did not believe that there was any foundation for them. Before coming here he had referred, in conversation with Count Lamsdorff, to the question of Tibet, and had asked him whether there were any serious difficulties to be apprehended in that direction. Count Lamsdorff had said „qu'il n'y avait rien là-dessous." His Excellency, however, expressed his readiness to make specific inquiries of the Russian Government as to the truth of the statements to which I had referred, and I begged that he would do so. || I went on to say that, as we were much more closely interested than Russia in Tibet, it followed that, should there be any display of Russian activity in that country, we should be obliged to reply by a display of activity not only equivalent to, but exceeding that made by Russia. If they sent a mission or an expedition we should have to do the same, but in greater strength. || As to our dealings with Tibet at this moment, I mentioned to his Excellency that we were endeavouring to obtain from the Tibetan authorities the fulfilment of pledges which had been given to us in 1890 in regard to the location of the frontier and in regard to trade facilities on the borders of Sikkim. We had found that it was of no use to deal with Tibet through China owing to the dilatory methods of the Chinese Government and the slenderness of their influence over Tibet. It was absolutely necessary that these local questions should be disposed of to our satisfaction, and we should continue to take the necessary steps for this purpose.

Nr. 13532. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Vizekönig. Rußlands Einfluß in Tibet. Mitteilung der Verhandlungen mit Benckendorf.

20th February 1903.

(Telegraphic.) || The importance of excluding the establishment of Russian influence in Tibet, and the inconveniences and intrigues which might be occasioned by it along the frontier between Tibet, India and Nepal, is fully appreciated by His Majesty's Government. || The Russian Ambassador's attention has been called by Lord Lansdowne to the unusual and minatory tone of the Russian Embassy's memorandum of the 2nd February, and Lord Lansdowne has refused to admit that Russia has any

right to interrogate His Majesty's Government as to incidents affecting our frontier relations with Tibet. The Russian Ambassador was pressed for a distinct statement whether there exists a secret agreement with China, and as to actual or intended presence of a Russian agent at Lhasa. He was informed that should any steps of the kind be taken they will certainly be followed on our part by a display of activity not only equivalent to but exceeding that of Russia. It was also explained that, with a view to negotiating the settlement of a commercial treaty and of certain frontier questions, His Majesty's Government are in communication with the Chinese and Tibetan authorities; that Russia's right to take exception to these negotiations is no admitted, and that the local questions referred to must be disposed of to our satisfaction, for which object we shall continue to take the necessary steeps. || The Russian Ambassador promised to make specific enquiries of the Russian Government as to the truth of the statements referred to, and distinctly denied that Russia had any political designs on Tibet. || While discussions between the two Governments are in progress, the despatch of an expedition to enter Tibet by force would, in the opinion of His Majesty's Government, be most undesirable. You should, meanwhile, reply to the Amban that you are ready to re-open the negotiations, but that a Tibetan representative with full powers must be a party to the negotiations, and that the time when and place where the negotiations should take place is still under your consideration. || A Despatch on the subject follows.

Nr. 13533. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Generalgouverneur. Rücksicht auf Rußland. Ansicht über die Mission nach Lhassa. Das chinesische Verhandlungsangebot soll angenommen werden.

February 27, 1903.

(Extract.) || The proposals regarding Tibet submitted with your Excellency's Letter of the 8th January last, have received most careful consideration by His Majesty's Government, who have examined them, not only in so far as they furnish a solution of the difficulties created on the Indian frontier by the attitude of the Tibetan Government, but from the wider point of view of the relations of Great Britain to other Powers, both European and Asiatic. The opinion at which His Majesty's Government have arrived is indicated in my telegram of the 20th February, in which I informed Your Excellency of the announcement of our views

and intentions which had been made to the Russian Government, and of the specific inquiries addressed to them as to the existence of a secret agreement between Russia and China in respect of Tibet, and as to direct arrangements between Russia and Tibet for the appointment of a Russian Agent at Lhasa. I enclose copies of Despatches to His Britannic Majesty's Ambassador at St. Petersburgh, dated 11th and 18th February, embodying the conversations of the Secretary of State for Foreign Affairs with the Russian Ambassador on the subject. In the view of His Majesty's Goverment it would not be desirable that while these discussions are proceeding, forcible steps, of the kind contemplated in your Excellency's Letter, should be taken for the purpose of establishing British influence at Lhasa. In the meanwhile, Your Excellency has been authorised to inform the Chinese Commissioner, in reply to the request of the Chinese Government, that you are ready to renew negotiations in accordance with the wish they have expressed, but that a representative of Tibet, accredited by his Government with the necessary authority, must be a party to the proceedings, and that the time when and place where the negotiations shall be conducted are still under your consideration. The question at issue is, as Your Excellency points out, no longer one of details as to trade and boundaries, though on these it is necessary that an agreement should be arrived at, but the whole question of the future political relations of India with Tibet. His Majesty's Government are entirely in agreement with your Excellency in thinking that, having regard to the geographical position of Tibet on the frontiers of India and its relations with Nepal, it is indispensable that British influence should be recognised at Lhasa in such a manner at to render it impossible for any, other Power to exercise a pressure on the Tibetan Government inconsistent with the interests of British India. Moreover, with reference to Your Excellency's telegram of the 6th February, reporting on the statements in the Russian Memorandum of the 2nd February as to an alleged violation of the Tibetan frontier, they admit the force of the contention that this instance of the interest shown by the Russian Government in the action of the Government of India on the Tibetan frontier demonstrates the urgency of placing our relations with Tibet on a secure basis. As regards Nepal, His Majesty's Government have noted with satisfaction the language held by the Minister of Nepal when he met Your Excellency at Delhi, and the terms of his subsequent letter. The maintenance of friendly relations with Nepal is a matter of vital importance to the interests of India, have regard not only to the circumstance that Nepal is conterminous with Bengal and the United Provinces for over 500 miles,

and to the warlike character of the ruling race, but also to the fact that it is the recruiting ground from which we draw the Gurkha regiments wich add so greatly to the strength of the Indian Army. Nepal has hitherto held its own without difficulty against Tibet; but for this reason Nepal is rightly sensitive as to any alteration in the political position of Tibet which would be likely to disturb the relations at present existing between the two countries. His Majesty's Government fully recognise that the establishment of a powerful foreign influence in Tibet would disturb those relations, and might even, by exposing Nepal to a pressure which it would be difficult to resist, affect those which at present exist on so cordial a basis between India and Nepal. Having regard to these considerations, His Majesty's Government, while regretting the necessity for abandoning the passive attitude that has hitherto sufficed in the regulation of the affairs of this portion of the frontier of India are compelled to recognise that circumstances have recently occurred which throw on them the obligation of placing our relations with the Government of Lhasa upon a more satisfactory footing. Your Excellency's proposal to send an armed mission to enter Lhasa, by force if necessary, and establish there a Resident, might, no doubt, if the issue were simply one between India and Tibet, be justified as a legitimate reply to the action of the Tibetan Government in returning the letters which on three occasions you have addressed to them, and in disregarding the Convention with China of 1890, the validity of which was reputiated by the Tibetan officials who visited our Political Officer while he was inspecting the frontier laid down by that Convention. Such action undoubtedly warrants the adoption of strong measures, and I have expressed this opinion in my Despatch of the 16th August, 1901, But His Majesty's Government cannot regard the question as one concerning India and Tibet alone The position of China, in its relations to the Powers of Europe, has been so modified in recent years that it is necessary to take into account those altered conditions in deciding on action affecting what must still be regarded as a province of China. It is true, as stated in Your Excellency's letter, that we have no desire either to declare a Protectorate or permanently to occupy any portion of the country. Measures of this kind might, however, become inevitable if we were once to find ourselves committed to armed intervention in Tibet, and it is almost certain that, were the British Mission to encounter opposition, questions would be raised which would have to be considered, not as local ones concerning Tibet and India exclusively, but from an international point of view, as involving the status of a portion of the Chinese Empire. For these

reasons His Majesty's Government think it necessary, before sanctioning a course which might be regarded as an attack on the integrity of the Chinese Empire, to be sure that such action can be justified by the previous action of Tibet, and they have accordingly come to the conclusion that it would be premature to adopt measures so likely to precipitate a crisis in the affairs of Tibet as those which Your Excellency has proposed. In their opinion it would have been unwise not to use the Russian Memorandum of the 2nd February as an occasion for pressing the Russian Government to make a distinct statement of their policy, and for warning them of our intention to meet any action on their part by more than counter-balancing measures on our own. After the explanations of the Russian Government have been received, His Majesty's Government will be in a better position to decide on the scope to be given to the negotiations with China, and on the steps to be taken to protect India against any danger from the establishment of foreign influence in Tibet.

Nr. 13534. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Sind die Verhandlungen mit Rußland noch nicht beendet? March 21, 1903.

(Telegraphic.) || Your Despatch of 27th February regarding Tibet only refrained from accepting our proposals on the ground that discussions were proceeding with Russia, and stated that His Majesty's Govern_ment will be in a better position to decide the question when the Russian explanations have been received. Lord Lansdowne's second conversation with Count Benckendorff took place on 18th February, since which date four weeks have elapsed, and presumably the Ambassador has had time to make enquiries of his Government. If their reply has been received, we shall be glad to know its tenour. Until we have received your reply to this telegram we do not propose to address any communication to the Chinese Amban and to Ho.

Nr. 13535. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Vizekönig. (Unterredung). Lansdowne hat von Benckendorf Auskunft über den angeblichen Vertrag zwischen Rußland und Tibet verlangt. March, 28, 1903.

(Telegraphic.) || My telegram of 24th March. Lord Lansdowne in a conversation with the Russian Ambassador on the 24th asked him whether

his Government had replied to the enquiries on the subject of Tibet which he had promised to make; Lord Lansdowne said that it was most important that the Government of India should receive a categorical assurance, on the authority of the Russian Government, confirming officially the statements made in conversation by their Ambassador on the 18th February, that Russia had no designs on Tibet, and that there was no foundation for the rumours of a secret agreement between Russia and Tibet. The reply of the Russian Ambassador was, that his Government had not yet replied to his communications on the subject, but that according to recent documents in his Embassy, of which, however, he could not give the date, his Government had characterised the rumours in question as imaginary. Lord Lansdowne admitted this to be satisfactory so far as it went, but said that he must press for a distinct reply. He pointed out that a simple statement whether there was or was not a secret agreement, yes, or no, was all that His Majesty's Government asked for, adding that it was reasonable that he should press for an answer, and begging the Ambassador to report what he had said to his Government. This he promised to do.

Nr. 13536. **GROSZBRITANNIEN.** — Derselbean Denselben. Rußland leugnet offiziell jeden Vertrag mit oder über Tibet*).

April, 11, 1903.

(Telegraphic.) || My telegram of 28th March. On 8th April Lord Lansdowne had further conversation regarding Tibet with Russian Ambassador, who stated that he had received from his Government their reply to the enquiries which he had addressed to them after the conversation of 18th February, which reply they had sent before receiving the further despatch he had written after the conversation of 24th March. Russian Ambassador gave Lord Lansdowne an official assurance that on the subject of Tibet there was no convention with Tibet, or with China, or with anyone else, and that there was no intention on the part of the Russian Government to send there either agents or mission. Russian Ambassador stated that Count Lamsdorff had expressed astonishment at such credence having been given by His Majesty's Government to these reports, which he was surprised that the Ambassador had not taken upon himself to contradict at once. The Ambassador proceeded to say

*) Anmerkung. Der Inhalt der Depesche an den Gesandten in Peking mitgeteilt. (22. April.) Red.

that though the Russian Government had no designs whatever on Tibet they could not remain indifferent if *status quo* were seriously disturbed, in which case it might be necessary for them to safeguard their interests in Asia, though even then the measures they might be compelled to take would be elsewhere, as Tibet was in any contingency outside the scope of their policy, and they had no desire to interfere in its affairs. They were interested in the integrity of the Chinese Empire, of which they regarded Tibet as a part. Russian Ambassador hoped that there was no question of our taking any action likely to have effect of raising such issues. In his reply to the Russian Ambassador Lord Lansdowne stated that His Majesty's Government had no idea of annexing Tibet, but that they had treaties and right to facilities for trade in Tibet, and that if Tibet failed to fulfil its treaty obligations and denied us our rights, it would be absolutely necessary that we should insist upon them. To this statement the Russian Ambassador assented; and Lord Lansdowne went on to say that it seemed to him inevitable that a civilised country, where it was coterminous with an uncivilised country, should in such cases exercise a certain amount of local predominance; and that, as he had before explained, such a position belonged to us in Tibet, but it did not follow from this that we had any designs on the independence of Tibet.

Nr. 13537. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Vorschläge für die Mission nach Tibet. Major Younghusband Führer der Expedition.

May 7, 1903.

(Telegraphic.) || Your telegrams of 14th and 29th April,*) on subject of negotiations as to Tibet. I propose to address Amban suggesting that representatives should meet on early date at Khamba Jong to enter upon negotiations, which should include not only frontier and grazing questions, but also general and trade relations between India and Tibet, with special reference to the duty on tea and to the 10 per cent. tax levied at Phari on trade in transit. Having regard to stultification of existing treaty provisions and to the unsuitability of Yatung, Phari, or any other place in the Chumbi Valley for a trade mart in which business can be transacted directly between British and Tibetan merchants without incurring monopoly of local traders, it is necessary to insist upon opening a new

*) Hierin waren Vorschläge verlangt. Red.

trade mart and upon having a British Agent at Gyantse, an important trade centre on main route to Shigatse and Lhasa. I think that having British representative at Lhasa, which would be best possible security for future observance of conditions, would be far preferable, but, assuming the unwillingness of His Majesty's Government to press this claim, our proposal of Gyantse is a suitable alternative. In any case the British representative must reside on north side of the passes so as to be able to communicate promptly with the capital. In framing the new regulations the Tibetan and Chinese authorities should be made clearly to understand that fullest facilities must be given to the British representative for direct communication with the Tibetan Government in all matters, and that if he is met by attitude of obstruction, it will be necessary to resort to alternative of moving him forward to Lhasa. Further, it will be necessary to secure for British Indian subjects the same freedom for trade and travel in Tibet as is enjoyed by Kashmiris and Nepalese; and to insist that all British subjects duly authorised by us should be allowed to proceed by recognised routes to Gyantse, beyond which a pass from the Tibetan Government would be required, but in case of a request being preferred by Government of India the pass should not be refused. The Government of Nepal would be made acquainted with the general nature of our proceedings. As Commissioner I propose to appoint Major Younghusband, Resident at Indore, who should receive temporary rank of Colonel. I can confidently rely on his judgment and discretion, and he has great Asiatic experience. I would send with him, as Joint Commissioner, Mr. White, Political Officer at Sikkim. I will address Your Lordship again if I find the assistance of a member of the Chinese Consular body necessary. I am about to send you a despatch with full papers, but I trust that sanction may be given to the general proposals on the lines above indicated, so as to ensure an early beginning of the negotiations.

Nr. 13538. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Mitteilung an China über die tibetanische Expedition. May 8, 1903.

(Telegraphic.) || Tibetan-Sikkim frontier question. Communicate the substance of my telegram of the 22nd April to the Chinese Government. You ought to lay stress on the necessity for associating a properly accredited Tibetan Representaive with the Chinese Delegates. We shall have a repetition of previous miscarriage unless this is done.

Nr. 13539. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Vizekönig. Gibt es keine andere Eventualität als gewaltsames Eindringen in Tibet?

May 13, 1903.

(Telegraphic.) || Your telegram of 7th May. Proposal to transfer trade route and mart to the Northern line from Chumbi Valley. I am inclined to approve policy, but, as it is very probable that the Tibetans will definitely refuse to accede to your terms about Gyantse, I wish, before coming to any decision, to be informed whether you can propose any alternative in that event instead of the extreme course of advancing by force into Tibet. Do you contemplate having European officer as Gyangste Agent? What escort do you think he would require?

Nr. 13540. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Antwort auf das vorige.

May 21, 1903

(Telegraphic.) || I have delayed replying to your telegram of 13th respecting Tibet until I could consult White and Younghusband. Our protracted silence and operations for improvement of Sikkim road have so alarmed both Tibetans and Chinese, who apprehend armed advance on our part to Lhasa, that, in order to escape this eventuality, they will, we think, be prepared to yield a great deal; moreover, the Dalai Lama is expected to be at Shigatse this summer. We are therefore hopeful that, though negotiations may be protracted, the Gyangtse proposal will receive assent. In event of failure, as alternatives to advance into Tibet, the only possible measures are: — (*a*) The costly and ineffectual measure of blockading all trade routes and excluding Tibetans from British India; and (*b*) An occupation of the Chumbi Valley, a measure of the nature of armed advance of a minor degree.

Nr. 13541. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Vizekönig. Instruktion für die Verhandlung mit Tibet. Keine politische Agentur in Tibet.

May 28, 1903

(Telegraphic.) || Your proposals of the 7th and 21 May regarding Tibet have been considered with great care by His Majesty's Government. They agree with you in desiring the promotion of trade facilities in

Tibet, and a guarantee that the Tibetans shall be prevented from evading or rejecting engagements made on their behalf in any new treaty or convention. A procedure, therefore, whereby both the Chinese and Tibetan Governments will be bound by the acts of their representatives has their approval. They wish, however, that the negotiations should be restricted to questions concerning trade relations, the frontier, and grazing rights; and they desire that no proposal should be made for the establishment of a Political Agent either at Gyangtse or at Lhasa. Such a political outpost might entail difficulties and responsibilities incommensurate, in the judgment of His Majesty's Government, with any benefits which, in the circumstances now known to exist, could be gained by it. The Foreign Office have recently received assurances that Russia has no intention of developing political interests in Tibet. Moreover, His Majesty's Government are unwilling to be committed, by threats accompanying the proposals which may be made, to any definite course of compulsion to be undertaken in the future. They authorise you, then, subject to the conditions above stated, to communicate with the Chinese Resident and Tibetan representative, fixing Khamba Jong as the place of meeting. They also request that the purport and progress of the negotiations, as they proceed, may be communicated to them from time to time.

Nr. 13542. **GROSZBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. Die chinesische Regierung drängt Tibet zum Entgegenkommen.

Peking, July 14, 1903.

(Telegraphic.) || Sikkim-Tibet frontier. My telegram of July 11. I am informed by Wai Wu Pu that they have received a telegram from the Imperial Chinese Resident at Lhasa reporting that he has urged on the Dalai Lama the appointment of a suitable Tibetan representative to act on the frontier Commission. Resident further states that he has pressed the Councillors of State of urge the Dalai Lama in the same sense. As soon as he receives an answer he will telegraph again.

Nr. 13543. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Beginn der Expedition. Besprechung in Khamba Jong.

the 16th of July, 1903.

(Telegraphic.) || Tibet. Khamba Jong was reached on 7th July by Mr. White, accompanied by Captain O'Connor and Major Bretherton and

full escort. Colonel Younghusband will shortly move from Tangu; he has been slightly indisposed. Chinese Amban says that Ho and Captain Parr are the Commissioners appointed by China, who are to be joined by a Secretary and a Depon (fourth grade official) appointed by the Dalai Lama. The rank of these officers is not considered sufficient by Colonel Younghusband. I am awaiting the Amban's letter. At Giaogong Mr. White was met by Tibetan General and Chief Secretary, who sent him presents, and importuned him to halt and discuss matters there. Mr. White replied that till he and the other Commissioners had arrived at Khamba Jong the discussion could not take place. Khamba Jong is high and exposed and arid, but four miles off is a fertile valley with good grazing, cattle, sheep and barley. Colonel Younghusband expects gread advantage from personal influence of Mr. White and Captain O'Connor. The attitude of the Tibetans is sullen, that of the Chinese friendly.

Nr. 13544. **GROSZBRITANNIEN.** — Die Gesandtschaft in Peking an den Minister des Ausw. Haltung Tibets angesichts der Mission.

Peking, the 15th of August, 1903.

(Telegraphic.) || Sikkim-Tibet frontier. Foreign Board have received a telegram from Chinese Resident in Tibet to the effect that White is reported to have reached Kanpa with 200 men, while Younghusband, 300 more, is following. He represents that the negotiations must take some months, and that the Tibetans will get uneasy at the presence of a number of troops for so long, and, further, that Kanpa is a small and poor place to nourish so large a force. He therefore asks that Indian Government be urged to negotiate with deliberation, and withdraw the troops. His request is supported by the Chinese Government.

Nr. 13545. **GROSZBRITANNIEN.** — Dieselbe an Denselben. Tibet verlangt Zurückziehung der englischen Truppen.

Peking, the 24th of August, 1903.

(Telegraphic.) || Sikkim-Tibet frontier. Mr. Townley's telegram*.) I have received another note from Chinese Government, stating that Chinese Resident has again telegraphed, saying that Tibetans refuse to enter into negotiations until Government of India withdraw their troops.

*) Das vorige. Red.

I propose to reply that negotiations have already been opened at Kanpa, where Younghusband has arrived.

Nr. 13546. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Antwort auf das vorige

the 27 th of August, 1903.

(Telegraphic.) || Tibetan negotiations. See Mr. Townley's telegram of the 15th August. Chinese Government may be informed as suggested in your telegram of the 24th August. Major Younghusband's instructions are that 200 men shall accompany Commissioner to Khambajong, and that he is to be supported by 300 additional troops, who will be stationed at Tangu within the Sikkim border.

Nr. 13547. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Tibet verweigert Unterhandlungen und trifft kriegerische Vorbereitungen

16 th September, 1903.

(Telegraphic.) || Tibet. Information has been brought back by an agent who visited Lhasa that war has been definitely decided upon by National Council, and that Lhasa Government are determined not to negotiate. They are collecting troops from all quarters with a view to taking action by middle or end of next month after getting in the harvest. Early attack is anticipated, but Colonel Younghusband is strengthening his escort by 100 men. At the same time, in case we have to occupy the Chumbi Valley, the 2nd Pioneers are being sent to work on the Jelapla route on termination of the rains. A Chinese Colonel has replaced Ho, who has withdrawn to Lhasa. The new Amban and his assistant are not expected to reach Lhasa till November, the delay being probably intentional. Until their arrival negotiations will be at an absolute standstill. Mereover, though Dalai Lama agreed to Kambajong foor meeting of Commission, the Tibetan delegates resolutely decline to negotiate there. Attitude of Nepal Darbar is satisfactory. They have offered to supply 500 yaks at once and 8,000 within a month. Also the Minister in remarkable letter addressed to the Tibetan Government has warned them not to expect assistance from Nepal under Treaty of 1856, and has advised them to lose no time in coming to terms. In a letter to the Amban, dated 25th August, I have insisted on despatch of suitable reprentatives, and I have stated that Colonel Younghusband

may have to move into more suitable winter quarters if there is delay in completing negotiations. Two British subjects have been imprisoned in Shigatse, and Tibetans decline to restore them. Reprisals have been made on Tibetan herds at Giaogong, and Colonel Younghusband has been directed to demand compensation. He despairs of peaceful solution, and says that till the Tibetans realise the seriousness of our intentions, which they now deride, nothing will be done. He foresees that the occupation of the Chumbi Valley and advance of Mission 75 miles beyond Khambajong to Gyangtse will be eventually necessary. We think that occupation of Chumbi Valley will be insufficient to put serious pressure on Lhasa, and that it is almost certain that Mission will have to advance. His Majesty's Government should realise that Lhasa Government have no conception of our power. A further complication is that any sort of action will be difficult after November, and it may be necessary for our Mission to stay at Khambajong doing nothing till next spring, a delay mott injurious to our prestige, and merely postponing without solving problem. We should be glad, before making plans for winter, to be informed of the probable views of His Majesty's Government in the contingency of negotiations breaking down or Tibetans taking hostile action.

Nr. 13548. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Vizekönig. In Peking werden Vorstellungen über das vorige erhoben werden. Eventualität eines Eindringens in Tibet.

20th September, 1903.

(Telegraphic.) || Your telegram of 16th instant. Tibetan negotiations. Lord Lansdowne will at once instruct*) our Minister at Peking to make serious representation to the Chinese Government pointing out the refusal of Tibetans to negotiate at place accepted by Dalai Lama for meeting of Commission, their hostile preparations and their imprisonment of British subjects at Shigatse, and stating that His Majesty's Government expect the Chinese Government to bring pressure to bear on Dalai Lama to secure that the Tibetans shall release prisoners and commence negotiations at once, adding that if Tibetans do not immediately satisfy these demands, His Majesty's Government will take measures necessary for release of prisoners and security of Mission. This representation is

*) Geschah am 22. September. Red.

considered expedient though any satisfactory result of representation is doubtful, in existing relations between Tibet and China. In the event of coercion becoming necessary, military situation will have to be considered, but proposal to advance far into the interior is regarded with grave misgiving by His Majesty's Government, who are disposed to think that the fact that we are in earnest may be sufficiently brought home to the Tibetans by the occupation of the Chumbi Valley in the first instance.

Nr. 13549. **GROSZBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. China und Tibet.

Peking, September 25, 1903.

(Telegraphic.) With reference to Your Lordhip's telegram of the 22nd instant, I delivered a note to Prince Ch'ing to-day embodying its contents and adding that comment was not necessary to impress on his Highness the seriousness of the situation if the attitude adopted by the Tibetans is persisted in. The final paragraph I communicated verbally, and urged that instructions should be sent to Lhasa with as little delay as possible. He replied that it would take twenty or thirty days for a message to reach Lhasa from the point where the telegraph line ends in Szechuan, and he begged His Majesty's Government to give them time. The Chinese Government, he said, were most anxious to see a solution come to with the Tibetans, who are a very stupid people. The newly-appointed Resident is relied on to effect good when he arrives in Tibet. His departure has been delayed by the difficulty of collecting the troops who are to accompany him.

Nr. 13550. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Einmarsch in Tibet ist unumgänglich.

26th October, 1903.

(Telegraphic.) Your telegram of 1sh October. Colonel Younghusband has been at Simla, on summons from Government of India, for personal consultation regarding Tibet, after which we have unanimously agreed in following conclusions. For following reasons advance into Tibet appears to us to be indispensable. || 1. Though Dalai Lama agreed to the Commissioners meeting at Khambajong, the Tibetan delegates have refused to hold any communications or relations with our Commissioner. For more than three months past they have shut themselves up in fort.

2. As to Chinese delegates, none of suitable rank have as yet been sent Colonel Chao, who is only commandant of Phari, and interior in position to Ho, has been appointed to succeed latter.

3. From the first Chinese Government have procrastinated. They informed us officially last December that Amban Yutai had been appointed to negotiate, but he is still on his way, travelling leisurely, and is not expected to arrive at Lhasa before end of year. It was easy for Chinese Government to wire their instructions to Lhasa viâ Khambajong, by which route Parr sends his messages to Peking, but they have preferred posting them across Tibet. Moreover, the present Amban at Lhasa has also failed to reply to Viceroy's letter of 25th August. || 4. Tibetans have for months past been preparing for war, collecting troops and supplies in every part of country between Lhasa and our frontier. || 5. They have sent no reply to any of our representations regarding the two British subjects whom they arrested and imprisoned at Shigatse, and whom it is now rumoured they have tortured and killed. || 6. There has been a complete failure of the policy pursued for the last 25 years by the Government of India towards Tibet; the only result being that the Tibetans mistake our patience for weakness, reject our overtures with scorn, and despise our strength. In Colonel Younghusband's opinion, since we retired in 1888, both Tibetans and Chinese confidently expect our retirement refusing to believe that we shall do anything. || It is clear that in these circumstances we have no alternative but to advance, as already authorised by His Majesty's Government. After consideration, and upon Colonel Younghusband's advice, we unhesitatingly recommend that the advance should extend to Gyangtse, and should not be confined to Chumbi Valley. The following are our reasons: — || (1) Chumbi Valley is on Indian side of the watershed and is not regarded as part of Tibet. Tibetans would, therefore, regard its occupation as a retrograde movement, comparing it with the position at Khambajong, in Tibet proper, which we at present occupy. || (2) If we move only into the Chumbi Valley, we shall find our present situation repeated at Phari instead of Khambajong, and it will require stronger measures to convince Tibetans that we are in earnest. || (3) Colonel Younghusband considers it extremely important that we should come into contact with the Tibetan people. They are quite prepared to enter into relations with us, and are quite friendly, only the hierarchy of Lhasa Lamas being opposed. Colonel Younghusband's relations with the Tibetans from Shigatse and with those around Khambajong have been most friendly, and the same results may be anticipated at Gyangtse.|| (4) Moreover, as we are pressing to have a mart at Gyangtse, this

object cannot be secured in any better way than by our advancing thither at once.

For these reasons we recommend that immediate advance to Gyangtse through the Chumbi Valley should be sanctioned. Colonel Younghusband would join column at Kalasto, by cross march from Khambajong. After his depature, latter place would be occupied by Nepalese, who are rendering every assistance, and who will supply yaks. Country beyond Chumbi Valley is open and rolling, and Tangla pass, leading out of Chumbi Valley, is quite easy. Gyangtse is about 80 miles from Phari, and about 140 miles from our frontier at the Jelap Pass. We should hope to commence movement by end of November We do not anticipate any serious resistance. Though cold, the season of the year is entirely favourable, and we anticipate no difficulty in carrying through operations and maintaining communications and supplies. On arrival, force would not attack Gyangtse, but, as was done at Khambajong, they would establish a fortified post, and would invite Tibetans and Chinese to resume negotiations in manner indicated in my letter to Amban. Plan of proposed military movements will be forwarded as soon as sanction of His Majesty's Government is received.

Nr. 13551. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Neue Verschleppung der Verhandlungen.

the 27 th of October, 1903.

(Telegraphic.) || My telegram, dated 26th October, regarding affairs in Tibet. We have been apprised by telegraph of the contents of Amban's reply which is dated the 17th October, and was received at Khambajong on 23rd October. It is obviously an attempt to postpone matters until the new Amban arrives in order that responsibility may be transferred to him. The substance of the reply is as follows: — „Amban declares that the Dalai Lama has been requested to send a Councillor of State to accompany him as Tibetan Commissioner, but that he has been unable to complete the arrangements. He requests, therefore, that Colonel Younghusband should enter into negotiations with Colonel Chao; and also as Tibetan soldiers are occupying the passes, that British Commission should not move to fresh winter quarters. He adds that it will be two or three months before the New Amban arrives." I suggest that our answer to Amban should be to the effect that we have now no alternative but to transfer the place of negotiation to some more

suitable spot, as to which he will be hereafter informed; and that we have been forced to adopt this course because he has neither put in an appearance himself nor delegated a suitable representative.

Nr. 13552. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Vizekönig. Verlangt Übersicht der Kosten der geplanten Expedition.

29 th October, 1903.

(Telegraphic.) || Your telegram of 26th October, Though I fully appreciate the force of the reasons which cause you to urge an immediate advance to Gyangtse, I see from my predecessor's telegram to you of the 1st October that the advance was contingent on a rupture ot negotiations which has not yet taken place. Please let me have a full estimate of the expenditure involved, and a statement of the troops necessary to maintain communications.

Nr. 13553. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Schickt die Aufstellung.

the 4 th of November, 1903.

(Telegraphic.) || In continuation of my telegram of 27th October. The rupture of negotiations with Tibet (if, indeed, negotiations can be said to have ever begun) is not only inevitable but has taken place. Thus the situation has already arisen which in your telegram of 1st October was described as the condition of a movement forward. Since the first meeting, the Tibetan delegates have refused to convey to Lhasa any message from Colonel Younghusband, or indeed to exchange a single word with him. No reply has been returned by the Dalai Lama to our request preferred four months ago, that he would delegate a Councillor of State. Hostilities are openly threatened, armed Tibetans surrounding our Mission. We now know that two British subjects have been taken to Lhasa where they are believed to have been put to death, but no reference to this outrage is made by the Amban in his last reply. Further developments of the situation have taken place since my telegram of 26th October. The attitude of the Tibetans is one of undisguised hostility. They have turned back Nepalese yaks on the frontier, and have now put a stop to all trade with India. As regards the attitude of the Chinese, the new Amban has not yet put in an appearance, although he was specially appointed to conduct negotiations eleven months ago, and the

representation of the Suzerain power has been entrusted successively to two low-class Chinese officials. We wish to represent the deplorable effect which would be produced by our acceptance of this humiliating position, (1) upon the Tibetans themselves, by whom our inactivity will be attributed to cowardice; (2) Rhuton; (3) upon the Government of Nepal, who have given us loyal support and have collected 500 yaks, ready four our use. Moreover, this policy will not obviate the necessity for an advance ultimately which we shall be obliged to carry out after a needless sacrifice of prestige and in circumstances of increased difficulty. Gyantse in our opinion will give the best winter quarters for the Mission, as supplies and communication there are cheaper and easier than at Khambajong, which has to be reached by a difficult route over a lofty pass. The climate, too, is better. A withdrawal would have most unfortunate results now that our preparations, which of course are known, have advanced so far.

The following is an estimate of the total force which it is proposed to employ: — || 1 battalion of Gurkhas. || 2 companies of Sappers and Miners. || 2 battalions of Pioneers. || 2 guns, British Mountain Battery. || 2 Maxims with British detachment. || 2 seven-pounders from Shillong. || 1 field hospital. || The command of the force will be entrusted to Colonel MacDonald, Royal Engineers, who would be granted the rank of Brigadier-General. In the advance to Gyantse we do not contemplate that more than one battalion, with two guns and Maxims, would take part. One batallion will occupy Chumbi and keep open communication with Sikkim, while communications within Sikkim would, it is expected, be maintained by battalion of Pioneers and Sappers. || As regards expenditure, £ 24000 has been incurred up to 1st November on roads. We estimate that from that date the following will be the expenditure for four months: — || Initial —

	£
Movement of troops and stores	33 600
Transport	18 800
Ordnance	6 400
Telegraph	13 400
Medical and other minor departments . .	3 900
Clothing	22 500

The above, with ten per cent. added to cover contingencies, amounts in all so £ 108 400. || Recurring —

	£
Monthly payment	6 800
Supplies	8 600
Minor items	1 540
Total, with then per cent. added to cover contingencies	18 640

Total for four months would be £ 74560. Grand total of Initial and Recurring Expenditure, £ 183000. We propose that a reply in the sense of the first part of this telegram should be sent to the Amban, and that a forward movement on the Chumbi line should be made after time for the letter to reach the Amban has been allowed.

Nr. 13554. **GROSZBRITANNIEN.** — Derselbe an Denselben. Eröffnung der Feindseligkeiten durch Tibet.

the 4th November, 1903.

(Telegraphic.) || Tibetan affairs. An overt act of hostility has taken place, Tibetan troops having, as we are now informed, attacked Nepalese yaks on the frontier and carried off many of them.

Nr. 13555. **GROSZBRITANNIEN.** — Die Regierung von Indien an den Staatssekretär. Überblick der Beziehungen zu Tibet seit sechs Monaten.

Simla, the 5th November, 1903. (the 23rd November, 1903.)

(Extract.) || It is now six months since we were authorised by His Majesty's Government to constitute a Mission in order to discuss our frontier and commercial relations with the Tibetan Government, and since Khamba Jong, a few miles inside Tibet, across the border of Sikkim, was agreed upon as the place of meeting by the Dalai Lama and the Chinese Government as the suzerain power. The successive telegrams and communications which we have forwarded to you since that date will have shown not only that no progress has been made in the negotiations, but that they have never even begun. This unsatisfactory position of affairs has been due to the deliberate obstruction of the Tibetan Government and its representatives on the one hand, and to the inertia of the Chinese on the other. The Dalai Lama commenced by sending two officials of low rank to represent his Government, and these persons, when they arrived at Khamba Jong, refused to enter into any diplomatic relations with our Commission; they declined to report to the Dalai Lama the observations made by Colonel Younghusband on their return visit, which is the last occasion on which he has seen them, and ever since they have obstinately shut themselves up in the fort and declined intercourse of any description. Meanwhile, the attitude of the Tibetan Government has been clearly demonstrated by the steps that they have taken in other directions. As far back as 16th September,

we reported to Lord George Hamilton that a National Council had been held at Lhasa which had decided on war, and that preparations were being made by the collection of men and distribution of arms. These preparations have continued ever since. The passes and heights in the neighbourhood of Khamba Jong, agreed to as the place of meeting of a peaceful conference by the Tibetans themselves, are swarming with armed Tibetans. No attack has so far been delivered upon our Mission which has fortified itself too strongly to render any such attempt worth making. But all trade with India has been stopped by the Tibetan Government; and our latest news is that they have attacked and dispersed a batch of yaks upon the frontiers of Tibet and Nepal which the Nepalese Durbar were sending to Khamba Jong to assist us in transport and supplies during the forthcoming winter. Perhaps, however, the most conspicuous proof of the hostility of the Tibetan Government and of their contemptuous disregard for the usages of civilisation has been the arrest of two British subjects from Lachung at Shigatse, whence they have been deported to Lhasa, and, it is credibly asserted, have been tortured and killed. Frequent representations on our part to the Chinese Commissioners and to the Amban have failed to elicit any reply, or indeed any information as regards the treatment or the fate of these men, as regards whom the worst suspicions seem to be justified. As regards the attitude of the Chinese Government, although they agreed to the despatch of the Mission as far back as a year ago, although His Majesty's Government have throughout consulted and acted in communication with them, and although they have approved of the action that has hitherto been taken by us, they have not made adequate efforts to facilitate the negotiations. In December of last year we were told that the Amban Yu Tai had been specially appointed to conduct the negotiations, and that he would proceed without delay to Lhasa. By June he had only journeyed as far as Chengtu in Szechuan. Mr. Wilton, our representative from the British Consular Service in China upon the Mission, who met him there, has been in our camp at Khamba Jong for $2^1/_2$ months, but the Amban who had not left Chengtu at the beginning of October, is believed to be still pursuing his leisurely march somewhere in the interior, and is now not expected at Lhasa until next year. The present Amban at Lhasa has shown no greater energy in his actions than his successor in his movements. He has failed to come from Lhasa himself to Khamba Jong; his representations to the Tibetan Government have met with no response; and he has successively deputed to meet and confer with our officers two Chinese officials of low rank, the second (who was sent in

reply to our protest against the selection of the first) being of even lower official position than his predecessor. We have borne these accumulated evidences of the undisguised hostility of the Tibetan Government and of the apathy of the Chinese with patience and forbearance; and no effort has been wanting on the part of our Commissioners to break down the solid wall of antipathy and rudeness that has been raised against them. In one respect Colonel Younghusband has been singularly successful. The attitude of the Tibetan Government appears in no respect to be shared by the Tibetan people. The latter, instead of being suspicious or hostile, are, on the contrary, well-disposed and cheerful. The officers of the Commission in their wanderings in the neighbourhood of the camp at Khamba Jong have everywhere been treated with courtesy by the people, and Colonel Younghusband has established most friendly relations with the abbot and monks of the great monastery of Tashi Lumpo (outside Shigatse), the second and most important centre in Tibet. All of these parties concur in attributing the antagonism of the Tibetan Government to the ascendancy of the monks at Lhasa, who fear that the intrusion of any foreign influence will be the beginning of the end of their long reign, and whose attitude is exclusively reactionary. They control the policy of the Dalai Lama, and are quite indifferent to the pressure of the Chinese Government or the Amban. It is our confident belief that, in taking the stronger measures which we have pressed upon His Majesty's Government, we shall be incurring the resistance, not of the Tibetan people, who appear to be quite disposed to friendly intercourse and trade, but only of the Tibetan Government. In our telegram of the 16th September, we informed your predecessor of the state of affairs which we have recapitulated in this despatch, and asked for some indication of the views of His Majesty's Government. We received a reply on 20th September to the effect that a representation would be made at Peking, that His Majesty's Government regarded with grave misgivings the proposal to advance far into the interior of Tibet, and thought that the occupation of the Chumbi valley in the first place would be sufficient. His Majesty's Government are already aware of the ineffectual results of the representations that were made at Peking. These considerations were doubtless present in the mind of His Majesty's Government when the late Secretary of State despatched to us on 1st October a further expression of their views We now learned that His Majesty's Government were prepared, „in the event of a complete rupture of the negotiations proving inevitable, to authorise the advance of the Mission to Gyangtse, provided you are,

satisfied that this measure can be safely taken, as well as the occupation of the Chumbi valley", and we were instructed to report our plans. Upon receipt of this authority, His Excellency the Viceroy summoned Colonel Younghusband to Simla, where we discussed the entire matter with him at a meeting of Council which he was invited to attend. We then summed up our proposals in our telegram of 26th October, which we have since supplemented by two telegrams, dated 27th October and 4th November. These three messages contain a statement of the case as it now stands, and they provide the information which we were desired to send. We further send a collection of papers, the latest of which is the text of the reply of the Amban at Lhasa, dated 17th October, to the Viceroy's letter of 25th August last. We summarised the contents of this reply in our telegram of 27th October: and it will be seen that it confirms throughout the view that we have taken of the attitude both of the Tibetan and the Chinese Governments. We now await the authorisation of His Majesty's Government to proceed. We share the reluctance which they have hitherto entertained to embark upon strong measures. We have no quarrel with the Tibetan people, and we have no desire to invade or permanently to occupy their country. Even now all that we solicit is sanction to transfer the scene of our negotiations to a locality in Tibet more suitable for the purpose than Khamba Jong, and better calculated to impress the Tibetan Government with a sense of our earnestness and power. Some such action is indispensable. We do not think it possible that the Tibetan Government — which we dissociate entirely from the Tibetan people — should be allowed to ignore its treaty obligations, to thwart trade, to encroach upon our territory, to destroy our border pillars, and to refuse even to receive our communications. Still less do we think that, when at last an amicable conference has been arranged for the settlement of these difficulties, we should acquiesce in our Mission being boycotted by the very persons who have been deputed to meet it, our officers insulted, our subjects arrested and ill-used, and our authority despised by a petty power which only mistakes our forbearance for weakness, and which thinks that by an attitude of obdurate inertia it can once again compel us, as it has done in the past, to desist from our intentions. We have already had to pay a heavy penalty for past mistakes in this respect. Were we now to repeat them, we should estrange the confidence of the Nepalese Durbar, who have sympathised with and loyally supported us on the present occasion, we should aggravate the ignorant pride of the Tibetan Government, and we should only postpone to a later date, and to possibly

more different conditions, the settlement which cannot much longer be delayed.

Nr. 13556. **GROSZBRITANNIEN.** — Der Staatssekretär für Indien an den Vizekönig. Ermächtigung zum Einmarsch in Tibet; Instruktion.

the 6th November, 1903.

(Telegraphic.) || In view of the recent conduct of the Tibetans, His Majesty's Government feel that it would be impossible not to take action, and they accordingly sanction the advance of the mission to Gyangtse. They are, however, clearly of opinion that this step should not be allowed to lead to occupation or to permanent intervention in Tibetan affairs in any form. The advance should be made for the sole purpose of obtaining satisfaction, and as soon as reparation is obtained a withdrawal should be effected. While His Majesty's Government consider the proposed action to be necessary, they are not prepared to establish a permanent mission in Tibet, and the question of enforcing trade facilities in that country must be considered in the light of the decision conveyed in this telegram.

Nr. 13557. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Hat dem russischen Botschafter die englischen Absichten erklärt.

the 7th November, 1903.

(Extract). || The Russian Ambassador, whom I had not seen since the 12th August, called on me this morning. I took the opportunity of mentioning to Count Benckendorff that, owing to the outrageous conduct of the Tibetans, who had broken off negotiations with our Representative, seized British subjects, and carried off the transport animals of a friendly State, it had been decided to send our Commission, with a suitable escort, further into Tibetan territory, but that this step must not be taken as indicating any intention of annexing or even of permanently occupying Tibetan territory.

Nr. 13558. **GROSZBRITANNIEN.** — Derselbe an Denselben. Dasselbe.

the 13th November, 1903.

(Extract.) || Baron Graevenitz called at this Office on the 11th instant on behalf of the Russian Ambassador, who was unwell, and said that His Excellency was anxious to let me know that he had as yet tele-

graphed nothing to the Russian Government as to the communication which I had made to him on the 7th instant with regard to Tibet (*vide* my despatch of that date). Count Benckendorff thought that it would be better to defer doing so for the present. Baron Graevenitz inquired whether the expedition had started. I have since informed Count Benckendorff that I had gathered from Baron Graevenitz' communication that His Excellency had thought it better not to telegraph to the Russian Government the substance of my observations on the subject of Tibet for fear the announcement should make a bad impression. I had intended my statement to be reassuring in regard to our intentions and proceedings. The Tibetans had, I said, been keeping the Commission, sent by His Majesty's Government to negotiate with them, waiting on frivolous pretexts, hat returned our letters, had declined discussions, had seized, and it is believed, murdered two British subjects, and had appropriated a number of transport animals supplied for the use of the Commission. It was impossible that His Majesty's Government should keep the Commission at Khambajong, to endure a continuance of these insults; we had accordingly been compelled to sanction their advancing further, and they would no doubt start at once. The Russian Government would in all probability receive reports of their departure. Such reports, particularly if they were to reach St. Petersburgh in an exaggerated form, might, I had thought, give rise to false impressions, which at the present moment would have a specially unfortunate effect. I had, therefore, wished that His Excellency should be able to explain that the measures we were taking did not denote any intention on our part to occupy or annex territory, but simply our determination to obtain satisfaction for the outrageous treatment which we had received; treatment which obviously no Government could afford to tolerate. Count Benckendorff has to-day informed me that having seen in the newspapers statements respecting the proposed advance of the Mission, he intends to telegraph to St. Petersburgh my statement as to the intentions of His Majesty's Government.

Nr. 13559. **GROSZBRITANNIEN.** — Der Gesandte in Peking an den Minister des Ausw. China bittet, die Expedition anzuhalten.

Peking, the 16th November, 1903.

(Telegraphic.) || On the same day that I received Your Lordship's telegram of the 10th instant,*) I received a message from Prince Ching to the effect that he had been informed by the Chinese Minister in

*) Darin war der Einmarsch in Tibet mitgeteilt. Red.

London by telegram that it had been announced that troops were to be sent into Tibet, and that Your Lordship had confirmed the information. He desired me to ask Your Lordship to stop them. Reuter had telegraphed on November 5 that Colonel MacDonald was about to advance into Tibet in command of a large force. I said I had no official information on the subject, and when I had I would let him know. I have to-day received the telegrams from the Indian Government of October 26th and November 4th. It seems premature to act on the last paragraph of Your Lordship's telegram, as advance cannot begin till the end of this month.

Nr. 13560. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Gesandten in Peking. Ablehnung des chinesischen Wunsches. the 16th November, 1903.

(Telegraphic.) || Tibet. Your telegram of to-day. Chinese Government have sent a telegram to the Chinese Minister, which he has communicated to me, stating that they have instructed the Resident at Lhasa to enjoin on the Tibetan Government the observance of a more correct attitude towards the British Commissioners, and expressing the hope that His Majesty's Government will countermand the advance of Colonel Younghusband, and direct him to await the arrival of the new Amban, who has been instructed to proceed to his post as quickly as possible, to negotiate the settlement of all pending questions. || Chinese Minister has been informed, in reply, that His Majesty's Government have learnt by experience that the Tibetans systematically disregard the injunctions of the Emperor and the Chinese Government, who have no real influence in restraining them from acts such as those of which His Majesty's Government complain. || We have treated the Tibetans with the utmost forbearance, but their recent proceedings compel us to exact satisfaction, and we cannot remain inactive until the arrival of the new Amban, who has unnecessarily protracted his journey. || Chinese Minister has also been informed that I could not undertake to suggest any further delay, a false impression having already been created by our inaction. || I request that you will hold language of a similar import to the Chinese Government.

Nr. 13561. **GROSZBRITANNIEN.** — Der Minister des Ausw. an den Botschafter in Petersburg. Hat Rußlands Vorstellungen ernst zurückgewiesen.

the 17th November, 1903.

(Extract.) || The Russian Ambassador paid me a visit to-day, and at once spoke in earnest terms of the effect which had been created in

Russia by the announcement that Major Younghusband's force was about to advance into Tibet. He was instructed to remind me of the statement which he had made to me on the 8th April as to the manner in which the Russian Government regarded the Tibetan question. They could not help feeling that the invasion of Tibetan territory by a British force was calculated to involve a grave disturbance of the Central Asian situation, and it was most unfortunate that, at the present moment, when the Russian Government were, as I was aware, disposed to enter into an amicable discussion of our relations at the various points where British and Russian interests were in contact, an event of this kind, so calculated to create mistrust on the part of Russia, should have occurred. Count Benckendorff wished me, however, to understand that the despatch which he had received had crossed, and was, therefore, not an answer to the telegram in which he had communicated the statement which I had made to him on the 7th instant as to the position of affairs in Tibet, and the steps which His Majesty's Government had determined to take. I expressed my great surprise at the excitement which the announcement seemed to have created. I had, I said, already pointed out to His Excellency that Tibet was, on the one hand, in close geographical connection with India, and, on the other, far remote from any of Russia's Asiatic possessions. Our interest in Tibetan affairs was therefore wholly different from any which Russia could have in them. I reminded Count Benckendorff that I had already explained to him that we had received the greatest provocation at the hands of the Tibetans, who had not only failed to fulfil their Treaty obligations but had virtually refused to negotiate with us. They had even gone the length of returning the letters which we had addressed to the authorities at Lhasa, and more lately they had seized and, as we believed, barbarously put to death two British subjects, and had also carried off the transport animals which had been provided for the use of the Commission. We had always been reluctant to entangle ourselves in quarrels with the Tibetans, but our forbearance had, I was afraid, led them tho believe that we could be ill-treated with impunity. I was firmly convinced that the Russian Government would not have shown as much patience as we had, and that they would have been at Lhasa by this time. I felt bound to add that it seemed to me beyond measure strange that these protests should be made by the Government of a Power which had, all over the world, never hesitated to encroach upon its neighbours when the circumstances seemed to require it. If the Russian Government had a right to complain of us for taking steps in order to obtain reparation from the Tibetans

by advancing into Tibetan territory, what kind of language should we not be entitled to use in regard to Russian encroachments in Manchuria, Turkestan, and Persia. Count Benckendorff asked me whether I had any objection to his saying that we had approved of the advance into Tibetan territory with reluctance, and only because circumstances had made it inevitable, and that our sole object was to obtain satisfaction for the affronts which we had received from the Tibetans. I said that I had no objection to his making such a statement.

Nr. 13562. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Einmarsch in Tibet ohne Kriegszustand.

the 6th December, 1903.

(Telegraphic.) || The Tibetan General at Yatung is reported by Colonel Younghusband to have asked to be given a pledge that if the Tibetans make no attack upon us, no attack will be made by us on them. To this Colonel Younghusband has replied that we are conducting the Mission, under adequate protection, to a place better fitted for negotiations, that we are not at war with Tibet, and that, unless we are ourselves attacked, we shall not attack the Tibetans.

Nr. 13563. **GROSZBRITANNIEN.** — Der Vizekönig von Indien an den Staatssekretär. Überschickt mehrere Nachrichten von Oberst Younghusband.

13.—20. Dezember 1903.

13. Dezember.

(Telegraphic.) || Colonel Younghusband telegraphs, 11th December, as follows: — || „Difficulties in the matter of transport have been very serious. Force left for foot of pass to-day. To-morrow I join it and cross pass with it. There are no signs of serious opposition. Walsh is here and in two or three days Wilton will join me. Khambajong party were to leave that place to-day."

13. Dezember.

(Telegraphic.) || Colonel Younghusband, in telegram, dated 9th December, reports as follows: Information that the Tibetans are relying on Russian support, and that Russian arms have entered Tibet, has now been received from several independent sources. It may be assumed as

certain that Dorjieff, who two or three years ago went on a mission to the Czar from the Dalai Lama, is at present at Lhasa; that a promise of Russian support has been given by him to the Tibetans: and that the Tibetans believe that this promised support will be given to them.

15. Dezember.

(Telegraphic.) || Colonel Younghusband's Mission reached Rinchingong on the 13th December, with escort, having crossed the Jelap La. No opposition was encountered. At Yatung the gate was left open; the meeting of the British Commission with the Tibetan and Chinese officials was friendly, although they requested him not so pass through the gate They gave Colonel Younghusband dinner subsequently.

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20. Dezember.

(Telegraphic.) || Tibet. The following telegram, dated Chumbi, 17th December, has been received from Colonel Younghusband: — || „Two good and independent sources have furnished me with information to the effect that a member of the Dalai Lama's Council has been imprisoned by the National Assembly, acting probably under orders from the Dalai Lama himself, on the ground, it is alleged, that the Councillor had no right to report that the situation was serious. Resistance may be expected at Phari as the war party is now in the ascendant. Colonel Mac Donald, who arrived at Phari about the 20th December, intends, after posts have been established there, to return to Chumbi. I purpose remaining here pending the completion of our preparations for the final advance from Kalatso ty Gyantse. It may be six weeks before this takes place. It will probably be the middle of February before the new Amban arrives at Gyantse."

Bündnisse, Verträge, Protokolle usw.

Nr. 13564. **JAPAN, DEUTSCHES REICH, FRANKREICH, GROSZBRITANNIEN.** — Schiedsspruch über die Besteuerung europäischer Niederlassungen in Japan. (Vgl. Bd. 69, 259.)

Haag, 22. Mai 1905.

Sentence du Tribunal d'Arbitrage, constitué en vertu des Protocoles signés à Tôkiô le 28 Août, 1902, entre le Japon d'une part, et l'Allemagne, a France, et la Grande-Bretagne d'autre part.

Attendu qu'aux termes des Protocoles signés à Tôkiô le 28 Août 1902, un désaccord s'est produit, entre le Gouvernement du Japon d'une part, et les Gouvernements d'Allemagne, de France, et de Grande-Bretagne d'autre part, touchant le sens réel et la portée des dispositions suivantes des Traités respectifs et autres engagements existant entre eux, c'est-à-dire: — || Paragraphe 4 de l'Article XVIII du Traité de Commerce et de Navigation du 4 Avril, 1896, entre le Japon et l'Allemagne: „Sobald diese Einverleibung erfolgt" (c'est-à-dire: quand les divers quartiers étrangers qui existent au Japon auront été incorporés dans les communes respectives du Japon) „sollen die bestehenden, zeitlich unbegrenzten Überlassungsverträge, unter welchen jetzt in den gedachten Niederlassungen Grundstücke besessen werden, bestätigt und hinsichtlich dieser Grundstücke sollen keine Bedingungen irgendeiner Art auferlegt werden, als sie in den bestehenden Überlassungsverträgen enthalten sind"; — et § 3 der la communication complémentaire de même date du Secrétaire d'État des Affaires Étrangères de l'Empire d'Allemagne au Ministre du Japon à Berlin: „3. Daß, da das Eigentum an den im Artikel XVIII des Vertrages erwähnten Niederlassungsgrundstücken dem Japanischen Staate verbleibt, die Besitzer oder deren Rechtsnachfolger für ihre Grundstücke außer dem kontraktmäßigen Grundzins Abgaben oder Steuern irgend welcher Art nicht zu entrichten haben werden," et l'alinéa suivant de la réponse du Ministre du Japon de même date à la précédente communication:

„daß die darin unter Nummer 1 bis 4 zum Ausdruck gebrachten Voraussetzungen, welche den Erwerb dinglicher Rechte an Grundstücken, die Errichtung von Warenhäusern, die Steuerfreiheit der Grundstücke in den Fremdenniederlassungen und die Erhaltung wohlerworbener Rechte nach Ablauf des Vertrages zum Gegenstande haben, in allen Punkten zutreffend sind"; || Paragraphe 4 de l'Article XXI du Traité revisé du 4 Août, 1896, entre le Japon et la France: „Lorsque les changements ci-dessus indiqués auront été effectués," (c'est-à-dire: lorsque les divers quartiers étrangers qui existent au Japon auront été incorporés aux communes respectives du Japon et feront dès lors partie du système municipal du Japon; et lorsque les autorités Japonaises compétentes auront assumé toutes les obligations et tous les devoirs municipaux, et que les fonds et biens municipaux qui pourraient appartenir à ces quartiers auront été transférés auxdites autorités) „les baux à perpétuité en vertu desquels les étrangers possèdent actuellement des propriétés dans les quartiers seront confirmés, et les propriétés de cette nature ne donneront lieu à aucuns impôts, taxes, charges, contributions ou conditions quelconques autres que ceux expressément stipulés dans les baux en question"; | Paragraphe 4 de l'Article XVIII du Traité revisé du 16 Juillet, 1894, entre le Japon et la Grande-Bretagne: „When such incorporation takes place" (c'est-à-dire: quand les divers quartiers étrangers qui existent au Japon auront été incorporés aux communes respectives du Japon), „existing leases in perpetuity under which property is now held in the said Settlements shall be confirmed, and no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property";

Attendu que les Puissances en litige sont tombées d'accord pour soumettre leur différend à la décision d'un Tribunal d'Arbitrage; || Qu'en vertu des Protocoles susmentionnés, les Gouvernements d'Allemagne, de France, et de Grande-Bretagne ont désigné pour Arbitre M. Louis Renault, Ministre Plénipotentiaire, Membre de l'Institut de France, Professeur à la Faculté de Droit de Paris, Jurisconsulte du Département des Affaires Étrangères, et le Gouvernement du Japon a désigné pour Arbitre Son Excellence Mr. Itchiro Motono, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté l'Empereur du Japon à Paris, Docteur en Droit; || Que les deux Arbitres sus-nommés ont choisi pour Surarbitre M. Gregers Gram, ancien Ministre d'État de Norvège, Gouverneur de Province; || Attendu que le Tribunal ainsi composé a pour mission de statuer, en dernier ressort, sur la question suivante: — || „Oui ou non, les dispositions des Traités et autres engagements ci-dessus mentionnés

exemptent-elles seulement les terrains possédés en vertu des baux perpétuels concédés par le Gouvernement Japonais ou en son nom, — ou bien exemptent-elles les terrains et les bâtiments de toute nature construits ou qui pourraient être construits sur ces terrains, — de tous impôts, taxes, charges, contributions ou conditions quelconques autres que ceux expressément stipulés dans les baux en question?"

Attendu que le Gouvernement Japonais soutient que les terrains seuls sont, dans la mesure qui vient d'être indiquée, exemptés du paiement d'impôts et autres charges; || Que les Gouvernements d'Allemagne, de France et de Grande-Bretagne prétendent, au contraire, que les bâtiments construits sur ces terrains jouissent de la même exemption; || Attendu que, pour se rendre compte de la nature et de l'étendue des engagements contractés de part et d'autre par les baux à perpétuité, il faut recourir à divers arrangements et Conventions intervenus, sous le régime des anciens Traités, entre les autorités Japonaises et les Représentants de plusieurs Puissances; || Attendu que de ces actes et des stipulations insérées dans les baux il résulte: || Que le Gouvernement Japonais avait consenti à prêter son concours à la création de quartiers étrangers dans certains villes et ports du Japon, ouverts aux ressortissants d'autres nations; || Que, sur les terrains désignés à l'usage des étrangers dans les différentes localités, le Gouvernement Japonais a exécuté, à ses frais, des travaux en vue de faciliter l'occupation urbaine; || Que les étrangers n'étant pas, d'après les principes du droit Japonais, admis à acquérir la propriété de terrains situés dans le pays, le Gouvernement leur a donné les terrains en location à perpétuité; || Que les baux déterminent l'étendue des lots de terre loués et stipulent une rente annuelle fixe, calculée à raison de l'espace loué; || Qu'il fut convenu qu'en principe les quartiers étrangers resteraient en dehors du système municipal du Japon, mais qu'au reste, ils n'étaient pas soumis à une organisation uniforme; || Qu'il était arrêté, par voie de règlements, comment il serait pourvu aux diverses fonctions de l'administration et qu'il était prescrit que les détenteurs des terrains seraient tenus de subvenir partiellement aux frais de la municipalité à l'aide de redevances dont le montant et le mode de perception étaient déterminés; || Attendu qu'on s'expliquerait bien le soin apporté dans la rédaction des dits actes en vue de préciser les obligations de toute nature incombant aux étrangers vis-à-vis du Gouvernement Japonais, s'il était entendu que la rente annuelle représentât, non seulement le prix de la location, mais aussi la contrepartie des impôts dont les preneurs eussent été redevables à raison de la situation créée à leur profit par les baux et que, par conséquent, ils n'auraient, en cette qualité, à supporter

que les impôts et charges qui étaient expressément mentionnés dans les dits baux; || Attendu qu'au reste, il n'est pas contesté que ce ne soit là le véritable sens de ces actes, en tant qu'il s'agit des terrains, mais que le Gouvernement Japonais allègue que les baux n'avaient pour objet que les terrains nus et qu'il n'admet pas que les constructions, élevées sur les terrains, fussent comprises dans les stipulations sur lesquelles l'exemption des impôts serait fondée; || Qu'il a allégué que les terrains seuls appartenaient au Gouvernement, les constructions étant, au contraire, la propriété des preneurs, et qu'en conséquence l'immunité dont il est question ne pouvait s'étendre qu'aux immeubles qui n'étaient pas sortis du patrimoine de l'État; || Attendu que, toutefois, la question qu'il s'agit de décider est celle de savoir si, au point de vue fiscal, les constructions élevées sur les terrains loués étaient, de commun accord, considérées comme accessoires de ces terrains, ou non, et que la solution de cette question ne dépend pas de distinctions tirées d'une prétendue différence quant à la propriété des immeubles; || Que le Tribunal ne saurait donc s'arrêter à la discussion engagée à ce sujet et fondée sur les principes du droit civil; || Attendu que les terrains étaient loués pour y construire des maisons, ce qui est indiqué, à la fois, par la situation des immeubles et par la nature des aménagements effectués par le Gouvernement Japonais; || Que l'obligation d'ériger des bâtiments était, dans certaines localités, imposée sous peine de déchéance, que les baux contenaient souvent une clause, aux termes de laquelle les bâtiments, qui se trouveraient sur les terrains, deviendraient la propriété du Gouvernement Japonais, au cas où le preneur aurait manqué à ses engagements; || Attendu qu'il faut admettre que les circonstances qui viennent d'être relatées offrent des arguments à l'encontre de la prétention que le sol et les constructions constituent, dans les relations entre les parties et au point de vue fiscal, des objets entièrement distincts; || Attendu qu'en intervenant aux dits actes, le Gouvernement du Japon a agi, non seulement en propriétaire des terrains donnés en location, mais aussi comme investi du pouvoir souverain du pays; || Attendu que la volonté des parties faisait, par conséquent, la loi en la matière et que, pour établir comment les actes ont été réellement interprétés, il faut s'en rapporter au traitement auquel les détenteurs des terrains ont été, au point de vue des impôts, soumis, en fait, dans les différentes localités; || Attendu, à cet égard, qu'il est constant que, suivant une pratique qui n'a pas varié et qui a existé durant une longue série d'années, non seulement les terrains en question, mais aussi les bâtiments élevés sur ces terrains, ont été exemptés de tous impôts taxes, charges, contributions, ou conditions autres que ceux expressément

stipulés dans les baux à perpétuité; || Attendu que le Gouvernement du Japon soutient, il est vrai, que cet état de choses, de même que l'immunité fiscale dont jouissaient en général les étrangers dans le pays, n'était dû qu'à la circonstance que les Tribunaux Consulaires refusaient de donner la sanction nécessaire aux lois fiscales du pays; || Attendu que, toutefois, cette prétention est dépourvue de preuves et qu'il n'est pas même allégué que le Gouvernement Japonais ait jamais fait, vis-à-vis des Gouvernements d'Allemagne, de France, et de Grande-Bretagne, des réserves à l'effet de maintenir les droits qu'il dit avoir été lésés; || Que, bien qu'il ait été allégué que l'immunité dont les étrangers jouissaient, en fait, au point de vue des impôts, sous le régime des anciens Traités, était générale et qu'elle s'étendait aux étrangers résidant en dehors des Concessions en question, il résulte pourtant des renseignements fournis au sujet de détenteurs d'immeubles — terrains et maisons — à Hiogo, que ladite règle n'a pas été d'une application universelle; || Que, dans tous les cas, la situation de fait n'est pas douteuse, de quelque façon qu'on l'explique; Attendu, au point de vue de l'interprétation des dispositions des nouveaux Traités au sujet desquelles il y a contestation entre les Parties; || Que la rédaction de l'Article XVIII du Traité entre la Grande-Bretagne et le Japon — Traité antérieur aux deux autres — avait été précédée de propositions tendant à mettre les étrangers, détenteurs de terrains, sur le même pied que les sujets Japonais, tant au point de vue de la propriété des immeubles qui leur avaient été concédés en location que pour ce qui concerne le paiement de taxes et d'impôts, mais qu'on est ensuite tombé d'accord sur le maintien du régime qui jusqu'alors avait été pratiqué; Que le Gouvernement Japonais prétend, il est vrai, que la question de maintenir le *status quo* ne se rapportait qu'aux terrains, mais que cette prétention ne se trouve pas justifiée par les expressions employées au cours des négociations; || Qu'au contraire, le Représentant du Gouvernement Japonais, qui a pris l'initiative pour arriver à un accord dans ce sens, s'est borné à proposer le maintien du *statu quo* dans les Concessions étrangères („maintenance of the *status quo* in the foreign Settlements"); Qu'il n'est pas à présumer que le Délégué de la Grande-Bretagne, en présentant un projet élaboré sur la base de ladite proposition, ait entendu faire une restriction concernant les constructions, que cela ne résulte, ni des mots insérés dans le procèsverbal, ni du contenu de l'Article par lui proposé; || Que, pour maintenir intégralement le *statu quo*, il ne suffirait pas d'admettre que l'immunité fiscale, qui jusqu'à cette époque s'étendait, tant sur les terrains que sur les constructions, dans les quartiers étrangers, serait maintenue pour le sol seulement et qu'elle cesserait d'exister pour

ce qui concerne les maisons; || Qu'il doit surtout en être ainsi lorsqu'on considère que, pour se conformer à ce qui était convenu, les Parties ne se sont pas bornées à formuler une disposition au sujet de la confirmation des baux, mais qu'elles ont ajouté qu'aucunes conditions, sauf celles contenues dans les baux en vigueur, ne seront imposées relativement à une telle propriété („no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property"); || Que cette dernière clause est rédigée d'une façon encore plus explicite dans le Traité avec la France; || Attendu qu'au surplus, dans les clauses dont il s'agit, les Puissances n'ont pas parlé de terrains, comme elles auraient dû nécessairement le faire si l'immunité, contrairement à ce qui avait été pratiqué jusque-là, avait dû être restreinte aux terrains; || Qu'elles ont, au contraire, employé des expressions assez larges pour comprendre dans son ensemble la situation faite par les baux aux preneurs; || Attendu que le Tribunal ne saurait, non plus, admettre que les notes échangées entre les Gouvernements d'Allemagne et du Japon, au moment de la conclusion du nouveau Traité, contiennent des explications de nature à placer l'Allemagne dans des conditions moins avantageuses que les deux autres Puissances; || Que le Gouvernement du Japon a surtout voulu tirer argument de ce que le Gouvernement Allemand a fondé l'immunité fiscale sur ce qu'il est interdit aux étrangers d'acquérir la propriété de terrains situés au Japon, mais qu'à cet égard il faut considérer qu'en fait les constructions avaient toujours eu le caractère de dépendances des terrains au point de vue des impôts, et qu'il n'est pas à présumer que le Gouvernement Allemand ait entendu renoncer aux avantages consentis en faveur de la Grande-Bretagne par le nouveau Traité, ce qui serait d'ailleurs en contradiction avec la clause assurant à l'Allemagne le traitement de la nation la plus favorisée; || Par ces motifs: || Le Tribunal d'Arbitrage, à la majorité des voix, décide et déclare: — Les dispositions des Traités et autres engagements mentionnés dans les Protocoles d'Arbitrage n'exemptent pas seulement les terrains possédés en vertu des baux perpétuels concédés par le Gouvernement Japonais ou en son nom, mais elles exemptent les terrains et les bâtiments de toute nature construits ou qui pourraient être construits sur ces terrains, de tous impôts, taxes charges, contributions, ou conditions quelconques autres que ceux expressément stipulés dans les baux en question.

Fait à La Haye, dans l'Hôtel de la Cour Permanente d'Arbitrage le 22 Mai, 1905.

(Signé) G. Gram.
L. Renault.

Au moment de procéder à la signature de la présente Sentence Arbitrale, usant de la faculté que me confère l'Article LII, alinéa 2, de la Convention pour le règlement pacifique des conflits internationaux, conclue à La Haye le 29 Juillet, 1899, je tiens à constater mon dissentiment absolu avec la majorité du Tribunal, en ce qui concerne les motifs comme le dispositif de la Sentence.

(Signé) I. Motono.

Nr. 13565. GROSZBRITANNIEN und JAPAN. — Bündnisvertrag.

London, 12. August 1905.

Preamble.

The Governments of Great Britain and Japan, being desirous of replacing the Agreement concluded between them on the 30th January, 1902, by fresh stipulations, have agreed upon the following Articles, which have for their object — || (*a.*) The consolidation and maintenance of the general peace in the regions of Eastern Asia and of India; || (*b.*) The preservation of the common interests of all Powers in China by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China; || (*c.*) The maintenance of the territorial rights of the High Contracting Parties in the regions of Eastern Asia and of India, and the defence of their special interests in the said regions: —

Article I.

It is agreed that whenever, in the opinion of either Great Britain or Japan, any of the rights and interests referred to in the preamble of this Agreement are in jeopardy, the two Governments will communicate with one another fully and frankly, and will consider in common the measures which should be taken to safeguard those menaced rights or interests.

Article II.

If by reason of unprovoked attack or aggressive action, wherever arising, on the part of any other Power or Powers either Contracting Party should be involved in war in defence of its territorial rights or special interests mentioned in the preamble of this Agreement, the other Contracting Party will at once come to the assistance of its ally, and will conduct the war in common, and make peace in mutual agreement with it.

Article III.

Japan possessing paramount political, military, and economic interests in Corea, Great Britain recognizes the right of Japan to take such measures of guidance, control, and protection in Corea as she may deem proper and necessary to safeguard and advance those interests, provided always that such measures are not contrary to the principle of equal opportunities for the commerce and industry of all nations.

Article IV.

Great Britain having a special interest in all that concerns the security of the Indian frontier, Japan recognizes her right to take such measures in the proximity of that frontier as she may find necessary for safeguarding her Indian possessions.

Article V.

The High Contracting Parties agree that neither of them will, without consulting the other, enter into separate arrangements with another Power to the prejudice of the objects described in the preamble of this Agreement.

Article VI.

As regards the present war between Japan and Russia, Great Britain will continue to maintain strict neutrality unless some other Power or Powers should join in hostilities against Japan, in which case Great Britain will come to the assistance of Japan, and will conduct the war in common, and make peace in mutual agreement with Japan.

Article VII.

The conditions under which armed assistance shall be afforded by either Power to the other in the circumstances mentioned in the present Agreement, and the means by which such assistance is to be made available, will be arranged by the Naval and Military authorities of the Contracting Parties, who will from time to time consult one another fully and freely upon all questions of mutual interest.

Article VIII.

The present Agreement shall, subject to the provisions of Article VI, come into effect immediately after the date of its signature, and remain in force for ten years from that date. || In case neither of the High Contracting Parties should have notified twelve months before the expiration of the said ten years the intention of terminating it, it shall remain binding until the expiration of one year from the day on which either

of the High Contracting Parties shall have denounced it. But if, when the date fixed for its expiration arrives, either ally is actually engaged in war, the alliance shall, *ipso facto*, continue until peace is concluded.

In faith whereof the Untersigned, duly authorized by their respective Governments, have signed this Agreement and have affixed thereto their Seals.

Done in duplicate at London, the 12th day of August, 1905.

(L. S.) Lansdowne,
His Britannic Majesty's Principal Secretary of State for Foreign Affairs.

(L. S.) Tadasu Hayashi,
Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Japan at the Court of the St. James.

Nr. 13566. **JAPAN und RUSZLAND.** — Friedensvertrag. — Zusatzartikel.

Portsmouth, 5. September 1905.

Sa Majesté l'Empereur du Japon, d'une part, et Sa Majesté l'Empereur de toutes les Russies, d'autre part, étant animés du désir de rétablir les bienfaits de la paix pour Leurs pays et pour Leurs peuples, ont décidé de conclure un traité de paix et ont nommé à cet effet Leurs Plénipotentiaires, savoir: || Sa Majesté l'Empereur du Japon: || Son Excellence le Baron Komura Jutaro, Jusammi, Grand Cordon de l'Ordre Impérial du Soleil Levant, Son Ministre des Affaires Etrangères; et || Son Excellence M. Takahira Kogoro, Jusammi, Grand Cordon de l'Ordre Impérial du Trésor Sacré, Son Envoyé Extraordinaire et Ministre Plénipotentiaire auprès des Etats Unis d'Amérique; || et Sa Majesté l'Empereur de toutes les Russies: || Son Excellence M. Serge Witte, Son Secrétaire d'Etat et Président du Comité des Ministres de l'Empire de Russie; et || Son Excellence le Baron Roman Rosen, Maître de la Cour Impériale de Russie et Son Ambassadeur Extraordinaire et Plénipotentiaire auprès des Etats Unis d'Amérique; || Lesquels, après avoir échangé leurs pleins pouvoirs trouvés en bonne et due forme, ont conclu les Articles suivantes:

Article I.

Il y aura à l'avenir paix et amitié entre Leurs Majestés l'Empereur du Japon et l'Empereur de toutes les Russies, ainsi qu'entre Leurs Etats et sujets respectifs.

Article II.

Le Gouvernement Impérial de Russie, reconnaissant que le Japon possède en Corée des intérêts prédominants politiques, militaires et économiques, s'engage à ne point intervenir ni mettre d'obstacles aux mesures de direction, de protection et de contrôle que le Gouvernement Impérial du Japon pourrait considérer nécessaire de prendre en Corée. || Il est entendu que les sujets russes en Corée seront traités exactement de la même manière que les ressortissants des autres pays étrangers, à savoir qu'ils seront placés sur le même pied que les ressortissants de la nation la plus favorisée. || Il est de même convenu que pour éviter toute cause de malentendu, les deux Hautes Parties Contractantes s'abstiendront, sur la frontière russo-coréenne, de prendre toute mesure militaire qui pourrait menacer la sécurité du territoire russe ou coréen.

Article III.

Le Japon et la Russie s'engagent mutuellement: || 1. — A évacuer complètement et simultanément la Manchourie à l'exception du territoire sur lequel s'étend le bail de la presqu'île de Liaotong, conformément aux dispositions de l'Article additionnel I annexé à ce Traité; et || 2. — A restituer entièrement et complètement à l'administration exclusive de la Chine toutes les parties de la Manchourie qui sont occupées maintenant par les troupes japonaises ou russes ou qui sont sous leur contrôle, à l'exception du territoire susmentionné. || Le Gouvernement Impérial de Russie déclare qu'il n'a point en Manchourie d'avantages territoriaux ou concessions préférentielles ou exclusives de nature à porter atteinte à la souveraineté de la Chine ou incompatibles avec le principe d'opportunité égale.

Article IV.

Le Japon et la Russie s'engagent réciproquement à ne mettre aucun obstacle aux mesures générales qui s'appliquent également à toutes les nations et que la Chine pourrait prendre pour le développement du commerce et de l'industrie en Manchourie.

Article V.

Le Gouvernement Impérial de Russie cède au Gouvernement Impérial du Japon, avec le consentement du Gouvernement de Chine, le bail de Port Arthur, de Talien et des territories et eaux territoriales adjacents, ainsi que tous les droits, priviléges et concessions se rattachant à ce bail ou en faisant partie, et il cède, de même, au Gouvernement Impérial du Japon, tous les travaux et propriétés publics dans le territoire sur lequel

s'étend le bail susmentionné. || Les deux Hautes Parties Contractantes s'engagent mutuellement à obtenir du Gouvernement de Chine le consentement mentionné dans la stipulation ci-dessus. || Le Gouvernement Impérial du Japon donne, de sa part, l'assurance que les droits de propriété des sujets russes dans le territoire susmentionné seront parfaitement respectés.

Article VI.

Le Gouvernement Impérial de Russie s'engage à céder au Gouvernement Impérial du Japon, sans compensation, avec le consentement du Gouvernement de Chine, le chemin de fer entre Tchan-Tchonn (Kouan-Tchen-Tsy) et Port Arthur et tous ses embranchements avec tous les droits, priviléges et propriétés y appartenant dans cette région, ainsi que toutes les mines de charbon dans la dite région, appartenant à ce chemin de fer ou en exploitation pour son profit. || Les deux Hautes Parties Contractantes s'engagent mutuellement à obtenir du Gouvernement de Chine le consentement mentionné dans la stipulation ci-dessus.

Article VII.

Le Japon et la Russie s'engagent à exploiter leurs chemins de fer respectifs en Manchourie exclusivement dans un but commercial et industried, mais nullement dans un but stratégique. || Il est entendu que cette restriction ne s'applique pas aux chemins de fer dans le territoire sur lequel s'étend le bail de la presqu'île de Liaotong.

Article VIII.

Les Gouvernements Impériaux du Japon et de Russie, en vue de favoriser et de faciliter les relations et le trafic, concluront, aussitôt que possible, une convention séparée pour le règlement de leurs services de raccordement de chemins de fer en Manchourie.

Article IX.

Le Gouvernement Impérial de Russie cède au Gouvernement Impérial du Japon en perpétuité et en pleine souveraineté la partie sud de l'Ile de Sakhaline et toutes les îles qui y sont adjacentes, ainsi que tous les travaux et propriétés publics qui s'y trouvent. Le cinquantième parallèle de latitude nord est adopté comme la limite du territoire cédé. La ligne frontière exacte de ce territoire sera déterminée conformément aux dispositions de l'Article additionnel II annexé à ce Traité. || Le Japon et la Russie conviennent mutuellement de ne construire dans leurs possessions respectives sur l'Ile de Sakhaline et sur les îles qui y sont adjacentes aucune fortification ni travaux militaires semblables. De même, ils

s'engagent respectivement à ne prendre aucune mesure militaire qui pourrait entraver la libre navigation des Détroits de Lapérouse et de Tartarie.

Article X.

Il est réservé aux sujets russes habitants du territoire cédé au Japon de vendre leurs propriétés immobilières et de se retirer dans leur pays; mais, s'ils préfèrent rester dans le territoire cédé, ils seront maintenus et protégés dans le plein exercise de leurs industries et droits de propriété à la condition de se soumettre aux lois et à la juridiction japonaises. Le Japon aura la pleine liberté de retirer le droit de résidence dans ce territoire à tous les habitants se trouvant dans l'incapacité politique ou administrative, ou de les déporter de ce territoire. Il s'engage toutefois à ce que les droits de propriété de ces habitants soient pleinement respectés.

Article XI.

La Russie s'engage à s'entendre avec le Japon pour concéder aux sujets japonais des droits de pêche le long des côtes des possessions russes dans les Mers du Japon, d'Okhotsk et de Behring. || Il est convenu que l'engagement susmentionné ne portera pas atteinte aux droits déjà appartenant aux sujets russes ou étrangers dans ces régions.

Article XII.

Le Traité de Commerce et de Navigation entre le Japon et la Russie ayant été annulé par la guerre, les Gouvernements Impériaux du Japon et de Russie s'engagent à adopter comme base de leurs relations commerciales, jusqu'à la conclusion d'un nouveau traité de commerce et de navigation sur la base du Traité qui était en vigueur antérieurement à la guerre actuelle, le système du traitement réciproque sur le pied de la nation la plus favorisée, y compris les tarifs d'importation et d'exportation, les formalités de douane, les droits de transit et de tonnage et l'admission et le traitement des agents, des sujets et des vaisseaux d'un pays dans le territoire de l'autre.

Article XIII.

Aussitôt que possible après la mise en vigueur du présent Traité, tous les prisonniers de guerre seront réciproquement restitués. Les Gouvernements Impériaux du Japon et de Russie nommeront, chacun de son côté, un Commissaire spécial qui se chargera des prisonniers. Tous les prisonniers se trouvant entre les mains de l'un des Gouvernements seront remis au Commissaire de l'autre Gouvernement, ou à son représentant dûment autorisé, qui les recevra en tel nombre et dans tels ports con-

venables de l'Etat remettant que ce dernier aurait notifié d'avance au Commissaire de l'Etat recevant. || Les Gouvernements du Japon et de Russie présenteront l'un à l'autre, le plus tôt possible après que la remise des prisonniers aura été achevée, un compte documenté des dépenses directes faites respectivement par eux pour le soin et l'entretien des prisonniers depuis la date de la capture ou de la reddition jusqu'à celle de la mort ou de la remise. La Russie s'engage à rembourser au Japon, aussitôt que possible après l'échange de ces comptes comme il est stipulé ci-dessus, la différence entre le montant réel ainsi dépensé par le Japon et le montant réel également déboursé par la Russie.

Article XIV.

Le présent Traité sera ratifié par Leurs Majestés l'Empereur du Japon et l'Empereur de toutes les Russies. Cette ratification sera, dans le plus bref délai possible et en tous cas pas plus tard que dans cinquante jours à partir de la date de la signature du Traité notifiée aux Gouvernements Impériaux du Japon et de Russie respectivement, par l'intermédiaire du Ministre de France à Tokio et de l'Ambassadeur des Etats Unis d'Amérique à Saint Pétersbourg, et à partir de la date de la dernière de ces notifications ce Traité sera, dans toutes ses parties, mis en pleine vigueur. || L'échange formel des ratifications se fera à Washington aussitôt que possible.

Article XV.

Le présent Traité sera signé en double: en langues anglaise et française. Les deux textes sont absolument conformes; mais, en cas de divergence d'interprétation, le texte français fera foi.

En foi de quoi les Plénipotentiaires respectifs ont signé et scellé de leurs sceaux le présent Traité de Paix.

Fait à Portsmouth (New Hampshire), le cinquième jour du neuvième mois de la trente-huitième année de Meidji, correspondant au vingt trois Août (cinq Septembre) de l'an mil neuf cent cinq.

(Signé) Serge Witte. [L. S.] (Signé) Jutaro Komura. [L. S.]
(Signé) Rosen. [L. S.] (Signé) K. Takahira. [L. S.]

Zusatzartikel.

Conformément aux dispositions des Articles III et IX du Traité de Paix entre le Japon et la Russie en date de ce jour, les Plénipotentiaires soussignés ont conclu les Articles additionnels suivants:

I. Ad Article III.

Les Gouvernements Impériaux du Japon et de Russie s'engagent mutuellement commencer le retrait de leurs forces militaires du territoire de la Manchourie simultanément et immédiatement après la mise en vigueur du Traité de Paix; et dans une période de dix huit mois à partir de cette date les Armées des deux Puissances seront complètement retirées de la Manchourie, à l'exception du territoire à bail de la presqu'île de Liaotong. || Les forces des deux Puissances occupant les positions frontales seront retirées les premières. || Les Hautes Parties Contractantes se réservent le droit de maintenir des gardes pour protéger leurs lignes de chemins de fer respectives en Manchourie. Le nombre de ces gardes n'excédera pas quinze hommes par kilomètre; et dans la limite de ce nombre maximum, les Commandants des Armées japonaises et russes fixeront, de commun accord, le nombre des gardes qui seront employés, le plus minime possible conformément aux exigences réelles. || Les Commandants des forces japonaises et russes en Manchourie s'entendront sur tous les détails relatifs à l'exécution de l'évacuation conformément aux principes ci-dessus énumérés, et prendront de commun accord, les mesures nécessaires pour effectuer l'évacuation aussitôt que possible et en tous cas pas plus tard que dans la période de dix huit mois.

II. Ad Article IX.

Aussitôt que possible après la mise en vigueur du présent Traité une Commission de Délimitation, composée d'un nombre égal de membres qui seront nommés respectivement par les deux Hautes Parties Contractantes, marquera, sur les lieux, d'une manière permanente, la ligne exacte entre les possessions japonaise et russe de l'Ile de Sakhaline. La Commission sera tenue, autant que les considérations topographiques le permettent, à suivre le cinquantiéme parallèle de latitude nord pour la ligne de démarcation, et dans le cas où des déviations de la dite ligne sur quelques points seront trouvées nécessaires, compensation en sera faite par des déviations corrélatives sur d'autres points. Il sera, de même, le devoir de la dite Commission de préparer une liste et description des îles adjacentes qui seront comprises dans la cession, et finalement la Commission préparera et signera les cartes constatant les limites du territoire cédé. Les travaux de la Commission seront soumis à l'approbation des Hautes Parties Contractantes. || Les Articles additionnels mentionnés ci-dessus seront considérés comme ratifiés par la ratification du Traité de Paix auquel ils sont annexés.

Portsmouth, le 5me jour, 9me mois, 38me année de Meidji, correspondant au $\frac{\text{23 Août}}{\text{5 Septembre}}$ 1905.

(Signé) Serge Witte. (Signé) Jutaro Komura.
(Signé) Rosen. (Signé) K. Takahira.

Nr. 13567. **JAPAN und CHINA.** — Vertrag über die Mandschurei.

Peking, 22. Dezember 1905.

His Majesty the Emperor of Japan and His Majesty the Emperor of China, desiring to adjust certain matters of common concern growing out of the Treaty of Peace between Japan and Russia of September 5, 1905, have resolved to conclude a Treaty with that object in view and have for that purpose named Their Plenipotentiaries, that is to say: || His Majesty the Emperor of Japan: || Baron Komura Jutaro, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, Minister for Foreign Affairs and Special Ambassador of His Majesty, and || Uchida Yasuya, Jushii, Second Class of the Imperial Order of the Rising Sun, His Majesty's Envoy Extraordinary and Minister Plenipotentiary; || and His Majesty the Emperor of China; || Prince Ching, Presiding Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty, Chu Hung-chi, Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty, and || Yuan Shih-kai, Viceroy of the Province Chihli, Junior Guardian of the Heir-Apparent, Minister of Superintendent of Trade for the Northern Ports and Plenipotentiary of His Majesty; || Who, after having exchanged their full powers which were found to be in good and due form, have agreed upon and concluded the following Articles:

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.

Article II.

The Imperial Japanese Government engage that in regard to the leased territory as well as in the matter of railway construction and exploitation, they will, so far as circumstances permit, conform to the original agreements concluded between China and Russia. In case any question arises in the future on these subjects, the Japanese Government will decide it in consultation with the Chinese Government.

Article III.

The present Treaty shall come into full force from the date of signature. It shall be ratified by Their Majesties the Emperor of Japan and the Emperor of China and the ratifications shall be exchanged at Peking as soon as possible, and not later than two months from the present date. || In witness whereof, the respective Plenipotentiaries have signed this Treaty in duplicate in the Japanese and Chinese languages and have thereto affixed their seals.

Done at Peking, this twenty-second day of the twelfth month of the thirty-eigth year of Meiji, corresponding to the twenty-sixth day of the eleventh moon of the thirty-first year of Kuang Hsü.

(Signed)	Baron Komura Jutaro.	[L. S.]
(Signed)	Uchida Yasuya.	[L. S.]
(Signed)	Prince Ching.	[L. S.]
(Signed)	Chu Hung-chi.	[L. S.]
(Signed)	Yuan Shih-Kai.	[L. S.]

The Governments of Japan and China, with a view to regulate, for their guidance, certain questions in which they are both interested in Manchuria, in addition to those provided for in the Treaty signed this day, have agreed as follows:

Article I.

The Imperial Chinese Government agree that as soon as possible after the evacuation of Manchuria by the Japanese and Russian forces the following cities and towns in Manchuria will be opened by China herself as places of international residence and trade: || In the Province, of Shingking: || Fenghwangcheng; Liaoyang; Hsinmintun; Tiehling; Tungkiangtzu and Fakumen. || In the Province of Kirin: || Changchun (Kuanchengtzu); Kirin; Harbin; Ninguta; Hunchun and Sanshing. || In the Province of Heilungkiang: || Tsitsihar; Hailar; Aihun and Manchuli.

Article II.

In view of the earnest desire expressed by the Imperial Chinese Government to have the Japanese and Russian troops and railway guards in Manchuria withdrawn as soon as possible, and in order to meet this desire, the Imperial Japanese Government, in the event of Russia agreeing to the withdrawal of her railway guards, or in case other proper measures are agreed to between China and Russia, consent to take similar steps accordingly. When tranquillity shall have been re-established in Manchuria and China shall have become herself capable of affording full protection

to the lives and property of foreigners, Japan will withdraw her railway guards simultaneously with Russia.

Article III.

The Imperial Japanese Government, immediately upon the withdrawal of their troops from any regions in Manchuria, shall notify the Imperial Chinese Government of the regions thus evacuated, and even within the period stipulated for the withdrawal of troops in the Additional Articles of the Treaty of Peace between Japan and Russia, the Chinese Government may send necessary troops to the evacuated regions of wich they have been already notified as above mentioned, for the purpose of maintaining order and tranquillity in those regions. If, in the regions from which Japanese troops have not yet been withdrawn, any villages are disturbed or damaged by native bandits, the Chinese local authorities may also dispatch a suitable military force for the purpose of capturing or dispersing those bandits. Such troops, however, shall not proceed within twenty Chinese li from the boundary of the territory where Japanese troops are stationed.

Article IV.

The Imperial Government of Japan engage that Chinese public and private property in Manchuria, which they have occupied or expropriated on account of military necessity, shall be restored at the time the Japanese troops are withdrawn from Manchuria and that such property as is no longer required for military purposes shall be restored even before such withdrawal.

Article V.

The Imperial Chinese Government engage to take all necessary measures to protect fully and completely the grounds in Manchuria in which the tombs and monuments of the Japanese officers and soldiers who were killed in war are located.

Article VI.

The Imperial Chinese Government agree that Japan has the right to maintain and work the military railway line constructed between Antung and Mukden and to improve the said line so as to make it fit for the conveyance of commercial and industrial goods of all nations. The term for which such right is conceded is fifteen years from the date of the completion of the improvements above provided for. The work of such improvements is to be completed within two years, exclusive of a period of twelve months during which it will have to be delayed

owing to the necessity of using the existing line for the withdrawal of troops. The term of the concession above mentioned is therefore to expire in the 49th year of Kuang Hsü. At the expiration of that term, the said railway shall be sold to China at a price to be determined by appraisement of all its properties by a foreign expert who will be selected by both parties. The conveyance by the railway of the troops and munitions of war of the Chinese Government prior to such sale shall be dealt with in accordance with the regulations of the Eastern Chinese Railway. Regarding the manner in which the improvements of the railway are to be effected, it is agreed that the person undertaking the work on behalf of Japan shall consult with the Commissioner dispatched for the purpose by China. The Chinese Government will also appoint a Commissioner to look after the business relating to the railway as is provided in the Agreement relating to the Eastern Chinese Railway. It is further agreed that detailed regulations shall be concluded regarding the tariffs for the carriage by the railway of the public and private goods of China.

Article VII.

The Governments of Japan and China, with a view to promote and facilitate intercourse and traffic, will conclude, as soon as possible, a separate convention for the regulation of connecting services between the railway lines in South Manchuria and all the other railway lines in China.

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.

Article IX.

The methods of laying out the Japanese Settlement at Yingkou in the Province of Shingking, which has already been opened to trade, and at Antung and Mukden in the same Province, which are still unopen although stipulated to be opened, shall be separately arranged and determined by officials of Japan and China.

Article X.

The Imperial Chinese Government agree that a joint-stock company of forestry composed of Japanese and Chinese capitalists shall be organized for the exploitation of the forests in the regions on the right bank of the River Yalu and that a detailed agreement shall be concluded in which the area and term of the concession as well as the organization

of the company and all regulations concerning the joint work of exploitation shall be provided for. The Japanese and Chinese shareholders shall share equally in the profits of the undertaking.

Article XI.

The Governments of Japan and China engage that in all that relates to frontier trade between Manchuria and Corea most favoured nation treatment shall be reciprocally extended.

Article XII.

The Governments of Japan and China engage that in all matters dealt with in the Treaty signed this day or in the present Agreement the most favourable treatment shall be reciprocally extended. || The present Agreement shall take effect from the date of signature. When the Treaty signed this day is ratified, this Agreement shall also be considered as approved.

In witness whereof, the Undersigned, duly authorized by their respective Governments, have signed the present Agreement in duplicate in the Japanese and Chinese languages and have thereto affixed their seals.

Done at Peking, this 22nd day of the 12th month of the 38th year of Meiji, corresponding to the 26th day of the 11th moon of the 31st year of Kuang Hsü.

(Unterschriften.)

Nr. 13568. **JAPAN und KOREA.** — Vertrag über die Verwaltung Koreas.

17. November 1905.

The Governments of Japan and Korea, desiring to strengthen the principle of solidarity which unites the two Empires, have with that object in view agreed upon and concluded the following stipulations, to serve until the moment arrives when it is recognized that Korea has attained national strength:

Article I.

The Government of Japan, through the Department of Foreign Affairs at Tokyo, will hereafter have control and direction of the external relations and affairs of Korea, and the diplomatic and consular representatives of Japan will have the charge of the subjects and interests of Korea in foreign countries.

Article II.

The Government of Japan undertake to see to the execution of the treaties actually existing between Korea and other Powers, and the Government of Korea engage not to conclude hereafter any act or engagement having an international character, except through the medium of the Government of Japan.

Article III.

The Government of Japan shall be represented at the Court of His Majesty the Emperor of Korea by a Resident-General, who shall reside at Söul, primarily for the purpose of taking charge of and directing matters relating to diplomatic affairs. He shall have the right of private and personal audience of His Majesty the Emperor of Korea. The Japanese Government shall also have the right to station Residents at the several open ports and such other places in Korea as they may deem necessary. Such Residents shall, under the direction of the Resident-General, exercise the powers and functions hitherto appertaining to Japanese Consuls in Korea and shall perform such duties as may be necessary in order to carry into full effect the provisions of this Agreement.

Article IV.

The stipulations of all treaties and agreements existing between Japan and Korea not inconsistent with the provisions of this Agreement shall continue in force.

Article V.

The Government of Japan undertake to maintain the welfare and dignity of the Imperial House of Korea.

In faith whereof, the Undersigned duly authorized by their Governments have signed this Agreement and affixed their seals.

(Signed.) Hayashi Gonsuke,
Envoy Extraordinary and Minister Plenipotentiary

(Signed.) Pak Che Soon,
Minister for Foreign Affairs.

Nr. 13569. **GROSZBRITANNIEN und CHINA.** — Post- und Telegraphenvertrag.

Peking, 23. Mai 1905.

Article I.

The Government of His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, and the Gonverment of

His Majesty the Emperor of China with a view to facilitating international telegraph communication have resolved to revise the existing agreement regarding the exchange of telegraphic correspondence over the lines of the two states on the frontier of Burma and Yünnan.

Article II.

The junction on the frontier remains as hitherto between the British Station at Bhamo and the Chinese Station at T'êngyüeh (Momein), and an intermediate station will continue to be maintained at Manwyne.

Article III.

The Indian and the Chinese Administrations shall maintain in good condition the line of connection and shall exchange the correspondence by wire between the two stations named in Article II, or between any other two stations hereafter mutually agreed upon. || Each of the contracting parties shall bear the expense incurred for these purposes on its own territory and will take care that the boundaries between the territories of the two Governments are scrupulously respected.

Article IV.

The rules laid down in the Service Regulations of the International Telegraph Convention shall be observed with regard to the technical treatment of telegrams transmitted over the line of connection described in Article II. || When the senders of telegrams do not expressly indicate the route by which they wish their telegrams to be forwarded it is understood that at lower rates all limitrophe correspondence and at equal rates half the limitrophe correspondence shall be forwarded viâ the line of connection described in Article II provided that the alternative routes are in equally good working order.

Article V.

Eeach of the contracting parties fixes the charges for transmission of telegrams by its lines up to the frontier of its own territory.

Article VI.

The following charges per word are declared for correspondence exchanged viâ the line of communication described in Article II:

I. Indian Telegraph Administration.

A. *Terminal Charges.*

	Francs.
1. From Stations in Burma to the Chinese frontier . .	0.10
2. From Stations in India to the Chinese frontier . . .	0.35
3. From Stations in Ceylon to the Chinese frontier . .	0.45

B. *Transit Charges.*

	Francs.
Between the Chinese-Burmese frontier and all other frontiers	0.35

II. China.

A. *Terminal Charges.*

1. For telegrams exchanged with Europe and countries beyond Europe (except America)	3.36
2. For telegrams exchanged with America	4.86
3. For telegrams exchanged between all other countries on the one side and stations on the Yangtze or South of the Yangtze on the other side	1.00
4. For telegrams exchanged between all other countries on the one side and stations situated to the North of the Yangtze	1.50
5. (*a*) For telegrams exchanged between Burma, India, and Ceylon on the one side and the province of Yünnan on the other side	0.50
(*b*) For *bonâ-fide* British and Chinese Government telegrams between Burma, India and Ceylon on the one side and the province of Yünnan on the other side	0.25

B. *Transit Charges.*

1. For telegrams exchanged between Europe and countries beyond Europe (except America) on the one side and all countries beyond China on the other side	3.36
2. For telegrams exchanged between America on the one side and all countries beyond China on the other side	4.86
3. For all other telegrams between the Burmese-Chinese frontier and	
(*a*) Shanghai or frontier stations South of the Yangtze	1.25
(*b*) All other frontiers	1.50

The charges established for telegrams exchanged between China on the one side and Burma, India, and Ceylon on the other side are solely for correspondence actually exchanged between the named neighbouring countries, and the Chinese European and American correspondence cannot be retelegraphed at these rates by private agencies or persons at intermediate stations. || If during the course of operation of this Convention the rates of China or of the Telegraph Companies operating in China be diminished for telegrams exchanged by the whole of China, including

Hongkong, with Europe and the countries beyond Europe, China undertakes simultaneously and in the same proportion to lower her present terminal and transit rates for such telegrams on their transmission along the Burma-Yünnan line.

Article VII.

The checking of the amount of correspondence exchanged viâ the line of connection shall take place daily by wire between the stations named in Article II. || The settlement of accounts shall take place at the end of each month and the resulting balance shall be paid one month after the end of the month in account to the Indian Telegraph Administration at Calcutta or to the Chinese Telegraph Administration at Sanghai. || The month shall be reckoned according to the European Calendar. Telegrams referring to the settlement of accounts shall be considered as service telegrams and transmitted free of charge.

Article VIII.

The collection of the charges at all the stations of the Chinese Telegraph Administration, according to the rates fixed in Article VI of the present Convention in gold francs, as well as the liquidation of the mutual accounts, shall be made in Mexican dollars according to the actual rate of exchange between this coin and the franc. || This rate of exchange shall be agreed upon between the Telegraph Administrations of the contracting Governments during the month preceding each quarter on the basis of the average rate of exchange during the three months preceding that during which the rate is fixed. || As regards outpayments to Telegraph Administrations beyond China and India the Chinese and Indian Telegraph Administrations will communicate to each other their amounts and this amount the two Administrations will be at liberty to collect and settle at such rates as may protect them from loss.

Article IX.

The present Convention shall come into force on the first day of June, Nineteen hundred and five, and shall, unless otherwise mutually agreed upon, remain in force for ten years and thereafter until twelve months after one of the contracting parties shall have given notice of its intention to modify or to abrogate it. || In witness whereof the Undersigned duly authorized to this effect have signed the present Convention.

Done at Peking in the English language and in the Chinese language. Three expeditions duly compared and found to be in agreement have been signed in each of these languages on the twenty-third day of the month of May, Nineteen hundred and five corresponding with the twen-

tieth day of the fourth moon of the thirty-first year of the reign of Kuang Hsü.

(L. S.) Ernest Satow.

(Signature and Seal of the Chinese Plenipotentiary.)

Nr. 13570. **GROSZBRITANNIEN und PORTUGAL.** — Schiedsspruch des Königs von Italien über die Westgrenze des Königreichs Barotse in Südafrika.

Rome, June 10, 1905.

My Lord. || The King of Italy sent for me to-day to the Palace, and delivered to me his arbitral decision on the question at issue between Great Britain and Portugal respecting the western boundary of the Barotse Kingdom, His Majesty adding that he was happy to serve in this way.

I have, etc.

(Signed) Edwin H. Egerton.

I have the honour to inclose herewith the official French translation of this decision, with the map annexed to it.

(Traduction.) || Nous, Victor Emmanuel III; || Par la grâce de Dieu et la volonté de la nation Roi d'Italie; || Arbitre dans la question entre la Grande-Bretagne et le Portugal relativement aux limites occidentales du territoire du Royaume du Barotse, telles qu'elles étaient le 11 Juin 1891; || Sa Majesté Edouard VII, Roi du Royaume-Uni de la Grande-Bretagne et d'Irlande, Empereur des Indes, et Sa Majesté Très-Fidèle Charles I, Roi du Portugal et des Algarves, voulant définir la question survenue entre les deux États relativement à la frontière de leurs sphères d'influence respectives dans l'Afrique Centrale, moyennant Déclaration signée à Londres le 12 Août, 1903, Nous ont chargé de décider comme Arbitre la dite question par sentence définitive sans appel. || Nous, Roi d'Italie, voulant correspondre à la confiance que les Hautes Parties ont voulu Nous accorder, Nous avons accepté et Nous prononçons la Sentence suivante: —

En fait: || La Grande-Bretagne et le Portugal, afin de déterminer leurs respectives sphères d'influence dans l'Afrique Centrale, avaient conclu à Lisbonne le Traité du 11 Juin, 1891, et par l'Article IV du dit Traité elles avaient convenu en ce qui suit: || „Il est entendu que la ligne qui sépare à l'ouest la sphère d'influence de la Grande-Bretagne dans l'Afrique Centrale de celle du Portugal suivra le centre du chenal du Haut-Zambèze, en partant des Rapides de Katima jusqu'au point où elle touche au territoire du Royaume des Barotse." || Les dites Hautes Parties,

n'ayant pu dans la suite déterminer d'accord les limites occidentales du territoire du Royaume du Barotse, signèrent à Londres, le 12 Août, 1903, la Déclaration par laquelle elles Nous ont déféré de décider la question qu'elles formulèrent elles-mêmes dans les termes suivants:— || „Article 1. The Arbitrator shall be asked to give a decision, which shall be accepted as final by both Parties, on the question: What are, within the meaning of the above-quoted Article of the Treaty 1891, the limits of the territory of the Barotse Kingdom? || „For the purposes of the arbitration the expression ‚the territory of the Barotse Kingdom' shall mean the territory over which the King of Barotse was Paramount Ruler on the 11th June, 1891." || La question ayant été ainsi formulée, nous avons considéré que nous sommes appelés à déterminer le territoire sur lequel le Roi du Barotse régnait comme Chef Suprême („was Paramount Ruler") le 11 Juin, 1891. || Nous avons aussi considéré que, puisque nous devons décider la question qui nous a été soumise en nous référant au 11 Juin, 1891, nous ne pouvions pas tenir compte des faits survenus après cette date. || Nous avons ensuite examiné attentivement les Mémoires, les répliques, les contrerépliques, et les documents à l'appui que chacune des Hautes Parties nous a présentés.

En droit: || Attendu que le tribut ne peut, comme tel, demeurer en preuve de l'autorité de Chef Suprême près celui à qui le dit tribut est payé; en effet, souvent une tribu, tout en étant indépendante, paye des tributs au Chef d'une autre tribu plus forte, soit pour se soustraire par ce moyen à ses vexations et éviter la guerre, soit pour en gagner la bienveillance et la protection; || Attendu que pas même l'influence exercée par le Chef d'une tribu plus forte sur d'autres plus faibles, ne peut être considérée comme preuve décisive de la dépendance et de l'assujetissement réel des tribus qui subissent la dite influence; || Attendu conséquemment que, pour reconnaître le Roi Lewanika comme Chef Suprême, il est indispensable que l'on constate quelles étaient les tribus qui, le 11 Juin, 1891, se trouvaient en condition de dépendance réelle vis-à-vis de lui; || Attendu que, selon l'organisation interne des tribus le Chef Suprême est celui qui exerce l'autorité Gouvernementale selon leurs coutumes, c'est-à-dire en nommant les Chefs subalternes, ou en leur accordant l'investiture, en décidant des litiges entre ces Chefs, en les déposant selon les circonstances, et en les obligeant à le reconnaître comme leur Seigneur Suprême; || Attendu qn'un tel pouvoir avait déjà été sans doute exercé par le Roi du Barotse dans la Province de Nalolo à l'ouest du Zambèze; qu'il a été aussi exercé sur les tribus des Mabuenyi et des Mamboe, de sorte que leur territoire formait partie intégrante du Royaume du

Barotse; || Attendu que, en ce qui concerne les Balovale, tout en ayant payé des tributs, le 11 Juin, 1891, ils se trouvaient en condition d'indépendance: en effet, ils avaient leur Chef Suprême qui nommait les Chefs subalternes, sans que le Roi du Barotse eût accompli jusqu'alors aucun acte de juridiction et de gouvernement sur les Balovale; || Attendu que cela est confirmé par le témoignage du Rév. Adolphe Jalla, qui déclare que les Balovale refusaient de se soumettre jusqu'en 1891, et qu'ils ne furent subjugués par les Barotse qu'au commencement de 1892 (circonstance qui a été aussi référée par le Rév. F. Coillard), de sorte qu'on ne peut admettre qu'en Juin 1891 les Balovale fissent partie intégrante du Royaume du Barotse; || Attendu pourtant que le Roi Lewanika exerçait quelques droits de seigneurie sur la zone limitrophe de ses vrais domaines qui demeure interposée entre le Zambèze et le Lungubungu, et qui est habitée par des Balovale, de sorte que, en vue de tels droits de seigneurie, on peut admettre que la dite zone faisait partie intégrante du Royaume du Barotse: || Attendu que, en ce qui concerne la région des Balunda, une partie était habitée par les Balekwakwa, qui sont ethniquement des Barotse, et que la zone méridionale avait subi plus directement l'influence de Roi du Barotse jusqu'à l'assujettissement réel, de sorte, que le territoire compris entre le cours inférieur du Kapombo, le Zambèze, et le 13e parallèle, doit être considéré comme partie intégrante du Royaume du Barotse; || Attendu que les Bampukush, les Bamarshi, les Mambunda et les Bamakoma étaient des tribus absolument indépend antes, et que, conséquemment, elles ne pouvaient pas être considérées comme appartenant au Royaume du Barotse; || Attendu que, en ce qui concerne la délimitation du territoire sur lequel le Roi Lewanika régnait comme Chef Suprême, toute délimitation précise est impossible, soit à cause du manque d'éléments géographiques séparatifs, soit à cause de la connaissance imparfaite qu'on a des lieux, soit à cause de l'instabilité notoire des tribus et de leurs fréquents entrelacements (circonstances qui ont été admises aussi par le Marquis de Salisbury et le Marquis de Lansdowne), de sorte que, il est indispensable, où les lignes naturelles font défaut d'avoir recours aux lignes de convention géographiques;

Pour les dits motifs: || Nous décidons comme Arbitre que la frontière occidentale du territoire du Royaume du Barotse, le 11 Juin, 1891, était la suivante (voir le croquis démonstratif ci-joint):— || La ligne droite joignant les Rapides de Katima, sur le Zambèze, au village Andara sur l'Okovango, jusqu'au point où elle recontre la Rivière Kwando; || Le bord oriental du lit des hautes eaux du Kwando, jusqu'au point d'intersection avec le 22e méridien est de Greenwich; || Le 22e méridien est de Green-

wich jusqu'au point d'intersection avec le 13e parallèle; || Le 13e parallèle jusqu'au point d'intersection avec le 24e méridien est de Greenwich; || Le 24e méridien est de Greenwich jusqu'à la frontière de l'État Indépendant du Congo.

[Traduction de la Sentence Arbitrale donnée à Rome, le 30 Mai, 1905, par Sa Majesté le Roi d'Italie.

Nr. 13571. ARGENTINIEN und Chile. — Präliminarvertrag über einen Schiedsgerichtsvertrag.

28. Mai 1902.

(Translation.) || The Minister for Foreign Affairs, Don José Francisco Vergara Donoso, and Don José A. Terry, Envoy Extraordinary and Minister Plenipotentiary of the Argentine Republic, having met together at the Ministry for Foreign Affairs of Chile, with a view to settling the rules for deciding differences of any kind whatsoever which might tend to disturb the good relations existing between the two countries, and thereby consolidating the peace maintained up to the present, notwithstanding periodical alarms caused by the long dispute as to frontier delimitation, the Argentine Minister Plenipotentiary stated that the intention of his Government, conformable to the international policy which it had always observed, was, to endeavour in every case to solve questions arising with other States in a friendly manner; that the Government of the Argentine Republic had obtained such a result by keeping within their rights and respecting to its full limits the sovereignty of other nations, without interfering in their internal affairs or in their external questions; that in consequence thereof they could have conceived no intention of territorial expansion; that his Government would persist in this policy; and that, believing that they were interpreting the public opinion of their country, they made these solemn declarations, now that the moment had come for Chile and the Argentine Republic to remove all causes for trouble in their international relations. || The Minister for Foreign Affairs, on his part, declared that his Government had always held, and still hold, those elevated views which the Minister of the Argentine Republic had just expressed on behalf of his Government; that Chile had given numerous proofs of the sincerity of her aspirations, by embodying in her international Agreements the principle of arbitration a means of solving difficulties with friendly nations; that, respecting the independence and integrity of other States, she also did not harbour designs of territorial expansions, except such as resulted from the fulfil-

ment of Treaties at present in existence or which might hereafter be concluded; that his Government would persist in this policy; that, happily, the question of the delimitation of frontier between Chile and the Argentine Republic had ceased to be a danger to peace, since both nations were awaiting the arbitral decision of His Britannic Majesty; that, in consequence, believing that he was interpreting the public opinion of Chile, he made these declarations, deeming, in common with the Argentine Minister, that the moment had now come to remove all cause for trouble in the relations between the two countries. || In view of this conformity of sentiments, it was arranged: — || 1. To conclude a General Treaty of Arbitration which would guarantee the realization of the aims referred to. || 2. To draw up a Protocol of the present Conference, such document to be considered as forming an integral part of the Treaty itself.

In witness whereof, two copies of the present note were signed on the 28th of May, 1902.

(Signed) José F. Vergara Donoso.
José A. Terry.

Nr. 13572. ARGENTINIEN und CHILE. — Schiedsgerichtsvertrag.

28. Mai 1902.

(Translation.) || The Governments of the Argentine Republic and of Chile, animated by a mutual desire of solving, by friendly means, any question which may arise between the two countries, have agreed to conclude a General Treaty of Arbitration, for which purpose they have constituted as their Ministers Plenipotentiary, namely: || His Excellency the President of the Republic of Chile, Señor Don José Francisco Vergara Donoso, Minister of State in the Department of Foreign Affairs; and, || His Excellency the President of the Argentine Republic, Señor Don José Antonio Terry, Envoy Extraordinary and Minister Plenipotentiary of that country: || Who, after having exchanged their full powers, wich they found in good and due form, have agreed to the stipulations contained in the following Articles: —

Article I.

The High Contracting Parties bind themselves to submit to arbitration all controversies between them, of whatever nature they may be, or from whatever cause they may have arisen, except when they affect the principles of the Constitution of either country, and provided that no other settlement is possible by direct negotiations.

Article II.

Questions which have already been the subject of definite settlement between the High Contracting Parties cannot, in virtue of this Treaty, be reopened. In such cases arbitration will be limited exclusively to the questions which may arise respecting the validity, the interpretation, and the fulfilment of such Agreements.

Article III.

The High Contracting Parties nominate as Arbitrator His Britannic Majesty's Government. If either of the Parties should break off friendly relations with His Britannic Majesty's Government, in that event both Parties nominate as Arbitrator the Government of the Swiss Confederation. || Within the period of sixty days, dating from the exchange of ratifications, both Parties shall, jointly or separately, request His Britannic Majesty's Government, the Arbitrator in the first instance, and the Government of the Swiss Confederation, the Arbitrator in the second instance, to consent to accept the duty of Arbitrators conferred upon them by this Treaty.

Article IV.

The points, questions, or difficulties involved shall be determined by the Contracting Governments, who may define the scope of the Arbitrator's powers and any other circumstance relating to the procedure.

Article V.

In default of agreement, either of the Parties may invite the intervention of the Arbitrator, whose duty it will be to determine the Agreement, the time, place, and formalities of the proceedings, as also to settle any difficulties of procedure as to which disputes may arise in the course of the arbitration. || The Contracting Parties undertake to place all the information in their power at the disposal of the Arbitrator.

Article VI.

Each of the Parties may appoint one or more Delegates to represent it before the Arbitrator.

Article VII.

The Arbitrator is competent to decide upon the validity and interpretation of the Agreement, as also to settle the disputes which may arise between the Contracting Parties as to whether certain questions have or have not been submitted to jurisdiction by arbitration in the written Agreement.

Article VIII.

The Arbitrator shall decide in accordance with the principles of international law, unless the Agreement calls for the application of special rules or authorizes the Arbitrator to decide in the character of a friendly mediator.

Article IX.

The Award shall decide definitely each point in dispute, and the reasons for the same shall be stated.

Article X.

The Award shall be drawn up in duplicate, and shall be notified to each of the Parties by means of its Representative.

Article XI.

The Award legally pronounced decides, within the limits of its scope, the dispute between the Parties.

Article XII.

The Arbitrator shall fix in the Award the time within which it shall be executed, and be competent to settle any questions which may arise with respect to its execution.

Article XIII.

There is no appeal against the Award, and its fulfilment is intrusted to the honour of the nations who have signed this Agreement. Nevertheless, recourse to revision shall be allowed before the same Arbitrator who pronounced it, provided such action be taken within the time allotted for the execution and in the following cases: — || 1. If the Award has been given on the strength of a document which has been falsified or tampered with; and || 2. If the Award has been, in whole or in part, the consequence of an error of fact resulting from the arguments or documents of the case.

Article XIV.

Eeach one of the Parties shall defray its own expenses and half of the general expenses of the Arbitrator.

Article XV.

The present Treaty shall remain in force ten years, dating from the exchange of ratifications; and if it shall not have been denounced six months before the date of its expiry, it shall be considered renewed for another ten years, and so on.

The present Treaty shall be ratified and the ratifications shall be exchanged in Santiago de Chile within six months of its date.

In witness whereof the Plenipotentiaries of the Argentine Republic and of the Republic of Chile have respectively signed and sealed the present Treaty in duplicate, in the city of Santiago, on the 28th day of May, 2902.

(Signed) J. F. Vergara Donoso.
José A. Terry.

Nr. 13573. **ARGENTINIEN und CHILE.** — Abkommen über die Begrenzung der Seerüstungen.

28. Mai 1902.

(Translation.) || The Minister for Foreign Affairs, Don José Francisco Vergara Donoso, and Dr. José Antonio Terry, Envoy Extraordinary of the Argentine Republic, having met together in the Ministry for Foreign Affairs of Chile, have agreed to include in the following Convention the various decisions arrived at for the limitation of the naval armaments of the two Republics, decisions which have been taken owing to the initiative and the good offices of His Britannic Majesty's Government, represented in Chile by their Envoy Extraordinary and Minister Plenipotentiary, Mr. Gerard Lowther, and in the Argentine Republic by their Envoy Extraordinary and Minister Plenipotentiary, Sir William A. C. Barrington:

Article I.

With the view of removing all motive for uneasiness or suspicion in either country, the Governments of Chile and of the Argentine Republic desist from acquiring the vessels of war now building for them, and from henceforth making new acquisitions. || Both Governments agree, moreover, to reduce their respective fleets, with which object they will continue to exert themselves until they arrive at an understanding which shall establish a just balance between the said fleets. || This reduction shall take place within one year, counting from the date of the exchange of ratifications of the present Convention.

Article II.

The two Governments bind themselves not to increase their naval armaments during a period of five years, without previous notice; the one intending to increase them shall give the other eighteen months' notice. || It is understood that all armament for the fortification of the coasts and ports is excluded from this Agreement, and any floating

machine, such as submarine vessels, &c., destined exclusively for the defence of these, can be acquired.

Article III.

The two Contracting Parties shall not be at liberty to part with any vessel, in consequence of this Convention, in favour of countries having questions pending with one or the other.

Article IV.

In order to facilitate the transfer of pending contracts, both Governments bind themselves to prolong for two months the term stipulated for the delivery of the vessels building, for which purpose they will give the necessary instructions immediately this Convention has been signed.

Article V.

The ratifications of this Convention shall be exchanged within the period of sixty days, or less if possible, and the exchange shall take place in this City of Santiago.

In witness whereof the Undersigned have signed and put their seals to two copies of this Convention in the City of Santiago, the 28th day of the month of May, 1892.

(Signed) J. F. Vergara Donoso.
J. A. Terry.

Anlagen.

Señor Donoso to Señor Terry.

(Translation.) || M. le Ministre, || The second part of Article I of the Convention, concluded for curtailing the naval armaments of Chile and of the Argentine Republic, states: „Both Governments agree, moreover, to reduce their respective fleets, with which object they will continue to exert themselves until they arrive at an understanding which shall establish a just balance between the said fleets; this reduction shall take place within one year, counting from the date of exchange of ratifications of the present Convention.“ || This Government understands that any differences which may arise with respect to the execution of the clause I have cited are to be decided by the Arbitrator, in accordance with the stipulation in Article I of the General Treaty of Arbitration signed this day. || Trusting that your Excellency will be good enough to inform me of the view of your Government in this respect, I have, &c.

(Signed) José Francisco Vergara Donoso.

Señor Terry to Señor Donoso

(Translation.) || M. le Ministre, || I have had the honour to receive your Excellency's note of this date, by which you are good enough to inform me that your Government interprets the second part of Article I of the Convention respecting the limitation of armaments in the sense that any difference which may arise and which cannot be settled directly between the Chanceries within the year shall be a matter for general arbitration, in accordance with the Treaty signed to-day. || In reply, I have the honour to inform your Excellency that my Government places a similar interpretation on the above-mentioned clause.

(Signed) J. A. Terry.

Nr. 13574. **ARGENTINIEN und CHILE.** — Zusatzprotokoll zu den vorstehenden Verträgen.

10. July 1902.

(Translation.) || Señor Don José Francisco Vergara Donoso, Minister for Foreign Affairs of Chile, and Señor Don José Antonio Terry, the Argentine Envoy Extraordinary and Minister Plenipotentiary of the Argentine Republic, having met together in the Ministry for Foreign Affairs of Chile in order to remove the slight doubts which have arisen in both countries, and to give to the Agreements signed on the 28th May last the full value of the high aims with which they were signed, and being duly authorized, declared that their respective Governments agreed: — || 1. That the carrying out of existing Treaties, or of others which may be rendered necessary by them, which question is referred to in the Preliminary Declaration in the Treaty of Arbitration, cannot be the subject of Arbitration between the two Parties, and consequently neither of the contracting Governments has the right to interfere with the manner in which the other may choose to give effect to those Treaties. || 2. That the carrying out of paragraph 2 of article I of the Convention concerning naval armaments, in virtue of which a just balance between the two fleets was to be established, shall not necessitate the sale of vessels, but that this just balance may be arrived at by a disarmament or by other means to the extent required, in order that both Governments may retain the necessary fleets, the one for their natural defence and for the permanent safeguard of the Republic of Chile in the Pacific, and the other for the natural defence and the permanent safeguard of the Argentine Republic in the Atlantic and in the River Plate. || 3. That the Agreements referred to having been submitted to the respective Con-

gress of both countries, the present instrument shall likewise be brought to the knowledge of those bodies.

In faith whereof the Undersigned have hereunto affixed their signature in duplicate at Santiago, this 10th day of July, 1902.

(Signed) J. F. Vergara Donoso.
J. A. Terry.

Nr. 13575. **ARGENTINIEN und CHILE.** — Ausführungsvertrag zu Nr. 13573.

9. Januar 1902.

(Translation.) ‖ His Excellency Dr. Luis M. Drago, Minister for Foreign Affairs and Worship, and his Excellency Don Carlos Concha, Envoy Extraordinary and Minister Plenipotentiary of Chile, having met together in the Department of Foreign Affairs and Worship in Buenos Aires, on the 9th January, 1903, with the view of giving effect to the just balance which both countries have decided to establish between their respective fleets, in conformity with the Treaty on Naval Armaments signed on the 28th May, 1902, with the notes exchanged on the same date between the Chilean Ministy and the Minister Plenipotentiary of the Argentine Republic, and, with the Protocol which was signed on the 10th July, 1902, relating to the same matter, and, after having exchanged their respective powers, which were found in due form, have agreed to the following arrangement: — ‖ Article 1. The Argentine Republic and the Republic of Chile shall hereafter, and in the shortest time possible, sell the vessels of war now building for them, for the former in the ship-yards of Ansaldo (Italy) and for the latter in those of Messrs. Vickers and Messrs. Armstrong (England), according to the stipulations set forth in paragraph 1 of Article 1 and in Article 3 of the Agreement of the 28th May, 1902. In the event of its not being possible from any cause to carry out the sale immediately, the High Contracting Parties may continue the building of the said ships, until they are completed, but in no case shall they be added to the respective fleets; not even with the previous notice of eighteen months required for the increase of naval armaments by the 2nd Article of the above-quoted Agreement. ‖ Art. 2. Both the High Contracting Parties mutually agree immediately to put the vessels at present building at the disposal and at the orders of His Britannic Majesty, the Arbitrator appointed by the Treaty of the 28th May, 1902, informing him that they have agreed that the vessels shall not leave the yards where they actually are except only in case

both High Parties jointly request it, either because their sale has been effected or in virtue of a subsequent Agreement. || Art. 3. The two High Contracting Parties shall immediately communicate to the ship-builders the fact that the vessels have been placed, by common consent of both Governments, at the disposal of the Arbitrator designated in the Treaty of the 28th May, 1902, without whose express order they may not be delivered to any nation or individual. || Art. 4. In order to establish the just balance between the two fleets, the Republic of Chile shall proceed to disarm the battle-ship „Capitán Prat," and the Argentine Republic to disarm its battle-ships „Garibaldi" and „Pueyrredon." || Art. 5. In order that the vessels may be considered disarmed, in accordance with the foregoing Article, they must be moored in a basin or port, having on board only the necessary crew to attend to the preservation of the material which cannot be removed, and they must have landed — || All coal. || All powder and ammunition. || Artillery of small calibre. || Torpedo tubes and torpedoes. || Electric search-lights. || Boats. || All stores of whatever kind. || For their better preservation it is permissible to roof in the decks. || Art. 6. The vessels mentioned in Article 4, which both Governments agree to disarm, shall remain in that state, and may not be rearmed without the previous notice of eighteen months which the Government who wishes to do so is obliged to give to the other Government, except in case of a subsequent Agreement or of their alienation. || Art. 7. Both Governments shall request the Arbitrator appointed by the Treaties of the 28th May, 1902, for the purpose of arranging difficulties to which questions on naval armaments may give rise, to accept the duties resulting from the present Agreement, for which purpose an authenticated copy thereof shall be sent to him.

In witness whereof the respective Plenipotentiaries sign and seal the present in duplicate.

(Signed) Luis M. Drago.
Carlos Congha.

Nr. 13576. VERTRAGSSTAATEN. — Abkommen über Unterdrückung des Mädchenhandels.

Paris, 10. Mai 1904.

Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et d'Irlande et des Possessions Britanniques au delà des Mers, Empereur des Indes; Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, au nom de l'Empire Allemand; Sa Majesté le Roi des Belges; Sa Majesté le Roi

de Danemark; Sa Majesté le Roi d'Espagne; le Président de la République Française; Sa Majesté le Roi d'Italie; Sa Majesté la Reine des Pays-Bas; Sa Majesté le Roi du Portugal et des Algarves; Sa Majesté l'Empereur de Toutes les Russies; Sa Majesté le Roi de Suède et de Norvège; et le Conseil Fédéral Suisse, désireux d'assurer aux femmes majeures, abusées ou contraintes, comme aux femmes et filles mineures, une protection efficace contre le trafic criminel connu sous le nom de „Traite des Blanches," ont résolu de conclure un Arrangement à l'effet de concerter des mesures propres à atteindre ce but, et ont nommé pour leurs Plénipotentiaires, savoir: || Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et d'Irlande et des Possessions Britanniques au delà des Mers, Empereur des Indes, son Excellence Sir Edmund Monson, son Ambassadeur Extraordinaire et Plénipotentiaire près le Président de la République Française; || Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, S. A. S. le Prince de Radolin, son Ambassadeur Extraordinaire et Plénipotentiaire près le Président de la République Française; || Sa Majesté le Roi des Belges, M. A. Leghait, son Envoyé Extraordinaire et Ministre Plénipotentiaire près le Président de la République Française; || Sa Majesté le Roi de Danemark, M. le Comte F. Reventlow, son Envoyé Extraordinaire et Ministre Plénipotentiaire près le Président de la Republique Française; | Sa Majesté le Roi d'Espagne, son Excellence M. F. de Leon y Castillo Marquis del Muni, son Ambassadeur Extraordinaire et Plénipotentiaire près le Président de la République Française; || Le Président de la République Française, son Excellence M. Th. Delcassé, Député, Ministre des Affaires Étrangères de la République Française; || Sa Majesté le Roi d'Italie, son Excellence M. le Comte Tornielli Brusati di Vergano, son Ambassadeur Extraordinaire et Plénipotentiaire près le Président de la République Française; || Sa Majesté la Reine des Pays-Bas, M. le Chevalier de Stuers, son Envoyé Extraordinaire et Ministre Plénipotentiaire près le Président de la Republique Française; || Sa Majesté le Roi de Portugal et des Algarves, M. T. de Souza-Roza, son Envoyé Extraordinaire et Ministre Plénipotentiaire près le Président de la République Française: || Sa Majesté l'Empereur de Toutes les Russies, son Excellence M. de Nelidow, son Ambassadeur Extraordinaire et Plénipotentiaire près le Président de la République Française; || Sa Majesté le Roi de Suède et de Norvège: pour la Suède et pour la Norvège, M. Akerman, son Envoyé Extraordinaire et Ministre Plénipotentiaire près le Président de la République Française; et || Le Conseil Fédéral Suisse, M. Charles Êdouard Lardy, Envoyé Extraordinaire et Ministre Plénipotentiaire de la Confédération Suisse près le Président de la République Française; || Lesquels, ayant échangé

leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes: —

Article 1er.

Chacun des Gouvernements contractants s'engage à établir ou à désigner une Autorité chargée de centraliser tous les renseignements sur l'embauchage des femmes et filles en vue de la débauche à l'étranger; cette autorité aura la faculté de correspondre directement avec le service similaire établi dans chacun des autres États contractants.

Article 2.

Chacun des Gourvernements s'engage à faire exercer une surveillance en vue de rechercher, particulièrement dans les gares, les ports d'embarquement, et en cours de voyage, les conducteurs de femmes et filles destinées à la débauche. Des instructions seront adressées dans ce but aux fonctionnaires ou à toutes autres personnes ayant qualité à cet effet, pour procurer, dans les limites légales, tous renseignements de nature à mettre sur la trace d'un trafic criminel. || L'arrivée de personnes paraissant évidemment être les auteurs, les complices ou les victimes d'un tel trafic sera signalée, le cas échéant, soit aux Autorités du lieu de destination, soit aux Agents Diplomatiques ou Consulaires intéressés, soit à toutes autres Autorités compétentes.

Article 3.

Les Gouvernements s'engagent à faire recevoir, le cas échéant et dans les limites légales, les déclarations des femmes ou filles de nationalité étrangère qui se livrent à la prostitution, en vue d'établir leur identité et leur état civil, et de rechercher qui les a déterminées à quitter leur pays. Les renseignements recueillis seront communiqués aux Autorités du pays d'origine des dites femmes ou filles, en vue de leur rapatriement éventuel. || Les Gouvernements s'engagent, dans les limites légales et autant que faire se peut, à confier, à titre provisoire et en vue d'un rapatriement éventuel, les victimes d'un trafic criminel, lorsqu'elles sont dépourvues de ressources, à des institutions d'assistance publique ou privée ou à des particuliers offrant les garanties nécessaires. || Les Gouvernements s'engagent aussi, dans les limites légales et autant que possible, à renvoyer dans leur pays d'origine celles de ces femmes ou filles qui demandent leur rapatriement ou qui seraient réclamées par les personnes ayant autorité sur elles. Le rapatriement ne sera effectué qu'après entente sur l'identité et la nationalité, ainsi que sur le lieu et la date de l'arrivée aux frontières. Chacun des Pays contractants facilitera le transit sur son territoire. || La correspondance relative aux rapatriements se fera, autant que possible, par la voie directe.

Article 4.

Au cas où la femme ou fille à rapatrier ne pourrait rembourser elle-même le frais de son transfert et où elle n'aurait ni mari, ni parents, ni tuteur qui payeraient pour elle, les frais occasionnés par le rapatriement seront à la charge du pays sur le teritoire duquel elle réside, jusqu'à la prochaine frontière ou port d'embarquement dans la direction du pays d'origine, et à la charge du pays d'origine pour le surplus.

Article 5.

Il n'est pas dérogé, par les dispositions des Articles 3 et 4 ci-dessus, aux Conventions particulières qui pourraient exister entre les Gouvernements contractants.

Article 6.

Les Gouvernements contractants s'engagent, dans les limites légales, à exercer, autant que possible, une surveillance sur les bureaux ou agences qui s'occupent du placement de femmes ou filles à l'étranger.

Article 7.

Les États non signataires sont admis à adhérer au présent Arrangement. A cet effet, ils notifieront leur intention, par la voie diplomatique, au Gouvernement Français, qui en donnera connaissance à tous les États contractants.

Article 8.

Le présent Arrangement entrera en vigueur six mois après la date de l'échange des ratifications. Dans le cas où l'une des Parties contractantes le dénoncerait, cette dénonciation n'aurait d'effet qu'à l'égard de cette Partie, et cela douze mois seulement à dater du jour de la dite dénonciation.

Article 9.

Le présent Arrangement sera ratifié, et les ratifications seront échangées, à Paris dans le plus bref délai possible. || En foi de quoi les Plénipotentiaires respectifs ont signé le présent Arrangement et y ont apposé leurs cachets.

Fait à Paris, le 18 Mai, 1904, en un seul exemplaire, qui restera déposé dans les archives du Ministère des Affaires Étrangères de la République Française, et dont une copie, certifiée conforme, sera remise à chaque Puissance contractante. Unterschriften.

Procès-verbald de Signature.

Les Plénipotentiaires sussignés, réunis ce jour à l'effet procéder à la signature de l'Arrangement ayant pour but d'assurer une protection

efficace contre la „Traite des Blanches," ont échangé la déclaration suivante en ce qui concerne l'application dudit Arrangement aux Colonies respectives des États contractants: —

Article 1er.

Les Pays signataires de l'Arrangement susmentionné ont le droit d'y accéder en tout temps pour leurs Colonies ou Possessions étrangères. || Ils peuvent, à cet effet, soit faire une déclaration générale par laquelle toutes leurs Colonies ou Possessions sont comprises dans l'accession, soit nommer expressément celles qui y sont comprises, soit se borner à indiquer celles qui en sont exclues.

Article 2.

Le Gouvernement de Sa Majesté Britannique déclare se réserver le droit d'adhérer à l'Arrangement et de le dénoncer pour chacune des Colonies ou Possessions Britanniques, séparément.

Le Gouvernement Allemand déclare réserver ses resolutions au sujet de ses Colonies. || Le Gouvernement Danois déclare qu'il se réserve le droit d'adhérer à l'Arrangement pour les Colonies Danoises. || Le Gouvernement Espagnol déclare réserver ses résolutions au sujet de ses Colonies. || Le Gouvernement Français déclare que l'Arrangement s'appliquera à toutes les Colonies Françaises. || Le Gouvernement Italien déclare que l'Arrangement s'appliquera à la Colonie d'Érythrée. || Le Gouvernement des Pays-Bas déclare que l'Arrangement s'appliquera à toutes les Colonies Néerlandaises. || Le Gouvernement Portugais déclare se réserver de décider ultérieurement si l'Arrangement sera mis en vigueur dans quelqu'une des Colonies Portugaises. || Le Gouvernement Russe déclare que l'Arrangement sera applicable intégralement à tout le territoire de l'Empire en Europe et en Asie.

Article 3.

Les Gouvernements qui auraient ensuite à faire des déclarations au sujet de leurs Colonies les feront dans la forme prévue à l'Article 7 de l'Arrangement. || Au moment de procéder à la signature de l'Arrangement, S. A. S. le Prince de Radolin, Ambassadeur d'Allemagne, demande, au nom de son Gouvernement, à faire la déclaration suivante: || De l'avis du Gouvernement Allemand, les règlements qui pourraient exister entre l'Empire Allemand et le pays d'origine, concernant l'assistance mutuelle d'indigents, ne sont pas applicables aux personnes qui seront rapatriées, en vertu du présent Arrangement, en passant par l'Allemagne.

En foi de quoi les Plénipotentiaires ont signé le présent Procès-verbal.
Fait à Paris, le 18 Mai, 1904. Unterschriften.

Acte d'Adhésion.

Sa Majesté l'Empereur d'Autriche, Roi de Bohême, &c., et Roi Apostolique de Hongrie, désirant user de la faculté qui lui est réservée par l'Article 7 de l'Arrangement conclu à Paris le 18 Mai, 1904, et destiné à réprimer la „Traite des Blanches," a résolu d'y accéder pour ses États. || Sa Majesté a nommé, à cet effet, pour Plénipotentiaire, M. le Comte Rodolphe de Khevenhüller-Metsch, son Conseiller intime et Chambellan, son Ambassadeur Extraordinaire et Plénipotentiaire près la République Française, lequel, après avoir produit ses pleins pouvoirs, trouvés en bonne et due forme, a déclaré ce qui suit: — || Sa Majesté l'Empereur d'Autriche, Roi de Bohême, &c., et Roi Apostolique de Hongrie adhère, pour ses États, à l'Arrangement conclu à Paris le 18 Mai, 1904 et destiné à réprimer la „Traite des Blanches," ainsi qu'à la déclaration contenue dans le Procès-verbal de Signature du 18 Mai, 1904, et concernant l'application du dit Arrangement aux Colonies respectives des Parties Contractantes. Il prend acte, en même temps, des énonciations insérées au dit Procès-verbal de Signature. || Le Ministre des Affaires Étrangères de la République Française, M. Th. Delcassé, au nom des Puissainces Signataires de l'Arrangement et du Procès-verbal précités, prend acte de cette déclaration d'adhésion.

En foi de quoi les Soussignés ont dressé le présent Acte, qu'ils ont revêtu de leurs cachets.

Fait en double, à Paris, le 18 Janvier, 1905.

(L.S.) (Signé) Delcassé.
(L.S.) (Signé) R. Khevenhüller.

Procès-Verbal de Dépôt de Ratifications sur l'Arrangement International, signé à Paris le 18 Mai, 1904, en vue d'assurer une Protection efficace contre le Trafic criminel connu sous le nom de „Traite des Blanches."

En exécution de l'Article 9 de l'Arrangement International du 18 Mai, 1904, les soussignés Représentants des Puissances co-signataires se sont réunis au Ministère des Affaires Étrangères à Paris, pour procéder au dépôt entre les mains du Gouvernement de la République Française des Ratifications des Hautes Puissances Contractantes, ce dépôt tenant lieu d'échange. || Les Instruments des Ratifications: — || 1° de Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et d'Irlande et des Territoires Britanniques au delà des Mers, Empereur des Indes; ||

2° de Sa Majesté l'Empereur d'Allemagne, Roi de Prusse; || 3° de Sa Majesté le Roi de Danemark; || 4° de Sa Majesté le Roi d'Espagne; || 5° de M. le Président de la République Française; || 6° de Sa Majesté le Roi d'Italie; || 7° de Sa Majesté l'Empereur de Toutes les Russies; || 8° de Sa Majesté le Roi de Suède et de Norvège; || 9° et du Conseil Fédéral Suisse; || ont été produits et ayant été, après examen, trouvés en bonne et due forme, sont confiés au Gouvernement de la République Française pour être déposés dans les archives du Département des Affaires Étrangères. || D'autre part, M. le Ministre de Belgique, M. le Ministre du Portugal, et M. le Ministre des Pays-Bas ayant demandé un délai pour accomplir cette formalité, les Soussignés sont convenus de charger le Gouvernement de la République Française de recevoir les Ratifications des dits Etats, qui devront les envoyer le 18 Juillet, 1905, au plus tard, date à laquelle l'Arrangement, conformément à l'Article 8, entrera en vigueur pour tous les États ayant alors ratifié. || Le Gouvernement Français donnera avis de ces dépôts successifs aux Puissances Contractantes.

En foi de quoi les Soussignés ont dressé le présent procès-verbal et y ont apposé leurs cachets.

Fait à Paris, le 18 Janvier, 1905. Unterschriften.

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