

## 第六章 青木外務大臣時代

### 第一節 對英交渉其他

三五〇 明治三十二年十二月二十四日 青木子爵書

#### 條約改正全權委員奉受ニ關スル覺書

註 以下青木子「條約改正記事」ノ記述ナリ

周藏之ヲ承ケテ外務大臣ノ職ニ任セラレタルハ實ニ明治三十二年十二月二十四日ニ在リ此日

天皇陛下ハ辱クヒ親ラ條約改正ニ關スル將來ノ方針ヲ規定シタル廟議決定案ヲ以テ周藏ニ下付遊サレ其案中ニ指定スル所ノ趣旨ヲ服膺シテ改正事業ニ從事スヘキ旨欽訓アラセラレ且直チニ條約改正全權委員ヲ勅命セラレタリ而シテ廟議決定案ノ要點ハ左ノ如シ

- 一 外國出身ノ法律家ヲ大審院ノ法官ニ任用セサル事
- 二 法典ヲ早ニ及テ編成公布スルコトヲ約束セサル事
- 三 不動産ノ所有權ハ領事裁判ヲ撤去セサル間ハ其抵償

シ難キノ情勢アリタルヲ以テ周藏ノ不敏ナル當時此大任ヲ負擔シ能ハサルノ感アリシト雖モ畏クモ

陛下ノ御信任ニ對シ奉リ鞠躬執掌スヘキハ固ヨリ臣子ノ分ナルノミナラス熟ラ考フルニ抑々條約改正ノ事業タル我政府カ二十年來爲政上ノ進歩主義ト共ニ把持スル所ノ目的ナリ此ノ目的ニシテ一旦蹉躓ニ遭遇シ驛カニ之ヲ抛棄シ願望退歩ノ痕迹ヲ示シ爲メニ内外ノ信用ヲ掃蕩スルカ如キアラハ萬般ノ緒業ハ頓ニ沮喪萎靡シテ終ニ振ハサルノ虞アリ故ニ假令事業ノ必成ハ未タ必ラスシモ期スヘキニ非スト雖トモ此際進テ談判ノ地歩ヲ繼續シ會テ失ヘルノ國權ヲ寸時モ早ク恢復スルニ情ルカ如キハ明治御創業ノ大旨ニ負クコトト確信シタリ是ヲ以テ直チニ全權委員ノ任ヲ奉受シ(タリ)

(下略)

三五二 明治三十二年十二月二十六日

英國公使ヨリ  
青木外務大臣宛

#### 面會時日問合ノ件

No. 48

H. B. M. Legation  
Tokio,

青木外務大臣時代 對英交渉 三五二、三五三

物トシテ之ヲ外國人ニ許與セサル事

四 外國人取扱上ニ付經濟上又ハ法律上或ル場合ニ於テハ特殊ノ制限ヲ設クル事

其末尾ニ曰ク大體ノ廟議一決シタル上ハ其範圍内ニ於テ全權ヲ實際ニ便宜運用スル改正事務ヲ委任サレタル其人ノ裁酌スル所ニ任スヘシ

以上一、二、三ノ諸項ハ前大臣大隈伯ノ案ニ於テ條約上已ニ其反對ノ意ヲ許諾シ且往々許與セントシタルヲ以テ大ニ輿論ノ排撃ヲ受ケタリ故ニ當時其修正ヲ提出スル事ハ固ヨリ萬止ムヲ得サル事情ナリキ然リト雖トモ嚮キニ英政府ハ大隈案ニスラ且同意ヲ表スルニ屑々タラス踴躍巡シテ終ニ時期ヲ誤ラシメタルノ事實アルニモ係ラス更ニ數歩ヲ進メテ該三項ノ外ニ第四項ノ修正ヲ加ヘテ談判ヲ繼續シ彼レノ協贊ヲ博シ輒ク條約ヲ締結シ得ルコトハ殆ント必成ヲ期

26, December 1889.

Monsieur le Ministre,

May I ask Your Excellency if it will be Convenient to receive me at any hour either to-morrow or the next day. The matter upon which I wish to confer with you relates to the negotiations for a revision of the Treaty between Great Britain and Japan which were interrupted by the accident to Your Excellency's predecessor.

I take this opportunity to renew to Your Excellency the assurance of my highest consideration.

Hugh Fraser

H. B. M's Minister in Japan

His Excellency

Viscount Aoki Shiuzo

&c. &c. &c.

三五二 明治三十二年十二月二十六日

青木外務大臣ヨリ  
英國公使宛

#### 面會時日問合ニ付回答ノ件

送第四一號

六二七

大不列顛國

特命全權公使 ヒュ一、フレゾル閣下

外務大臣子 青木周藏

貴本日附書翰接到致候陳ハ先大臣遭難ノ爲メ中止シタル貴我兩國間ノ條約談判ノ儀ニ關シ協議ノ爲メ御面談相成度キニ付明日若クニ明後日中何時都合宜敷キヤ御問合之趣致了承候就テハ明日午後二時ニ外務省ヘ御來訪相成候ハ、御面談可致候此段御回答得貴意候 敬具

三三三 明治二十三年十二月二十九日

英國公使ヨリ  
青木外務大臣宛

新提案ニ依ル談判開始方ノ件

(私信譯文)

謹啓陳者昨日親切ニ御來訪被下候儀ニ關シテハ左ノ事實ヲ御通知不致候テハ甚タ不本意ニ存候ニ付其趣此ニ開陳致候前金曜日外務省ニ於テ御談判致候旨趣ハ公然ノモノニシテ且ツ非常ニ緊要ナル事件ナレハ最早電信ヲ以テソリスベリ候ニ報道致候事ニ有之候自今ノ如キ時機ニ際シテハ苟モ

三五四 明治二十三年一月十五日

英國公使ヨリ  
青木外務大臣宛

新提案ニ付問合セノ件

(私信譯文)

謹啓陳者本日ハ閣下カ外務省ニ於ケル延見日ナリ然レトモ閣下ハ充分御多忙ナルヘキニ付若シ拙者カ參上致シ訪問者ノ一入ヲ加フルモ閣下ニ於テ別ニ御珍ラシキコトモ無之事ト信用致候閣下ハ拙者カ此ニ書面ヲ以テ二個ノ問題ヲ掲クルコトヲ許サレヨ

何ノ時拙者ハ條約改正ニ關シ新提案ニ接スルコトヲ得ヘキヤ

該提案カ河瀬子爵ニ發送セラル、便ト同時ニ右ニ關シ拙者ハ何分ノ報告ヲ致度ニ付ソリスベリ候ニ提出セラル、書式ト同様ノモノヲ前以テ拜觀スルヲ閣下ハ拙者ニ許サルヘキヤ

右ノ事件ニ就テハ決シテ突然タル仕方ニ出ツ可イラサル儀ト存候 敬具

千八百九十年一月十五日

フレ一ザ一

青木外務大臣時代 對英交渉 三五四、三五五

拙者ノ位地ニ當ル者ハ判然タル行爲ヲ取り明瞭ナル言語ヲ用ユルコトヲ事務ト可致儀ト存候去レハコソ拙者ハ拙者ノ位置及目的上ニ關シテ最モ素朴且直接ニ説言スルコトヲ適務ト思考候トモ閣下ニ於テハ決シテ之ヲ惡シクハ御聞取り被下間敷ト信用致候

條約改正ノ儀ニ關シテハ閣下ヨリ拙者ニ御打合セノ件ハ何タル新案ト雖トモ之ヲ審議スルコトハ實ニ希望スル所ニ候且又實際ニ行ヒ得ヘキ儀ナラハ拙者ノ權内ニ在ル限リハ此條約問題ヲ結了スルコトニ付何様ニモ盡力致ス儀ニ候但シ拙者ノ權力若クハ拙者ノ受帶シ居ル訓令ノ區域外ニ出ツル新基礎ニ就テ談判ヲ開クヘシトノ提議ニ協賛致スコトハ閣下ニ於テモ御希望不相成儀ト存候況シテ日本政府力會テ隨意ニ御議與相成候簡條(現行條約ヲ云)ヲ交換ナシニ取戻サント要求セラル、ニ於テハ拙者ノ職權内ノ問題ニハ無之候 敬具

千八百八十九年十二月二十九日

青木子閣下

フレ一ザ一

青木子爵閣下

註 青木外務大臣ノ「條約改正記事」ニハ「千八百九十一年一月十五日」附トアルモ明カニ誤記ト認メラル、ニ付訂正セリ

三五五 明治二十三年一月( )

青木外務大臣ヨリ  
英國公使宛

新提案ニ關スル回報ノ件

(私信譯文)

謹啓陳者閣下御推察ノ通り拙者ハ非常ニ多忙ニアリシヲ以テ直チニ閣下ノ御問題ニ返答致候事ニ有之候

拙者ハ遠カラス新條約改正案否ナ寧ロ現議案ニ關シ要用ナル修正案ヲ提出スルコトヲ得ヘシ殘念ナカラ今日ニ於テ確カニ其何ノ日ナルヤヲ指定スル能ハス尤モ本問題ニ關シ拙者ノ仕事ハ殆ント調成致候而シテ本問題ハ先ツ充分内閣ノ討議ヲ經タル後其決定案ヲ 皇帝陛下ニ上奏シ 敕旨ヲ領セサルヘカラス故ニ此等ノ手續ハ幾分ノ時日ヲ費スヘシト雖トモ拙者ハ實ニ閣下ニ於テモ其結果ハ却テ満足ナルヘキコトヲ御信用アルヘシト存候

拙者ハ閣下ト同様ニ本件ニ關シテハ何等突然タル仕方ハ總テ諱避スヘキ事ト存候就テハ拙者ハ公然タル提出ヲ爲スノ前ニ於テ該覺書ヲハ英政府ニ差出スト同様ノ書式ニ於テ閣下ノ一覽ニ供スヘク候 敬具

三五六 明治三十三年一月十日

青木外務大臣ヨリ  
徳川駐伊公使宛(往電)  
河瀬駐英公使宛

## 草案修正ニ關スル件

From Aoki to Kawase (London)  
and Tokugawa (Rome).

Japanese Government find it necessary to introduce following amendments into treaty-revision proposals.

First, withdrawal of Diplomatic Notes.

Second, rights of foreigners to own real-estate outside foreign settlements only to accrue upon final abolition of Consular Jurisdiction, but from date treaty takes effect right to rent real estate to be accorded.

Third, reciprocal reservation as to right of aliens

as sufficient reason for hurrying on negotiations.

Send copy of this telegram also to Saionji for his personal information.

Tokio (via Petersburg), Jan. 10, 1890.

註 イタリツクハ對英交渉ニ當リ河瀬公使ノ緯線シタルト  
コロナリ、次號參照

三五七 明治三十三年一月六日

河瀬駐英公使ヨリ  
青木外務大臣宛

## 大隈案修正方英政府ニ申入ノ件

第一號

三月十日到

條約改正ニ關スル別紙寫電信去ル十一日到達ソースバレー  
候ハ當時所勞中ニ付サー、トーマス、サングルソンニ翌々  
十三日面晤ヲ遂ケ右電報ノ旨意ヲ陳述致候處同氏云ク我新  
修正案提出ノ理由陳明ヲ待ツコトハ英政府ニ於テ之ヲ承認  
スベシト

同氏更ニ語ヲ續ケテ云ク自己ノ意見ヲ以テスレハ公文  
(Diplomatic Notes) 中ニハ裁判上ノ事項ヲ載有シ其件タ  
ルヤ條約改正上至重ノ關係ヲ有ス抑前年ノ東京會議ニテ協

to be placed on national footing more especially in matters relating to ownership of personal property such for instance as shares in Steamship Companies, Government and National banks &c.

I have verbally informed British Minister concerning these amendments and he has telegraphed British Government. I shall as soon as possible explain to British Minister why amendments are necessary and am confident explanation will prove satisfactory. Therefore request British Government to withhold judgment concerning amendments until Japanese Government can fully explain situation. You might verbally add that as your personal opinion that necessity for amendment arises in part at least from fact that as new treaties cannot now be put into operation until after meeting of Diet and as cooperation of Diet in enacting enabling laws in aid of treaties will then be indispensable it is essential for Japanese Government to conclude only such treaties as will receive approbation of Diet. You can also say from your knowledge that in presenting his proposals Count Okuma pressed this point upon attention of Trench

議ニ及ビタル該事項ニ關スル約束ト前般日本政府ヨリ提出  
ノ公文ニ載スルコロノ約束トハ非常ノ相違有之日本ハ通  
商ノ量多額ヲ有スル英國ニ取リテハ困難極メテ多シト雖モ  
日本政府ノ事務ヲシテ平易ナラシメ以テ兩國ノ好誼ヲ重厚  
ナラシメンカ爲メ後案ノ採用ニ盡力セシカ今又更ラニ我最  
モ重要視スルコロノ公文ヲ撤回セントノ請求アリテハ余  
ニ於テハ殆ト對フルトコロヲ知ラス日本ニモ黨議論ノ紛  
囂ナル事實有之ヘケレトモ英國トテモ亦タ同様ノ困難アル  
コトハ知ラルハトコロノ如シ

昨年中ノ談判ニ英政府ハ充分事ノ駿速ヲ圖リ電信ニテハ意  
味ノ貫徹シ難キ事ヲモ勉メテ電信ニテ往復ヲナセリ數友國  
ハ協議ヲ經ル爲メ些少ノ時日ヲ要セシコトアリシモ是亦日  
本政府ノ希望ヲ達セントノ便益ヲ計ルニ出タルコトナリキ  
右サングルソン氏ノ語氣ニ付其意ノ在ルトコロヲ推測致候  
得ハ日本政府ノ新修正說ハ殆ト英國政府ニテハ承諾シ得ヘ  
キノ望ナシトイフモノ、如ク被存候

將又別紙電信中朱筆ヲ以テ緯線ヲ引キシ部分ハ本使ニ於テ  
稍々遲疑スルトコロアリ且ツ當日談話中右點ニ言及スルノ  
緊急ヲ覺エサリシニ付差控置候

右中進候 敬具

明治廿三年一月十八日

特命全權公使 河瀬 眞 孝

外務大臣子 青 木 周 藏 殿

註―前掲電信ナリ

三五八 明治三十三年二月八日 閣議決定覺書

## 覺 書

竊ニ大隈伯閣下カ日本帝國ト條約關係ヲ有スル諸外國ニ對シ提出セル條約改正案ノ各國ヨリ受ケタル好遇ハ假令帝國政府ノ豫期ニ對シ満足ヲ與フルニ至ラザリシモ猶以テ我帝國ヲシテ其一大素志ヲ日ナラスシテ達シ得ヘシトノ囑望ヲ誘發セシメタリ帝國政府ハ斯ノ囑望ト豫期トニ據リ且下文ニ詳説スル諸理由ニ依リ宜シク新條約實施ノ時期ヲ一定スヘキノ必要ヲ感シ而シテ本件談判カ其初メニ於テ頗ル迅速ニ抄取リタリシコトト又從來帝國國際上ノ關係ヲ規定セル條約ニ代ルニ新條約ヲ以テスルカ如キハ後日ニ遠大ノ結果

セントスル以上ハ之ニ遭遇スルコトヲ避ケサルヘカラサル困難ノ事情必然現出シ來ラントスルモノアリタリ  
本年中ニハ帝國議會初メテ招集セラレ帝國憲法ハ帝國至高ノ法律ト成リ帝國人民自ラ代議士ヲ選舉シテ帝國ノ立法事務ニ參與スヘシ隨テ帝國政府ハ新條約ノ適當ニシテ且完全ナル實行ヲ爲スニ必須缺クヘカラサル許多ノ法律ニ付キ今日ニ在テ其制定ヲ保證シ得ル如ク將來ニ在テモ均シク之ヲ確然保證スルコト能ハサルナリ

以上叙述スル所ノ重要ナル事情ハ可成談判ノ速了ヲ促シ且早キニ及テ新條約ヲ實施スル期日ヲ撰定スルニ充分ナル理由トシテ前任外務大臣カ往日ノ談判中外國代表者ニ反覆明言シタルコトヘ今猶記憶ニ存スヘシ

而ルニ今ヤ帝國政府ハ當時改正事業ノ完了ニ至ルニ足レリトシテ指定シタル時日ノ充分ナラザリシコトヲ認ムルノ已ムヲ得サルニ至レリ隨テ今日ニ及テハ當時指定シタル期日ニ於テ改正條約ヲ實施セントスルモ到底爲シ得サルコトヲ知了セリ且目下談判ノ進度及ヒ此進度ニ達スルマデニ要シタル時日ニ於テ之ヲ考フルトキハ條約實施ノ期限ハ必ス憲法實施ノ後迄延ヘサルヘカラサルコトヲ確信ス若シ今日ノ

青木外務大臣時代 對英交渉 三五八

ヲ及ホスヘキ重要ノ事件タルコトヲ考察シ遂ニ我カ

皇帝陛下カ帝國憲法ヲ發布シ玉ヒタル一周年期ノ佳辰ヲ以テ新條約實施ノ期日トナスヲ最モ適當ナリト思惟シタリ然リト雖モ帝國政府カ此ノ如ク決定シタルハ猶他ニ更ニ重要ニシテ且實用ニ切ナル理由ノ存スルアリ他ナシ帝國政府ハ新條約ノ締盟ニ由リ諸外國人カ一般ニ得有シ得ヘキ利益ハ其何タルヲ問ハス可成同一時期ニ之ヲ享受セシメンコトヲ冀望シ獨リ帝國政府ノミナラス各條約國ノ冀望亦均シク此ノ如クナルヘシト信シタルコト是ナリ帝國政府ハ素ヨリ各國ニ對シ必ス同一時期ニ於テ舊條約ニ換フルニ新條約ヲ以テスヘキ條約上ノ義務アルニ非サルヲ知ル然レトモ若シ一定ノ期日ヲ撰フコトナク甲乙兩國ニ對シテハ新條約ヲ實行シ丙丁國ニ對シテハ現行條約ノ舊態ヲ存セハ隨テ之カ爲メ必要ナル著シキ差別ヲ各條約國民ノ間ニ設サルヲ得サルヘク其事ノ實際ニ困難ナルハ帝國政府ノ確信セシ所ナリ  
勿論此困難ハ新條約實施ノ期日ヲ定ムルニ千八百九十年二月十一日ヲ以テセス遠ク其以後ノ時日ヲ以テセハ或ハ之ヲ避クルコトヲ得シナルヘシト雖モ若シ此ノ如クスルトキハ之カ爲メ其間帝國政府ニ於テ各條約國ニ對スル信義ヲ完フ

現情ニ於テ依然改正事業ヲ斷行セサルヘカラサルモノトセシカ帝國政府ヲシテ自ラ背信ノ譏ヲ取ラシムルニ至ルモ知ルヘカラス何トナレハ則チ提出セル議案ニ修正ヲ加フルニ非サレハ帝國政府ハ新條約ノ實施上必要缺ク可カラサル諸法律ノ制定ヲ保證スルコト能ハサルヲ確信スレハナリ  
夫シ議會ハ自カラ能ク輿論ヲ反響スヘシ果シテ然レハ昨年後半期中條約改正ニ關セル人心ノ激昂及ヒ其激動ノ爲メニ生シタル所ノ世論ハ帝國政府ヲシテ現今ノ改正案ニ對シ如何ナル修正ヲ加フルコトヲ要スルヤヲ精覈ニ付度スルコトヲ得セシメタリ

事情已ニ此ノ如ク且帝國政府ニ於テ顯然タル立法部ノ反對ノ爲メニ完全ナル實施ヲ得難キ條約ヲ締結スルハ斷シテ之ヲ爲スヘカラサルモノト確信スルカ故ニ帝國政府ハ左ノ二箇ノ考案中其一ヲ撰ハサルヘカラス

## 第一 條約改正事業ヲ無期限ニ延期スル事

第二 條約ノ實施ニ關シ議會ノ協力ヲ得ルニ足ルヘキ

## 幾分ノ修正案ヲ提出スル事

右二箇ノ考案中ニ於テ帝國政府ハ之ヲ選フニ固ヨリ遲疑スル所ナキナリ帝國政府ハ此改正事業ノ爲メ許多ノ日子ト貴

六三三



重ナル努力トニ因テ是迄進ミタル功程ヲ徒勞ニ屬セシメサラントスル熱望及ヒ此問題ニ關シテハ常ニ公平適當ノ結局ヲ得ント欲スルノ素望ヲ懷ケルノミナラス更ニ肝要ナルハ憲法制度ト諸條約國カ其領事裁判ニ關係シテ要求セシ特免トハ兩者決シテ相併行スルコト能ハサルノ事實アリテ存スルニ因リ斷然第二ノ考案ヲ採ルヘキハ勢ノ止ムヲ得サル所ナリ況ンヤ茲ニ提出スル所ノ修正ハ必ス關係諸國ノ容ルル所タルヘキヲ信スルニ於テオヤ

第一 外國出身ノ裁判官ヲ大審院ニ任用スルコトニ關スル許約ノ取消

第二 帝國諸法律ノ調査編成及公布ニ關スル約款ノ撤回

第三 一般ニ外國人ヲシテ不動産ヲ所有セシムヘキ權利ニ關スル約款ノ撤回

但此修正ハ諸締盟國ノ臣民カ條約ニ據リ日本

ニ其效力ヲ及ホササルモノトス

以上ノ修正案ヲ提出シタル所以ノモノハ帝國政府ハ舊ニ議會ノ協力ヲ經ヘキ事項ニ關シテハ力メテ其期望ヲ豫察シテ措置スヘキ明白ノ義務アルニ依ルノミナラス殊ニ第一及ヒ第二ノ修正ニ關シテハ大ニ憲法ノ規定ニ關係ノ事由アルニ依ルナリ

第一ノ修正ニ關シテハ帝國ノ憲法ニ基ケル重要ノ官職ニ任用スルニ外國出身ヲ以テ必要ナル資格トスルカ如キ條約若クハ法律ハ法令ヒ憲法ノ明文ニ抵觸スルコトナキモノトスルモ尙ホ之ヲ其精神ニ背馳スルモノナリト云フノ議論ニ對シテ帝國政府ハ之ヲ反駁スルコト能ハサルナリ

將又第二ノ修正ニ就テハ將來ノ立法權ニ關スル約款ニシテ苟モ新憲法ニ基テ組織シタル政府ノ自由不羈ナル立法權ヲ檢束シ若クハ之ニ干渉セントスルカ如キモノアラハ帝國政府ハ假令ヒ之ヲ違憲ニアラスト視傲スモ到底策ノ得タルモノトスルコトヲ得ス故ニ帝國政府ハ今ノ時ニ及テ斯ノ如キ約款ニ固着スルノ不可ナルヲ信スルナリ

加之帝國政府ハ凡ソ司法及ヒ立法ニ關シテ與フヘキ保證ハ其保護セントスル利益ト須ラク權衡ヲ保タシメサルヘカラ

帝國ニ於テ一定ノ區域内ニ限リ現ニ享有スル所ノ借地權ニ對シテハ更ニ關係ヲ及ホスコトナシ

第四 外國人ヲシテ內國人同様ノ位地ヲ得セシムルコトニ關シ其權利ニ若干ノ制限ヲ設クルコト

右第一及ヒ第二ノ修正ハ二箇ノ外交告知書ノ撤回ヲ以テ之ヲ完成スルコトヲ得ヘシ

第三ノ修正ハ新條約草案第一條第三項ノ「不動産」及ヒ「不動産若クハ」ナル文字ヲ刪除スルヲ以テ足レリトス而シテ之ヲ刪除スルニ於テハ同第二條第二項ノ「隨意タルヘシ」ト「但」ノ間ニ「且適法ノ目的ニ供スル爲メナレハ其何事タルヲ問ハス土地、家屋及ヒ倉庫ヲ借受ケ之ヲ占有スルコトヲ得ヘシ」ナル約款ヲ挿入スルヲ要スルニ至ルヘク果シテ然ラハ帝國政府ハ之ヲ挿入スルコトニ同意スヘシ

第四ノ修正ハ第二條ノ末尾ニ左ノ條款ヲ加フレハ其意ヲ達スルヲ得ヘシ即チ「但本條及ヒ前條ニ掲ケタル約款ハ締盟國ノ各方ニ於テ各般ノ行政及ヒ警察事項ニ關スル國ノ主權ニ基ク所ノ法律、勅令及ヒ特種ノ規定ニシテ現ニ實施シ若クハ將來制定シ且諸外國人一般ニ適用スヘキモノニ對シ更

ナルモノト思量スルナリ嚮ニ改正案ヲ諸大國ニ提出スルニ方リテヤ未タ憲法ノ發布アラサリシノミナラス帝國政府ハ其發布後ト雖モ仍ホ久シキ間條約ノ實行ハ憲法實施ノ前ニ在ルヘント思惟シタリ然ルニ今ヤ

皇帝陛下ノ聖裁ヲ以テ其臣民ニ惠賜セラレタル恩旨ノ性質及ヒ範圍ハ既ニ世ノ洽ク知ル所ナリ又若シ新條約ニシテ締結セラルルトキハ其實施ハ憲法ノ下ニ屬シ且憲法ニ遵由セサルヘカラストノ事モ亦普ク公衆ノ知悉スル所ト爲レリ而シテ此等ノ事情及ヒ之ト均シク重大ナル事實即チ憲法アリテ人民ノ權利自由ヲ慎重ニ保護シ又人民ノ代議士ヲシテ諸法律ノ制定ニ參與セシムルノ事實ハ我政府ノ見ル所ヲ以テスレハ即チ此等ノ法律コソ常ニ内外人民ノ需求ニ適應スヘキヲ保證スルニ足ルヘキ理由ヲ具ヘタルモノト認メサルヘカラス

第三ノ修正ハ憲法上ノ問題ニ涉ルモノニ非ス而レトモ不動産ヲ所有スル特權ハ新條約ヲ以テ保證スル所ノ主要ナル權利ヲ完全ニ享有スル爲メニハ必ス缺クヘカラサルモノニ非ラサルナリ帝國政府ハ此事實アルニ依リ且本件ハ國際上ノ條約ヲ以テ規定セシヨリ寧ロ直接ニ自國ノ法律ノ規定ニ屬

スル性質ノモノタルコトハ一般ニ承認スル所ナルニ依リ本件ハ宜シク各國各自任意ノ處分ニ任スヘキモノト信スルナリ

第四即チ最後ノ修正ハ實ハ殆ント過慮ニ出ツト云フモ可ナリ何トナレハ帝國ノ政略上若クハ財政上ノ利害ニ直接ノ關係アル場合ニ於テ外國人ノ權利ニ關シ一般適宜ノ制限ヲ設クルハ帝國ノ本來固有ノ權利ニシテ現時ノ改正案ノ爲ニ毫モ妨害セラルルコトナケレハナリ是帝國政府ノ確信スル所ニシテ之ヲ諸外國ニ照シテ考察スルモ益々此意見ノ誤ラサルヲ知ルナリ然レトモ帝國政府ハ修正案ノ全體ニ就テ既ニ前段ニ開陳セル理由ヲ有スルノミナラス將來外國トノ交際上ニ付テハ毫モ異議誤解ヲ惹起スヘキ餘地ヲ殘ササランコトヲ熱望スルカ故ニ新條約中特ニ明文ヲ掲ケテ以テ其制限ノ意ヲ明ニセンコトヲ欲スルナリ

以上帝國政府カ今回ノ措置ヲ爲スノ已ムヲ得サルニ至リシ所以ノ事由ヲ忌憚隔意ナク陳述スル所ニシテ帝國政府ハ從來久シク結了セサル此改正問題ニ關シテ各締盟國ト完全ナル商定ヲ得ントシテ致々急ラサルノ一事ハ以テ此回モ諸外國ノ懇切ナル贊助ヲ受ルニ足ルノ價值アルコトヲ深ク冀望

the expectation entertained by the Imperial Government, that one of the most cherished aspirations of the Empire was about to be realized.

Laboring under the inspiration of that hope and expectation the Imperial Government, for the reasons which will hereafter be more fully explained, deemed it desirable to fix upon a day certain for bringing the new Treaties into operation, and taking into consideration the rapid progress made in the earlier stages of negotiations and the importance of an event, so far-reaching in its consequences, as the substitution of new Treaties in place of those that have hitherto regulated the International concerns of the Empire, it was thought to be altogether fitting and appropriate to name for the purpose, the first anniversary of the promulgation by His Imperial Majesty of the Constitution of the Empire.

The Imperial Government were, however, influenced in their determination by considerations of a still more serious and practical nature. They desired and they believed it to be the desire of all the Powers interested, that whatever advantages might accrue to

シ且豫期ス抑々今回ノ措置ハ條約改正ノ一大事業ヲ完結セントスル決心ヲ放棄スルノ意ニ出ルニ非ス其實歲月漸ク遷レハ事變隨テ生シ此大業ノ成功ヲ妨クルノ虞ナキニ非サルヲ以テ勉メテ之ヲ防遏シ以テ其成功ヲ速ナラシメントスルハ實ニ帝國政府ノ希望スル所ナルコトヲ爰ニ併セテ陳述ス而シテ帝國政府ハ此希望ヲ有シ且堅固ナル政策ノ方針ヲ執ルヲ以テ新條約ノ締盟ニ付時日ノ先後アルニ拘ラス其實施ハ同一時期ニ在ラシムルコトニ決意シタリ

## 註

青木子「條約改正記事」ニ曰、之ヲ英公使ニ示シテ懇談ヲ試ミ協議數回ニ及ヘリ但シ談判ノ際ニハ周藏ハ毎ニ我帝國モ亦タ立憲制度ヲ設ケタル今日トナリテハ間接ニモ議會ノ協賛ヲ得難キ意案ヲ提出スルハ到底人我ヲ欺罔スルノ識ヲ免レサル旨ヲ主張シタルニ英公使遂ニ大ニ覺悟スル所アリテ覺書ヲ英國首相ニ紹介スヘキ旨ヲ許諾シタリ云々

(右英譯) 二十三年二月八日附覺書譯文

## MEMORNDUM.

The friendly reception accorded to the Treaty-revision Proposals, which His Excellency Count Okuma presented to the Powers having Conventional relation with Japan, encouraged the hope, if it did not justify

foreigners generally from the new Arrangement, should, if possible, be enjoyed simultaneously by all. While the Imperial Government were well satisfied that no Conventional obligations resting upon them, made the synchronous substitution of new treaties in place of the existing Covenants, essential, they were nevertheless convinced of the practical difficulty of drawing such a marked distinction between the subjects and citizens of the different Powers, as would be necessary, if new Treaties with some of the Governments were put into force, while the *status quo* was maintained in respect of other States.

This difficulty, it is true, might have been avoided by selecting a more remote date than the 11th February, 1890, for giving effect to the amended Treaties, but such a solution would inevitably have raised up contingencies which the Imperial Government could not, with a proper appreciation of what was due to the Treaty Powers, encounter.

During the present year the first Imperial Diet will be convoked, and the Constitution will then become the Supreme Law of the land. The people, through

their chosen Representatives, will then have a voice in the legislation of the Empire and then the Imperial Government will not be in a position to pledge with the same degree of certainty as they would now be able to do, the enactment of those numerous enabling laws, which are absolutely essential to the proper and complete operation of the new Treaties.

These grave considerations, it will be remembered, were throughout the late negotiations, repeatedly and frankly presented to the Foreign Representatives, by the late Minister of State for Foreign Affairs, as a sufficient reason for pushing on negotiations with all convenient speed and for selecting an early date for putting the new Compacts into force.

The Imperial Government are now reluctantly compelled to admit that the time originally set apart by them for completing the work of Treaty-revision was insufficient, and they are consequently aware that it is now impossible to put the revised Treaties into operation on the date originally designated; while the present position of the negotiations, as well as the time it has already taken to reach that posi-

tion, enforces the conviction, that the postponement must extend beyond the date when the Constitution is to come into operation.

If, therefore, they should at the present time and under existing circumstances, push on without change, the work of Treaty-revision, they would lay themselves open to a charge of want of good faith, because they are convinced, that unless amendments are introduced into the present Proposals, the Imperial Government will be unable to secure the enactment of those laws in aid of the new Compacts which are regarded as essential.

The Diet will in a great measure naturally reflect public opinion, and consequently the public excitement on the subject of Treaty-revision which existed during the latter half of last year, and the public discussion consequent upon that excitement, have enabled the Imperial Government to gauge with accuracy, what modifications of the existing Scheme, are necessary.

In this situation of affairs, and impressed as they are with the conviction that under no circumstances would they be justified in concluding Treaties, which

in consequence of the known opposition of the Legislative Branch of the Government, could not be put into complete operation, but two alternatives present themselves to the consideration of the Imperial Government:

- 1st. To postpone indefinitely the work of Treaty-revision, or
- 2nd. To offer such amendments to the present Proposals, as will secure the cooperation of the Diet in putting the Treaties into force.

As between these two courses the Imperial Government cannot hesitate. Their anxious desire to preserve what has already been accomplished in the direction of Treaty-revision at the expense of so much time and enlightened labor; their constant and abiding wish to secure a fair and equitable solution of the question, and above all, the important consideration, that an irreconcilable incompatibility exists between Constitutional Institutions and those immunities which are claimed in connection with Consular jurisdiction, imperiously demand the unconditional acceptance of the latter alternative. And

they the more readily accede to that demand, as they feel confident that the suggested changes will prove acceptable to the Powers.

The modifications which the Imperial Government are convinced, would, on the one hand, serve to conciliate divergent opinions which the introduction into the Government of a new Legislative element, will create, and would, on the other hand remove from the arena of discussion, all questions concerning the Constitutionality of the Treaties, may be summarized as follows:

- 1st. The cancellation of the engagement concerning the appointment of Judges of foreign origin to the Daishin-In;
- 2nd. The withdrawal of the stipulation concerning the elaboration, codification and promulgation of the laws of the Empire;
- 3rd. The withdrawal of the stipulation concerning the right of foreigners generally to possess real-estate; it being understood that this amendment is not to affect the Conventional right at present enjoyed by the subjects and

citizens of the Treaty Powers, to lease land within certain defined localities in Japan, and

4th. The introduction of certain reservations in reference to the right of aliens to be placed upon a national footing.

The first and second of the proposed changes, could be accomplished by the withdrawal of the two Diplomatic Notes.

The third, could be secured by striking out the words "real-estate" and "real or" in the third paragraph of Article I, of the Draft Treaty. This elimination would render desirable, and the Imperial Government would consent, to the insertion of the following stipulation in the second paragraph of Article II, between the words "subjects" and "forming:" "and to hire and occupy lands, houses and ware-houses for all lawful purposes."

The fourth amendment would be effected by inserting at the end of Article II, the following clause: "It is understood, however, that the stipulations contained in this and the preceding Article, in no

wise affect the laws, decrees and special regulations based upon the sovereign power of the State, regarding administrative and police matters, now in force or which may hereafter be enacted in each of the two countries, and generally applicable to all foreigners."

Apart from the manifest duty devolving upon the Imperial Government, to anticipate as far as possible, the wishes of the Diet in a matter in which the active cooperation of that Body will be indispensable, they have been greatly influenced in their present action, at least so far as the first two suggested modifications are concerned, by Constitutional considerations.

Having regard to the first of the proposed amendments, the Imperial Government are unable to controvert the proposition, that any Conventional engagement or law, which makes alienage the chief essential qualification for appointment of office of trust under the Constitution of the Empire, is certainly antagonistic to the spirit, if not the letter, of that Instrument.

Turning to the second modification, the Imperial Government are of opinion that any engagements or stipulations in reference to future legislation, which in any wise hamper or attempt to interfere with the free and independent legislative functions of the Government as organized under the Constitution, must be regarded,—if not as unconstitutional,—certainly as impolitic and unwise, and they are consequently convinced that they ought not now to give their adhesion to them.

They are, moreover, constrained to think that the guarantees to be given by them in connection with jurisdiction and legislation, should only be commensurate with the interests to be subserved. When the proposals now under discussion were submitted to the Great Powers, not only had the Constitution not yet been proclaimed, but it was thought until long after the promulgation of the Great Charter, that in the matter of going into operation, the Treaties would take precedence over the Constitution. The nature and scope of the free and spontaneous grants made by His Imperial Majesty to His subjects, are now

known, and it is also known that the new Treaties when concluded, must come into force under and in subjection to the Constitution. These circumstances, and the no less important facts that the Constitution carefully guards and fully protects the rights and liberties of the people, and that under it, the Representatives of the people will have a voice in the enactment of the laws of the land, ought, in the judgment of the Imperial Government, to be regarded as a sufficient assurance that those laws will always be responsive to the requirements of the people—foreign as well as native.

There is no Constitutional question involved in the proposed third amendment. The privilege of owning real-estate is not essential to the perfect enjoyment of the principal rights guaranteed by the proposed Treaty. Having this fact in view as well as the consideration that the question is one which, it is generally admitted, appeals more directly to domestic legislation than to international regulation for adjustment, the Imperial Government are persuaded that it would be advisable to leave the subject to the un-

fettered disposition of the several Powers individually.

In reference to the proposed fourth and last modification, it may be stated that the change is suggested out of abundant caution. The Imperial Government are convinced,—and their judgment receives confirmation from the action of other Powers,—that there is nothing in the Treaty-revision Proposals as they stand at present, that would impair their natural and inherent right as a measure of self protection, to impose general and reasonable restrictions in respect of the rights of aliens, where the political or economic interests of the State are directly involved. Nevertheless, the Imperial Government are anxious to remove from their intercourse with other Powers, every possible cause for future discussion or misunderstanding, and for this reason, as well as the reasons already given which apply equally to all the proposed alterations, the Imperial Government desire the introduction of this express reservation in the new Treaties.

The Imperial Government have thus freely and frankly exposed the motive which have influenced

their action at the present juncture, in the confident hope and expectation that their efforts to bring about a perfect understanding upon the long pending question, will merit and secure, the friendly cooperation of the Powers. They hasten to add, that their present action implies no abandonment of their firm determination to push on to final completion the great work. On the contrary, they wish to expedite that work by effectually guarding against eventualities created by the lapse of time, which would seriously interfere with the desired consummation. In perfect harmony with that wish, as well as with the dictates of sound policy, is the determination of the Imperial Government to bring all the new Treaties into operation at the same time, regardless of the date of conclusion.

DEPARTMENT OF FOREIGN AFFAIRS,  
TOKIO, JAPAN, February 8th, 1890.

三九九

明治二十三年二月二十八日

青木外務大臣ヨリ  
英國公使宛

# 大隈案修正ニ關スル覺書送付件

大不列顛國特命全權公使

ヒュー・フレザー閣下

外務大臣子 青 木 周 藏

謹啓陳ハ貴我兩國間ニ存在スル條約ノ改正案ニ關シ帝國政府力若干ノ修正ヲ加フルノ必要ヲ感シタルコトハ業已ニ口述ヲ以テ閣下ニ通知シ置キタリ而シテ今茲ニ此通知ノ趣旨ニ基キ本件ニ關スル覺書ヲ閣下ニ呈ス尤モ此覺書ハ帝國政府力希望スル所ノ修正案ヲ掲載シ且ツ其修正ヲ加フルノ必要ナル所以ヲ腹藏ナク充分ニ説明スルモノナリ故ニ此書翰ヲ以テ右修正ノ目的效果及帝國政府ヲシテ其希望スル所ノ修正ハ大不列顛政府ニ於テ承諾アルヘキコトヲ確信セシメタル理由トヲ閣下ニ説明スルハ正シク本大臣ノ擔任ト爲レリ

此任ヲ盡スニ當リ本大臣ハ條約改正談判ノ沿革ヲ詳述スヘキ必要アルヲ見ス其沿革タルヤ一面ヨリ之ヲ見ルトキハ失望失敗ヲ重ネタルニ過キスト雖モ其全體ヲ通觀スルトキハ進歩的事業タルノ著明ナル實蹟アルハ帝國政府ノ欣喜ニ堪ヘサル所ナリ乃チ我帝國ノ制度ハ漸ク廣ク世ニ知ラレ三十

青木外務大臣時代 對英交渉 三九九

年來成就シタル文化ノ進歩モ以前ヨリハ尙ホ充分ニ詳知セラレ從テ日本ハ其舊時ノ條約ニ就キ何等ノ改訂ヲ要求シテ當然ナルヤハ從來ノ談判ニヨリ一層明瞭ニ了得セラルルニ至リシヲ以テ我 皇帝陛下ノ政府ト各締盟國トハ漸次其意見ノ全ク相符合スルノ時機ニ達シタリ故ニ帝國政府力再ヒ本件ノ議ヲ起スニ至リタルハ彼ノ久シク結了セサリシ問題ヲ迅速且穩當ニ調停スルノ望ナクシテ然ルニアラス而シテ本件ノ満足ナル結局ニ達センコトヲ勉ムルニ當リ帝國政府ハ大不列顛國皇帝陛下ノ政府ノ贊助ト協力トニ倚賴スルモノナリ

今般提議スル所ノ修正ヲ覺書ニ略叙スル所ノ順序ニ從テ説明スルニ當リ本大臣ハ第一ノ修正ニ關シ左ノ一事ヲ陳述スルヲ要ス即チ該修正ハ原提出案ニ載セタル日本裁判所ノ裁判權ヲ毫モ擴張センコトヲ期圖スルモノニ非スシテ單ニ外國出身ノ裁判官ヲ大審院ヨリ除却シ因テ日本裁判權ノ區域内ニ在テハ外國人ヲシテ一ニ内國ノ裁判ニ服從セシメントノ目的ニ止マルコト是ナリ

故ニ新條約實施ノ日ヨリ五箇年ノ間ハ日本裁判所ハ諸締盟國ノ臣民ニ對シテ強テ其裁判權ヲ執行スルヲ得ス之ニ反シ

六四三

テ此遷移期限ナル五箇年間ハ各締盟國ノ臣民ニシテ現行條約ニ據リ住居通商ノ權利ヲ有スル各地内ニ居留シ其業ヲ營ム者ハ專ラ自國裁判所ノ裁判權ニノミ服從スルコト猶ホ現時ノ如クナルヲ得ルナリ而シテ日本ノ裁判權ニ服從スルト否ヲ外國人ノ意向ニ放任スルノ制ヲ廢棄スルハ全ク五箇年經過ノ後ニ在ルモノニシテ此猶豫時間ハ則チ日本ニ滞在スル外國臣民ヲシテ帝國ノ法律ト司法制度ノ活用ヲ實驗シ各自ノ事業上新制度ニ對スル準備ヲ爲スノ機會ヲ得セシムヘシ

千八百五十八年ノ諸條約ハ其明文ニ據リ十四箇年ヲ經ルノ後ハ何時タリトモ改正シ得ヘキモノトス然リ而シテ該諸條約ノ臨時的性質ノモノタルコトハ實ニ明白ナルニモ拘ラス該諸條約ニ據リ外國人ヲシテ諸種ノ利益ヲ享有セシムルニ至リタルヲ以テ今日ニ在リテハ條約改正ノ難件ニ關シ最モ難題ナルモノノ一ヲ揭レハ則チ該利益ノ享有ト經驗上現行條約ニ加フルコトヲ必要トスル所ノ修正トノ間ニ穩當公平ナル處理ヲ成スコト是ナリ甚シキニ至リテハ現行條約ニ著シキ變更ヲ加フルトキハ其變更ノ爲メニ該利益ノ享有ヲ妨害シ若クハ毀損スルカ故ニ帝國政府ハ之ヲ賠償スルノ責ア

ルヘシト切論スルモノアルニ至レリ  
帝國政府ハ毫モ此ノ如キ賠償ノ責アルコトヲ是認スル能ハス併シ帝國政府カ觀察スル所ニ據レハ若シ今日ノ情勢ニ就テ困難ナル事實アリトセハ他日一定ノ期限間外國出身ノ裁判官ヲ大審院ニ任命スルニ因リ生スル所ノ情勢ニ就テモ亦均シク困難ナル事實アルコトハ明瞭ナリ例ヘハ外國人ヲ裁判官ニ任用スルノ擔保アルニ因リ外國ノ資本ハ帝國ノ内部ニ輸入セラレ外國ノ工業ハ全國ニ勃興スルト假定センカ其資本ヲ輸入シ其工業ヲ興スノ時ニ際シ存在セシ所ノ擔保ヲ十二箇年ノ後ニ於テ撤去スルノ困難ナルハ尙ホ目今外國人ノ既得權ト現行條約ニ必要ナリト思惟スル變更トヲ調和處理スルノ困難ト何ノ差異カ之レアラシ故ニ帝國政府ノ意見ニテハ外國資本カ内國ニ入來リテ漸ク固着スルニ及テ撤去スルコトアルカ如キ一時限リノ擔保ヲ設ケンヨリハ寧ロ結局外國資本ニ附着シテ離ルヘカラサル條件ヲ設ケ之レニ賴リテ以テ外國資本ノ内國ニ入ルヲ許スコソ策ノ得タルモノト爲スナリ

將又帝國政府カ外人ヲ日本裁判官ニ任命スルコトニ關スル約款ヲ取消スノ要用ヲ認ムル所以ノモノハ當ニ便宜上ノ計

畫ニ出ツルノミニ非ラスシテ現ニ存在シ若クハ領事裁判全廢前ニ必ス現出スヘキ日本ノ司法制度ニ關スル情態モ亦該約款ノ取消ヲ要スルニ正當ナルモノト信スルカ故ナリ

千八百七十二年ニ於テ司法事務ヲ行政部ヨリ分離シ專任裁判官ヲ以テ組織スル所ノ裁判所ヲ設立セリ之ヲ約言スレハ不羈獨立ナル司法制度ヲ創設シタリ此重要ナル改革ヲ經ルコト八年ニシテ現行刑法治罪法ヲ發布シ今ヨリ殆ソト六年前ニ當リ裁判官採用ノ爲メ法官登用試驗規則ヲ設ケタルニ爾來其施行ハ満足ナル結果ヲ呈シタリ而シテ最後ニ至リテ帝國憲法ヲ發布セリ此憲法タルヤ斯條約ノ締結批准ヲ經ル前ニ實施セラルヘシ該憲法ノ規定スル所ニ據レハ「司法權ハ法律ニ依リ裁判所之ヲ行フ」「裁判所ノ構成ハ法律ヲ以テ之ヲ定ム」「裁判官ハ法律ニ定メタル資格ヲ具フル者ヲ以テ之ニ任ス」「裁判官ハ刑法ノ宣告又ハ懲戒ノ處分ニ由ルノ外其職ヲ免セラルコトナシ」トアルナリ

此等ノ貴重ナル憲法上ノ擔保ニ附隨スルモノニ外ナラサレトモ尙ホ之ヲ確實ナラシメンカ爲メ帝國政府ハ近頃帝國裁判所ノ構成ニ完全ナル改正ヲ加フル所ノ法律ヲ發布シタリ此法律實施ノ期日ハ本年十一月一日ニ在ルナリ

斯ノ如ク司法制度改革ノ事業ハ漸次其歩ヲ進メテ遂ニ日本ハ其裁判官カ全ク行政部ノ權勢管理外ニ在リテ不羈獨立ナル地位ヲ占メタルコトヲ公言シ得ルニ要レリ

茲ニ修正條約ヲ明年中ニ實行ニ附スルモノト假定センカ簡單ナル計算ヲ以テ左ノ事實アルヲ察諒スルニ足ル即チ領事裁判權全廢ニ歸シ外國人ニ對シテ獨リ日本ノ裁判權ノミ其效力ヲ有スル時ニ至ラハ此新軍態ハ早既ニ二十五年間存在シタル裁判所ノ構成ト十六年間實行シタル刑法ノ成典トニ遭遇スヘク且又十二年間實行シ來レル競爭試驗ニ依リテ撰任セラレ六年間憲法ニ依リテ完全ナル獨立ト終身在職トヲ保證セラレタル裁判官ヲ見ルニ至ルヘシ

此等ノ重要ナル事實アルニ依リ今ヤ左ノ如ク斷言スルモ反駁ノ恐ナカルヘシ即チ日本ノ裁判所カ領事裁判所ニ代ハルニ於テハ外國人交渉ノ終審事件ハ嚴重ナル登用試驗ニ及第シ充分ニ日本ノ法律ニ熟達シタル上ニ泰西ノ法理ニ通曉シタル裁判官カ少クモ過半以上ヲ占ムル所ノ裁判所ニ於テ審判セララルヘシ

此等ノ考案ハ現ニ事實上ノ保證ナリ本大臣ハ已ニ帝國政府カ此等ノ考案ハ充分ノ保證ナルコトヲ確信スルコトヲ明言

セリ而シテ大不列顛國皇帝陛下ノ政府モ亦均シク該考案ヲ以テ充分ナル保證ト認メラルヘキハ帝國政府ノ敢テ希望スル所ナルコトヲ拙者ハ茲ニ併セテ陳言スルナリ

若シ此第一ノ修正ニ關スル希望ノ適切ナルヲ認メラルヘキ於テハ帝國政府ハ勿論第二ノ修正モ同様ニ受納セラルヘキヲ疑ハサルナリ何トナレハ立法ニ關スル實際ノ保證ハ現在實際ニ行ハル、司法制度ニ關スル事實上ノ保證ト同様ニ明確ナレハナリ抑々刑法及治罪法ノ發布セラレテヨリ茲ニ殆ント十星霜ヲ經過シタリ而シテ一年前ニ發布シタル憲法ハ將ニ數月以内ニ實施セラルヘシ將又帝國政府ハ數年間致々トシテ民法及商法ノ編成ニ從事シ而シテ此大事業ノ殆ント成就シテ遠カラス諸法典ヲ發布セラルヘキコトハ世間ノ公然知スル所ナリ且此等ノ法典ハ條約改正ノ爲メ其發布ヲ促カサルルノ事情アリタルニモ拘ラス今日ニ至ルマテ其發布ヲ爲ササリシ事實ハ則チ帝國政府カ新法典ノ完全整備スルヲ期シテ之ヲ發布スルコトニ深ク注意スルヲ見ルニ至ルヘシ

此等ノ事情ヲ併セテ之ヲ言ヘハ帝國政府ノ意見ニ於テハ假リニ彼ノ法律編纂ノ事ニ關シ外交告知書ニ掲クル所ノ擔保

時機ニ達スルヤ否ヤヲ占斷スルノ權利ヲ其掌握中ニ置クノ論旨ヲ乘ルモノナリ

第四ノ修正案ニ關シテハ左ノ事情ニ付閣下ノ注意ヲ喚起スルヲ以テ充分ナリト思考ス即チ此修正タルヤ單ニ千八百五十九年ノ英露條約第一條ノ末項ヲ摘採シタルモノナルコト是ナリ而シテ帝國政府カ此制限ヲ設クルヲ必要トスル重ナル理由ハ即チ帝國政府カ政治上若クハ財政上國家ノ利害ニ直接ノ關係ヲ有スル日本船舶ノ所有權若クハ日本銀行及其他同種類ノ會社等ニ於ケル株券ノ所有權ヲ必要アル場合ニ於テ故障ナク管理シ得ルニ在ルナリ

以上ハ帝國政府カ覺書ニ記載スル理由アルニ依リ條約改正ニ關シ修正案ヲ大不列顛國皇帝陛下ノ政府ニ提出スルヲ要スル所ノ論旨ノ要點ナリトス而シテ今之ヲ閣下ニ提出スルニ當リ本大臣ハ覺書ニ掲ケタル左ノ宣言即チ立憲制度ト治外法權トハ互ニ相抵觸シテ到底兩立シ得ヘキモノニ非ラスト云フ事ニ付閣下ノ注意ヲ喚起シ併セテ此宣言ハ毫モ威迫ノ意ヲ包含セス又將來ニ於ケル政略ノ赫々タル方針ヲ示サントスルニモアラサルコトヲ閣下ニ確言スルナリ

右ノ宣言ヲ爲スハ深ク其趣旨ノ誠實ナルコトヲ確信スルカ

ニ比スレハ一層確實ナルモノト云フヲ得ストスルモ之ト同一ノ價值ヲ有スル擔保ト爲ササルヲ得ス即チ日本ノ諸法律ハ目今ハ兎モアレ將ニ近世開明ノ精神ト併行スルニ至ルヘク而シテ縱ヘ諸法律中ニ舊慣ノ痕跡アリトスルモ外國人カ日本ノ裁判權ニ專屬スル前ニハ必ス其刪除ヲ見ルニ至ルヘキナリ

第三ノ修正案ニ付テハ帝國政府ハ別ニ其旨意ヲ敷衍スルノ要用ヲ見サルナリ但シ左ノ旨趣ヲ閣下ニ説明スルモ敢テ不可ナカルヘシ即チ帝國政府ハ永久所有權ヲ有スル小地主ノ増加ヲ獎勵スルヲ以テ政略トナス然ルニ千八百七十二年後數年間ニ於テ當時ノ永久借地人ニ無條款ニテ地券ヲ交付シ隨テ此等ノ借地人ヲシテ容易ニ其土地ヲ賣却シ若クハ抵當ト爲スコトヲ得セシムルニ至リタル經驗アルニ因リ若シ内地ヲ開クト同時ニ低利ナル外國資本ヲ輸入スルトセハ帝國政府カ穩當ナリト認メタル政略(特ニ耕作地ニ關シテ)モ幾分カ危險ニ陥ルノ虞ナキヲ得ス然ルニ此危險ハ帝國政府ノ斷定ニ於テハ内地ヲ開キ交通ヲ始ムル後數年間ニシテ其跡ヲ實際上ニ絶ツニ至ルヘシト雖モ帝國政府ハ寧ロ外國人ノ不動産所有權ニ關スル禁制ヲハ其安然無事ニ解キ得ヘキ

故ナリ而シテ覺書ニ於テ之ヲ説明辨解セサル所以ノモノハ蓋シ覺書ニ於テ之カ解釋辨護ヲ爲スカ如キハ或ハ其趣旨ノ確實ナラサルヤ否ノ點ニ付聊カ疑義ヲ喚起スルノ嫌アルヘシト思考セシニ由ルナリ然レトモ覺書ニ於テ説明スルノ不可ナルモノト雖モ本書ノ如キ書翰ニ於テ之ヲ説明スルハ敢テ失當ニアラサルヘシ

現今日本ニ於テ行ハル、カ如キ治外法權ハ立憲主義ノ行ハル、邦國ニ於テ未タ嘗テ存在セサリシモノニシテ而シテ如此相互ニ抵觸スル二原素ハ到底久シク兩立シ能ハサルモノト斷言スルモ本大臣ハ敢テ事實ヲ誤マラサルモノト確信スルナリ右ノ二原素ハ改正條約案ニ提議スルカ如キ短カキ期限内ニ相互ニ共存スルコトアルモ到底無窮ニ兩立ヲ期スヘキモノニ非ラサルナリ

斯ノ如ク相調和シ難キモノアルハ日本ノ舊條約中ニ明文アルカ故ニ敢テ然ルニアラス此種ノ特權免除ハ決シテ條約ノ明文ニ據リテ存在セルモノニアラスシテ其明文ヲ以テ規定スル所ノ權利ヲ適當且充分ニ享有センドスルニハ該特權免除ハ必要ナリトノ假定ニ基由スルモノナリ然レトモ帝國政府ハ曾テ此等假定ノ正當ナルヲ認メタルコトナシ

而シテ條約以外ノ免除ニシテ最モ直接ニ日本ノ主權ヲ犯シ且立憲主義ト牴牾スルモノハ立法ニ關スル事項是ナリ玆ニ法律ヲシテ充分ノ價值效果アラシメンカ爲メハ國內一般ニ必ス之ヲ適用スルコトヲ要スルモノアリ例ヘハ鳥獸獵規則、檢疫規則及局外中立ニ關スル法令等ノ如シ然ルニ此ノ如ク明白ナル必要アルニモ拘ラス或ル條約國ノ如キハ條約中ノ裁判權ニ關スル約款ニ附隨スル緊要ナル結果トシテ外國人ハ全ク日本ノ法律ニ服從スルコトヲ要セサルモノト主張シタルコトアリ

此問題ノ見解ニ就キテハ帝國政府ハ其國際條約ニ對シ此等ノ解釋ヲ以テ正當ナルモノト認メタルコトナシトノ事實ノミヲ開陳スルニ止メ更ニ本大臣ハ左ノ旨趣ヲ閣下ニ開陳セントス即チ帝國政府カ外國人ニ對シ保有スル立法權ニ關シテハ條約ノ解釋ニヨリ前記ノ如ク自然區々ノ議論ヲ生シ相牴觸スルノ虞アルカ故ニ帝國政府ハ内外人一般ニ適施スルヲ必要トスル法律ニ關シテハ諸條約國ト協議シ其協賛ヲ求メ以テ該議論ノ牴觸ヲ豫防スルニ盡力セシニ幾分ノ成效ナキニアラサリシコト是ナリ

現今ノ日本ニ於ケルカ如キ政體ノ組織ニ在テハ帝國一般ニ

然レトモ憲法上ノ事由アルノ外ニ日本ノ情勢ハ既ニ一變シ尙ホ現ニ變遷シツツアルヲ以テ今ヤ速ニ現行條約ニ廣濶ナル修正ヲ加フルコトハ當ニ便益ノミナラス復タ必要缺クヘカラサルモノタルコトヲ帝國政府ハ斷言セサルヲ得サルナリ

帝國政府カ此時ニ際シ目下審議中ナル改正案ニ關シ修正ヲ要求スルノ止ムヲ得サル事情ト帝國政府ヲシテ其希望スル修正ノ不條理ナラサルコトヲ確信セシムルノ理由トハ已ニ詳細ニ開陳シタルヲ以テ閣下ニ於テハ此事情ト理由トヲ貴政府ニ申稟シ且本件ニ關シ意見ノ交換ヲ勸告セラレシコトヲ希望ス但當初ニ於テハ貴政府ノ便宜ニ從ヒ其意見ヲ機密ニ附スルモ妨ナシ

帝國政府ハ此針路ニ據ルヲ以テ今回ノ談判カ彼我共ニ久シク熱望セシ結局ニ達スルニ至ランコト敢テ希望スルナリ尤モ直チニ満足ナル調和ヲ得ルニ於テハ必ラス關係諸國相互ノ利益ヲ増進スヘシト雖モ覺書ニ解說セシ如ク新條約ハ帝國議會開設ノ豫定期日ニ先タチ之ヲ實施スル能ハサルコト已ニ明瞭ナレハ強テ此大事業ノ速成ヲ要メタル主要ノ理由モ亦隨テ消滅シタリ故ニ今回ノ談判ニ於テハ完全ノ協和及

行ハルヘキ法律ニ關シ從前ノ如ク諸條約國ト協議スルコトヲ得ヘキモ一旦法律議定ノ權アル立法體ノ成立セラルル時ニ至テハ斯ノ如キ協議法ハ必然廢棄ニ屬セサルヲ得サルナリ

斯ノ如キ協議法ヲ無制限ニ繼續セントスレハ如何ナル結果ヲ生スヘキヤハ本大臣ノ能ク豫言シ得ヘキ所ニアラスト雖モ旅行、銃獵竝ニ鐵道、汽船ノ旅客及郵便、電信等ニ關スル法律規則ノ制定ノ如キ利益ヲ與フルト同時ニ義務ヲ負ハシムルモノニ至リテハ議會ハ其法律ヲ遵奉スルノ義務ヲ有セサル者ニハ其法律カ與フル所ノ利益ヲ享有セシメサルコトヲ主張スルヲ以テ正當ト看做スモ未タ知ルヘカラサルナリ帝國政府ハ右等ノ事故ニ遭遇スルコトヲ深ク遺憾トシ常ニ之ヲ避クルコトニ充分心力ヲ竭スヘシト雖モ領事裁判ニ關スル實際ノ情況ヲ考察スルトキハ右等ノ事故ノ生スルコトナキヲ保シ難シ

現今日本ト各國トノ關係ヲ規定スル所ノ條約ハ更ニ重要ナル變更ヲ加フルコトナク三十二年間存在セルトノ事實ニ就テハ帝國政府ハ敢テ苦情ヲ訴ヘサルノミナラス寧ろ之ヲ以テ國家避クヘカラサルノ經驗トシテ看過セント欲スルナリ

満足ナル意見ノ投合ヲ得ルニ最モ確信ナル擔保ト云フヘキ深思熟考ヲ以テ本問題ヲ處理スルコトヲ得ヘシ

右得貴意候 敬具

明治二十三年二月二十八日外務省ニ於テ

(右英文)

DEPARTMENT OF FOREIGN AFFAIRS,

TOKIO,.....1890.

Sir:

I have already announced to you verbally, that the Imperial Government have found it necessary to ask for the introduction of certain modifications into the depending proposals for the revision of the Treaties existing between our respective Governments, and in pursuance of that announcement, I now have the honor to transmit to you, a Memorandum which embodies the desired changes and contains as well, a full and frank exposition of the reasons which have rendered the introduction of amendments essential at this juncture.

It becomes my duty therefore, in this Note, to explain to you the scope and effect of those modifica-



tions and the actual considerations which have moved the Imperial Government to believe that the amendments will prove acceptable to the Government of .....

In acquitting myself of this duty, it is hardly necessary for me to dwell at length upon the history of Treaty-revision negotiations. It has, in a certain sense, been a history of disappointments and failures, but the Imperial Government are able to congratulate themselves upon the significant fact that it has, on the whole, been a history of progress. The wider knowledge of the institutions of this Empire; the more perfect appreciation of the enlightened progress Japan has made during the past three decades, and, consequently, the clearer comprehension, developed by these negotiations, of what amelioration of her ancient Treaties, Japan may rightfully demand, have gradually drawn His Imperial Majesty's Government and the Treaty Powers nearer to a common understanding.

It is therefore, not without hope of a speedy and amicable adjustment of the long pending question

national tribunals as they are at the present time, by remaining and carrying on their occupations within the boundaries of the several localities where they now have the right by Treaty to reside and trade. It is only after the expiration of five years that the voluntary features of Japanese jurisdiction over foreigners are to disappear, and the interim will afford aliens commorant in Japan, an opportunity to study the working of the laws and judiciary of the Empire and to adapt their concerns to the new system.

The Treaties of 1858, were by their own terms, subject to revision at any time after the expiration of fourteen years, but notwithstanding the expressly transitory nature of those compacts, interests have grown up under them, and to-day one of the most difficult problems connected with the difficult subject of Treaty-revision, is the fair and equitable adjustment of those interests to the amendments of the existing Treaties, which experience has proved to be desirable, and it has even been seriously suggested that any material modification of the Treaties, would

that the Imperial Government again approach the subject, and in their endeavor to reach a satisfactory conclusion, His Imperial Majesty's Government relay upon the assistance and friendly cooperation of..... Government.

Taking the proposed amendments in the order in which they are summarised in the Memorandum, I desire to say in reference to the first, that it does not contemplate any amplification whatever of the jurisdiction assigned under the original scheme, to Japanese Tribunals, but has solely for its object the elimination of the foreign element from the Bench of the Daishin In, and within the sphere of Japanese jurisdiction, the consequent subjection of foreigners to purely indigenous justice.

During the first quinquennial period the new Treaties are in operation, therefore, the Japanese Courts will not be able to exercise any compulsory jurisdiction whatever over the subjects and citizens of the Treaty Powers. On the contrary, such subjects and citizens may, during the transitory period, continue as exclusively within the jurisdiction of their

render the Imperial Government financially liable in respect of those interests, in so far as they were disturbed or impaired by such modifications.

The Imperial Government cannot for a moment admit any such liability, but they clearly perceive that what is true in respect of the present situation, would be equally true in respect of a situation created by the appointment for a limited period, of Judges of foreign origin to the Daishin In. If under the aegis of an undertaking to make such appointments, foreign capital should seek investment in the interior of the Empire and foreign industries should spring into existence throughout the land, it would be found to be as difficult at the expiration of twelve years, to withdraw those guarantees under which capital and industries had been introduced into Japan, as it is now to reconcile the interests of foreigners with those modifications of the existing Treaties which are deemed essential. In the opinion of the Imperial Government it would be the part of wisdom to allow capital and industries to seek homes in the interior of Japan, under those conditions and those

conditions alone, which must ultimately surround them, rather than to establish ephemeral guarantees, which, after the capital and industries become domesticated, may be withdrawn.

Nor is it alone as a measure of expediency that His Imperial Majesty's Government deem it advisable to eliminate the stipulation concerning the appointment of foreigners as Japanese Judges. They believe that the conditions connected with the administration of justice in Japan, which now exist, or which must inevitably come into existence prior to the final abolition of Consular jurisdiction, fully justify that course.

In 1872, a judicial system independent of the other branches of the administration, was organized; Courts presided over by Judges who performed no other functions, were established, and in short, a separate and independent service was then created. Eight years after that important event, the Criminal Code and the Code of Criminal Procedure, which are now in force, were promulgated. Nearly six years ago a system of competitive examinations for appoint-

ments to judgeships, was introduced and has ever since been in satisfactory operation, and finally the Constitution of the Empire, which will take effect before the new Treaties can be concluded and ratified, provides: That jurisdiction shall be exercised by the Courts of Law according to law; that the organization of the Courts of Law shall be determined by law; that the judges shall be appointed from among those who possess proper qualifications according to law, and that no judge shall be deprived of his position, unless by way of criminal sentence or disciplinary punishment.

In subjection to, but in aid nevertheless, of these high Constitutional guarantees, a new law providing for a comprehensive and complete reorganization of the Imperial Courts of Justice, has just been promulgated and will be brought into operation from the 1st November next.

Thus, step by step has the work of judicial reform gone on, until Japan can boast that her Bench is absolutely free and independent of Executive influence and control.

Assuming that the amended Treaties are brought into operation within the ensuing year, a simple calculation will show, that when Consular jurisdiction is finally abolished and Japanese jurisdiction in respect of foreigners loses its facultative characteristics, the new order of things will be met by a judicial organization of nearly a quarter of a century's existence; by a system of codified criminal laws of sixteen years' standing, and finally, by a Bench, in the selection of which the principle of competitive examination will have exercised a controlling influence for twelve years, and the perfect independence and permanency of tenure of which, will have been Constitutionally guaranteed for six years.

In the light of these important facts, it may be asserted without fear of contradiction, that when Japanese tribunals supersede Consular Courts, no case in which a foreigner is interested will ever be tried in last instance, except by a Court composed at least of a majority of Judges who have submitted to the test of a severe competitive examination and are consequently well grounded in the principles of

western jurisprudence, besides being thoroughly conversant with the laws of Japan.

These considerations are guarantees of fact. I have already expressed the conviction entertained by His Imperial Majesty's Government of their sufficiency and you will, I am sure, permit me to add that the Imperial Government venture to hope that the Government of..... may be disposed to regard them in an equally favorable light.

If this hope is realized in reference to the first amendment, the Imperial Government cannot doubt that the second modification will be accorded the same favorable reception, as guarantees of fact in connection with legislation, fully as conclusive as those relating to the judiciary, actually exist at the present moment. Nearly ten years have elapsed since the Criminal Code and the Code of Criminal Procedure were promulgated, and the time can now only be reckoned by months before the Constitution, which was promulgated a year ago, will come into force. The Imperial Government have for years been actively engaged in the labor of elaborating Civil and

Commercial Codes, and it is a matter of public notoriety that these great works are nearly completed and will are long be proclaimed. And the fact that they have not already been promulgated, in the presence of so many inducements connected with Treaty-revision, betrays the solicitude of the Imperial Government that when issued, they shall be complete.

These circumstances united, form in the opinion of the Imperial Government an assurance as strong, if not stronger, than the guarantees contained in the Diplomatic Note concerning legislation, that the laws of Japan will be, if they are not now abreast of the advanced spirit of the age, and that from them, every vestige of archaic principles, if any yet remain, will be eliminated before Japanese Jurisdiction becomes absolute.

It is not deemed necessary to enlarge upon the desirability of the third of the proposed amendments. It is not, however, out of place for me to explain to you, that it is the policy of His Imperial Majesty's Government to encourage small and permanent holdings of real-estate, and that their experience during

the years immediately succeeding 1872, when unconditional title-deeds were issued to the then permanent tenants, whereby those tenants were enabled readily to sell and mortgage their property, teaches them, that the policy which they deem it prudent to pursue, especially in respect of agricultural lands, would be endangered by the introduction of cheap foreign capital into the interior contemporaneously with the opening of the country. This danger would, however, in the judgment of His Imperial Majesty's Government, practically disappear after a few years of intercourse, such as the opening of the interior would inaugurate, but they are of opinion, that they should retain the power to determine when the inhibition concerning the right of aliens to own real-estate in Japan, can be safely removed.

In reference to the fourth amendment, it is sufficient for me to call your attention to the fact that it is in principle, a reproduction of the concluding paragraph of Article....., of the Treaty of..... between ..... and Russia, and that the chief reason why the Imperial Government seek to introduce the reserva-

tion, is to enable them without question, to control, if necessary, the ownership of Japanese vessels and shares in the Bank of Japan, and cognate institutions, in which the interests, either political or economical, of the State, are directly involved.

These are the principal arguments that have occurred to the Imperial Government, in support of the amendments to the Treaty-revision Proposals, which they have for the reasons given in the Memorandum, felt bound to submit to the Government of.....

In presenting them to you, I desire to invite your attention to the declaration contained in the Memorandum, to the effect, that "an irreconcilable incompatibility exists between Constitutional Institutions and those immunities which are claimed in connection with Consular Jurisdiction," and at the same time, to assure you that the proposition implies no menace whatever, neither is it intended to indicate in any event, any particular line of policy in the future.

It was made with a profound conviction of its absolute verity. It was not explained or defended in

the Memorandum, because it was thought that any attempt to expound or vindicate it at that moment, might suggest a doubt as to its perfect soundness, but what would have been inopportune in the Memorandum, is not out of place in a communication of this nature.

I am, I believe, perfectly correct in asserting, that Consular jurisdiction, as it is understood and practiced at the present time in Japan, has never existed in a country in which Constitutional principles prevailed, and I think I am equally correct in declaring, that two elements, so antagonistic, cannot long abide together. They may exist side by side for a short time as is contemplated in the present proposals, but they cannot united, stand the strain of indefinite prolongation.

The actual stipulations contained in Japan's ancient Treaties are not so directly responsible for that incompatibility, as are the privileges and immunities, which are destitute of any express warrant for their existence, but which have been claimed upon the supposition,—a supposition which the Imperial Go-

vernment do not share,—that they are essential to the proper and complete enjoyment of guaranteed rights.

The extra-conventional immunities which trench more directly upon the sovereign rights of Japan, and are at the same time, more diametrically opposed to Constitutional principles than any others, are those relating to legislation.

There are certain laws, which, in order to be of any value of effect whatever, must necessarily be territorial in their application, such for instance, as the enactments relating to game, quarantine and neutrality. Notwithstanding this manifest necessity, some of the Powers have claimed, that the jurisdictional stipulations in the Treaties carry with them as an essential incident, complete immunity on the part of foreigners from obedience to Japanese laws.

Without pausing at the moment to discuss this aspect of the question farther than to remark, that the Imperial Government have never admitted the validity of such an interpretation of their international engagements, it is proper for me to point

out that His Imperial Majesty's Government, by consulting the wishes and thus securing the cooperation of the Powers concerning those laws which of necessity must be universal in their operation, have constantly endeavored, and not without some measure of success, to prevent those conflicts in reference to the reserved legislative power of the Imperial Government in respect of foreigners, which would, otherwise, naturally have grown out of the interpretations of Conventional stipulations, so antagonistic as those above alluded to.

While it might be possible under a Governmental organization such as exists in Japan to-day, to continue thus to *negotiate* the general laws of the Empire, it is clear, that in the presence of a Legislative Body, possessed of power to *enact* laws, that system must inevitably disappear.

It is impossible for me to predict what all the consequences of an attempt to perpetuate that system indefinitely would be, but it may well be imagined that, in respect of those enactments which confer benefits as well as impose obligations, such for in-

stance, as the laws and regulations relating to travel; hunting; railway and steamship passenger traffic, and the postal and telegraphic services, the Diet might deem it but just and proper to insist, that those who were not bound to observe the laws, should be excluded from the benefits of the statutes. The Imperial Government would seriously deprecate such a conjuncture and they would always exert their best endeavors to avert it, but in giving consideration to all the phases of Consular jurisdiction, this contingency ought not to be ignored.

The Treaties which to-day form the basis upon which Japan's international relations rest, have existed without material modifications, for two and thirty years. Of this fact, however, the Imperial Government do not complain. They prefer to regard it as an inevitable part of their national discipline, but they can no longer avoid the conclusion that, apart from Constitutional considerations, the changed and changing condition of affairs in Japan, render an immediate and comprehensive revision of the existing compacts, not only desirable, but necessary.

Having thus fully laid before you the circumstances which have compelled the Imperial Government at this moment to ask for amendments to the proposals now under discussion, and the considerations which have led them to believe that the desired amendments are not unreasonable, I beg you will submit those circumstances and considerations to the Government of....., and at the same time, invite them to an exchange of ideas—confidential at the outset if deemed preferable—on the subject.

By the adoption of this course, the Imperial Government permit themselves to hope, that the new negotiations will lead to that conclusion, which has, on all sides, been long and anxiously awaited. To bring about a satisfactory accommodation at once, would certainly contribute to the mutual benefit of the Powers interested. Nevertheless, it is apparent, as was pointed out in the Memorandum, that the new Treaties cannot be brought into operation in advance of the anticipated meeting of the Diet, and consequently, the chief inducement for pushing on unduly the great work, has been removed, and the subject

may now be approached with that deliberation and thoroughness, which are and must remain, the best guarantees of perfect accord and a satisfactory understanding.

I avail myself of this occasion, to renew to you the assurances of my highest consideration.

(Signed) AOKI.

譯 露書々前掲ニ付省略々三五六八參照

青木子「條約改正記事」ニ由リ  
右ノ露書及書翰ハ「ペルー」及墨西哥國ヲ除クノ外三  
月一日及二日ヲ以テ各歐米締盟國及布哇國政府ノ代表  
者ニモ他日ノ談判ヲ豫知スル參考書類トシテ交付シ漸  
ク改正談判ノ新地歩ヲ占メタリキ依テ該兩種ノ書ハ在  
外我帝國公使ヲモ送付(三六三文書)シ母ヤリ御展  
「シーボルト」男爵ニ内訓シテ竊カリ英政府ニ遊説シ  
及同國並ニ歐洲大陸ノ新聞紙ヲ利用シテ我政府ノ所在  
等ヲ各國ノ公衆ニ露示セシメタリ

三六〇 明治二十三年三月一日 廣伊英佛各公使ヨリ  
乃 至 三十一日 青木外務大臣宛

rapports avec le Gouvernement Impérial du Japon ont été de tout temps empreints.

Veillez agréer, Monsieur le Ministre, l'assurance de ma plus haute considération.

V. Biegeleben

Son Excellence

Monsieur le Conte Aoki,

Ministre des Affaires Etrangères,

Tokio.

11 伊國公使來翰

Tokio, le 2 Mars 1890.

Monsieur le Ministre,

J'ai l'honneur d'accuser réception à Votre Excellence de Sa Note du 28 du mois passé concernant la révision des traités qui existent entre les Puissances Occidentales et l'Empire du Japon. Le Memorandum que Votre Excellence vient de me transmettre par cette Note, ainsi que celui qu'Elle a bien voulu me remettre précédemment, pour mon information "pensez-m'en" à notre entrevue du 13 du même mois de Février, centiennent des bases de négociation qui outrepassent les pouvoirs qui m'ont été conférés par les instructions

大隈總督ヨリ關スル露書總收ノ件

1 廣國公使來翰

Tokio, le 1-er Mars 1890.

Monsieur le Ministre,

J'ai en l'honneur, aujourd'hui, de recevoir le Memorandum en date du 8 Février dernier ainsi que la note explicative confidentielle en dete d'hier, par lesquels Votre Excellence veut bien m'annoncer la résolution du Gouvernement Impérial de retirer certaines propositions qu'il avait faites au commencement de l'année dernière aux Puissances Occidentales au sujet de la revision des traités existant entre le Japon et ces Puissances, et me faire connaître en même temps les nouvelles propositions du Gouvernement Japonais, ainsi que les considérations que ont déterminé, de sa part, ce changement de disposition.

Conformément au désir de Votre Excellence, je ne manquerai pas de transmettre cette communication importante au Gouvernement Impérial et Royal, qui, j'en suis convaincu, la prendra en examen dans le même esprit d'équité et de bienveillance dont ses

de mon Gouvernement. Je dois, par conséquent, m'obtenir de tout examen comme de toute opinion et me borner à la transmission pure et simple de ces documents à Son excellence le Ministre des Affaires Etrangères du Roi, mon Augustus Souverain.

Je saisis cette occasion pour Vous renouveler,

Monsieur le Visconte, les assurances de ma plus haute considération.

R. de Martino

A Son Excellence

Le Visconte Aoki

Ministre des Affaires Etrangères

etc. etc. etc.

111 英國公使來翰

Tokio, March 5, 1890.

Monsieur le Ministre,

I have the honour to acknowledge the receipt of the Note which Your Excellency was good enough to adress to me on the 28th ultimo, and of its enclosure, an Memorandum upon the subject of Treaty Revision to be communicated to my Government.

I avail myself of this opportunity to renew to Your

Excellency the assurance of my highest consideration.

Hugh Fraser

N. B. M's. Minister in  
Japan.

His Excellency

Viscount Aoki Shinuzo

&c. &c. &c.

四 帝國公使館長様

Tokio, le 21 Mars 1890.

Monsieur le Visconte,

Par une lettre en date du 28 février dernier, Votre Excellence m'a fait l'honneur de m'adresser un memorandum dans lequel sont indiquées les modifications que le Gouvernement Impérial désirerait apporter au projet de traité que, vers la fin de l'année 1888, il a présenté à l'acceptation des Puissances.

Je me suis empressé, Monsieur le Viconte, comme c'était mon devoir, de communiquer le memorandum ainsi que la lettre de Votre Excellence au Gouvernement de la République, sans attendre les éclaircissements que ces documents me paraissent, comporter et que prochainement je prendrai la liberté de solliciter

de votre bienveillance.

Il ne m'appartient pas, dans les circonstances actuelles, de rechercher si une entente est possible sur telle ou telle des propositions qu'à pu formuler Votre Excellence. Je ne saurais, toutefois, me dispenser de relever l'opposition qui paraît exister entre les propositions contenues dans le memorandum et les clauses des traités signés dans le courant de l'année dernière par les plénipotentiaires du Japon et ceux de plusieurs Puissances étrangères. Il y a là une question préjudicielle que je prends la liberté de signaler à l'attention de Votre Excellence.

Veillez agréer, Monsieur le Viconte, les assurances de ma très haute considération.

A. Sienkiewicz.

Son Excellence

Monsieur le Viconte Aoki,

Ministre des Affaires Etrangères

三六二 明治三十二年三月十四日 青木外務大臣ヨリ  
露國公使宛

大露國公使ヨリ露國公使宛ノ件

Confidential

Department of Foreign Affairs,  
Tokio, March 4th 1890.

My dear Mr. Minister:

I beg to hand you herewith a copy of the Memorandum and accompanying Note on the subject of Treaty revision which I have addressed to H. B. M's Minister.

The fact that the Treaty between our respective Governments has, as you are well aware, prevented the Imperial Government from approaching Your Government officially on the subject until after progress in negotiations is made with those Powers that have not yet signed Revised Treaties.

In the meantime I beg that you will regard this Note and accompanying papers as strictly confidential and believe me

I am very faithfully yours.

Aoki

譯 露書及附屬書類收省路ノ

三六二 明治三十二年三月十四日 露國公使ヨリ  
青木外務大臣宛

修田三關スル書類領收ノ件

Particulière. Tokio, le 21 fevries, 1890.

5 mars

Monsieur le Ministre,

J'ai l'honneur d'accuser réception à Votre Excellence de Sa lettre *privée et confidentielle* d'hier par laquelle Elle a bien voulu me transmettre pour mon information personnelle, une copie de Sa note au Ministre de la Grande Bretagne à Takio en date du 28 février dernier, accompagnant un *memorandum* relatif à la révision des traités et annexée également à Sa lettre susmentionnée.

Veillez agréer, Monsieur le Ministre, l'assurance de ma plus haute considération.

Schewitch

三六三 明治三三年三月七日 青木外務大臣ヨリ 在歐米各帝國公使宛

大隈案修正二付テノ覺書送付ノ件

在歐米各公使宛(八名)

外務大臣子 青木 周藏

送第一五〇號

大隈伯遭難以後從前帝國政府ト諸外國トノ間ニ網繆セル條約改正事務ニ關シ重劇ナル更變惹生シタルヲ以テ本大臣ハ我陛下ノ聖旨ヲ奉戴シ別紙ノ覺書及附帶ノ書翰ヲ在本邦、英、佛、伊、埃、葡、西班牙、白耳義等ノ各公使ニ提出シ從前提出シタル改正案中更ニ修正ヲ要求スルノ已ムル得サル位置ニ遭遇シタリ

抑貴官ノ諒知セラル、如ク大隈伯カ條約實施ノ期日ヲ本年二月十一日ト豫定シタルノ原意ハ議會開設前ニ新條約實施ニ必要ナル諸般ノ法律ヲ準備スルノ猶豫期日ヲ求メタルニ外ナラス然ルニ大不顧國政府力執議下ラス容易ニ商認調印ヲ肯ハニ爲、ニ時日ヲ遷延シ終ニ十月十八日ノ異變ヲ釀成シ十二月ニ至リ同伯ハ外務大臣ノ職ヲ辭シタルヲ以テ二月十一日ヲ以テ新條約實施ノ計畫即開設前ニ於テ條約實施ノ

準備ヲ整理スルノ企圖ハ畫餅ニ屬シ終ニ屬シ得ヘカサルノ業ニ歸セリ是ニ於テ廟議ハ改正重業ニ關シ斷然從來ノ讓歩手段ヲ棄絶シ更ニ更ニ彼我對等條約ヲ締結スルコトニ決定シ本大臣ニ囑シ修正案ヲ提出セシメタリ此際本大臣ハ攷々砥勵慮ヲ竭シ思フ彈シテ專ラ彼此ノ協和ト自他ノ便益ヲ増進スルノ途ヲ講究セシニ到底三十年來ノ積習固弊ハ彼ヲシテ特准裨益ヲ得セシメ牢乎トシテ動スヘカラサルモノアリ若シ一朝ニシテ之ヲ滌掃シ本ヲ拔キ源ヲ塞キ彼我對等ノ平均ヲ恢復セント欲セハ固ク樽俎辭令ノ間ニ折衝シテ能ク其志望ヲ達スヘキニ非ラサルナリ故ニ本大臣ハ巧言令辭ヲ以テ目前ヲ彌縫シ模稜技術ヲ以テ事ニ蒞ムノ手段ニ憑ルヲ屑トセス特ニ斷乎トシテ立憲國ノ制度ニ適合セス且内國民ノ福利ヲ損傷スルノ條約ヲ締結スル能ハサルノ旨ヲ明告セリ是レ外ニ對シテハ堂々タル大國ノ體裁ヲ失ハス内ニ對シテハ國權ヲ鞏固ニシ福利ヲ増進スルノ誠意ヲ表彰スルモノナリ本大臣ノ旨趣實ニ此ニ在リ故ニ貴官ニ於テモ覺書及附帶ノ書翰ヲ熟覽アラハ必ラス行文ノ溫和ナルニ拘ラス旨趣ノ斟酌ナルコトヲ洞察セラルヘシ而シテ貴官ハ善ク本大臣ノ誠意ヲ體膺シ此方針ヲ遵守シ任國政府ト交渉談判ノ際成

ルヘク溫潤和厚ナル辭令ヲ以テ嶄峻強硬ナル旨趣ヲ貫徹スルノ道ヲ務メラルコト希望ニ堪エス將又應機制變方ニ隨ヒ宜ヲ得ルニ至リテハ貴官ノ誠意從事時ヲ度リ慮ヲ致スニアリトス右訓令致候也

獨、露へ

尙々覺書及附帶書翰ハ在本邦獨露公使へ參考之爲ノ交附候ニ付無論其政府へ通知致候事ト存候此段爲念申添候也

米へ

尙々覺書ハ在本邦米公使へ參考之爲メ交付致候ニ付無論其政府へ通知致候事ト存候此段爲念申添候也

蘭へ

尙々蘭、丁抹、瑞典、諸威國ニ對スル覺書及附帶ノ書翰ハ兩三日中ニ蘭代理公使へ差出ス管ニ有之候此段申添候也

戸田公使へ

尙々瑞西ニ對スル覺書及附帶ノ書翰ハ次便ニテ差遣候間同政府へ對スル談判ノ手續ハ夫返ハ御見合相成度候也

註 米、獨、露ハ既ニ條約ニ調印シ居リ修正案ヲ提出スルノ節地ナキヲ以テ右三國公使へハ單ニ「參考ノ爲ノ」覺書及附帶書翰ヲ送附シタルモノナリ

尙々覺書及附帶書翰ハ前出ニ付參照

三六四 明治三三年五月廿日 西駐露公使ヨリ 青木外務大臣宛

我修正案ニ對スル露國側ノ態度ニ關スル件

第六號

六月三十日到

條約改正事件ニ付本年三月七日付第一五〇號<sup>1</sup>ヲ以テ御申越ノ趣拜承仍テ右ニ關シ閣下ヨリ各國政府へ御提出相成候覺書并ニ書翰等閱讀數回御主意ノ在ル所逐一致了承候ニ付過日當國外務大臣ギルス氏ニ面接ノ序ヲ以テ右覺書等ノ事ハ最早セーウキチ公使ヨリ通知相成候哉ト相尋候處其事ハ未タ承知セストノ事ニ付拙官右覺書ノ大意ヲ陳述シタル上ニテ本邦ニ於テモ到底一度ハ此地位ニ達セサルヘカラサル事ナレハ今我政府ノ此ニ一決セシハ拙官ニ於テハ甚タ喜フ所ニ有之候尤貴政府ニ於テハ初ヨリ好意ヲ表シテ我ニ満足ヲ與ヘラレシ事ナレハ今回ノ提出案ハ大體上貴政府ニ關係ス

ル所少キ儀ニハ候ヘ共自ラ御協議ニ及フコトモ可有之候得ハ尙ホ乍此上閣下ノ御幫助ヲ仰クトノ趣ヲ申添ヘ候處同氏ハ當方ニ於テハ貴國ニ幫助スルノ機會ヲ得ルハ常ニ喜フ所ナリ猶ホ右覺書等篤ト閱讀スヘシト答ヘ候依テ又亞細亞局長ジノウキエフ氏ニ接シ右書類到達セシ哉否相尋候處同氏ハ既ニ之ヲ領受セリトノ事ニ付本邦之事情ハ追々貴國ニモ達シタルヘシ我方ニ於テ今日ノ場合ニ到リテハ本件ヲ處スルノ法右覺書并ニ書翰ニ記載スル所ノ外良策ナキコトハ貴官ニ於テモ御同意ナラン如何ト尋ネ候處ジノウキエフ氏ハ之ニ同意之旨ヲ表シ且申スニハ吾輩ハ貴國ニ於テ將來如何ナル變革ヲ來スコトアルモ外國人ニ對シテ其保護ヲ忽諸ニセラルハカ如キ虞ハ萬々可無之ト信シ居候故別ニ異論ナシ唯此上ハ貴政府ニ於テ毫モ讓與スル所ナク御一決通りニ改正之主意ヲ悉ク貫徹セシメラレンコトヲ希望スルノミト右ハ今般ノ覺書ニ付テ相話シタル大略ニ御座候尤本件ニ付テハセノウキエフ氏公使ヨリモ我邦ノ權理ヲ重シ善ク掣成シテ申越候哉ニ被伺候右爲御心得申進置候 敬具

明治二十三年五月十四日

在露國特命全權公使 西 德二郎

外務大臣子 青 木 周 藏 殿

(右原文)

Karusawa

July 15, 1890.

Monsieur le Ministre,

I did not fail to communicate at once to the Marquis of Salisbury the proposals in regard to Treaty Revision which Your Excellency did me the honour to confide me for that purpose in the beginning of March last. They received immediate consideration, and the reply of Her Majesty's Government has just been transmitted to me.

I hasten, therefore, to place in Your Excellency's hands by the direction of Her Majesty's Secretary of State for Foreign Affairs the accompanying papers, namely the copy of a despatch, with its enclosures, a Draft Treaty and a Draft Protocol, and in doing so I would beg leave to recommend them very earnestly, in accordance with Lord Salisbury's express desire, to Your Excellency's favorable attention.

I take this opportunity to renew to Your Excellency the assurance of the highest consideration.

青木外務大臣時代 對英交渉 三六五

外務大臣子爵 青 木 周 藏 殿  
一 註 1 三六三文書

三六五 明治二十三年七月十五日

英國公使ヨリ  
青木外務大臣宛

英政府ノ對案送付ノ件

所屬書一 六月五日附英首相訓令書

二 英國政府ノ改正條約草案

三 英國政府ノ議定書案

謹啓陳者閣下カ去三月初メニ於テソースベリ侯ニ通達可致旨拙者ニ御依頼相成タル條約改正ニ關スル提議案ハ早速通達致候處該案ハ直チニ英政府ノ審查ヲ經テ其回答ハ正サニ拙者ヘ轉送有之候拙者ハ英皇帝陛下ノ外務卿ノ命ニ依リ在中ノ書類ヲ閣下ヘ御送附候即チ拙者宛ノ訓令書ノ寫ト其付添書類トシテ條約草案及議定書草案等ニ有之候拙者ハ此ニソースベリ侯ノ求メニ應シ該案ハ閣下ノ好意ヲ得シコトヲ希望スル旨ヲ申上候 敬具

千八百九十年七月十五日輕井澤ニ於テ

ヒウ・フレーザー

Hugh Fraser

His Excellency

Viscount Aoki Shiuzo

&amp;c. &amp;c. &amp;c.

Foreign Office

附屬書一

二十三年六月五日附英國公使ヘノ訓令書

英國首相ノ書翰譯文(在東京英公使館ニ宛テタルモノ)

謹啓陳ハ去ル三月五日附第三十五號貴東ヲ以テ條約改正ニ關スル日本政府ノ新提議ヲ掲載セル青木子書翰竝ニ覺書ノ寫ヲ送付セラレ直チニ皇帝陛下ノ瀏覽ニ供シタリ

該提議ノ概要ハ少シク以前ニ青木子ヨリ懇ロニ通知セラレタリシカ其條項ハ英國政府ニ於テ詳細ニ調査ヲ爲シタリ要スルニ該提議ハ左ノ箇條ヲ包含スルモノノ如シ即チ不列顛國臣民ニ對シ司法ニ關シタル特種ノ取極及保證ノ撤去、不動產所有權許與ノ拒絕若クハ延期及諸外國人一般ニ適用スル限りハ該臣民ニ對シテモ特種ノ規定ヲ制定スルノ權利ヲ保有スルコト是ナリ

日本政府カ今回ノ提議ヲ採用スルヲ正當ト認メタル所ノ理由ノ確實ナルコトニ關シテハ英國政府ハ更ニ疑ヲ容ルルコ



トヲ欲セサルナリ然リト雖トモ該提議ハ日本政府カ昨年ノ初メニ於テ自ラ提出シタル條款即チ爾後談判ノ基礎ト成リタルモノト大ニ相違スルコトハ蔽フ可ラサルノ事實ナリトス又一方ニ於テハ裁判管轄ニ關シテ外國人ニ特別ノ權利ヲ與フルハ違カラス日本ニ於テ施行セラルヘキ憲法及代議制度ト矛盾スルヲ以テ之ヲ拒絕スルヲ必要ト爲シナカラ他ノ一方ニ於テハ外國人ヲ特種ノ束縛若クハ制限ニ服從セシムルノ權利ヲ保存センコトヲ發議セラレタルハ全ク遺憾ナシト云フコトヲ得サルナリ

此點ニ關シテハ英國政府ハ日本政府ニ希望スルニ其發議ニ係ルカ如キ條款ヲ新條約ニ設クルコトノ得失如何ヲ充分ニ審察アランコトヲ以テス英國政府ハ斯ル條款ニ對シテハ重大ナル故障ヲ有スルモノナリ蓋此條款ハ英露條約ノ規定ニ基クト云フト雖トモ該條款ノ區域ハ一層浩瀚ニシテ其主眼トセル目的ヲ達スルニ必要ナル程度ト頗ル權衡ヲ失スルモノト謂フヘシ斯ル條款ハ外國人社會ニ危疑恐慌ノ念ヲ生スルハ殆ント疑ヲ容レサルナリ將又英國政府ハ青木子ノ開陳セラルル如ク將來外國トノ交際上ニ付テハ毫モ誤解ヲ惹起スヘキ餘地ヲ殘サストノ計畫上ニ何等ノ効力ヲ有スヘ

續ニ依リ總テノ訴訟事件ヲ審理セシムルニ在リト思考シタリ

然ルニ內國政略上ノ事情アルヲ以テ日本政府ハ右ノ如キ方法ヲ設クルコトハ到底承諾シ難キコトト爲サハ英國政府ハ先ツ日本裁判權ヲ外國人ニ適用スルノ一項ハ之ヲ延期シ日本ノ新法カ一定ノ期限内施行セラレ且ツ其施行上幾分カノ實地經驗ヲ積ムヲ待ツテ得策ト信スルナリ然ルトキハ日本裁判權ヲ一般ニ且ツ制限ナク外國人ニ適用スルニ於テ別ニ困難ナカル可シ英國政府ハ此方案ハ最モ便宜ナルモノトシテ受納セラルヘキコトヲ信ス而シテ彼ノ居留地内ニ於テ尙ホ領事裁判ヲ繼續スルト同時ニ直チニ外國人ニ日本裁判權ノ幾分ヲ適用スルノ方案ニ比スレハ混雜ヲ惹起スルノ虞モ亦隨テ少ナカラシ

昨年中ノ談判ニ因テ得タル結果ヲ放棄シ又ハ其實行ヲ際限ナク延期スルヲ如キ考案ヲ排斥スルコトニ付テハ英國政府ハ全ク日本政府ニ同意ヲ表スルモノニシテ又此ノ如キ犧牲ニ屬スル處置ヲ爲スノ必要ヲ見サルナリ因テ英國政府ハ直チニ新條約ニ調印センコトヲ發議ス而シテ其條約ニハ從來兩國ノ談判委員カ協議同意ヲ遂ケタル總テノ條項ヲ掲載ス

キヤ其理由ヲ知ルニ苦ムナリ何トナレハ假令右ノ如キ權利ヲ保存スルモ日本政府ニ於テ外國臣民ニ對シ其所屬國ノ政府カ過酷ト認ムル所ノ法律ヲ制定シ若クハ條約ノ精神ニ違犯スルカ如キ處置アルトキハ該外國政府カ之ニ對シ故障ヲ唱フルノ權利ヲ失ヒタルモノト看做スヲ得サレハナリ

外國裁判官ノ任用及其裁判管轄ノ區域ニ關シ英國政府カ曩ニ考案ヲ呈セシ所以ハ日本屬籍裁判官ノ公平ナルコト或ハ其資格ノ完全ナルコト或ハ新定諸法典ノ寬大ナルコトニ付幾分カ疑念ヲ存シタルニ由ルニ非ラサルコトハ既ニ從來ノ談判ニ因テ明瞭ニナリタルコトト希望ス乍去新事體ニ推移スルニ際シテハ種々ノ葛藤愁訴ノ起由スルヲ免レサルヘキヲ以テ成ルヘク外交談判ノ手續ニ由ラスシテ之ヲ處理スルノ方法ヲ設ケ置クハ頗ル便宜ナルヘシト思考シタリ縱シ最モ完全ニシテ且ツ多年ノ實驗ヲ經タル法制ノ行ハルル國ト雖モ往々失當ノ裁決アルヲ免レス而シテ敗訴者ハ斯ル失當ノ裁決ハ多少其法律制度ノ不完全ナルニ起緣スルモノト信シ易キモノナリ故ニ兩政府ノ爲ニ便宜ナル方案ハ此ニ一ノ裁判所ヲ設立シ最モ偏頗ナル意想ヲ把持スルモノト雖トモ不滿ヲ唱ヒ得サル程ノ完全ナル組織ヲ爲シ之ニ於テ訴訟手

ルヲ要ス且ツ該條約ト同時ニ議定書ニ調印スルコトヲ議ス其議定書ノ條項ハ不列顛國臣民ニ日本裁判權ヲ適用スルコト及其適用ニ附着スル所ノ總テノ讓與ハ少クトモ今後五年間且ツ裁判所構成法及新法典ヲ十二個月間實施セラルル返延期スルコトトス而シテ日本政府ハ此經過期限間ハ不列顛國臣民ニ族券ヲ以テ内地ヲ旅行スルニ充分ナル便宜ヲ與フルコトヲ擔任スヘシ尤モ内地ニ於テ住居若クハ商業ニ從事スルコトヲ許サス

余ハ此ニ右ノ目的ニ起算シタル條約案及議定書案ヲ封入スル故ニ此書翰ト共ニ青木子ニ送附シ同時ニ子ノ同意アランコトヲ懇切ニ申入レラルヘシ

千八百九十年六月五日外務省ニ於テ

ソースベリ

フレーザー貴下

(右原文)

Foreign Office

June 5, 1890

Sir,

I have received and laid before the Queen your

despatch No. 35 of the 5th March last, in which you forward copies of a Note and Memorandum from Viscount Aoki, containing the new proposals of Japanese Government in regard to treaty revision.

These proposals, the general nature of which Viscount Aoki had been good enough to indicate some time before, have received the careful consideration of Her Majesty's Government. Briefly speaking, they may be said to involve the withdrawal of all special arrangements and assurances as regards the administration of justice to British subjects, the refusal or postponement of their admission to hold real property, and a reservation of a right to enact special measures in regard to them, provided such measures apply to all foreigners in general.

Her Majesty's Government do not wish in any way to question the cogency of the reasons which are assigned by the Japanese Government for the cause which they have thought it right to adopt. But it cannot be denied that the new proposals constitute a very serious departure from the terms which the Japanese Government themselves put forward at the

beginning of last year, and which have served as the basis of all subsequent negotiations. It must be regarded also as somewhat unfortunate, that while it is now thought necessary to refuse to foreigners any special privileges in regard to jurisdiction as incompatible with the Constitution and representative institutions about to be introduced in Japan, it should be proposed to reserve liberty to subject them to special disabilities or restrictions.

With regard to this latter point, Her Majesty's Government would wish that of Japan to consider seriously whether it would be desirable to introduce into the new Treaties such a clause as they propose. For themselves they see the gravest objections to such a stipulation. It is far more comprehensive in its scope than the provision in the Treaty between England and Russia on which it is said to be based, and goes greatly beyond what is necessary for the purposes for which it is stated to have been framed. It is almost certain to be viewed with suspicion and alarm by the foreign community; nor can Her Majesty's Government see that it would have, as Vis-

count Aoki states, the effect of removing "every possible cause for future discussion or misunderstanding" with other Powers, for no such reservation could be construed as depriving foreign Governments of the right to remonstrate against enactment which seem to them to press unjustly upon their nationals, or to be contrary to the greatest spirit of the Treaty arrangements.

As regards the appointment of foreign Judges and the extent of their jurisdiction, I hope it has been made abundantly clear in the course of the negotiations that the proposals of Her Majesty's Government have not been dictated by any distrust of the impartiality or high qualifications of the native Magistrates, or of the liberality of the Codes which they will be called upon to administer. But it seemed eminently desirable that at the inauguration of the new state of things, provision should be made to settle those difficulties and complaints which almost necessarily arise on such occasions, with as little recourse as possible to diplomatic intervention. Even with the best systems of jurisprudence, perfected by long prac-

tice, miscarriages of justice will occasionally occur, and disappointed suitors are apt to believe in such miscarriages on grounds more or less inadequate. It would have been of advantage to both Governments that there should have been a Tribunal to the composition of which even the most prejudiced could take no exception, and to which all such cases would have been referred in the natural course of legal procedure.

If, however, for reasons of internal policy, the Japanese Government see insuperable objections to making such an arrangement, Her Majesty's Government believe that the wisest course will be to postpone altogether the extension of Japanese jurisdiction to foreigners until the new system has been in operation for some little time, and practical experience has been had of its working. There would then probably be no difficulty in arranging for its operation to all foreigners without exception or limitation. Her Majesty's Government are convinced that this plan will be found for more convenient and that it will give rise to much less embarrassment than as immediate but partial exercise of jurisdiction over

foreigners, with concurrent Consular jurisdiction within the foreign settlements.

Her Majesty's Government entirely agree with the Japanese Government in deprecating the abandonment or indefinite postponement of the results which have been obtained by the negotiations of the past year, and they see no reason for such a sacrifice. They would propose that a Treaty should at once be signed, containing all those provisions on which the British and Japanese negotiators have already been able to come to an agreement, and that by a Protocol, to be signed at the same time, the extension of Japanese jurisdiction over British subjects, and all those concessions which the Japanese Government make dependent upon it, should be postponed for a period of not less than five years and until the new Courts and Codes have been in operation for at least twelve *months*, the Japanese Government engaging in the meanwhile, to give full facilities to British subjects to travel in the interior with passports but not to reside or trade there.

I inclose drafts of a Convention and Protocol which have been prepared to this intent, and which I should

resolved to complete such a revision, based upon principles of equity and mutual benefit, and, for that purpose, have named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, \_\_\_\_\_, and His Majesty the Emperor of Japan, \_\_\_\_\_,

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:—

#### Article I.

All rights, privileges, and immunities enjoyed by British subjects under previous Treaties are, in so far as they are not abrogated or modified by the provisions of this Treaty, or of the Protocol signed this day, hereby expressly maintained and confirmed.

#### Article II.

It is agreed by the High Contracting Parties that, in lieu of the Import duties hitherto levied and collected, the duties specified in the Tariff hereunto

wish you to communicate to Viscount Aoki, with a copy of this despatch, and to recommend earnestly to his favorable attention.

I am &c.....

(signed) Salisbury

Hugh Fraser Esq.  
&c. &c. &c.

英國轉付

英國政府、對日本總領事館

Confidential  
Draft Treaty of Friendship and Commerce  
between Great Britain and Japan.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the Emperor of Japan, being equally desirous of maintaining the relations of good understanding which happily exist between them, by extending and increasing the intercourse between their respective states, and being convinced that this object cannot better be accomplished than by revising the Treaties hitherto existing between the two countries, have

annexed may, subject to the provisions of Article III, be levied by the Japanese Government on all goods, the growth, produce, or manufacture of the dominions and possessions of Her Britannic Majesty, upon importation into Japan.

The Japanese Government, however, reserves to itself the right to restrict or temporarily prohibit the importation of any article which, for sanitary reasons, or in view of public security or morals, might offer any danger.

It is understood by the Contracting Parties that the Japanese Government, in the event of its imposing or augmenting any internal duty on sake, shoyu, mirin, or tobacco, may impose a compensatory duty on such articles imported into Japan, provided such compensatory duty, with the customs duty added, shall not exceed the internal tax or duty.

Import duties payable *ad valorem* in Japan shall be calculated on the actual cost of the goods at the place of purchase, production, or fabrication, with the addition of the cost of insurance and transportation from the place of purchase, production, or fabrication,

to the port of discharge, as well as commission, if any exists. The sum thus obtained shall be regarded as the dutiable value of the goods upon which the rate of duty provided in the Tariff shall be paid.

Goods of foreign production or manufacture re-imported into Japan, after having been exported therefrom, shall pay import duty in accordance with the Tariff, notwithstanding duty may have been paid upon such goods when originally imported.

Goods of Japanese production or manufacture brought back from foreign countries to Japan shall pay an *ad valorem* duty of 5 per centum.

### Article III.

No other or higher duties shall be imposed on the importation into the dominions of His Majesty the Emperor of Japan of any article, the produce or manufacture of the dominions and possessions of Her Britannic Majesty, from whatever place arriving; and no other or higher duties shall be imposed on the importation into the dominions and possessions of Her Britannic Majesty of any article, the produce or manufacture of the dominions of His Majesty the

Emperor of Japan, from whatever place arriving, than on the like article produced or manufactured in any other foreign country; nor shall any prohibition be maintained or imposed on the importation of any article, the produce or manufacture of the dominions and possessions of either of the Contracting Parties, into the dominions and possessions of the other, from whatever place arriving, which shall not equally extend to the importation of the like article, being the produce or manufacture of any other country. This last provision is not applicable to the sanitary and other prohibitions occasioned by the necessity of protecting the safety of persons or of cattle, or of plants useful to agriculture.

### Article IV.

No other or higher duties or charges shall be imposed in the territories of either of the Contracting Parties on the exportation of any article to the territories of the other than such as are, or may be, payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation of any article from the territories

of either of the two Contracting Parties to the territories of the other which shall not equally extend to the exportation of the like articles to any other country.

### Article V.

The subjects of each of the Contracting Parties shall enjoy, in the dominions and possessions of the other, exemption from all transit duties, and a perfect equality of treatment with native subjects in all that relates to warehousing, bounties, facilities, and drawbacks.

### Article VI.

All goods imported into Japan by British subjects on which the duty shall have been paid according to the Tariff annexed to this Treaty may be conveyed to any Japanese port free of duty, and when transported into the interior shall not, except as herein otherwise provided, be subject to any additional tax, excise or transit duty whatsoever in any part of the Japanese Empire.

### Article VII.

When goods of foreign production or manufacture, which have been removed from the custody and control of the Customs, are, within two years from the date of their importation, exported from Japan, such goods shall be allowed to pass the Customs free of export duty, and the importer thereof shall, in addition, be entitled to receive a drawback certificate for the amount of the import duties paid thereon, provided that all charges upon the said goods to the Customs shall have been paid; that they are *bond fide* exported to a foreign country; that they are so exported in the casks, bottles, cases, boxes, trunks, or packages, &c., in which they were originally imported, without having been opened or unpacked, except by the Customs, or with their permission; that the original import permit shall accompany the application for drawback of duty, and be retained by the Customs authorities, and that the said goods shall be, at the time of their exportation, subject to such examination and inspection as the Customs authorities may deem necessary to determine their identity with the goods described in the import permit. These drawback

certificates shall either be redeemed on demand, or be at any time accepted by the Customs authorities in payment of duties.

#### Article VIII.

All articles which are or may be legally imported into the ports of the dominions and possessions of Her Britannic Majesty in British vessels may likewise be imported into these ports in Japanese vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in British vessels, and reciprocally all articles which are or may be legally imported into the ports of the dominions of His Majesty the Emperor of Japan in Japanese vessels may likewise be imported into those ports in British vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in Japanese vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place of origin or from any other place.

In the same manner, there shall be perfect equality

of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the dominions or possessions of either of the Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in Japanese or in British vessels, and whatever may be the place of destination, whether a port of either of the Contracting Parties or of any third Power.

#### Article IX.

The coasting trade of both the Contracting Parties in excepted from the provisions of the present Treaty, and shall be regulated according to the Laws of Great Britain and of Japan respectively. It is, however, understood that British subjects in Japan, and Japanese subjects in the dominions and possessions of Her Britannic Majesty, shall enjoy in this respect the rights which are, or may be, granted under such Laws to the subjects or citizens of any other country.

A Japanese vessel, laden in a foreign country with cargo destined for two or more ports in the dominions

and possessions of Her Britannic Majesty, and a British vessel, laden in a foreign country with cargo destined for two or more ports in Japan, may discharge a portion of her cargo at one port, and continue her voyage to the other port or ports of destination where foreign trade is permitted, for the purpose of landing the remainder of her original cargo there, subject always to the Laws and Custom-house Regulations of the two countries.

But the Imperial Japanese Government makes the following concession in addition, that British vessels may carry cargoes between any of the ports hereinafter mentioned, namely, Yokohama, Kobe, Hiogo, Nagasaki, and Hakodate.

#### Article X.

British subjects shall be entitled to charter ships to Japanese subjects for employment in the coasting trade of Japan, subject, however, to the observance of the following stipulations:—

No British vessels shall be permitted to engage in the coasting trade of Japan under the provisions of this Article except such as are chartered by Japa-

nese subjects alone, or by British and Japanese subjects trading jointly, either in partnerships or Companies. It is, however, understood that the fact of a Japanese subject being associated in a business Partnership with one or more British subjects shall not be held to debar him from the advantages conferred under this Article.

Any Japanese subject desiring to charter a British vessel for the coasting trade shall apply in writing to the Customs authorities of the port of charter, setting forth in his application all the particulars relating to the vessel, so far as it is possible to give them, and the name and nationality of the master. The application shall be accompanied by a draft of the charter-party, to be signed by the owner, master, or agent of the vessel; this draft shall mention the object of the charter, its duration, and the amount of charter-money to be paid. Upon the receipt of this application, the Customs authorities shall, upon the payment of a fee of 50 yen, issue a permit, to be called the "charter-permit."

The term for which British vessels may be chartered

shall not exceed twelve calendar months. At the Expiration of the charter, the charterpermit shall be returned to the Customs authorities of the port of charter. The charter may, however, be renewed and a new charter-permit obtained upon the payment of a further fee of 50 yen, and upon application being made in the same manner as in the case of the original charter.

In addition to the foregoing fee, chartered British vessels shall pay from the date of first clearance under charter tonnage and light dues at the rate of 2 sen per ton for every month, or fraction of a month, during which their charters continue.

Chartered British vessels shall carry a distinguishing flag to indicate that the vessels are chartered by Japanese subjects.

They shall, in the same manner as Japanese vessels, be obliged to carry mails when required to do so by the Japanese postal authorities. But such vessels shall, under no circumstances, be allowed to carry mails without permission from the said authorities.

Chartered British vessels shall only be permitted

the place to which he may have come.

If any ship of war or merchant-vessel of one of the Contracting Parties should run aground or be wrecked upon the coasts of the other, the local authorities shall inform the Consul-General, Consul, Vice-Consul, or Consular Agent of the district of the occurrence, or, if there be no such Consular officers, they shall inform the Consul-General, Consul, Vice-Consul, or Consular Agent of the nearest district.

All proceedings relative to the salvage of British vessels, wrecked or cast on shore in the territorial waters of the Japanese Empire, shall take place in accordance with the Laws of Japan; and, reciprocally, all measures of salvage relative to Japanese vessels, wrecked or cast on shore in the territorial waters of Her Britannic Majesty, shall take place in accordance with the Laws of Great Britain.

Such stranded or wrecked ship or vessel, and all parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandise saved therefrom, including those which may have been cast into the sea, or the proceeds thereof, if sold,

to engage in the coasting trade. When going abroad the charter-permit shall be surrendered to the Customs authorities of the port of clearance, and all such goods as may have been shipped at any port while the vessel was so chartered shall be subject to the prescribed export duties.

Chartered British vessels are subject to the Trade Regulations, in so far as such Regulations are applicable, but their charter-permits shall, when in port, be deposited with the Customs authorities.

#### Article XI.

Any ship of war or merchant-vessel of either of the Contracting Parties which may be compelled by stress of weather, or by reason of any other distress, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary supplies, and to put to sea again, without paying any dues other than such as would be payable by national vessels. In case, however, the master of a merchant-vessel should be under the necessity of disposing of a part of his cargo in order to defray the expenses, he shall be bound to conform to the Regulations and Tariffs of

as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents, when claimed by them. If such owners or agents are not on the spot, the same shall be delivered to the respective Consuls-General, Consuls, Vice-Consuls, or Consular Agents upon being claimed by them within the period fixed by the Laws of the country, and such Consular officers, owners, or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the case of a wreck of a national vessel.

The goods and merchandise saved from the wreck shall be exempt from all the duties of the Customs unless cleared for consumption, in which case they shall pay the ordinary duties.

When a vessel belonging to the subjects of one of the Contracting Parties is stranded or wrecked in the territories of the other, the respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents shall be authorized, in case the owner or master, or other agent of the owner, is not present, to lend their of-

official assistance in order to afford the necessary assistance to the subjects of the respective states. The same rule shall apply in case the owner, master, or other agent is present, but requires such assistance to be given.

#### Article XII

If any seaman should desert from any merchantship belonging to either of the Contracting Parties within the territory of the other, the local authorities shall be bound to give every assistance in their power for the apprehension and handing over of such deserter, on application to that effect being made to them by the Consul of the country to which the ship of the deserter may belong, or by the deputy or representative of the Consul.

It is understood that this stipulation shall not apply to the subjects or citizens of the country where the desertion takes place.

#### Article XIII

British vessels entering Japanese ports shall pay tonnage and light dues at the time of entry at the

the vessels employed.

The net registered tonnage of vessels, as shown by the certificate of registry or other papers, shall be taken as the basis on which tonnage and light dues shall be calculated.

The following vessels shall be exempt from the payment of tonnage and light dues in Japan:—

1. Men-of war.
2. Pleasure yachts and pilot-boats duly licensed by the Japanese Government.

3. Fishing-vessels having no cargo on board.

4. Vessels of less than 20 tons burden.

5. Vessels putting into port in distress or for repairs, provided they do not engage in trade.

6. Vessels entering and clearing in ballast.

7. Vessels leaving port within forty-eight hours after anchoring, provided they do not land, ship, or tranship cargo, or land or take on board passengers or mails. Such vessels shall, however, pay a Customs fee of 15 yen.

The fees hitherto paid on the entrance and clearance of British vessels in Japanese ports shall be no longer

Custom-house according to one of the following rates at the option of the masters, owners, or agents of such vessels:—

1. 25 sen per ton for one Japanese port of call only.

2. 30 sen per ton for a period of two months, with the option to call at any number of Japanese ports, but at no foreign port or ports.

3. 80 sen per ton for a period of six months, with the option to call at any Japanese or foreign port or ports.

4. Mail Companies may, if they desire, free their vessels from tonnage and light dues for seven consecutive schedule-voyages on paying a duty of 90 sen per ton on the average tonnage of the vessels making such voyages. This payment must be made at the time of the first entry. It shall be calculated according to the schedule arrangement of the Company, on condition that reimbursement shall be made either by the Customs authorities or by the Mail Companies, as the case may be, at the time of the seventh entry, of any excess or deficiency in the dues paid, arising from any changes which may have taken place in

levied.

#### Article XIV.

No duties of tonnage, harbour, pilotage, lighthouse quarantine, or other similar or corresponding duties of whatever nature, or under whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, Corporations, or establishments of any kind, shall be imposed in the ports of the dominions and possessions of either country upon the vessels of the other country which shall not equally and under the same conditions be imposed in the like cases on national vessels in general. Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

#### Article XV.

Each of the Contracting Parties may appoint Consuls-General, Consuls, Vice-Consuls, Pro-Consuls, and Consular Agents in all the ports, cities, and places of the other, except in those where it may not be con-

venient to recognize such officers.

This exception, however, shall not be made in regard to one of the Contracting Parties without being made likewise in regard to every other Power.

The Consuls-General, Consuls, Vice-Consuls, Pro-Consuls, and Consular Agents may exercise all functions, and shall enjoy all privileges, exemptions, and immunities which are, or may hereafter be, granted to Consular officers of the most favoured nation.

#### Article XVI.

The Contracting Parties agree that, in all that concerns commerce and navigation, any privilege, favour, or immunity which either Contracting Party has actually granted, or may hereafter grant, to the Government, subjects, or citizens of any other State shall be extended immediately and unconditionally to the Government or subjects of the other Contracting Party; it being their intention that each country shall be placed in all respects by the other on the footing of the most favoured nation.

#### Article XVII.

#### New Zealand.

Provided always, that the stipulations of the present Treaty shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given to the Japanese Government by Her Britannic Majesty's Representative at Tokio, within two years from the date of the exchange of ratifications of the present Treaty.

#### Article XIX.

The present Treaty shall come into force one month after the exchange of the ratifications, which shall take place at Tokio within one year after its signature, and shall remain in force for twelve years after the exchange of ratifications.

Either High Contracting Party shall have the right, at any time after eleven years shall have elapsed from the date of the exchange of the ratifications, to give notice to the other of its intention to terminate this Treaty, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine.

The High Contracting Parties agree that the Regulations annexed to this Treaty, namely, the Trade, Government Bonded Warehouse, and Harbour Regulations, shall be regarded as forming a portion of the the same.

#### Article XVIII.

The stipulations of the present Treaty shall be applicable, so far as the Laws permit, to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.  
The Dominion of Canada.  
Newfoundland.  
The Cape.  
Natal  
New South Wales.  
Victoria.  
Queensland.  
Tasmania.  
South Australia.  
Western Australia.

In witness whereof the respective Plenipotentiaries have signed and sealed this Treaty in quadruplicate, two copies being in the Japanese, and two copies in the English language. All of these copies have the same meaning and intent, but in case of conflict the English text shall decide.

Done at the city of Tokio, this            day of the            month            year of Meiji, corresponding to the            day of            in the year of the Christian era.

記國神川

帝國政府、總領事

#### Draft of Protocol.

The Government of Her Majesty the Queen of Great Britain and Ireland, and Empress of India and the Government of His Majesty the Emperor of Japan, being desirous of concluding an equitable arrangement in regard to the question of the jurisdiction exercised under existing Treaties by Great Britain over her subjects in Japan, and such other matters as it is also considered advisable in the interests of both countries



to regulate, apart from the Treaty of Commerce and Navigation signed this day, have, through their respective Plenipotentiaries, agreed upon the following stipulations:—

1. It is agreed between the two Governments that the Consular jurisdiction exercised by Great Britain over her subjects in Japan shall continue to be exercised for a minimum period of five years; that if, at the expiration of that period, the Japanese Codes and Laws now in process of elaboration shall have been promulgated and have been actually in operation for a term of twelve months, the Consular jurisdiction of Great Britain in Japan shall thereupon cease to be exercised, but that otherwise the said jurisdiction shall continue until the aforesaid term of twelve months during which the Codes shall have been in operation has elapsed.

It is further agreed between the two Governments that, in anticipation of the cessation of the Consular jurisdiction, an arrangement shall be entered into between Her Majesty's Representative in Tokio and the Japanese Government, with respect to the future

tenure of land in Japan by British subjects, the incorporation of the existing foreign Settlements with Japanese communes, and the transfer of Municipal funds on the basis of Article XXII of the draft Treaty proposed by the Japanese Government in December 1888; and that with the cessation of British Consular jurisdiction all privileges and immunities in regard to jurisdiction which British subjects in Japan may have enjoyed under previous Treaties shall thereupon cease to exist.

2. It is agreed between the two Governments that the opening of the whole of Japan, unconditionally, to British subjects shall take effect from the date of the cessation of British Consular jurisdiction; that from the same date there shall be entire freedom of commerce and navigation between the dominions and possessions of the two Governments; that British subjects in Japan and Japanese subjects in Great Britain shall, in regard to all rights of residence, travel, and the possession of real estate, and in all matters of jurisdiction, taxation, exemption from military service, or contributions in lieu thereof, and bill-

ing, enjoy the same rights, privileges, and immunities, and shall be subject to no higher imposts or charges, than native subjects or the subjects or citizens of the most favoured nation; that the subjects of each Government shall enjoy in the territories of the other entire liberty to conscience, the right of private or public exercise of their worship, and the right of burying their respective countrymen according to their religious customs in such suitable or convenient places as may be established or maintained for that purpose—subject always to the Laws and Regulations of each country.

3. The Japanese Government, pending the opening of the country to British subjects, agrees to extend the existing passport system in such a manner as to allow British subjects, on the production of a certificate of recommendation from the British Representative in Tokio, or from any of Her Majesty's Consuls at the open ports in Japan, to obtain, upon application, passports available for any part of the country and for any period not exceeding twelve months, from the Japanese Foreign Office in Tokio, or from the

chief authorities in the Prefecture in which an open port is situated; it being understood that the bearers of passports thus issued shall not engage in commercial transactions while in the interior; the necessary Regulations to be determined by Her Majesty's Representative in Tokio and the Japanese Minister for Foreign Affairs.

4. The Japanese Government undertakes, before the cessation of British Consular jurisdiction in Japan, to join the International Conventions for the Protection of Industrial Property and Copyright, and to pass Laws giving full effect to these Conventions.

5. The Japanese Government, in view of the altered conditions of trade which may be created by the operation of the revised Tariff annexed to the Treaty of Commerce and Navigation signed this day, undertakes to establish a system of private bonded warehouses on the basis of the Regulations framed during the Conference for the revision of the Treaties in 1886-87, should the necessity for the establishment of this system arise.

三六六 明治二十三年七月十五日

英國公使ヨリ  
青木外務大臣宛

改正書類機密扱ニ關スル件

(私信譯文)

拙者ハ昨日條約改正ニ關スル訓令ヲ接受セリ而シテ拙者ハ  
ソースベリ侯ノ書翰ヲ其儘閣下ヘ通知スル機密被命候就テハ  
拙出ハ之ヲ閣下ヘ通知スルト同時ニ閣下カ之ヲ機密ノ取扱  
ニ付セラレンコトヲ請求ス而シテ特ニ日本若クハ他國ノ新  
聞紙ニ關係ヲ有スル人ニ對シ決シテ漏洩セサル機取扱ハレ  
度願候

閣下ニ於テハ直接ニ商議相成候ヤ否ハ拙者ハ不存候唯タ拙  
者ハ之ヲ閣下ノ便宜ニ任セ閣下ノ指令ヲ待居候

條約改正ノ義ハ業已ニ充分研究シテ餘ス所ナキカ故ニ拙者  
ハ此上餘分ノ討議ヲ要セサランコトヲ希望致候拙者ハ閣下  
及ヒ閣下ノ同役ナル閣員ハソースベリ侯カ本件ニ關シ(或  
ル困難ナル事情ニ對シテ)出來得ヘキ丈ケ日本ノ要求ニ應  
スル様盡力シタルコトヲ認メ及ヒ侯カ提出シタル所ノ簡單  
且實施シ易キ方案ハ之ヲ受納セラルヘシト信用致候

日本政府ハ此上ニモ際限ナキ讓與ヲ要求シ若クハ充分且久

シク研究調査ヲ經タル本問題ニ付キ新意見ヲ提出スルノ希  
望ナキコトハ拙者ノ確信スル所ニ有之候 敬具

千八百九十年七月十五日

ヒウ・フレイザー

青木子閣下

三六七 明治二十三年七月二十二日

青木外務大臣ヨリ  
英國公使宛

改正書類領收ノ件

(私信)

謹啓陳者去ル十九日ガツピンス氏ヲ經由シ附屬書類ト共ニ  
閣下ノ公翰及私信ヲ接受致候

拙者ハ成ルヘク速カニ貴政府ノ修正案ヲ帝國政府ノ展覽ニ  
供スヘシ併至急ノ取扱ヲ爲スモ拙者カ閣下ヘ帝國政府ノ見  
込ヲ通知シ得ル迄ハ幾許カノ時日ヲ費スヘシト存候

拙者ハ勿論帝國政府ノ返答ノ何タルヤヲ前以テ知ル能ハス  
ト雖トモ茲ニ懇信ナル意味ヲ以テソースベリ侯カ其書翰竝  
ニ新提議案ニ於テ友誼及ヒ寛裕ナル精神ヲ露示セラレタル

コトハ拙者ノ大ニ喜悅スル所ナル旨ヲ開陳致候  
新案ニ關シデハ拙者ハ閣下ト共ニ充分機密ヲ保ツコトヲ切  
望シ及其爲メニハ總テノ手段ヲ盡シテ漏洩ヲ豫防可成致候  
敬具

明治二十三年七月二十二日

青木周藏

フレイザー閣下

三六八 明治二十三年九月三日

青木外務大臣ヨリ  
英國公使宛

英國政府ノ對案ニ關スル件

謹啓陳ハ條約改正ニ關シ去ル二月二十八日付拙者ノ通信ニ  
對スル返答トシテ御返付相成リタル七月十五日付貴翰ハ正  
ニ致接受候拙者ハ閣下ノ書翰付隨ノ書類即チソースベリ侯  
ノ書翰及別紙(條約書及議定書ノ草案)ヲ天皇陛下ノ政府  
ニ差出候處政府ニ於テハ更ニ従前ノ談判ヲ繼續シ討議スル  
コトヲ止メ前記二通ノ草案中ニ包含スルコトヲ得ルハ拙者  
ノ歡喜スル所ナリ然ルニ帝國政府ニ於テハ右ニ關シ僅少ノ

修正ヲ提出スルコトヲ請求スルノ必要ヲ感スルナリ然リト

雖トモ右修正ハ悉ク緊要且重大ナルモノニ非ラサルニ付キ  
拙者ハ帝國政府ノ提議ハ毫モ本問題ノ迅速且ツ満足ナル結  
了ヲ妨ケサルヘシト信用致候

拙者ハ其提議修正ノ性質及目的又ハ何故ニ帝國政府ハ此等  
ノ行爲ヲ要スルヤノ意思ヲ閣下ニ御通知致度存候ニ付閣下  
ニシテ若シ御妨ケナクハ來ル十六日午前十一時本省ニ御  
枉臨アラシコトヲ希望致候

帝國政府ノ決意ヲ御通知申スト同時ニ於テ拙者ハ貴政府ノ  
處斷ニシテ迅速緩裕特ニ懇切ナル友交ノ情義ヲ表示セラレ  
タル廉ニ對シテハ帝國政府ハ深ク感佩スル旨ヲ茲ニ閣下ニ  
確メ得ルハ拙者ノ喜悅スル義務ニ候且ツ拙者ハ何時ニ於テ  
貴政府今般ノ所爲ハ兩政府間ノ好關係ヲナシテ判然増進セ  
シムルニ外ナラスト確信スル旨ヲ申上度存候 敬具

明治二十三年九月十三日

外務大臣子 青木周藏

英國特命全權公使ヒウ・フレイザー殿下

三六九 明治三十二年九月十三日 英國公使ヨリ  
青木外務大臣宛

改正商議ノ爲メ登廳方ニ關シ回答ノ件

謹啓陳ハ昨日付閣下ノ書翰ヲ接受致候  
今般貴帝國政府ニ於テハ拙者カ去ル七月十五日ヲ以テ閣下  
ヘ差出置候所ノ條約改正ニ關スル提議ヲ以テ談判ノ基礎ト  
シテ承認セラルヘキ旨及右ノ提議ニ付商議ヲ開ラク爲メ來  
ル十六日午前十一時ニ貴省ニ罷出候様御招待被下奏曲致領  
悉候就テハ拙者ハ右御指旨ノ時日ヲ以テ趨參候事欣喜ノ至  
リニ存候 敬具

千八百九十年九月十三日

フレーザー

外務大臣子 青木周藏殿

(右原文)

Tokio 13th September 1890

Monsieur le Ministre

I have the honour to acknowledge the receipt of  
Your Excellency's Note of yesterday's date, informing  
me that His Imperial Majesty's Government accept

as basis for negotiation the proposals for Treaty  
Revision which I had the honour to lay before you  
on the 15th July last, and inviting me to meet Your  
Excellency for the purpose of discussing those pro-  
posals at the Department for Foreign Affairs on the  
16th Instant at Eleven o'clock in the forenoon.

I shall be very happy to wait on Your Excellency  
at the time indicated and I beg to offer to you once  
more the assurance of my highest consideration.

Hugh Fraser

His Excellency

Viscount Aoki Shiuzo

&c. &c. &c. ....

Foreign Office.

三七〇 明治三十二年九月十三日 青木外務大臣ヨリ  
河瀬駐英公使宛(往電)

我提案ヲ英國側ニテ商業會議所ニ回議

シタリヤ照會ノ件

From Aoki to Kawase

No. 241. Is it true that British Government has  
submitted our treaty revision proposals to the deli-  
beration of Chamber of Commerce?  
(Via Petersburg)

September 12, 1890. Aoki.

三七一 明治三十二年九月九日 河瀬駐英公使ヨリ  
青木外務大臣宛

我新案英國商業會議所ノ議ニ附セラレタリヤ  
否ヤ問合セニ關シ回答ノ件

第五號

本月十二日露京經由電信ヲ以テ「英政府ニ於我政府提出之  
條約改正新案ヲ其商法會議所之會議ニ下附セリトハ事實ニ  
有之哉否」御問合之趣敬悉右ハ當國ニ於テハ更ニ承及候事  
無之候得共此頃ルーター電報ニ依レハ橫濱外國居留地商法  
會議所ニ於テ我帝國提出改正新案ヲ會議ニ附シ遂ニ無制限  
ノ承諾ニハ反對ノ決議ヲ得タリトノ事モ有之候ニ付種々探  
訪致候得共當地會議所議員ノ内ニハ或ハ粗承知致候者モ有  
之候様ノ情況ニ候得共事件秘密ニ屬シ候趣ヲ以其確實ヲ洩

シ候者無之付テハ英國外務省ニ於テハ通商條約改正ノ節ハ  
海關稅目案ニ限り該會議所ノ下問ニ附セシ慣例ニ付同省ニ  
於テ事務所理即稅目案ヲ會議所ニ交附スル等ノ順序ハ決シ  
テ秘密ノ取扱ニ無之ニ付同省々員ニ就キ相訊シ候事ノ便利  
ニ不如トノ事迄相分リ候得共此方法モ余リ得策ニ無之乍去  
他ニ探偵ノ途モ相盡候ニ付他事ニ託シ島村書記官ヲ外務省  
ヘ遣シ次官サー・トマス・サンダーソンニ面會談話ノ末島  
村書記官ヨリ貴省ニ於テハ通商條約改正ノ筋ハ稅目案ハ商  
法會議所ノ會議ニ附セリトノ慣例ナリト承及候右ハ事實ニ  
候哉ト相尋候處同氏云否稅目案ハ秘密ヲ以テ商務院ヘ相廻  
シ同院ノ意見ヲ質シ候義ニ有之候但當省ニ於手續キ緊要ト  
認メ候分ニ限り候云々同氏又云既ニ貴官御承知ニモ有之候  
哉今般英國政府ニ於テハ貴國ニ向ヒ新ニ條約改正案ヲ提出  
セリ其中稅目ニ關シテハ貴政府提出ノ案ニ對シ別ニ異見モ  
無之ニ付商務院ヘモ相廻不申候得共唯々領事裁判權ニ關シ  
テハ他條約國ノ意見ヲ斟酌シ起草致候儀ニハ有之候得共貴  
政府ニ於テ承諾相成候哉ハ目下ノ問題ニ可有之候付テハ既  
ニ英政府訓令ノ趣ハ日本政府ヘ傳達セリトノ電報在東京フ  
レーザー公使ヨリ領收致候ニ付次便ニハ貴公使ニ於テモ我

新案ニ付東京ヨリ詳報御接手ト存候云々右ノ内話ニ依リ去ル十六日未曾聞トノ回電致發送候儀ニ有之候間其實實更ニ及内申候 敬具

明治二十三年九月十九日

在英特命全權公使 河 瀬 眞 孝

外務大臣子 青 木 周 藏 殿

三七二 明治二十三年九月中

青木外務大臣提出修正草案

註「」ハ削除、「（）」ハ修正

大日本國 通商及航海條約草案  
大不列顛國

日本國皇帝陛下及ヒ大不列顛愛蘭聯合王國及ヒ印度國皇帝陛下ハ兩國臣民ノ交際ヲ皇張増進シ以テ幸ヒニ兩國間ニ存在スル所ノ厚誼ヲ維持センコトヲ欲シ而シテ此目的ヲ達セシニハ從來兩國間ニ存在スル所ノ條約ヲ改正スルニ如カサルコトヲ確信シ公正ノ主義ト互相ノ利益ヲ基礎ト爲シ其改正ヲ完了スルコトニ決定シ之レカ爲メニ日本國皇帝陛下ハ

加算シ又手數料アルトキハ之ヲモ加算シ其總額ヲ以テ該貨物ノ稅價ト定メ此稅價ニ對シテ稅目ニ對ムル所ノ稅金ヲ賦課スヘシ

外國ノ生産物或ハ製造品ヲ日本國ヨリ輸出シタル後再ヒ之ヲ日本國ニ輸入スルトキハ最初輸入ノ時該物品ニ對シテ納稅シタルニ拘ハラス更ニ稅目ニ從テ輸入稅ヲ納ムヘキモノトス

日本國ノ生産物若クハ製造品ヲ外國ヨリ日本國ヘ積戻ストキハ之ニ對シテ百分ノ五ノ從價稅ヲ納ムハシ

第二條

不列顛國皇帝陛下ノ版圖内ノ生産或ハ製造ニ係ル物品ヲ何レノ地ヨリ日本國皇帝陛下ノ版圖内ニ輸入シ又日本國皇帝陛下ノ版圖内ノ生産或ハ製造ニ係ル物品ヲ何レノ地ヨリ不列顛皇帝陛下ノ版圖内ニ輸入スルモ總テ別國ノ生産或ハ製造ニ係ル同種ノ物品ニ課スル所ノ稅ニ異ルカ或ハ之ヨリ多額ノ稅ヲ課セラルコトナカルヘシ又締盟國ノ一方ノ版圖内ヘ別國ノ生産或ハ製造ニ係ル物品ノ輸入ヲ禁止セサル間ハ他ノ一方ノ版圖内ノ生産或ハ製造ニ係ル同種ノ物品ヲ何レノ地ヨリ輸入スルコトヲモ禁止スルコトナカルヘシ但此

何某ヲ大不列顛愛蘭聯合王國及ヒ印度國皇帝陛下ハ何某ヲ各其全權委員ニ任命セリ因テ右全權委員ハ互ニ其委任狀ヲ示シ其良好妥當ナルヲ認メ以テ左ノ諸條ヲ合議決定セリ

第一條

日本國政府ニ於テハ日本國ヘ輸入スル所ノ不列顛國皇帝陛下ノ版圖内ノ生産物或ハ製造品ニ對シ從來賦課セル輸入稅ノ代リニ本條約附錄稅目ニ掲グル所ノ稅ヲ第三條ノ條款ニ違ヒ賦課シ得ルコトヲ兩締盟國ニ於テ約定ス而シテ日本國政府ハ衛生風俗或ヒハ公ケノ安寧ニ有害ノ影響ヲ及ホシ若クハ之ヲ危害スルコトアルヘキ貨物ノ輸入ヲ制限シ或ハ一時之ヲ禁止スルノ權ヲ有スヘシ

日本國政府ハ酒、醬油、味淋「或ハ」煙草（或ハ製藥）ニ對シ内國稅ヲ賦課シ或ハ之ヲ増加スル場合ニ於テハ日本國ヘ輸入スル同種ノ物品ニ對シ割増稅ヲ課スルヲ得ルコトヲ兩締盟國ニ於テ約ス但右割増稅ハ之ニ關稅ヲ加算シ内國稅ニ超過スヘカラサルモノトス

日本國ニ於テ輸入貨物ニ賦課スヘキ從價稅ヲ算定スルニハ其仕入地、產出地或ハ製造地ニ於ケル實價ニ其仕入地、產出地或ハ製造地ヨリ陸揚港ニ至ルマテノ保險料及ヒ運賃ヲ

末段ノ條款ハ人民、畜類或ハ農業ニ有用ナル草木ノ安全ヲ保護スルニ必要ナル衛生上及ヒ其他ノ禁止ニハ適用スヘカラサルモノトス

第三條

兩締盟國ノ一方ハ版圖内ヨリ他ノ一方ノ版圖内ヘ一切ノ物品ヲ輸出スルニハ他ノ各外國ヘ輸出スル同種物品ニ對シテ賦課シ又ハ賦課スルコトアルヘキ所ニ異サルカ或ハ之ヨリ多額ノ稅金又ハ雜費ヲ賦課スルコトナカルヘシ又兩締盟國ノ一方ノ版圖内ニ於テ他ノ各外國ニ向ヒ物品ノ輸出ヲ禁止セサル間ハ他ノ一方ノ版圖内ヘ同種ノ物品ヲ輸出スルコトヲモ禁止セサルヘシ

第四條

兩締盟國ノ一方ノ臣民ハ他ノ一方ノ版圖内ニ在リテ總テ内地通關稅ノ免除、庫入、特別保護及ヒ稅金拂戻等ノ諸事項ニ就キ全ク内國臣民ト同一ノ待遇ヲ受クヘシ

第五條

不列顛國臣民カ日本國ヘ輸入シタル所ノ一切ノ貨物ニシテ本條約附錄稅目ニ從ヒ關稅ヲ納メタルモノハ無稅ニシテ之ヲ他ノ日本港ヘ運輸スルコトヲ得ヘク且「之ヲ内地ニ輸送

スルニ際シ本條約ニ他ノ規定アル場合ヲ除キ日本帝國内何レノ地ニ於テモ何等ノ追加税、製産税或ハ通關稅ヲ賦課スルコトナキモノトス

## 第六條

外國ノ生産物若クハ製造品ニテ既ニ税關ノ看守及ヒ管理ヲ離レタルモノヲ其輸入ノ日ヨリ二箇年内ニ日本國ヨリ輸出スルトキハ該貨物ハ輸出税ヲ納メスシテ通關スルヲ許スヘシ且其輸入人ハ該貨物ノ爲メニ納メタル輸入税額ニ對シ税金拂戻證書ヲ受領スルコトヲ得ヘノ但該貨物ニ關スル一切ノ徵收金ヲ税關ニ納メ該貨物ハ實際外國へ輸出スルモノタルヘク且其最初輸入ノタルママ其樽、瓶、箱或ハ包裝ヲ開カスノテ(税關ニテ開キ或ハ税關ノ許可ヲ得テ開キタルハ此限ニ在ラス)之ヲ輸出シ最初輸入セシトキノ輸入免狀ヲ其税金拂戻證書ニ添ヘテ税關ニ返納シ且該貨物ハ其輸出ノ時右輸入免狀ニ記載セル貨物ト同一ノモノタルヤ否ヲ査定スル爲メ税關ニ於テ必要ト認ムル所ノ検査ヲ行フヘキモノトス又右税金拂戻證書ハ請求ニ應フテ貨幣ト引換ヘ或ハ何時タリトモ税金納付ノ代トシテ税關へ受取ルヘ

## 第七條

## 第八條

兩締盟國ノ沿海貿易ハ本條約ニ於テ規定スルノ限ニ在ラス日本國及び大不列顛國ノ法律ニ從ヒ之ヲ規定スヘキモノトス然レトモ不列顛國ニ於ケル日本國臣民又ハ日本國ニ於ケル不列顛國臣民ハ此事項ニ關シハ右法律ニ因テ他ノ外國臣民或ハ人民ニ許與セラレ又ハ許與セフルルコトアルヘキ諸權利ヲ享有スルモノトス

不列顛國皇帝陛下ノ版圖内ノ二個以上ノ港ヘ仕向ケタル荷物ヲ外國ニ於テ積載シタル日本國船舶及ヒ日本國ノ二個以上ノ港ヘ仕向ケタル荷物ヲ外國ニ於テ積載シタル不列顛國船舶ハ仕向港ノ一ニ於テ其積荷ノ一部ヲ陸揚シ而シテ其最初ニ積載シタル貨物ノ剩餘ヲ陸揚スル爲メ外國貿易ヲ許サレタル他ノ一港若クハ數港ヘ進航スルコトヲ得ヘシ但常ニ兩國ノ法律及ヒ税關規則ニ從フヘキヘキモノトス然レトモ日本帝國政府ハ右ノ外左ノ讓與ヲ爲スヘシ即チ不列顛國船舶ハ横濱、「兵庫」、神戸、長崎「及ヒ函館」諸港ノ間ニ荷物ヲ運搬スルコトヲ得ルモノトス

## 第九條

不列顛國臣民ハ日本國沿海貿易ノ用ニ供スル爲メ日本國臣

不列顛國皇帝陛下ノ版圖内ノ諸港ニ於テ不列顛船舶ヲ以テ法律上輸入スルヲ得或ハ輸入スルヲ得ルコトアルヘキ一切ノ物品ハ日本國船舶ヲ以テ之ヲ同港ニ輸入スルモノ不列顛國船舶ヲ以テ輸入セルト同一ニ何等ノ餘分若クハ特種ノ税金或ハ賦課ヲ負擔スルヲ要セス又日本皇帝陛下ノ版圖内ノ諸港ニ於テ日本國船舶ヲ以テ法律上輸入スルヲ得或ハ輸入スルヲ得ルコトアルヘキ一切ノ物品ハ不列顛船舶ヲ以テ之ヲ同港ニ輸入スルモノ日本國船舶ヲ以テ輸入セルト同一ニ何等ノ餘分若クハ特種ノ税金或ハ賦課ヲ負擔スルヲ要セサルヘシ而シテ此相互平等ノ待遇ハ各方ノ物品カ直接ニ其生産地ヨリ來ルト他ノ地方ヲ經テ來ルトニ關セス均シク實行スヘキモノトス

右同様ニ輸出物品ニ關スル待遇モ充分平等ナラサル可カラズ即チ法律上輸出スルヲ得或ハ輸出スルヲ得ルコトアルヘキ各物品ハ日本國又ハ不列顛國孰レノ船舶ヲ以テ輸出スルヲ論セス又ハ其輸送地ハ各締盟國版圖内ノ海港タルト別國ノ海港タルトヲ論セス兩締盟國ノ版圖内ニ於テハ總テ同一ノ輸出税ヲ拂ヒ特別保護ヲ受ケ若クハ拂戻税金ヲ得ヘキモノトス

民ニ船舶ヲ貸與スルコトヲ得ヘシ但左ノ約款ヲ遵守スルヲ要ス

凡ソ不列顛國船舶ハ獨リ日本國臣民ノミニテ傭入レタル時「或ハ兩締盟國臣民カ共同組合若クハ會社ヲ結テ商業ヲ爲ス時」ノ外本條ノ規定ニ從ヒ日本國沿海貿易ニ從事スルヲ許サレサルモノトス但(大不列顛國領事裁判權廢止ノ日ヨリ)日本國臣民ハ一名若クハ數名ノ大不列顛國臣民ト組合商業ヲ爲ス場合ト雖トモ本條ニ據リ大不列顛國船舶ヲ傭入ルルモ妨ナキモノトス

凡ソ日本國臣民ニシテ沿海貿易ノ爲メ不列顛國船舶ヲ傭入レント欲スルモノハ書面ヲ以テ其傭入港ノ税關へ願出ツヘシ其願書ニハ其船舶ニ關スル事項ヲ可成詳細ニ認メ其船長ノ姓名及ヒ國籍ヲ記載シ且之ニ該船舶ノ持主、船長或ハ代理人ノ署名スヘキ傭入契約書ノ案文ヲ添ヘ差出スヘシ其案文ニハ傭入ノ目的、期限及ヒ其傭入ノ爲メニ拂フヘキ金額ヲ記載ズルヲ要ス税關ニ於テ其願書ヲ受領スルトキハ五十圓ノ手数料ヲ納メシメタル上ニテ船舶傭入免狀ヲ稱スル免許狀ヲ下附スヘシ

不列顛國船舶ヲ傭入ルヘキ期限ハ十二箇月ヲ超過スヘカラ

ス傭入満期ノ時ハ其船舶傭入免狀ヲ傭入港ノ税關ヘ返納スヘシ然レトモ更ニ五十圓ノ手数料ヲ納メ最初傭入ヲ爲セル増合ニ於ケルト同様ノ願出ヲ爲ストキハ更ニ船舶傭入免狀ヲ受クルコトヲ得ヘシ

傭入不列顛國船舶ハ前掲手数料ノ外傭入後初メテ出港ノ日ヨリ起リ其傭入期限ノ間毎月一噸ニ付二錢ノ割合ヲ以テ噸税及ヒ燈税ヲ納ムヘシ一個月ニ滿タサルトキモ亦同シ傭入不列顛國船舶ニハ其日本國臣民ノ傭入ニ係ルモノタルヲ表示スル所ノ旗章ヲ掲クヘシ

傭入不列顛國船舶ハ日本國船舶同様日本驛遞官廳ノ需ニ應シ郵便物ヲ搬送スルノ義務アルヘシ但如何様ノ事情アリトモ驛遞廳ノ許可ナクシテ郵便物ヲ搬送スルヲ得サルモノトス

傭入不列顛國船舶ハ獨リ沿海貿易ニノミ從事スルヲ得ルモノトス若シ外國ヘ航行スルトキハ其船舶傭入免狀ヲ其出帆港ノ税關ヘ返納シ其傭入期限中ニ或ル海港ニ於テ船積シタル貨物アラハ之ニ對シ定規ノ輸出税ヲ納ムヘシ

傭入不列顛國船舶ハ貿易規則ノ適用シ得ラルヘキ限リハ之ヲ守ルヘシ但其船舶傭入免狀ハ滯港中之ヲ税關ニ預ケ置ク

右遭難ノ船舶并ニ其器具及ヒ其他一切ノ附屬品及ヒ該船舶ヨリ救上ケタル貨物并ニ商品及ヒ右等ノ諸物件ニシテ海中ニ投棄セラレタルモノ或ハ之ヲ賣却セル賣得金并ニ該遭難船舶内ニ發見セラレタル一切ノ書類ハ右船舶ノ持主或ハ代理人ヨリ要求スルトキハ之ニ引渡スヘシ右持主或ハ代理人ノ現場ニ在ラサルトキハ内國法律ニ定メタル期限内ニ當該總領事、領事、副領事或ハ領事代理ヨリ請求スルハ之ヲ引渡スヘシ而シテ右領事官、持主或ハ代理人ハ内國船舶難破ノ場合ニ於テ拂フヘキ所ノ物品保存費并ニ難破救助費及ヒ其他ノ費用ノミヲ支拂フヘキモノトス

難破船ヨリ救上ケタル貨物及ヒ商品ハ消費ノ爲メニ之ヲ賣捌クニ非サレハ一切ノ關稅ヲ免除スヘシ但消費ノ爲メニ賣捌ク場合ニハ通常ノ税金ヲ納ムルヲ要スルモノトス

兩締盟國ノ一方ノ臣民ニ屬スル船舶ニシテ他ノ一方ノ版圖内ニ於テ淺瀬ニ乗上ケ或ハ難破シタルトキ其持主、船長若クハ持主代理人不在ノ場合ニハ當該總領事、領事、副領事若クハ領事代理ハ其自國臣民ニ必要ノ扶助ヲ與フル爲メ職權上ノ助力ヲ爲スヲ許サルヘキモノトス此規則ハ持主、船長若クハ持主代理人現ニ其場ニ在ル時ト雖モ右様ノ扶助ヲ

モノトス

## 第十條

兩締盟國ノ一方ノ軍艦或ハ商船ニシテ暴風又ハ其他ノ危難ニ遭遇シ避難ノ爲メ無據他ノ一方ノ海港ニ進入スルモノハ内國船舶ノ拂フヘキ税金ノ外一切ノ税金ヲ拂フコトナク其港ニ於テ更ニ機裝ヲ爲シ一切ノ需要品ヲ求メ再ヒ航行スルヲ得ヘシ但商船ノ船長ニシテ其費用ヲ辨償スル爲メ其積荷ノ一部ヲ賣却スルヲ要スル場合ニハ該船長ハ其寄港地ノ規則及ヒ税目ヲ遵守スヘキモノトス

兩締盟國ノ一方ノ軍艦或ハ商船ニシテ他ノ一方ノ沿岸ニ於テ淺瀬ニ乗リ上ケ或ハ難破シタルトキハ地方官ヨリ該地方ニ在ル所ノ總領事、領事、副領事又ハ領事代理ヘ其旨ヲ通知スヘシ若シ該地方ニ領事官ナキトキハ最近地方ノ總領事、領事、副領事又ハ領事代理ヘ通知スヘシ

日本帝國版圖内ノ海上ニテ難破シ若クハ海岸ニ乗上ケタル不列顛國船舶ノ救助ニ關スル一切ノ手續ハ日本國法律ニ從テ之ヲ爲スヘク又互相ノ主義ニ基キ不列顛國皇帝陛下ノ版圖内ノ海上ニテ難破シ若クハ海岸ニ乗上ケタル日本國船舶ニ關スル救助ノ處分ハ不列顛國法律ニ從ヒ之ヲ爲スヘシ

與フルヲ要スル場合ニハ亦適用スヘキモノトス

## 第十一條

若シ締盟國ノ一方ニ屬スル商船ノ海員ニシテ他ノ一方ノ版圖内ニ逃亡スルモノアルニ際シ右船舶所屬國ノ領事又ハ其代理官ヨリ其逮捕引渡ノ事ヲ地方長官ヘ依頼スルトキハ該地方官ハ其權力ノ及フ限リ該逃亡人ヲ逮捕シ且之ヲ引渡ス爲メ助力ヲ爲スヲ要スルモノトス

此約款ハ右海員ノ逃亡シタル國ノ臣民ナルトキハ適用スヘカラセルモノトス

## 第十二條

日本國各港ニ進入スル不列顛國船舶ハ(第十三條ノ條款ニ從ヒ)税關ヘ入港届ヲ爲ス時ニ其船長、持主或ハ代理人ノ撰フ所ニ任セ左ノ税率ノ一ニ從ヒ噸税及ヒ燈税ヲ納ムヘシ

一 單ニ日本ノ一港ニ到ルトキハ每噸二十五錢

二 二箇月内ニ日本ノ數港ニ入港シ外國ノ一港若クハ數港ニ到ルトナキ見込ナレハ右期限ニ對シ每噸三十錢

三 六箇月内ニ日本或ハ外國ノ一港若クハ數港ニ到ルヘキ見込ナレハ右期限ニ對シ每噸八十錢

四 郵船會社ニシテ其船舶發着表ニ從ヒ引續キ七回ノ航

海ヲ爲ス間其船舶ニ對スル噸税及燈税ヲ免カレント  
欲スルトキハ右七回ノ航海ヲ爲ス諸船舶ノ平均噸數  
ニ對シ每噸八十錢ノ稅ヲ納メテ之ヲ免カルコトヲ  
得ヘシ

右ノ稅ハ第一回入港ノ時ニ之ヲ納付スヘシ而シテ其  
納稅額ハ該會社郵船發着表ノ取極メニ從テ之ニ算定  
スヘキモノトス但其所用ノ船舶ニ就キ其後ニ生セシ  
變更ノ爲メ第七回入港ノ時其既納ノ稅額ニ剩餘ヲ生  
スルコトアラハ稅關ヨリ之ヲ拂戻シ又不足ヲ生スル  
コトアラハ郵船會社ヨリ之ヲ追納スヘシ

「船舶登録證書若クハ其他ノ書類ニテ證明セル純噸數ニ基  
キ噸數及ヒ燈稅額ヲ算定スヘシ」

（大不列顛國船舶ノ課稅噸數ハ日本ノ現行船舶測定規則ニ  
從ヒ測定シタル純噸數タルヘシ日本政府ハ大不列顛國ニ於  
テ實施セル噸數測定法ヲ採用シ隨テ日本國船舶ハ該國ノ諸  
港ニ於テ再測定ヲ免カル、ニ因リ該測定法ニ從ヒ測定シタ  
ル大不列顛國船舶モ亦日本ノ諸港ニ於テ再測定ヲ免カル  
ヘキコトヲ日本政府ニ於テ同意ス）

左ノ船舶ハ日本ニ於テ噸税及ヒ燈稅ヲ免除スヘシ

自國ノ船舶ニ課スルヨリ餘分ノ額ヲ課セサルヘシ而シテ斯  
ル待遇上ノ平等ハ各締盟國ノ船舶カ何港何地ヨリ來着シ若  
クハ何處ニ行クヲ論セス相互ニ適用スヘシ

#### 第十四條

兩締盟國ノ一方ハ他ノ一方ノ海港、都府及ヒ其他ノ場所ニ  
總領事、副領事領事代理ヲ置クコトヲ得ヘシ但領事官ノ駐  
在ヲ認許スルニ便宜ナラサル場所ハ例外タルヘシ

然レトモ右ノ例外ハ他ノ諸外國ニ對シ之ヲ適用スルニ非サ  
レハ一方ノ締盟國ニ對シテ之ヲ適用スルヲ得サルモノトス  
總領事、領事、副領事及ヒ領事代理ハ其在留國ニ於テ最惠  
國ノ領事官ニ從來許與セラレ或ハ將來許可セラルコトア  
ルヘキ一切ノ職務ヲ執行スルコトヲ得且一切ノ特權及ヒ免  
除ヲ享有スヘキモノトス

#### 第十五條

兩締盟國ノ版圖内ニ於ケル通商或ハ航海ニ關スル一切ノ事  
項ニ於テ現時或ハ將來其一方ヨリ別國ノ政府、臣民或ハ人  
民ニ許與スル所ノ一切ノ特權、殊遇若クハ免除ハ他ノ一方  
ノ政府、臣民或ハ人民ニモ之ヲ直接且條件ナシニ許與スヘ  
キコトヲ兩締盟國ニ於テ之ヲ約定ス即チ其目的ハ兩締盟國

#### 一 軍艦

二 遊船及ヒ日本政府ヨリ正當ノ認可ヲ受ケタル水先案  
內船

三 荷物ヲ積載セサル漁船

四 積量二十噸未滿ノ船舶

五 避難又ハ修覆ノ爲メ入港シタル船舶但商業ニ從事セ  
サルトキニ限ル

六 荷物ヲ積載セスシテ入港及出港スル船舶

七 碇泊中貨物ノ陸揚、船積或ハ船移ヲナサス又ハ船客  
若クハ郵便物ヲ陸揚シ或ハ搭載セスシテ投錨後四十

八時間内ニ出港スル船舶但右船舶ハ稅關手数料トシ  
テ金十五圓ヲ納ムヘシ

是迄日本港ニ於テ不列顛國船舶ノ納メ來レル入港及び出港  
手数料ハ以後徵收セサルヘシ

#### 第十三條

政府、官吏、一私人、會社若クハ其他ノ施設等ノ利益若ク  
ハ名義ニ於テ課スル各噸税、港税、水先案内料、燈臺税、  
檢疫其他何タル名義ヲ以テスルヲ論セス同種同質ノ各課税  
ハ兩締盟國ノ一方ノ狀圖内ノ諸港ニ於テ他ノ一方ノ船舶ニ

ハ他ノ一方ニ於テ總テノ場合ニ付テ最惠國待遇ヲ受クルニ  
在リトス

#### 第十六條

本條約附錄ノ諸規則即チ貿易規則（及ヒ）官設倉庫規則  
「及ヒ港則」ハ本條約ノ一部ヲ成スモノト看做スヘキコト  
ヲ兩締盟國ニ於テ約定ス

#### 第十七條

本條約ノ約款ノ法律ノ許ス限リハ左ニ列舉スルモノヲ除ク  
ノ外總テ大不列顛國皇帝陛下ノ各殖民地及ヒ外國領地ニ適  
用スヘキモノトス

#### 印度

加奈太領地

ニュー、フオンブランド

喜望峰殖民地

ナタル

新南ウイルズ

ウイクトリア

クイーンズランド

タスマニア

南 濠 洲

西 濠 洲

ニユー、ゼーランド

然レトモ以上列舉シタル殖民地若クハ海外所屬地ノ内ニ本條約ノ條款ヲ適用センコトヲ欲シ本條約批准書交換ノ日ヨリ二箇年以内ニ東京駐劄大不列顛國皇帝陛下ノ公使ヨリ其旨ヲ日本國政府ヘ通知スルトキハ其殖民地若クハ海外所屬地ニモ之ヲ適用スヘシ

(然レトモ本條ハ前記ノ殖民地若クハ海外所屬地ノ爲ニ現行條約ニ因リ日本ニ於テ大不列顛國臣民力享有スル權利、特權若クハ免除ニシテ本條約ニ因リ廢止セラレ或ハ牴觸スルモノヲ維持スルノ効力ヲ有セサルモノトス)

第十八條

従前ノ諸條約ニ因リ不列顛國臣民力享有セル權利、特權及ヒ免除ニシテ本條約若クハ本日調印シタル議定書ノ條款ヲ以テ廢止シ若クハ變更セサルモノハ總テ特ニ保續シ且ツ確認スルモノトス

第十九條

本條約ハ(明治二十年何月何日即チ西曆千八百九十年何月何日ヨリ)「調印後一年間ニ東京ニ於テ批准シ其批准

後一箇月ニシテ之ヲ」實行シ「而シテ」滿十二年間効力ヲ有スルモノトス

兩締盟國ノ何レノ一方ニテモ本條約實行ノ日ヨリ十一箇年ヲ經過シタル後何時ニテモ他ノ一方ニ對シ本條約ヲ廢止セント欲スル旨ヲ通知スルノ權利ヲ有シ而シテ右通知ヲ爲シタル後十二箇月ヲ經過セハ本條約ハ(従前ノ諸條約中尙ホ効力ヲ有スル條款ト共ニ)全ク廢止組了スルヒノトス

第二十條

(本條約ハ成ルヘク速カニ批准シ東京ニ於テ其批准書ヲ交換スヘキモノトス)

右證據トシテ雙方ノ全權委員ハ本條約書四通即チ日本文二通及ヒ英文二通ニ記名調印スルモノナリ而シテ右ノ四通ハ總テ同一ノ意義及ヒ目的ヲ有スト雖モ若シ其牴觸スルコトアル場合ニハ英文ヲ以テ正確ノモノト爲スヘシ

明治二十年 即チ西曆千八百九十年

東京ニ於テ書ス

議 定 書

日本國皇帝陛下ノ政府及ヒ大不列顛愛蘭聯合王國及ヒ印度國皇帝陛下ノ政府ハ日本ニ於テ現行條約ニ因リ大不列顛國

カ其臣民ニ對シ執行スル裁判權及ヒ其他兩國ノ利益上立約スルコトヲ必要トスル事項ニ關シ本日調印シタル通商及ヒ航海條約ノ外更ニ公正ナル取極ヲ爲サント欲シ雙方ノ全權委員ハ左ノ約款ニ同意セリ

第一、大不列顛國カ日本ニ於テ其臣民ニ對シ執行スル領事裁判權ハ(本日調印シタル通商及ヒ航海條約ノ實施ヨリ五箇年ニシテ其執行ヲ廢止スヘキコトヲ兩締盟國ニ於テ約定ス但シ左ニ明記セル制限ニ從フヘキモノトス即チ本年公布ノ諸法典及ヒ法律ハ各々勅令ヲ以テ定メラレタル期日ヨリ實施セラルトキコトヲ豫期シ此約款ヲ設クルニ因リ右諸法典及ヒ諸法律カ少クトモ一箇年間現ニ且全ク實施ラルマテハ領事裁判權ノ廢止ヲ實行セサルコトヲ兩締盟國ニ於テ約定ス)「少クトモ五箇年間ハ尙ホ繼續スルモノトシ而シテ若シ該年限經過ノ時ニ於テ日本ノ諸法典及ヒ諸法律カ既ニ十二箇月間引續キ満足ニ實施セラレタル場合ニハ日本ニ於ケル大不列顛國ノ領事裁判權ハ直チニ廢止セラルヘキコトヲ兩締盟國ニ於テ約定ス但シ該諸法典及ヒ諸法律カ實際満足ニ十二箇月間引續キ實施シアラサリシ場合ニハ該領事裁判權ハ斯ル實施ノアルマテ繼續スヘキモノトス」

領事裁判權廢止ノ準備トシテ東京駐劄大不列顛國皇帝陛下ノ代表官ト日本政府トノ間ニ於テ千八百八十八年十二月日本政府ノ提出ニ係ル條約案第二十二條ノ主旨ニ基キ「將來日本ニ於ケル大不列顛國臣民ノ土地所有ニ關スルコト」現居留地ヲ內國市區ニ編入スルコト(將來居留地ニ於ケル大不列顛國臣民ノ土地所有ニ關スルコト)及ヒ共有資金ヲ引渡スコトニ關スル取極ヲ爲スヘキコトヲ兩締盟國ニ於テ約定ス又又不列顛國領事裁判權廢止ト共ニ従前ノ諸條約ニ因リ不列顛國臣民力享有セル裁判管轄ニ關スル一切ノ特權及ヒ免除ハ直チニ廢棄スルモノトス

第二、兩國政府ハ左ノ事項ニ同意ス

一 大不列顛國臣民ニ對シ「條件ナシニ」日本全國ヲ開ラコトハ不列顛國領事裁判權廢止ノ日ヨリ實施セララルヘキ事

一 領事裁判權廢止ノ日ヨリ兩國ノ版圖間ニハ互ニ通商航海ニ充分ナル自由ヲ與フル事

一 日本ニ在留スル大不列顛國臣民若クハ大不列顛國ニ在留スル日本臣民ハ住居、旅行「及ヒ不動産所有」ノ權利(及ヒ家屋、倉庫ノ賃借使用)并ニ裁判管



轄、租税、「軍役若クハ軍役代辦金或ハ軍人宿營ノ免除等」ノ事項ニ關シテハ其自國臣民若クハ最惠國人民ト同一ノ權利、特權及ヒ免除ヲ享有シ且其自國臣民若クハ最惠國人民ヨリ餘分ノ租税又ハ賦課ヲ負擔セサル事

一 兩國臣民ハ他ノ一方ノ版圖内ニ於テ(軍人宿營及軍役若クハ軍役代辦金ヲ全ク免除セラレ且)良心ニ關シ完全ナル自由及ヒ公私ノ禮拜ヲ行フノ權利並ニ其設置保存スヘキ適當且便宜ノ埋葬地ニ於テ固有ノ宗教上ノ慣習ニ從ヒ自國人ヲ埋葬スルノ權利ヲ享有スヘシ

右各項ノ場合ニ於テハ常ニ各締盟國ノ法律、(勅令及ヒ)規則ニ遵由スルヲ要ス

(又工業若クハ製造ニ從事スル大不列顛國臣民ハ領事裁判權繼續中ト雖ヒ同種ノ營業ニ對シ内國臣民ニ賦課スルト同一ノ租税手數料及ヒ賦金等ヲ納ムヘキコトヲ兩締盟國ニ於テ約定ス)

第三、日本政府ハ不列顛國臣民ニ對シ内國ヲ開クマテハ現行ノ旅券方法ヲ擴張スルコトニ同意ス即チ不列顛國臣民

此ニ英政府提出案ニ就キ少シク敘述セントスルモノアリ蓋シ英政府提出案ハフレーザー公使ノ手ニ成リタルニ外ナラヌ而シテ其體裁上之レヲ通商及航海條約ト議定書ニ分チタル所以ハ他ナラヌ想フニ英公使ノ考ニテハ通商及航海條約ハ成ルヘク各國間ニ通用スル條約ト同様即チ互相對當ナル體裁ヲ存シ議定書ノ方ニ於テハ變則ナル治外法權及要求個條即チ臨時的特色ノ性質ヲ有スルモノノミヲ載セ聊カ體裁ヲ重シ以テ我感情ヲ損セザランコトヲ勉メタルニアリ

而シテ英國ノ提出案ハ殆ント我願議決定案及覺書ノ要求ニ應ジタルモノナリ但シ不動産所有權ノ許與ハ領事裁判權廢止ノ交換物ト爲スヘキ旨ヲ決定案ニ載セタルニモ拘ラス周藏ハ二十三年五月乃至六月ノ際男爵「シーボルト」氏ヲ英國ニ派遣シ竊ニ且間接ニソースベリ侯ニ遊說セシメ之ヲ與ヘサルコトヲ内々談判シタルニ英國政府ハ不動産ヲ外國人ニ所有セシメサルモ痛ク不自由ヲ感セサルヘシ云々六月二十七日同男爵ヨリ秘密ナル電信ヲ以テ報道シタリ依之同政府カ我覺書ニ列記シタル修正ノ條項ヲ容レ并ニ其付添ノ書翰ニ敘述セル説明ヲ認可スル敬證アルヲ察知シタルニ由リ當時此旨ヲ 陛下ニ奏聞シ且改正事業果シテ結ニ就ククノ時ニ至ラバ周藏不敏ト雖各國ノ代表者ト樽俎ノ間ニ折衝セシニハ一臂ノ助力ヲ需要セス然レトモ内國ノ物論ヲ鎮壓シ上下ノ人心ヲ統一スル爲メ一二ノ關係ヲシテ周藏ト齊シク改正ノ事務ニ當ラシメ賜ハンコトヲ奏請シ併セテ此意ヲ山縣總理大臣ニ申告シテ其協贊ヲ領シ置タリシカ今回提出シタル英國政府ノ案ヲ査閱スルニ其他

カ在東京同國公使若クハ日本國開港場ニ駐在スル不列顛國皇帝陛下ノ領事官ヨリノ紹介證書ヲ所持シテ出願スル限りハ滿十二箇月間ニ國內何レノ地ヘモ到ルヲ得ヘキ旅券ヲ東京外務省若クハ開港場ノアル府縣ノ主任官ヨリ交付スヘシ但(帝國ノ内地ニ旅行スル不列顛國臣民ニ關スル現行規定ハ之ヲ保續スヘキモノトス)右等ノ旅券ヲ所持スル者ハ勿論内國ニ於テ商業ニ從事スヘカザサルモノトス

右旅券ニ關シ必要ナル諸規則ハ在東京不列顛國公使及ヒ日本國外務大臣ノ決定スル所トス

第四、日本政府ハ不列顛國領事裁判權廢止ノ前ニ工業ニ關スル所有權及ヒ版權ノ保護ニ關スル萬國聯合會ニ加入シ而シテ該會ノ規程ニ對シ充分有効ナル法律ヲ制定スルコトヲ擔任スヘシ

第五、日本政府ハ本日調印シタル通商及ヒ航海條約ニ附隨スル改正税目實施ノ爲メニ貿易上ノ事體ニ變換ヲ生スヘキヲ以テ千八百八十六年及び八十七年ノ條約改正ノ會議中ニ調製シタル規則ノ主旨ニ基キ私設倉庫ヲ設置スルコトヲ擔任スヘシ

註 青木子「條約改正記事」ニ曰ク

ノ大體ニ於テモ我要求一トシテ容レラレサル個條ナシ是ヲ以テ當時周藏竊カニ以爲ラク 陛下欲訓ノ大旨ト内閣ノ定議ニ對シテハ稍々責任ヲ全フスルコトヲ得タリト依テ更ニ右英國ノ提出案ニ幾分ノ修正ヲ加ヘテ内閣ニ提出シ且西郷内務大臣及後藤遞信大臣ヲ指名シテ其條約改正全權委員ニ任セラレンコトヲ建議シタリシニ關係ノ容ルル所トナリ九月十六日兩大臣ハ全權委員ニ勅任セラレタリ

### 三七三 明治二十三年九月中

#### 條約改正ニ關シ内閣會議

山縣總理大臣ハ此案ヲ受理シ數日ヲ出スシテ之ヲ閣議ニ付シタルニ豈計ラン畢議百出シ到底閣僚ノ同意ヲ得ヘシトモ思ハレサリシ其異議ノ重ナル點ハ概ネ左ノ如シ

一 規約ノ附隨セサル最惠國條款ハ我國ニ利アラス

二 航海通商ノ區域ニ於ケルト雖トモ外國人ヲシテ内國人同様ノ待遇ヲ受ケシムルハ不利益ナリ

三 領事裁判廢止前内地ニ旅行スル外國人ニ對シ十二箇月間通用ノ旅行券ヲ交付スルハ不得策ナリ

四 沿海貿易ハ許シ可カラス外國船舶ノ傭入ヲ條約ヲ以テ規定スルハ不可ナリ

五 英國ノ所屬地ニ對シ本條約ニ加盟ノ爲メ二箇年ノ猶豫ヲ與ユル得失如何

此等ノ異議ハ實ニ周藏ノ意想外ニ出テタルモノナリ何トナレハ當初内閣ハ大隈伯蹊蹞ノ後ヲ承ケテ其提出案ヲ修正スルコトニ決シ且其修正ハ決定書及覺書ニ載セタル所ノ四箇條ニ過キス加之決定書ノ末尾ニ全權委員ハ該案ニ指示セル方針ノ範圍内ニ於テ臨機運動シ得ルノ旨ヲ判然ト記載セルヲ以テ最早列記外ノ注文若クハ所謂「負ハントスレハ抱ヨ的」ノ請求ハアルマシト豫期シタレハナリ

註 1 前掲青木外務大臣ノ修正草案ナリ

### 三七四 明治三十三年十月中

#### 條約改正ニ關シ内閣會議

明治三十三年十月中條約改正ニ關シ内閣ニ於テ決議ノ條項

出席員

山縣 總理大臣  
西鄉 內務大臣  
大木 樞密院議長

ノナリ

山田司法大臣曰

外務大臣ノ言然リ覺書ノ第四項即外國人一般ニ適用スル制限ノ箇條ニ關シ列舉主義ヲ取ルトナレハ本文ハ即英國案議定書ノ第二項ヲ云 寧ロ概轄主義ニ止ムルモ可ナラン

第二 通商航海ニ關スル最惠國條款ニシテ英政府ノ協賛ヲ得タル大隈案ハ實際我國ニ不利アルカ如シ故ニ山縣總理大臣ノ提出案ニ據リ所謂「規約若クハ條件附隨」ノ主義ヲ取テ商議スヘク若シ英公使ニシテ徹頭徹尾我議ヲ容レサルトキハ大隈案ニ退歩シ別ニ宣言書ヲ裁シテ清國ヲ除外視スルノ制限ヲ取極ムヘシ

第三 官設倉庫規則并ニ港規則ハ之ヲ條約書中ヨリ脱シ勅令ヲ以テ豫メ發布スヘシ

第四 英國ノ殖民地及海外所屬地ニ適用スル條約中ノ第一項「法律ノ許ス限リハ」ナル文字ハ之ヲ删除スルモ存置スルモ全權委員ニ任スヘシ然レトモ本約條ヲ適用セサル間即二年 兩國間ノ關係ハ山縣總理大臣提出案ノ旨趣ニ據リ之ヲ取極ムヘシ

第五 議定書第一項「全ク」ノ字ヲ刪ルヘシ

山田 司法大臣  
後藤 遞信大臣  
樺山 海軍大臣  
芳川 文部大臣  
陸奥 農商務大臣  
青木 外務大臣

第一 英政府ノ提出案中議定書第二項ヲ廢シ之ニ代ユルニ曾テ大隈前外務大臣ヨリ同政府ヘ提出シタル條約案ノ第一及第二條(寫省略)ヲ以テ其第二項及第三項トナシ且第一項結尾ノ「但シ書」ハ之ヲ存シ其修正ハ全權委員ノ商議ニ任ス

青木外務大臣曰

英政府ニシテ大隈案ノ第一及第二條ヲ短縮ニナシ且之ヲ議定書ニ挿入シタル旨趣ハ他ニ非ス條約書ニハ調印ノ後直ニ實行スヘキ通商航海ノ事項ノミヲ載セ領事裁判廢止後ノ實施ニ關スル事項ハ議定書ニ於テ取極置度トノ事ナリ是本條約ノ體裁上ニ取リテハ甚タ都合ヨキ理由ニ似タリ且英國案議定書ノ第二項ハ甚タ簡單ナレトモ大隈案第一及第二條ノ意味ヲ都合ヨク概轄スルモ

第六 約書ノ題號ハ通商航海條約ト改メ「修交」ノ字ヲ刪ルヘシ

第七 現今我開港場ニ於ケル外國人居留地ノ永代借地權ヲ改メテ所有權トナシ該區域ニ限リ外國人ヲシテ土地ヲ所有セシムルノ可否如何

山縣、西鄉、山田、大木、後藤、芳川、樺山、陸奥、青木各大臣之ヲ可トナセリ

第八 外國人ヲシテ十二箇月間通用ノ旅券ヲ提携シ我内國ノ各地方ヘ旅行セシムヘシトノ英政府請求ヲ容ル可キ歟否

西鄉、山田、後藤、樺山、青木各大臣之ヲ可トナセリ  
以上八箇條

右八箇條中第一「十二箇月通用ノ旅券交付」第二「最惠國條款ノ制限ニ關スル陸奥大臣ノ議」第三「英政府提出案議定書第二項「Subject always to the Laws &c」ナル文字ノ修正ニ關シ決議未タ成ラス

三七五 明治三十四年三月三日

條約改正ニ關シ内閣會議

明治二十四年三月三日ニ至リ内閣ニ於テ更ニ會議ヲ開キ  
左ノ箇條ヲ議定セリ

出席員

西郷 内務大臣  
山田 司法大臣  
大山 陸軍大臣  
後藤 逓信大臣  
陸奥 農商務大臣  
青木 外務大臣

第一 十二箇月ヲ期シ内地旅行ノ爲メ英國人ヘ該期限内通  
用ノ旅券ヲ交付スヘシトノ英政府ノ請求ヲ容ルル事

第二 最惠國條款ニ關スル制限即チ「疆土接近其他特別ノ  
事情ノ結果トシテ或ル國ニ對シ特別ノ取極ヲ爲シ得ルノ  
權利ヲ維持ス」トノ陸奥大臣提議ハ同大臣ニ於テ強テ之  
ヲ主張セス依テ西郷、山田、大山、後藤及青木各大臣之  
ニ同意シテ主張セサル事ニ決議ス

第三 英政府提出案議定書第二項ノ「Subject always to  
the Laws &c.」ナル英文ハ「前顯ノ諸箇條ハモ何時各  
締盟國ノ法律、勅令及規則ニ從フモノトス」トノ意味ニ  
修正スル事

第四 噸税ニ關スル規則ハ勅令トシテ發布スル事

但條約草案ニ豫定セル毎噸貳拾五錢ヲ貳拾錢トナシ參拾  
錢ヲ貳拾五錢トナシ八拾錢ヲ七拾錢ト減スルモ可ナリト  
決議ス

其他陸奥大臣ノ勸議ニ由テ

「右本日開議ニ於テ決定ス但其節目ノ事柄ハ全權委員三大  
臣ノ商量ニ任ス」  
ト決定シタリ

三七六 明治三十四年四月四日

條約改正ニ關シ内閣會議

明治二十四年四月四日前項ニ關シ重テ閣議ヲ開キ左ノ決  
議ヲナス

出席員

支那ヲシテ強テ之ニ同意セシムヘシ

第三 英國提出案ノ議定書第二項ヲ採用シ其末尾ニ「然レ  
トモ前記ノ諸約款ハ常ニ兩國各自ノ法律勅令及規則ニ遵  
從スヘキセノトス」ノ文字ヲ付ス

第四 噸税ニ付法律ヲ以テスルカ勅令ヲ以テスルカ發布ノ  
仕方ハ別ニ議案ヲ具シ決定ヲ乞フヘシ  
右之旨意ニ依リ談判スヘシ

四月四日 閣議

山縣 總理大臣 花押  
西郷 内務大臣 花押  
大山 陸軍大臣 花押  
山田 司法大臣 花押  
大木 樞密院議長 花押  
松方 大藏大臣 蓋印  
後藤 逓信大臣 花押  
青木 外務大臣 花押  
陸奥 農商務大臣 花押  
樺山 海軍大臣 蓋印  
芳川 文部大臣 花押

第一 期限ヲ六箇月ニ爲スヘク談判スヘシ若シ協議相調ハ  
サル時ハ「制度ヲ擴張スル」如キ文字ヲ改メ文章ヲ圓滑  
ニ書換ヘシ

第二 英國ノ殖民地ニ關スル事項ニ付デハ英公使ヨリモ修  
正案ヲ提出スル趣ナリ仍テ同公使ト商議ノ際相互人民及  
ヒ商品ノ取扱ニ付不利ナラサル取極ヲ爲スヘシ

英國ノ領事裁判權ヲ廢止スルニ付テハ英國ニ向テ支那ヲ  
除外視スルノ宣言ヲ爲ス事

通商航海ニ關シ英國ニ向テ最惠國條款ニ制限ヲ設クル  
コトハ到底行フヘカラス各締盟國ト改正調ヒタル上ハ

註

青木子「條約改正記事」ニ曰ク  
但シ前段閣員ノ調印ヲ領スルニ先チ周藏ニ於テハ已ニ後段  
ノ條項ヲ腹案トシテ所持セルニ由リ竊ニ其大意ヲ山縣伯、  
西郷伯、後藤伯及陸奥氏ニ通シ姑ク左ノ案（次號修正案參  
看）ヲ内閣ノ決議書トナシ之ニ據テ英公使ト談判ヲ開クコ  
トニ決セリ此際周藏閣員ニ對シ公然此腹案ヲ吐露セサリシ  
ハ閣僚ヲシテ先ツ難キニ決シ後日周藏ト共ニ之ヲ易ニ居ラ  
シメント希望シタレハナリ

三七七

明治二十四年三月二十四日（假）

青木外務大臣ヨリ  
英國公使宛

英國側ヨリ提出ノ條約草案ニ對スル

我修正案

附屬書 修正說明書  
別錄 修正草案ニ對スル青木外務大臣意見書

大日本國  
大不列顛國

通商及航海條約草案

日本國皇帝陛下及ヒ大不列顛愛蘭聯合王國及ヒ印度國皇帝  
陛下ハ俱ニ兩國臣民ノ交際ヲ皇張増進シ以テ幸ヒニ兩國間  
ニ存在スル所ノ厚誼ヲ維持センコトヲ欲シ而シテ此目的ヲ  
達センニハ從來兩國間ニ存在スル所ノ條約ヲ改正スルニ如

日本國ニ於テ賦課スヘキ從價輸入税ヲ算定スルニハ其仕入  
地、生産地或ハ製造地ニ於ケル實價ニ其仕入地、生産地或  
ハ製造地ヨリ陸揚港ニ至ルマテノ保險料及ヒ運賃ヲ加算シ  
又手數料アルトキハ之ヲモ加算シ其總額ヲ以テ該貨物ノ課  
税價格ト定メ此税價格ニ對シテ税目ニ定ムル所ノ税金ヲ賦  
課スヘシ

外國ノ生産或ハ製造ニ係ル貨物ヲ日本國ヨリ輸出シタル後  
再ヒ之ヲ日本國ニ輸入スルトキハ最初輸入ノ時該貨物ニ對  
シテ納税シタルニ拘ハラズ更ニ税目ニ從テ輸入税ヲ納ムヘ  
キモノトス

日本國ノ生産或ハ製造ニ係ル貨物ヲ外國ヨリ日本國ヘ積戻  
ストキハ之ニ對シテ百分五ノ從價税ヲ納ムヘシ

第二條

不列顛國皇帝陛下ノ版圖内ノ生産或ハ製造ニ係ル物品ヲ何  
レノ地ヨリ日本國皇帝陛下ノ版圖内ニ輸入シ又日本國皇帝  
陛下ノ版圖内ノ生産或ハ製造ニ係ル物品ヲ何レノ地ヨリ不  
列顛國皇帝陛下ノ版圖内ニ輸入スルモ總テ別國ノ生産或ハ  
製造ニ係ル同種ノ物品ニ課スル所ニ異ナリ或ハ之ヨリ多額  
ナル税ヲ課セラルルコトナカルヘシ又兩締盟國ノ一方ノ版

青木外務大臣時代 對英交渉 三七七

カサルコトヲ確信シ公正ノ主義ト互相ノ利益ヲ基礎ト爲シ  
其改正ヲ完了スルコトニ決定シ之レカ爲メニ日本國皇帝陛  
下ハ何某ヲ大不列顛愛蘭聯合王國及ヒ印度國皇帝陛下ハ何  
某ヲ各其全權委員ニ任命セリ因テ右全權委員ハ互ニ其委任  
狀ヲ示シ其正式ニ適フモノナルヲ認メ以テ左ノ諸條ヲ合議  
決定セリ

第一條

日本國政府ニ於テハ日本國ヘ輸入スル所ノ不列顛國皇帝陛  
下ノ版圖内ノ天産、生産或ハ製造ニ係ル貨物ニ對シ從來賦  
課徵收セル輸入税ノ代リニ本條約附錄税目ニ掲クル所ノ税  
ヲ第二條ノ規定ニ遵ヒ賦課シ得ルコトヲ兩締盟國ニ於テ約  
定ス

但日本國政府ハ衛生風俗或ハ公ケノ安寧ニ危害ヲ及ホスノ  
虞アル物品ノ輸入ヲ制限シ或ハ一時之ヲ禁止スルノ權ヲ保  
有スヘシ日本國政府ハ酒、醬油、味淋「或ハ」煙草（或ハ  
製藥若クハ專賣藥品）ニ對シ内國税ヲ賦課シ或ハ之ヲ増加  
スル場合ニ於テハ日本國ヘ輸入スル同種ノ物品ニ對シ割増  
税ヲ課スルヲ得ルコトヲ兩締盟國ニ於テ約ス但右割増税ハ  
之ニ關税ヲ加算シ内國税ニ超過スヘカラサルモノトス

圖内ヘ別國ノ生産或ハ製造ニ係ル物品ニシテ他ノ一方ノ版  
圖内ヘ輸入スルモノニ對シテハ其何レノ地ヨリ輸入スルヲ  
論セス總テ別國ノ生産或ハ製造ニ係ル物品ニモ均シク及ホ  
サルノ禁制ヲ設置スルコトナカルヘシ但此末段ノ規定ハ  
人身、畜類或ハ農業ニ有用ナル植物ノ安全ヲ保護スルニ必  
要ナル衛生上及ヒ其他ノ禁止ニハ適用スヘカラサルモノト  
ス

第三條

兩締盟國ノ一方ノ版圖内ヨリ他ノ一方ノ版圖内ヘ何等ノ物  
品ヲ輸出スルモ他ノ各外國ヘ輸出スル同種物品ニ對シテ賦  
課シ又ハ賦課スルコトアルヘキ所ニ異ナリ或ハ之ヨリ多額  
ナル税金又ハ「徵收金」ヲ賦課スルコトナカルヘシ又兩締  
盟國ノ一方ノ版圖内ヨリ他ノ一方ノ版圖内ヘ輸出スル物品  
ニ對シテハ總テ別國ヘ輸出スル同種ノ物品ニモ均シク及ホ  
サルノ禁制ヲ設クルコトナカルヘシ

第四條

兩締盟國ノ一方ノ臣民ハ他ノ一方ノ版圖内ニ在リテ總テ内  
地通關税ノ免除、庫入、獎勵金、便益及ヒ税金拂戻等ノ諸  
事項ニ就キ全ク内國臣民ト同一ノ待遇ヲ受クヘシ

## 第五條

不列顛國「臣民カ日本國へ輸入シタル所ノ」(皇帝陛下ノ版圖内ノ天産、生産或ハ製造ニ係ル)一切ノ貨物ニシテ本條約附錄税目ニ從ヒ關稅ヲ納メタルモノハ無稅ニテ之ヲ他ノ日本港へ運輸スルコトヲ得ヘク且「之ヲ内地ニ輸送スルニ際シ」本條約ニ他ノ規定アル場合ヲ除キ日本帝國内何レノ地ニ於テモ更ニ何等ノ稅、間稅或ハ關稅ヲ追加賦課スルコトナキモノトス

## 第六條

外國ノ生産或ハ製造ニ係ル貨物ニシテ既ニ稅關ノ管守及ヒ監督ヲ離レタルモノヲ其輸入ノ日ヨリ二個年内ニ日本國ヨリ輸出スルトキハ該貨物ハ輸出稅ヲ納メスシテ通關スルヲ許スヘシ且其輸入人ハ該貨物ノ爲メニ納メタル輸入稅額ニ對シ税金拂戻證書ヲ受領スルコトヲ得ヘシ但該貨物ニ關スル一切ノ徵收金ヲ稅關ニ納メ該貨物ハ正實ニ外國へ輸出スルモノタルヘク且其最初輸入シタルママ其樽、瓶、箱或ハ包裝ヲ開カスシテ(稅關ニテ開キ或ハ稅關ノ許可ヲ得テ開キタルハ此限ニ在ラス)之ヲ輸出シ最初輸入セシトキノ輸入免狀ヲ其税金拂戻願書ニ添付稅關ハ之ヲ保存スヘシ且該

貨物ハ其輸出ノ時右輸入免狀ニ記載セル貨物ト同一ノモノタルヤ否ヲ査定スル爲メ稅關ニ於テ必要ト認ムル所ノ查明及ヒ檢視ヲ行フヘキモノトス又右税金拂戻證書ハ請求ニ應シテ貨幣ト引換ヘ或ハ何時タリトモ税金納付ノ代トシテ稅關ニ受取ルヘシ

## 第七條

不列顛國皇帝陛下ノ版圖内ノ諸港ニ於テ不列顛國船舶ヲ以テ法律上輸入スルヲ得或ハ輸入スルコトアルヘキ一切ノ物品ハ日本國船舶ヲ以テ之ヲ同港ニ輸入スルモノ不列顛國船舶ヲ以テ輸入セルト同一ニ何等ノ特殊若クハ多額ノ税金或ハ徵收金ヲ賦課セラルルコトナク又日本國皇帝陛下ノ版圖内ノ諸港ニ於テ日本國船舶ヲ以テ法律上輸入スルヲ得或ハ輸入スルヲ得ルコトアルヘキ一切ノ物品ハ不列顛國船舶ヲ以テ之ヲ同港ニ輸入スルモノ日本國船舶ヲ以テ輸入セルト同一ニ何等ノ特殊若クハ多額ノ税金或ハ徵收金ヲ賦課セラルルコトナカルヘシ而シテ此相互平等ノ待遇ハ各方ノ物品カ直接ニ其生産地ヨリ來ルト他ノ地方ヲ經テ來ルトニ關セス均シク實行スヘキモノトス

右同様ニ輸出品ニ關スル待遇モ先分平等ナラサル可カラ

ス即チ法律上輸出スルヲ得或ハ輸出スルヲ得ルコトアルヘキ各物品ハ日本國又ハ不列顛國孰レノ船舶ヲ以テ輸出スルヲ論セス又ハ其輸道地ハ各締盟國版圖内ノ海港タルト別國ノ海港タルトヲ論セス兩締盟國ノ版圖内ニ於テハ總テ同一ノ輸出稅ヲ拂ヒ同一ノ獎勵金ヲ受ケ若クハ拂戻税金ヲ得ヘキモノトス

## 第八條

兩締盟國ノ沿海貿易ハ本條約ニ於テ規定スルノ限ニアラス日本國及ヒ大不列顛國ノ法律ニ從ヒ之ヲ規定スヘキモノトス然レトモ日本國ニ於ケル不列顛國臣民又ハ不列顛國皇帝陛下ノ版圖内ニ於ケル日本國臣民ハ此事項ニ關シテハ右法律ニ因テ他ノ外國臣民或ハ人民ニ許與セラレ又ハ許與セラレ、コトアルヘキ諸權利ヲ享有スルモノトス

不列顛國皇帝陛下ノ版圖内ノ二個以上ノ港へ仕向ケタル積荷ヲ外國ニ於テ積載シタル日本國船舶及ヒ日本國ノ二個以上ノ港ニ仕向ケタル積荷ヲ外國ニ於テ積載シタル不列顛國船舶ハ仕向港ノ一ニ於テ其積荷ノ一部ヲ陸揚シ而シテ其最初ニ積載シタル貨物ノ剩餘ヲ陸揚スル爲メ外國貿易ヲ許サレタル他ノ一港若クハ數港へ進航スルコトヲ得ヘシ但常ニ

兩國ノ法律及ヒ稅關規則ニ從フヘキモノトス(然レトモ日本國政府ハ本條約實施ノ日ヨリ六箇年ヲ限リ此迄ノ通不列顛國船舶カ帝國ノ現開港場間ニ積荷ヲ運搬スルコトヲ許スヘシ併大阪、函館、新潟及ヒ夷ノ諸港ハ例外トス)

## 第九條

兩締盟國ノ一方ノ軍艦或ハ商船ニシテ暴風又ハ其他ノ危難ニ遭遇シ避難ノ爲メ無據他ノ一方ノ海港ニ進入スルモノハ內國船舶ノ拂フヘキ税金ノ外一切ノ税金ヲ拂フコトナク其港ニ於テ更ニ嚮裝ヲ爲シ一切ノ需用品ヲ求メ再ヒ航行スルヲ得ヘシ但商船ノ船長ニシテ其費用ヲ辨償スル爲メ其積荷ノ一部ヲ賣却スルヲ要スル場合ニハ該船長ハ其寄港地ノ規則及ヒ稅目ヲ遵守スヘキモノトス

兩締盟國ノ一方ノ軍艦或ハ商船ニシテ他ノ一方ノ沿岸ニ於テ淺瀬ニ乘リ上ケ或ハ難破シタルトキハ地方官ヨリ該地方ニ在ル所ノ總領事、領事、副領事又ハ領事代理ヘ其旨ヲ通知スヘシ若シ該地方ニ領事官ナキトキハ最近地方ノ總領事領事、副領事又ハ領事代理ヘ通知スヘシ

日本帝國版圖内ノ海上ニテ難破シ若クハ海岸ニ乗上ケタル

不列顛國船舶ノ救助ニ關スル一切ノ手續ハ日本國法律ニ從テ之ヲ爲スヘク又互相ノ主義ニ基キ不列顛國皇帝陛下ノ版圖内ノ海上ニテ難破シ若クハ海岸ニ乗上ケタル日本國船舶ニ關スル救助ノ處分ハ不列顛國法律ニ從ヒ之ヲ爲スヘシ右遭遇ノ船舶及其各部并ニ其器具及ヒ其他一切ノ附屬品及ヒ該船舶ヨリ救上ケタル貨物并ニ商品及ヒ右等ノ諸物件ニシテ海中ニ投棄セラレタルモノ或ハ之ヲ賣却セル賣得金并ニ該遭難船舶内ニ發見セラレタル一切ノ書類ハ右船舶ノ持主或ハ代理人ヨリ要求スルトキハ之ニ引渡スヘシ右持主或ハ代理人ノ現場ニ在ラサルトキハ内國法律ニ定メタル期限内ニ當該總領事、領事、副領事或ハ領事代理ヨリ請求スレハ之ヲ引渡スヘシ而シテ右領事官、持主或ハ代理人ハ内國船舶難破ノ場合ニ於テ拂フヘキ所ノ物品保存費并ニ難破救助費及ヒ其他ノ費用ノミヲ拂フヘキモノトス難破船ヨリ救上ケタル貨物及ヒ商品ハ消費ノ爲メニ稅關ヲ通過スルノ外ハ一切ノ關稅ヲ免除スヘシ但消費ノ爲メニ稅關ヲ通過スル場合ニハ通常ノ稅金ヲ納ムルヲ要スルモノトス

兩締盟國ノ一方ノ臣民ニ屬スル船舶ニシテ他ノ一方ノ版圖内ニ於テ淺瀬ニ乗上ケ或ハ難破シタルトキ其持主、船長若

二 日本ノ數港ニ出入スルノ便宜ヲ取ルモ外國ノ一港若クハ數港ニ到ルコトナキモノハ二箇月期限ニ對シ毎噸三拾錢

三 日本或ハ外國ノ一港若クハ數港ニ到ルヘキモノハ六箇月ノ期限ニ對シ毎噸八拾錢

四 郵船會社ニシテ其船舶發着表ニ從ヒ引續キ七回ノ航海ヲ爲ス間其船舶ニ對スル噸稅及ヒ燈稅ヲ免カレント欲スルトキハ右七回ノ航海ヲ爲ス諸船舶ノ平均噸數ニ對シ毎噸八拾錢ノ稅ヲ納メテ之ヲ免カルコトヲ得ヘシ此稅ハ第一回入港ノ時ニ之ヲ納付スヘシ而シテ其納稅額ハ該會社郵船發着表ノ取極メニ從テ之ヲ算定スヘキモノトス但其所有ノ船舶ニ就キ其後ニ生セシ變更ノ爲メ第七回入港ノ時其既納ノ稅額ニ剩餘ヲ生スルコトアラハ稅關ヨリ之ヲ拂戻シ又不足ヲ生スルコトアラハ郵船會社ヨリ之ヲ追納スヘシ

「船舶登記證書若クハ其他ノ書類ニテ證明セル純噸數ニ基キ噸數及ヒ燈稅額ヲ算定スヘシ」

(不列顛國船舶ノ課稅噸數ハ日本ノ現行船舶測度規則ニ遵ヒ量定シタル純噸數タルヘシ日本國及ヒ不列顛國ハ同一ノ

クハ持主代理人其地ニ在ラサル場合ニハ當該總領事、領事副領事若クハ領事代理ハ其自國臣民或ハ人民ニ必要ノ助力ヲ與フル爲メ職務上ノ助力ヲ爲スノ權ヲ與ヘラルヘキモノトス此規則ハ持主、船長若クハ持主代理人現ニ其場ニ在ル時ト雖モ右様ノ助力ヲ與フルヲ要スル場合ニモ亦適用スヘキモノトス

## 第十條

若シ締盟國ノ一方ニ屬スル商船ノ海員ニシテ他ノ一方ノ版圖内ニ於テ逃亡スルモノアルニ際シ右船舶所屬國ノ領事又ハ其代理官ヨリ其逮捕引渡ノ事ヲ地方官ヘ依頼スルトキハ該地方官ハ其權力ノ及フ限リ該逃亡人ヲ逮捕シ且之ヲ引渡ス爲メ助力ヲ與フルノ義務アルモノトス

此約款ハ逃亡ノ生シタル國ノ臣民ニ之ヲ適用スヘカラサルモノトス

## 第十一條

日本國各港ニ進入スル不列顛國船舶ハ稅關ヘ入港届ヲ爲ス時ニ其船長、持主或ハ代理人ノ撰フ所ニ任セ(第十二條ノ規定ニ依リ)左ノ稅率ノ一ニ從ヒ噸稅及ヒ燈稅ヲ納ムヘシ

一 單ニ日本ノ一港ニ到ルトキハ毎噸貳拾五錢

噸數量度法ヲ採用シ且日本國船舶ハ不列顛國ノ諸港ニ於テ再量定ヲ免カルルニ因リ該量定法ニ遵ヒ量定シタル不列顛國船舶モ亦日本ノ諸港ニ於テ再量定ヲ免カルヘキコトヲ日本政府ニ於テ同意ス)左ノ船舶ハ日本ニ於テ噸稅及ヒ燈稅ヲ免除スヘシ

## 一 軍艦

二 遊船及ヒ日本政府ヨリ正當ノ認可ヲ受ケタル水先案内船

## 內船

三 積荷ヲ積載セサル漁船

四 積量二十噸未満ノ船舶

五 避難又ハ修覆ノ爲メ入港シタル船舶但商業ニ從事セサルトキニ限ル

六 荷物ヲ積載セスシテ入港及ヒ出港スル船舶

七 碇泊中貨物ノ陸揚船積或ハ船移シヲナス又ハ船客若クハ郵便物ヲ陸揚シ或ハ搭載セスシテ投錨後四十八時間内ニ出港スル船舶但右船舶ハ稅關手数料トシテ金拾五圓ヲ納ムヘシ

是迄日本港ニ於テ不列顛國船舶ノ納メ來レル入港及ヒ出港手数料ハ以後徵收セサルヘシ

第十二條

政府、官吏、一私人、會社或ハ其他各種建設場ノ利益若クハ名義ニ於テ課スル各噸税、港税、水先案内料、燈臺税、檢疫税其他何タル性質ノモノナルニ拘ハラス又何タル名義ヲ以テスルヲ論セス同種同質ノ各課税ハ兩締盟國ノ一方ノ版圖内ノ諸港ニ於テ均シク一般ニ自國ノ船舶ニ對シ同一ノ場合ニ於テ且同一ノ條件ヲ以テ課セサルモノハ之ヲ他ノ一方ノ船舶ニ課セサルモノトス而シテ斯ル待遇上ノ平等ハ各締盟國ノ船舶カ何港何地ヨリ來着シ若クハ何處ニ行クヲ論セス相互ニ適用スヘシ

第十三條

兩締盟國ノ一方ハ他ノ一方ノ海港、都府及ヒ其他ノ場所ニ總領事、領事、副領事、領事心得及ヒ領事代理ヲ置クコトヲ得ヘシ但領事官ノ駐在ヲ認許スルニ便宜ナラサル場所ハ例外タルヘシ然レトモ右ノ例外ハ他ノ諸外國ニ對シ之ヲ適用スルニ非サレハ一方ノ締盟國ニ對シテ之ヲ行フコトヲ得サルモノトス

總領事、領事、副領事、領事心得及ヒ領事代理ハ最惠國ノ領事官ニ現ニ許與セラレ或ハ將來許與セラルルコトアルハ

ヴィクトリア

クイーンズランド

タスマニア

南 濠 洲

西 濠 洲

ニュー・ゼーランド

然レトモ以上列舉シタル殖民地若クハ海外所屬地ノ内ニ本條約ノ約款ヲ適用セント欲シ本條約批准書交換ノ日より二箇年以内ニ東京駐劄大不列顛國皇帝陛下ノ公使ヨリ該殖民地若クハ海外所屬地ノ爲メニ其旨ヲ日本國政府ヘ通知スルトキハ其殖民地若クハ海外所屬地ニモ之ヲ適用スヘシ

第十六條

従前ノ諸條約「ニ因リ」(及ヒ取極ニ依リ從來)不列顛國臣民カ(日本ニ於テ)享有シタル一切ノ權利、特權及ヒ免除ニシテ(本條約又ハ本日調印シタル議定書ニ因リ廢棄セラレサル限りハ不列顛國領事裁判權ノ繼續スル間尙ホ存在スヘキモノトス)「本日調印シタル本條約又ハ議定書ノ條款ヲ以テ廢止シ若クハ變更セサルモノハ總テ特ニ保護シ且確定スルモノトス」而シテ該領事裁判權廢止ノ日より後ハ

キ一切ノ職權ノ執行一切ノ特權及ヒ免除ノ享受ヲ許與セラ

第十四條

兩締盟國ハ通商或ハ航海ニ關スル一切ノ事項ニ於テ現時或ハ將來其一方ヨリ別國ノ政府臣民或ハ人民ニ許與スル所ノ一切ノ特權、殊遇若クハ免除ハ他ノ一方ノ政府或ハ臣民ニモ之ヲ即時且條件ナシニ許與スヘキコトヲ約定ス即チ其目的ハ兩締盟國ハ他ノ一方ニ於テ總テノ場合ニ最惠國待遇ヲ受クルニ在リトス

第十五條

本條約ノ約款ハ法律ノ許ス限リハ左ニ列舉スルモノヲ除クノ外總テ大不列顛國皇帝陛下ノ各殖民地及ヒ外國所屬地ニ適應スヘキモノトス

印 度

加奈陀領地

ニュー・フオンドランド

喜望峯殖民地

ナ タ ル

新南ウイルス

右等一切ノ權利、特權及ヒ免除ニシテ本條約若クハ前記ノ議定書ニ因リ繼續セラレサルモノハ悉ク廢止セラレヘキモノトス

將又本條約實施ノ日より五箇年經過ノ後ハ日本國政府ハ不列顛國政府ニ對シ本條約第一條第五條及ヒ第六條ヲ廢止スルノ旨ヲ通知スルノ權ヲ有シ而シテ不列顛國政府カ右ノ通知ヲ受ケタル後十二箇月ヲ經過スレハ前記ノ第一條第五條及ヒ第六條ハ其效力ヲ失フモノタルコトヲ兩締盟國ニ於テ約定ス

第十七條

本條約ハ(明治廿何年何月何日即チ西曆千八百九十何年何月何日より)實施シ「調印後一年間ニ東京ニ於テ批准シ其批准書ヲ交換シ其後一箇月ニシテ之ヲ實行シ而シテ」滿十二年間效力ヲ有スルモノトス  
兩締盟國ノ何レノ一方ニテモ本條約「批准交換」實施ノ日より十一箇年ヲ經過シタル後ハ何時ニテモ他ノ一方ニ對シ本條約ヲ廢止セント欲スル旨ヲ通知スルノ權利ヲ有シ而シテ右通知ヲ爲シタル後十二箇月ヲ經過セハ本條約ハ全ク廢止終了スルモノトス

## 第十八條

(本條約ハ成ルヘク速カニ批准シ東京ニ於テ其批准書ヲ交換スヘキモノトス)

右證據トシテ雙方ノ全權委員ハ本條約書四通即チ日本文二通及ヒ英文二通ニ記名調印スルモノナリ而シテ右ノ四通ハ總テ同一ノ意義及ヒ趣旨ヲ有スト雖モ若シ其牴牾スルコトアル場合ニハ英文ニ依リ之ヲ決スヘシ

明治二十年 即チ西曆千八百九十年 東京ニ於テ書ス

## 議定書

日本國皇帝陛下ノ政府及ヒ大不列顛愛蘭及ヒ印度國皇帝陛下ノ政府ハ不列顛國カ日本ニ於テ現行條約ニ依リ其臣民ニ對シ執行スル裁判權ニ關スル問題及ヒ其他兩國ノ利益上規定スルコトヲ必要トスル事項ニ關シ本日調印シタル通商及ヒ航海條約ノ外更ニ公正ナル取極ヲ爲サント欲シ双方ノ全權委員ハ左ノ約款ニ同意セリ

第一、大不列顛國カ日本ニ於テ其臣民ニ對シ執行スル領事裁判權ハ(本日調印シタル通商及ヒ航海條約ノ實施ヨリ五箇年ニシテ其執行ヲ廢止スヘキコトヲ)兩國政府ニ於テ約

スト同時ニ日本政府ハ之ヲ純粹ナル所有者トシテ登記スヘシ且現今右等ノ不動産ニ對シ納ムル所ノ借地料ノ徵收ヲ許シ其代リニ右等ノ不動産ニ付テハ内國臣民ノ所有ニ繋ル同種類ノ不動産ニ對シ徵收セラルルモノト同様ノ國稅及ヒ地方稅ヲ徵收セラルヘシ

然レトモ永代借地券ノ名義ニ據リ土地使用上ノ性質ニ依リ日本政府ヨリ借地料ノ輕減ヲ許シタル各爾ノ場合ニ於テハ今後徵收スヘキ諸稅ハ右ノ輕減額ヲ超過セサルモノトス不動産ノ所有ニ關シ前記ノ變更ニシテ實施セラレタル時ニハ各外國人居留地ハ全ク其所在ノ日本國市區ニ編入セラレ爾後日本國地方組織ノ一部ヲ爲シ當該官廳ハ之ニ關シテ其地方施政上ノ責任及ヒ義務ヲ悉皆負擔スヘシ之ト同時ニ右外國人居留地ニ屬スル共有資金及ヒ財産ハ右日本國官廳ヘ引渡スヘキモノトス

外國人居留地内ニ於テ日本國政府ヨリ公共ノ目的ヲ以テ無賃ニテ付與シタル各地所ハ永代ニ保存スヘシ且該地所カ最初付與セラレタル所ノ公共ノ目的ヲ有スル限りハ都テノ租稅及ヒ徵收金ヲ免スヘシ併土地收用權ニハ從フヘキモノトス)

定ス(且從前ノ諸條約及ヒ取極ニ依リ不列顛國臣民カ裁判權ニ關シ日本ニ於テ享有セル各特權、免除ハ不列顛國領事裁判權廢止ト共ニ廢止ニ歸スヘキコト但右ノ諸條款ハ近頃公布セラレタル日本ノ諸法典及ヒ諸法律カ領事裁判廢止前ニ實施セラルヘキコトヲ豫期シテ締結セルモノナリ)

兩國政府ハ又左ノ約定ヲ爲ス即チ「領事裁判權ノ廢止ヲ豫期シ日本政府ト東京駐劄大不列顛國皇帝陛下ノ公使トノ間ニ於テ千八百八十八年十二月日本政府ノ提出ニ係ル條約案第二十二條ノ主旨ニ基キ將來日本ニ於ケル大不列顛國臣民ノ土地所有ニ關スルコト、現居留地ヲ内國市町村ニ編入スルコト、及ヒ共有資金ヲ引渡スコトニ關スル取極ヲ爲スヘキコトヲ兩國政府ニ於テ約定ス又不列顛國領事裁判權廢止ト共ニ從前ノ諸條約ニ因リ不列顛國臣民カ日本國ニ於テ享有セル裁判管轄ニ關スル一切ノ特權及ヒ免除ハ直チニ廢棄スルモノトス」(日本國ニ於ケル不列顛國領事裁判權ノ廢止ト同時ニ不列顛國臣民カ組合或ハ各箇又ハ代管或ハ其他ノ方法ニテ永代借地券ノ名義ニ據リ日本政府ヨリ所得或ハ賃借シタル不動産ハ純粹ナル所有ニ變換セラルヘシ而シテ右等ノ不動産賃借者ハ純粹ノ所有者ト爲リ其借地券ヲ引渡

## 第二、兩國政府ハ左ノ事項ヲ約定ス

- 一 不列顛國臣民ニ對シ「條件ナシニ」日本全國ヲ開クコトハ不列顛國領事裁判權廢止ノ日ヨリ實行セラルヘキ事
- 一 領事裁判權廢止ノ日ヨリ兩國ノ版圖間ニハ互ニ通商航海上ニ充分ナル自由ヲ與フル事
- 一 日本國ニ在留スル不列顛國臣民若クハ大不列顛國ニ在留スル日本國臣民ハ住居、旅行ノ權「及ヒ不動産所有」(并ニ住居及ヒ商業ノ爲メ土地ヲ借用シ家屋倉庫ヲ所有シ賃借シ及ヒ使用スル等ノ)權利并ニ裁判管轄、租稅、軍役若クハ軍役代辦金或ハ軍人宿營ノ免除等ノ事項ニ關シテハ内國臣民若クハ最惠國人民ト同一ノ權利、特權及ヒ免除ヲ享有シ且内國臣民若クハ最惠國人民ヨリ餘分ノ租稅又ハ徵收金ヲ負擔セサル事
- 一 兩國臣民ハ他ノ一方ノ版圖内ニ於テ良心ニ關シ完全ナル自由及ヒ公私ノ禮拜ヲ行フノ權利并ニ其設置保存スヘキ適當且ツ便宜ノ埋葬地ニ於テ固有ノ宗教上ノ慣習ニ從ヒ自國人ヲ埋葬スルノ權利ヲ享有スヘシ



「尤モ兩國ノ法律規則ヲ遵守スヘキモノトス」

(然レトモ前記ノ諸約款ハ常ニ兩國各自ノ法律、勅令及ヒ規則ニ遵從スヘキモノトス)

第三、日本國政府ハ不列顛國臣民ニ對シ内國ヲ開クマテハ現行ノ旅券制度ヲ擴張スルコトニ同意ス即チ不列顛國臣民カ在東京同國公使若クハ日本國開港場ニ駐在スル不列顛國皇帝陛下ノ領事官ヨリノ紹介證書ヲ所持シテ出願スル限リハ滿十二箇月ヲ超ヘサル期限ニ對シ其間ハ國內何レノ地ヘモ到ルヲ得ヘキ旅券ヲ東京外務省若クハ開港場ノアル縣ノ長官ヨリ交付スヘシ但(帝國ノ内地ニ旅行スル不列顛國臣民ニ關スル現行規定ハ之ヲ保續スヘキモノトス)「右等ノ旅券ヲ所持スル者ハ勿論内國ニ於テ商業ニ從事スヘカラサルモノトス

右旅券ニ關シ必要ナル諸規則ハ在東京不列顛國公使及ヒ日本國外務大臣ノ決定スル所トス」

第四、「日本國政府ハ日本ニ於ケルハ兩國政府ハ日本國ニ於ケル不列顛國領事裁判權廢止ノ日ヨリ兩締盟國ノ一方ノ臣民ハ他ノ一方ノ版圖内ニ在テハ其國ノ法律ヲ以テ定ムル所ノ條件及ヒ手續ニ從ヒ版權、專賣特許、商標及ヒ意匠ニ關

シ内國臣民ト同一ノ保護ヲ受クヘキコトヲ約定ス)「前ニ工業ニ關スル所有權及ヒ版權ノ保護ニ關スル萬國同盟會ニ加入シ而シテ該同盟會ニ對シ充分效力ヲ與フヘキ法律ヲ制定スルコトヲ擔任スヘシ」

第五、日本國政府ハ本日調印シタル通商及ヒ航海條約ニ附隨スル改正税目實施ノ爲メニ貿易上ノ局面ニ生スヘキ變遷ヲ慮リ必要ト認ムルトキハ千八百八十六年及ヒ八十七年ノ條約改正ノ會議中ニ起草シタル規則ノ主旨ニ基キ貯藏倉庫ノ制ヲ設置スルコトヲ擔任スヘシ

(本日締結セル通商及ヒ航海條約ト同時ニ批准セラルヘキ本議定書ハ該條約ノ一部ヲ爲スモノト認メラレ且同一ノ效力、價值及ヒ期限ヲ有スヘシ)

(右英文)

青木外務大臣ヨリ英國公使ニ送付セル草案

Confidential

#### Draft Treaty of Commerce and Navigation between Great Britain and Japan.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His

Majesty the Emperor of Japan, being equally desirous of maintaining the relations of good understanding which happily exist between them, by extending and increasing the intercourse between their respective States, and being convinced that this object cannot

better be accomplished than by revising the Treaties hitherto existing between the countries, have resolved to complete such a revision, based upon principles of equity and mutual benefit, and, for that purpose, have named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India,—, and His Majesty the Emperor of Japan,—.

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:—

#### Article I.

It is agreed by the High Contracting Parties that, in lieu of the import duties hitherto levied and collected the duties specified in the Tariff hereunto annexed may, subject to the provisions of Article II,

be levied by the Japanese Government on all goods, the growth, produce, or manufacture of the dominions and possessions of Her Britannic Majesty, upon importation into Japan.

The Japanese Government, however, reserves to itself the right to restrict or temporarily prohibit the importation of any article which, for sanitary reasons, or in view of public security or morals, might offer any danger.

It is understood by the Contracting Parties that the Japanese Government, in the event of its imposing or augmenting any internal duty on sake, shoyu, mirin, tobacco, or prepared or proprietary medicines, may impose a compensatory duty on such articles imported into Japan, provided such compensatory duty, with the customs duty added, shall not exceed the internal tax or duty.

Import duties payable *ad valorem* in Japan shall be calculated on the actual cost of the goods at the place of purchase, production, or fabrication, with the addition of the cost of insurance and transportation from the place of purchase, production, or fabrica-

tion, to the port of discharge, as well as commission, if any exists. The sum thus obtained shall be regarded as the dutiable value of the goods upon which the rate of duty provided in the Tariff shall be paid.

Goods of foreign production or manufacture re-imported into Japan, after having been exported therefrom, shall pay import duty in accordance with the Tariff, notwithstanding duty may have been paid upon such goods when originally imported.

Goods of Japanese production or manufacture brought back from foreign countries to Japan shall pay an *ad valorem* duty of 5 per centum.

#### Article II.

No other or higher duties shall be imposed on the importation into the dominions of His Majesty the Emperor of Japan of any article, the produce or manufacture of the dominions and possessions of Her Britannic Majesty, from whatever place arriving; and no other or higher duties shall be imposed on the importation into the dominions and possessions of Her Britannic Majesty of any article, the produce or manufacture of the dominions of His Majesty the

Emperor of Japan, from whatever place arriving, than on the like article produced or manufactured in any other foreign country; nor shall any prohibition be maintained or imposed on the importation of any article, the produce or manufacture of the dominions and possessions of either of the Contracting Parties, into the dominions and possessions of the other, from whatever place arriving, which shall not equally extend to the importation of the like article, being the produce or manufacture of any other country. This last provision is not applicable to the sanitary and other prohibitions occasioned by the necessity of protecting the safety of persons or of cattle, or of plants useful to agriculture.

#### Article III.

No other or higher duties or charges shall be imposed in the territories of either of the Contracting Parties on the exportation of any article to the territories of the other than such as are, or may be, payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation of any article from the

territories of either of the two Contracting Parties to the territories of the other which shall not equally extend to the exportation of the like articles to any other country.

#### Article IV.

The subjects of each of the Contracting Parties shall enjoy, in the dominions and possessions of the other, exemption from all transit duties, and a perfect equality of treatment with native subjects in all that relates to warehousing, bounties, facilities, and drawbacks.

#### Article V.

All goods *the growth, produce or manufacture of the dominions and possessions of Her Britannic Majesty* imported into Japan by British subjects on which the duty shall have been paid according to the Tariff annexed to this Treaty may be conveyed to any Japanese port free of duty, and when transported into the interior shall not, except as herein otherwise provided, be subject to any additional tax, excise or transit duty whatsoever in any part of the Japanese Empire.

#### Article VI.

When goods of foreign production or manufacture, which have been removed from the custody and control of the Customs, are, within two years from the date of their importation, exported from Japan, such goods shall be allowed to pass the Customs free of export duty and the importer thereof shall, in addition, be entitled to receive a drawback certificate for the amount of the import duties paid thereon, provided that all charges upon the said goods to the Customs shall have been paid; that they are *bond fide* exported to a foreign country; that they are so exported in the casks, bottles, cases, boxes, trunks, or packages, &c., in which they were originally imported, without having been opened or unpacked, except by the Customs, or with their permission; that the original import permit shall accompany the application for drawback of duty, and be retained by the Customs authorities, and that the said goods shall be, at the time of their exportation, subject to such examination and inspection as the Customs authorities

may deem necessary to determine their identity with the goods described in the import permit. These drawback certificates shall either be redeemed on demand, or be at any time accepted by the Customs authorities in payment of duties.

#### Article VII.

All articles which are or may be legally imported into the ports of the dominions and possessions of Her Britannic Majesty in British vessels may likewise be imported into those ports in Japanese vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in British vessels, and reciprocally all articles which are or may be legally imported into the ports of the deminions of His Majesty the Emperor of Japan in Japanese vessels may likewise be imported into these ports in British vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in Japanese vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly

from the place of origin or from any other place.

In the same manner, there shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the dominions or possessions of either of the Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in Japanese or in British vessels, and whatever may be the place of destination, whether a port of either of the Contracting Parties or of any third power.

#### Article VIII.

The coasting trade of both the Contracting Parties is excepted from the provisions of the present Treaty, and shall be regulated according to the Laws of Great Britain and of Japan respectively. It is, however, understood that British subjects in Japan, and Japanese subjects in the dominions and possessions of Her Britannic Majesty, shall enjoy in this respect the rights which are, or may be, granted under such Laws to the subjects or citizens of any other country.

A Japanese vessel, laden in a foreign country with

cargo destined for two or more ports in the dominions and possessions of Her Britannic Majesty, and a British vessel, laden in a foreign country with cargo destined for two or more ports in Japan, may discharge a portion of her cargo at one port, and continue her voyage to the other port or ports of destination where foreign trade is permitted, for the purpose of landing the remainder of her original cargo there, subject always to the Laws and Customhouse Regulations of the two countries.

But the Imperial Japanese Government makes the following concession in addition, that British vessels may carry cargoes between any of the ports herein-after mentioned, namely, Yokohama, Kōbe, Hiogo, Nagasaki and Hakodate.

The Japanese Government, however, agrees to allow British vessels to continue as heretofore for the period of six years from the date the present Treaty goes into operation, to carry cargo between the existing open ports of the Empire, excepting to or from the ports of Osaka, Hakodate, Niigata and Edsaminato.

#### Article IX.

Any ship of war or merchant-vessel of either of the Contracting Parties which may be compelled by stress of weather, or by reason of any other distress, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary supplies, and to put to sea again, without paying any dues other than such as would be payable by national vessels. In case, however, the master of a merchant-vessel should be under the necessity of disposing of a part of his cargo in order to defray the expenses, he shall be bound to conform to the Regulations and Tariffs of the place to which he may have come.

If any ship of war or merchant-vessel of one of the Contracting Parties should run aground or be wrecked upon the coasts of the other, the local authorities shall inform the Consul-General, Consul, Vice-Consul, or Consular Agent of the district of the occurrence, or, if there be no such Consular officers, they shall inform the Consul-General, Consul, Vice-Consul, or Consular Agent of the nearest district.

All proceedings relative to the salvage of British

vessels, wrecked or cast on shore in the territorial waters of the Japanese Empire, shall take place in accordance with the Laws of Japan; and, reciprocally, all measures of salvage relative to Japanese vessels, wrecked or cast on shore in the territorial waters of Her Britannic Majesty, shall take place in accordance with the Laws of Great Britain.

Such stranded or wrecked ship or vessel, and all parts thereof, and all furnitures and appurtenances belonging thereunto, and all goods and merchandize saved therefrom, including those which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents, when claimed the them. If such owners or agents, are not on the spot, the same shall be delivered to the respective Consuls-General, Consuls, Vice-Consuls, or Consular Agents upon being claimed by them within the period fixed by the Laws of the country, and such Consular officers, owners, or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage

for the apprehension and handing over of such deserter, on application to that effect being made to them by the Consul of the country to which the ship of the deserter may belong, or by the deputy or representative of the Consul.

It is understood that this stipulation shall not apply to the subjects or citizens of the country where the desertion takes place.

#### Article XI.

British vessels entering Japanese ports shall, *subject to the provisions of Article XII*, pay tonnage and light dues at the time of entry at the Custom-house according to one of the following rates at the option of the masters, owners, or agents of such vessels:—

1. 25 sen per ton for one Japanese port of call only.
2. 30 sen per ton for a period of two months, with the option to call at any number of Japanese ports, but at no foreign port or ports.
3. 80 sen per ton for a period of six months, with the option to call at any Japanese or foreign port or ports.
4. Mail Companies may if they desire, free their

or other expenses which would have been payable in the case of a wreck of a national vessel.

The goods and merchandize saved from the wreck shall be exempt from all the duties of the Customs unless cleared for consumption, in which case they shall pay the ordinary duties.

When a vessel belonging to the subjects of one of the Contracting Parties is stranded or wrecked in the territories of the other, the respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents shall be authorized, in case the owner or master, or other agent of the owner, is not present, to lend their official assistance in order to afford the necessary assistance to the subjects of the respective States. The same rule shall apply in case the owner, master, or other agent is present, but requires such assistance to be given.

#### Article X.

If any seaman should desert from any merchant ship belonging to either of the Contracting Parties within the territory of the other, the local authorities shall be bound to give every assistance in their power

vessels from tonnage and light dues for seven consecutive schedule-voyages on paying a duty of 80 sen per ton on the average tonnage of the vessels making such voyages. This payment must be made at the time of the first entry. It shall be calculated according to the schedule arrangement of the Company, on condition that reimbursement shall be made either by the Customs authorities or by the Mail Companies, as the case may be, at the time of the seventh entry, of any excess or deficiency in the dues paid, arising from any changes which may have taken place in the vessels employed.

The net registered tonnage of vessels, as shown by the certificate of registry or other papers, shall be taken as the basis on which tonnage and light dues shall be calculated.

The dutiable tonnage of British vessels shall be the net registered tonnage according to the Rules for the measurement of vessels at present in force in Japan. The Japanese and British systems of tonnage measurement being identical and Japanese vessels being in consequence exempt from re-measurement in British

ports, the Japanese Government agrees that British vessels measured according to the system above referred to shall likewise be exempt from remeasurement in the ports of Japan.

The following vessels shall be exempt from the payment of tonnage and light dues in Japan:—

1. Men-of-war.
2. Pleasure yachts and pilot boats duly licensed by the Japanese Government.
2. Pilot-boats duly licensed by the Japanese Government and Pleasure yachts.
3. Fishing-vessels having no cargo on board.
4. Vessels of less than 20 tons burden.
5. Vessels putting into port in distress or for repairs, provided they do not engage in trade.
6. Vessels entering and clearing in ballast.
7. Vessels leaving port within forty-eight hours after anchoring, provided they do not land, ship, or tranship cargo, or land or take on board passengers or mails. Such vessels shall, however, pay a Customs fee of 15 yen.

The fees hitherto paid on the entrance and clearance

not be convenient to recognize such officers.

This exception, however, shall not be made in regard to one of the Contracting Parties without being made likewise in regard to every other Power.

The Consuls-General, Consuls, Vice-Consuls, Pro-Consuls, and Consular Agents may exercise all functions, and shall enjoy all privileges exemptions, and immunities which are, or may hereafter be, granted to Consular officers of the most favoured nation.

#### Article XIV.

The Contracting Parties agree that, in all that concerns commerce and navigation, any privilege, favour, or immunity which either Contracting Party has actually granted, or may hereafter grant, to the Government, subjects, or citizens of any other State shall be extended immediately and unconditionally to the Government or subjects of the other Contracting Party; it being their intention that each country shall be placed in all respects by the other on the footing of the most favoured nation.

#### Article XV.

of British vessels in Japanese ports shall be no longer levied.

#### Article XII.

No duties of tonnage, harbour, pilotage, lighthouse quarantine, or other similar or corresponding duties of whatever nature, or under whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, Corporations, or establishments of any kind, shall be imposed in the ports of the dominions and possessions of either country upon the vessels of the other country which shall not equally and under the same conditions be imposed in the like cases on national vessels in general. Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

#### Article XIII.

Each of the Contracting Parties may appoint Consuls-General, Consuls, Vice-Consuls, Pro-Consuls, and Consular Agents in all the ports, cities, and places of the other, except in those where it may

The stipulations of the present Treaty shall be applicable, so far as the Laws permit, to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

- India.
- The Dominion of Canada.
- Newfoundland.
- The Cape.
- Natal.
- New South Wales.
- Victoria.
- Queensland.
- Tasmania.
- South Australia.
- Western Australia.
- New Zealand.

Provided always, that the stipulations of the present Treaty shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given to the Japanese Government by Her Britannic Majesty's

Representative at Tōkiō, within two years from the date of the exchange of ratifications of the present Treaty.

#### Article XVI.

All rights, privileges, and immunities *hitherto* enjoyed by British subjects in Japan under previous Treaties are in so far as they are not abrogated or modified by the provisions of this Treaty, or of the Protocol signed this day, hereby expressly maintained and confirmed, and arrangements are maintained during the continuance of British Consular jurisdiction, in so far as they are not abrogated by the stipulations of this Treaty or by the Protocol signed this day; and from the date such Consular jurisdiction ceases to exist, all such rights, privileges and immunities shall be regarded as abrogated unless maintained by this Treaty or by the Protocol aforesaid.

It is also agreed by the High Contracting Parties that at any time after the expiration of five years from the date the present Treaty goes into operation, the Japanese Government shall have the right of

determine.

#### Article XVIII.

The present Treaty shall be ratified and the ratifications shall be exchanged at Tokio as soon as possible.

In witness whereof the respective Plenipotentiaries have signed and sealed this Treaty in quadruplicate, two copies being in the Japanese, and two copies in the English language. All of these copies have the same meaning and intent, but in case of conflict the English text shall decide.

Done at the city of Tōkiō, this        day of the month        year of Meiji, corresponding to the        day of        , in the year        of the Christian era.

(英字)

青木外務大臣ヨリ英國公使ニ送付セル議定書草案

#### Draft of Protocol

The Government of Her Majesty the Queen of Great Britain and Ireland, and Empress of India, and the Government of His Majesty the Emperor of Japan, being desirous of concluding an equitable arrange-

giving to the British Government notice of its intention to terminate Articles I, V and VI of the present Treaty; and that at the expiration of twelve months after such notice shall have been received by the British Government the said Articles shall cease to be binding.

#### Article XVII.

The present Treaty shall come into force one month after the exchange of the ratifications, which shall take place at Tōkiō within one year after its signature, on the.....day of the.....month, of the.....year of Meiji, or the.....day of.....189..... and shall remain in force for twelve years after the exchange of ratifications.

Either High Contracting Party shall have the right, at any time after eleven years shall have elapsed from the date of the exchange of the ratifications, this Treaty goes into operation, to give notice to the other of its intention to terminate this Treaty the same, and at the expiration of twelve months after such notice is given this Treaty, shall wholly cease and

ment in regard to the question of the jurisdiction exercised under existing Treaties by Great Britain over her subjects in Japan, and such other matters as it is also considered advisable in the interests of both countries to regulate, apart from the Treaty of Commerce and Navigation signed this day, have, through their respective Plenipotentiaries, agreed upon the following stipulations:—

1. It is agreed between the two Governments that the Consular jurisdiction exercised by Great Britain over her subjects in Japan shall, continue to be exercised for a minimum period of five years; that if, at the expiration of that period, the Japanese Codes and Laws have been in actual and satisfactory operation for a continuous term of twelve months, the Consular jurisdiction of Great Britain in Japan shall thereupon cases to be exercised, but that otherwise the said jurisdiction shall continue until the aforesaid continuous term of twelve months during which the Codes shall have been in actual and satisfactory operation shall have elapsed. cease to be exercised five years after the Treaty of Commerce

and Navigation, signed this day, goes into operation; and that with the cessation of British Consular jurisdiction, all privileges and immunities in regard to jurisdiction which British subjects in Japan may have enjoyed under previous Treaties and arrangements, shall cease to exist. The foregoing stipulation are based upon the expectation that the Japanese Codes and Laws recently promulgated are in the meantime to be put into force.

It is further agreed between the two Governments that, in anticipation of the cessation of the Consular jurisdiction, an arrangement shall be entered into between Her Majesty's Representative in Tôkiô and the Japanese Government, with respect to the future tenure of land in Japan by British subjects, the incorporation of the existing foreign Settlements with Japanese commerce, and the transfer of Municipal funds on the basis of Article XXII of the draft Treaty proposed by the Japanese Government in December 1883; and that with the cessation of British Consular jurisdiction all privileges and immunities in regard to jurisdiction which British subjects in Japan may have

enjoyed under previous Treaties shall thereupon cases to exist simultaneously with the cessation of British Consular jurisdiction in Japan, the titles to all real property then held or rented by British subjects either jointly or severally, in trust or otherwise, from the Japanese Government under leases in perpetuity, shall be converted into absolute titles, and the lessees of such real property shall thereupon become absolute owners thereof, and shall, upon surrendering their leases, be registered as absolute owners by the Japanese Government. The rents now paid on such real property shall then cease to be collected, and, in lieu thereof, such real property shall be subject to the same Imperial and local taxes as are imposed in respect of similar real property owned by native subjects, and shall also, in all other respects, be subject to the laws of Japan relating to real property.

It is, however, understood that, in all cases where a reduction in rent on land held under leases in perpetuity has been made by the Japanese Government on account of the uses to which such land has been devoted, the taxes hereafter to be levied in lieu of such

rent shall not exceed the amount of such reduced rent.

When the foregoing changes in the tenure of real property have been effected, the several foreign settlements shall be completely incorporated with the respective Japanese communes. They shall thenceforth form integral portions of the municipal system of Japan, and the competent authorities shall assume all municipal obligations and duties in respect thereof. At the same time the municipal funds and property belonging to such settlements shall be transferred to the said Japanese Authorities.

All lands which have been hitherto given by the Japanese Government free of rent for public purposes in the foreign settlements shall, subject to the right of eminent domain, be permanently reserved, free of all taxes and charges, for the public purposes for which they were originally set apart.

2. It is agreed between the two Governments that the opening of the whole of Japan, unconditionally, to British subjects shall take effect from the date of the cessation of British Consular jurisdiction; that from the same date there shall be entire freedom of

commerce and navigation between the dominions and possessions of the two Governments; that British subjects in Japan and Japanese subjects in Great Britain shall, in regard to all rights of residence, and travel, as well as in regard to the right, for residential and commercial purposes, of leasing land and owning, hiring and occupying houses and warehouses, and the possession of real estate and in all matters of jurisdiction, taxation, exemption from military service, or contributions in lieu thereof, and billing, enjoy the same rights, privileges, and immunities, and shall be subject to no higher imports or charges, than native subjects or the subjects or citizens of the most favoured nation; that the subjects of each Government shall enjoy in the territories of the other entire liberty of conscience, the right of private or public exercise of their worship, and, the right of burying their respective countrymen according to their religious customs in such suitable or convenient places as may be established or maintained for that purpose—subject always to the Law and Regulation of each country.



It is, however, understood that the foregoing stipulations are subject always to the Laws, Ordinances and Regulations of each Country respectively.

3. The Japanese Government ponding the opening of the country to British subjects, agrees to extend the existing passport system in such a manner as to allow British subjects, on the production of a certificate of recommendation from the British Representative in Tōkiō, or from any of Her Majesty's Consuls at the open ports in Japan, to obtain upon application, passports available for any part of the country and for any period not exceeding twelve months, from the Japanese Foreign Office in Tōkiō, or from the chief authorities in the Prefecture in which an open port is situated; it being understood that the bearers of passports thus issued shall not engage in commercial transactions while in the interior; the necessary Regulations to be determined by Her Majesty's Representative in Tōkiō and the Japanese Minister for Foreign Affairs. existing Rules and Regulations governing British subjects who visit the interior of the Empire are to be maintained.

4. The Japanese Government undertakes, before

The present Protocol, which shall be ratified at the same time as the Treaty of Commerce and Navigation, concluded this day, shall be considered as forming an integral part of that Treaty and shall have the same force, value and duration

#### 附屬書

大不列顛國政府ノ條約改正對案ニ就キ帝國政府力提出スル修正ノ説明書

此説明書ニ於テ用フル箇條ノ番號ハ特ニ指示スル場合ヲ除クノ外ハ別紙修正條約草案ニ掲載スル所ニ據ル

帝國政府ハ最モ慎重周到ニ不列顛國政府ノ對案ヲ考究シ其簡明且完全ナルコトヲ承認シ就中之ヲ結構シタル精神ノ親睦且ツ寛裕ナルコトヲ感荷スルモノナリ然ルニ帝國政府ハ該條約草案并ニ議定書ニ就キ些少ノ修正ヲ提起スルノ必要ヲ感スルニ至レリ即チ此説明書ノ目的ハ該必要ノ起因セシ理由ヲ指示スルニ在ルナリ

#### 條 約

帝國政府力挿入セント欲スル第一ノ修正ハ第一條ヲ削除シ千八百八十八年ノ提案第二十條ヲ回復シテ之ニ換フルニ在リ將又此新條ヲ殖民地ニ關スル箇條ノ次ニ編

the cessation of British Consular jurisdiction in Japan, to join the International Conventions for the Protection of Industrial Property and Copyright, and to pass Laws giving full effect to these Conventions.

4. It is agreed between the two Governments that from the date of the cessation of British Consular jurisdiction in Japan, the subjects of each of the Contracting Parties shall enjoy in the dominions and possessions of the other the same protection as native subjects in regard to copyrights, patents, trade-marks and designs, subject to the conditions and formalities prescribed by laws, ordinances and regulations of each Country.

5. The Japanese Government, in view of the altered conditions of trade which may be created by the operation of the revised Tariff annexed to the Treaty of Commerce and Navigation signed this day, undertakes to establish a system of private bonded warehouses on the basis of the Regulations framed during the Conference for the revision of the Treaties in 1886-87, should the necessity for the establishment of this system arise.

載スルコトヲ希望ス尤モ帝國政府ノ判斷ニ於テハ右ニ發議スル變更ヲ要スルモノト認メタル理由ハ追テ相當ノ所ニ於テ充分ニ之ヲ説明スヘシト雖トモ此ニ該條款ノ位置ノ變更ハ毫モ其勢力又ハ價值ノ損減ニ關セサルモノナルコトヲ開陳スルハ至當ナル可シ

第一條 本條ニ於ケル修正ノ目的ハ條約ニ依リテ内國ノ收税上外國ノ製藥又ハ專賣藥品ヲシテ輸入ノ酒・醬油・味淋及ヒ煙草ト同一ノ取扱ヲ受ケシムルニ在リ此提議ヲ助成スル爲メ左ノ事件ヲ開陳ス可シ

即チ日本ノ法律ニ於テハ製藥及ヒ專賣藥品ハ前ニ列舉セル諸品ト均シク關稅ヲ賦課セラルヘキモノナリ該製品ノ稅率ハ其賣價ノ一割ニシテ製藥ニ對スル新案ノ輸入稅率ハ通關價格ヲ基礎トシテ計算シ從價稅一割ナリ若シ此修正ニシテ承諾セラルル場合ニ於テハ割増稅ニ關スル第一條ノ條款ニ照ラシ製藥并ニ專賣藥品ノ内國稅ハ其通關價格ト小賣相場トノ差額ニ對スル一割ニ限ル可シ然ルニ我國ヘ輸入スル製藥及ヒ專賣藥品ハ其每年平均ノ價格二萬五千圓ヲ超過セサルヲ以テ右ノ藥品ニ關シ提議スル割増稅ヨリ獲收スヘキ歲入ハ甚タ僅少



ナルコトヲ知ルヘシ

第五條 本條ニ於テ「大不列顛國皇帝陛下ノ版圖内ノ天産、生産或ハ製造ニ係ル」ナル文字ヲ「大不列顛國臣民カ」ナル文字ニ代用シタルハ本條款ヲシテ第一條及ヒ第二條ト照應セシメンカ爲メノ必要ナリ通商條約ニ於テハ互相條款ノ眼目トシテ物品ノ本國ヲ問フテ商人ノ本國ヲ問ハサルヲ常例トス第一條及モ第二條ハ即チ此規則ニ遵フナリ而シテ本條ハ勿論不列顛國臣民ノ輸入ニ係ル貨物ヨリハ寧ロ不列顛國ノ貨物ニ關スヘキモノナリ又本條ニ於ケル第二ノ修正ハ第一條ニ就キ提議セル修正ト對照シテ思考セサル可カラス尤モ此兩個ノ修正ハ共ニ現行條約ニテ帝國政府カ輸入物品ニ内國稅ヲ賦課スル權利ニ關スル先頃ノ議論ニ於テ提起セラレタリ前段ノ修正ハ内國割増稅ヲ課スヘキ物品ノ區域ヲ擴張スルカ故ニ先頃ノ議論ヲ惹セル物品モ亦其中ニ包含セラシテ後段ノ修正ハ運搬ニ關スル形樣文字ヲ刪除シタルカ故ニ第一條ニ載セサル輸入品ニ對シ日本カ内國稅ヲ賦課スル權利ノ抑止ヲ明瞭ニスルヲ以テ種々ナル異論ヲ含答スル所ノ問題ヲ撤去スルコト

ヲ得ヘシ隨テハ帝國政府ハ本條約修正ノ採用ハ第一條修正ノ受納如何ニ屬セシムルコトヲ希望スルモノナリ第八條 不列顛國船舶ハ現今實際上帝國ノ諸開港場間ニ積荷ヲ運搬スル故ニ帝國政府カ今後該船舶ニ其沿海貿易上制限付ノ回漕ヲ認可スルモ更ニ新讓與ヲ允准スルモノト看假ス可カラスシテ該船舶ハ單ニ現在ノ實業ヲ繼續スルニ過キサルナリ而シテ帝國政府ハ此意義ニテ第八條ノ末節ヲ修正スルコトヲ希望シ且新條約ニ於テ不列顛國船舶ニ沿海運輸ヲ認許スヘキ港場ニ關シ不列顛國ノ對案ニ掲載スル港名中ヨリ兵庫及箱館ヲ削除スルコトヲ希望スルモノナリ帝國政府ノ判斷ニ於テハ此提議ノ由テ起リタル思議ハ即チ今般ノ變更ニ付不列顛國政府ノ同意ヲ得ル充分ナルモノナリ夫レ締結各國カ帝國沿海貿易ニ就キ外國船舶ハ少クモ制限付ノ回漕業ヲ認許セラルヘシトノ發議ヲ提出シタル唯一否ナ重要ナル理由ハ内國船舶ノ噸數不足ニシテ充分ニ該事業ノ需要ニ應スル能ハス隨テ外國商人カ常ニ相當ノ運賃ニテ其貨物ヲ運搬スハ能ハサルノ虞アリト云フニ在リ然レトモ近年内國商船ノ大ニ増加シタルヲ以テ該理由ハ

實際ニ其勢力ヲ失ヒタルモノナリ假令ヘ該理由ニシテ尙ホ幾分カノ活氣ヲ有スルモノナリト見做スモ之ヲ以テ沿海貿易ニ關スル讓與ヲ擴張シテ從來外國貿易ヲ許ササル港場ニ及ホシ若クハ外國商人カ實際既ニ貿易事業ヲ廢止シタル港場ニ及ホス可シトノ要求ヲ維持ス可カラサルナリ帝國政府カ本條中ヨリ兵庫港ヲ除カントスル希望ハ即チ同港ハ未タ外國貿易ノ爲メ開カサルノ事實アルニ因ル夫レ神戸カ兵庫ノ開港場タルハ横濱カ神奈川ノ開港場タルト同一ナリ尤兵庫ハ別ニ一港ヲ有シ内國船舶ノ往來スル所ナレトモ稅關アルニ非ラスシテ外國船舶ノ入港ヲ許可セシコトナク且ツ外國商人ハ兵庫ノ水運業ニ於テ何等ノ利益ヲモ有セサルナリ又函館ハ開港場ナレトモ外國商人カ關係ヲ有スル貿易ノ部分ハ大ニ殺滅シタルヲ以テ讓與ノ價值ハ殆シト烏有ニ歸シタルモノナリ此論ヲ確證スル爲メ左ノ統計ヲ揭示スヘシ即チ貨物ヲ搭載シテ函館ニ入源セシ外國船舶ハ千八百八十八年中ニ唯タ二艘ニシテ合計千九百六十噸ナリ千八百八十九年中ニハ三艘ニシテ合計四千二百五十五噸ナリ終リニ臨ミ帝國政府ハ外國船舶ノ有スヘキ沿海貿易

易權ノ期限ヲ短縮スルコトヲ切望ス不列顛國草案ノ第十條ヲ削除シ新稅則ノ有效期限ヲ短縮セントスル提議ノ理由ハ均シク本條ニ於ケル修正ニ適用スルモノナリ第十條(不列顛國草案)帝國政府ハ不列顛國政府ニ對シ本條ノ削除ニ同意セラレンコトヲ請求スルノ己ムヲ得サルノ場合ニ遭遇セリ千八百九十年二月ノ覺書ニハ未タ此請求ヲ載セサリシニ外ナラスト雖モ帝國政府ハ該覺書ヲ提出シタル後ニ發達セル事情ノ必要ニ迫ラレ止ヲ得ス此ニ及フモノナリ帝國政府ハ何タル條約タリトモ完全且満足ナル實行ヲ遂クル能ハサル所ノモノヲ締結スルコトハ斷然爲ササルコトニ決心セルヲ以テ斯ル場合ニ遭遇センヨリハ寧ロ帝國ノ利益上ニ有害ナル現在ノ事態ヲ其儘無期限ニ維持スルコトヲ欲スルモノナリ本條ニ關シテハ自今強硬且ツ鞏固ナル反對論アリ帝國政府ハ正義若クハ其半途ノ約束ニ加入セサルトノ決心ニ反省スルトキハ此反對論ヲ度外視スル能ハサルナリ此反對論ハ沿海貿易ノ爲メ外國船舶ヲ雇入ルルノ主義ニ反對スルヨリハ寧ロ帝國政府ハ鞏固ナル政略ニ據リ羈絆ヲ受ケサルノ方向ヲ取ルヘキニ左ハナクテ國

際上ノ契約ヲ以テ自己ヲ束縛シタリトノ觀念ニ反對スルモノナリ帝國政府カ自ラ設定セル法律ニ據リ現今夥多ノ外國船舶カ或ル未開港場間ニ於テ荷物運搬ノ業ニ從事スルノ事實ハ即チ本條ニ掲クル請求ハ敢テ帝國政府ニ於テ敵意ヲ挾ミタル立法ニ從事セントスル意望ヲ有スルニ非ラサルコトヲ示スニ足ルヲ以テ不列顛國政府ノ満足ヲ得ヘシト帝望スルモノナリ帝國政府ハ該請求ヲ助成スル爲メ提出セシ思議ヲ確信シ深ク之ニ依頼スルト雖モ尙ホ此ニ左ノ一件ヲ附加スルモ不當ニ非ラサルヘシ即チ我國ノ航業ヲ擴張セントスル各方案ハ即チ不列顛國ノ利益ヲ増進スルノ傾向ヲ有ス何トナレハ我商船ハ殆ント皆ナ不列顛國ニ於テ築造スルモノニレハナリ

第十一條 帝國政府ハ本條ニ三箇ノ修正ヲ掲ケタリ其第一箇ノ目的ハ噸稅ノ相互待遇ニ關シテ特別ノ保證ヲ與フルノ必要ヲ廢止スルニ在リ輸入稅ニ關シ右同様ノ保證ヲ與フルノ必要ハ此ニ提出スルト同様ノ項ヲ第一條中ニ挿入シタルヲ以テ已ニ消滅ニ歸シタリ第二修正ノ目的ハ噸稅ヲ計算スル基礎ノ畫一ヲ保持スルニ在リ

ノ港場ニ於テモ右ニ均シキ工事ヲ起スカ如キアラハ同様ノ結果ヲ呈スヘシ加之ノミナラス帝國政府ハ常ニ諸港ノ保存竝ニ航業ノ統轄及ヒ差配ハ特ニ內國立法ノ範圍內及ヒ其管理ニ屬スヘキノ事項ナリトノ意見ヲ把持スルモノニシテ千八百八十六年并ニ七年ノ會議ニ於テ調製シタル條令草案ヲ以テ將來立法ノ基礎トスルコトニ同意スヘシト雖モ本問題ニ對シテハ帝國政府ハ各締盟國ト同一ナル利害關係ヲ有スルコトヲ信シ且ツ港灣ノ改良スルニ隨ヒ假令ヘ特ニ地方條令ヲ制立セサルトスルモ必ラス右ノ條令ヲ修正スルノ必要ヲ見ルニ至ルヘキヲ以テ帝國政府ハ該條令ノ國際契約ノ問題ト爲スノ得策ニ非ラサルコトヲ思量スルニ至レク

第十六條 今日各締盟國臣民及ヒ人民カ享有スル特許及ヒ免除ハ多クハ習慣ニ起因シタルモノニシテ日本カ管テ特更ニ讓與セシ例外ノ利益及ヒ免除ヲ完全ニ享有スルニ必須ナルモノトノ假定ヨリ之ヲ要求セルモノナリ今ヤ本問題ノ適法ナルヤ否ヤハ措テ論セス帝國政府ハ此等ノ特許、免除ハ契約以外ニ超躍スルニモ拘ハラズ不斷繼續シ年所ヲ經テ敬視セララルカ故ニ當分ノヲ

現在帝國ニ實行スル船舶量度法ハ不列顛國ト同様ナルカ故ニ本修正ハ不列顛船舶ニ關スル分ハ全ク不要ナレトモ帝國政府ハ今回不列顛國ト締結セントスル條約ヲ以テ他國ト締結スヘキ條約ノ模範ト爲スコトヲ希望スルモノニシテ若シ各新條約ニ於テ該原文ノ文字ヲ存スルカ如キハ「ムールソン」ノ量度法ヲ採用セサル國ノ船舶ハ帝國及ヒ不列顛國ノ船舶ニ課スル所ト總額上相ヒ異ナリタル噸稅ヲ徵收スルノ結果ヲ見ルヘシ何ナレハ純噸數ハ其量度法ノ相ヒ異ナルニ隨テ差アルモノナレハナリ且又提議ノ修正中ノ「現今日本ニ於テ實行スル」ナル文字ハ新量度法ノ方便ヲ用ヒテ間接ニ噸稅ノ増加ヲ計ルコトヲ障礙スルノ效アルヘシ第三修正中ノ目的ハ「日本政府ヨリ正當ノ認可ヲ受ケタル」ナル形樣ノ文字ノ範圍ニ關スル疑義ヲ盡ク撤去スルニ在リ第十七條（英國草案）帝國政府ハ都テ必要ナル貿易規則、倉庫規則及ヒ港則ヲ制定スルノ權ヲ自ラ保有スルコトヲ望ムモノナリ現今橫濱ニ於テ施行中ノ廣大ナル築港工事且ツ計畫中ナル倉庫ノ建設ニ關シテハ提議ノ條令ハ少クモ一部分ハ該港ニ適用セサルヘシ將又他

維持スルノ當然ナルコトヲ承認スルニ憚カラサルヘシ然レトモ帝國政府ハ左ノ確信ヲ有ス即チ總テ此等ノ特許、免除ハ直接ニ領事裁判ニ關係ヲ有スルモノニ非ラサルモ尙ホ之ニ附隨スル事項ナリト認メラレタルモノニシテ該裁判ノ存セサル限リハ獨リ成立スヘキノ事由ヲ有セサルモノナレハ領事裁判廢止ト共ニ消滅スヘキノナリ此ニ本條ヲ以テ換置カント希望スル所ノ不列顛國對案ノ第一條ハ一種ノ廢棄條款トシテ實施セラルルニ於テハ消極上ノ形式ヲ有スルノミナラス其應用ハ單タ契約上ノ特許、免除ニ止マリ領事裁判廢止以前ト以後トノ期限ノ區別ヲ爲ササルモノナリ而シテ此缺點ハ此ニ提出スル代用條款ニ於テ之ヲ補充スルコトヲ得ヘシ此新條ハ其消極上ノ形式ニ於テハ領事裁判權ノ繼續中ハ新條約又ハ議定書ニ於テ特ニ廢止セサル習慣上并ニ契約上ノ特許、免除ハ總テ全ク之ヲ維持セシメ而シテ其積極上ノ形式ニ於テハ新契約カ特ニ繼續セシメサル都テノ特許、免除ハ領事裁判ノ廢止ト同時ニ之ヲ廢棄スルコトヲ明示スルモノナリ故ニ一方ニ於テハ領事裁判ノ存スル限リハ特許、免除ニ關スル現事態ヲ保

持シ又他ノ一方ニ於テハ該裁判權ノ廢止ト共ニ該權ノ享有若クハ執行ニ必須欠ク可カラサルモノナリト思惟セラルル所ノ我司法ノ獨立ニ牴觸スル特許、免除ハ悉皆廢棄スルモノナリ

不列顛國對案ノ第十條ヲ削除スル爲メニ提出セル理論ハ帝國政府ニ六年ノ後ハ關稅契約ヲ終了スルノ權利ヲ與フル爲メ新條項ヲ本條ニ挿入セントスル意見ニ對シ一層強ク適用スルモノナリ而シテ此ニ指示スル期限ハ帝國政府ノ各部カ承認スヘキ調和的性質ヲ帶フルモノナリ將又帝國政府ヲシテ此修正ヲ要求スルノ已ムヲ得サルニ至ラシメタル考案ノ外ニ該提議ヲ助成センカ爲メ左ノ開陳ヲ爲ス可シ即チ萬一帝國カ不列顛國ノ貨物ニ對シテ特種ノ關稅ヲ賦課スルカ如キ不當不親ノ計畫ニ依頼スル傾向アリトスルモ提議條約中ノ互相待遇及ヒ最惠國ノ諸條款ハ之ヲ阻碍スルノ效力ヲ有スヘシ且又今回提議ノ稅則ハ千八百八十三年ニ於テ採用セラレタルモノニシテ若シ之ヲ實施後六年ニシテ期限ノ經過若クハ通知ニ由テ終了スルトスルモ尙ホ遠ク最初ノ期限外ニ延長スヘシ而シテ帝國ハ唯タ該期限ノ一小部分

依リ新法典ノ實施ニ關スル擔保ヲ新條約ニ明記スルハ不得策ナリト思惟スルナリ然レトモ帝國政府ハ勉メテ不列顛國政府ノ希望ニ應セント欲スルカ故ニ調和ノ精神ヲ以テ本條ニ修正ヲ加ヘタリ而シテ此修正ハ一面ニ於テハ擔保ニ關スル明文ヲ要セサルト同時ニ又他ノ一面ニ於テ領事裁判權ヲ廢止スヘシトノ約款ハ該裁判權ノ廢止ニ際シ新法典ノ實施ヲ豫期スル事實ヲ表明スルモノナリ

帝國政府ハ諸約款ヲ可成的完全ニシ且ツ將來協議ニ付スヘキ問題ヲ可成的僅少ナラシメンカ爲メ外國人居留地ニ關スル取極ヲ本條ニ加ヘンコトヲ發議ス但シ此取極ハ千八百八十八年ニ帝國政府ノ提出セシモノニシテ即チ不列顛國政府ニ於テ將來談判ノ基礎ト爲スヘキモノヲ認メラル、所ノ取極ナリトス

第二節 帝國政府ノ所見ニテハ本條ノ「條件ナシニ」ナル文字ハ帝國ノ内地ヲ開クハ領事裁判權ヲ廢止スルト同時ニシテ且ツ其廢止ノ爲メナルヲ以テ之ヲ削除セサル可ラス

帝國政府ハ土地ノ所有權ニ關シ本條ニ第二ノ修正ヲ加

ノ利益ヲ享有スルモノナルコトヲ此ニ指示スルハ不當ニ非ラサルヘシ

第十七條 千八百九十年二月ノ覺書ノ結尾ニ掲ケタル宣言ヲ履行スルニハ新契約ヲ施行スルニ確カナル時日ヲ約定スルコトヲ必要トス而シテ此考案ニ依レハ斯ル期日ハ隨分遙遠ニシテ帝國政府ヲシテ他ノ與國ト條約改正ヲ完結スルニ充分ナル時間ヲ有セシムルコトヲ必要ナラシム

第十八條 本條約ノ修正ハ唯其形式上ニ止マルモノニシテ第十七條ノ修正ハ此變更ヲ要セシムルニ至リタルト云フノ外更ニ説明ヲ要セサル可シ

#### 議 定 書

第一節 新法典ニ關スル約束ノ撤回ハ千八百九十二年二月ノ覺書ニ掲クル最モ重要ナル修正ナリシコトハ記憶セラル可シ帝國政府ハ領事裁判權ノ廢止ニ先チ新法典ヲ實施スルノ必要ニ關シテハ更ニ疑ヲ容ルルノ意ナキノミナラス外國人ニ對シ裁判權ヲ行フニ當リ新法典ヲ適施行得ルハ帝國政府ニ耶テ利益タルヘキコトヲ認メサルニ非ラスト雖モ前記ノ覺書ニ掲クル理由ア

ヘント欲ス即チ外國人土地所有權ノ問題ハ關係諸國各自ノ處置ニ任スヘシトノ說ヲ維持スル爲メ千八百九十年二月ノ覺書并ニ其附屬書翰ニ掲ケシ論旨ヲ茲ニ再述スルノ必要ナシト雖モ本件ニ關シ差當リ國際條約ヲ結フノ不得策ナルハ帝國政府ノ益々確信スル所ナル旨ヲ開陳セサル可ラス抑モ日本國ノ位地ハ一種特別ニシテ今回始メテ外國人居住及ヒ生産業ノ爲メ全開通ノ實驗ヲ試ミントスルモノナリ帝國政府ハ固ヨリ全國ヲ開通スルモ更ニ何等ノ危險ナキヲ認ムルト雖モ其結果ノ如何ヲ正確ニ且ツ充分ニ豫見スルヲ得ヘシト思考セサルナリ因テ帝國政府ノ判斷ニテハ此本件ヲ試設期トモ稱スヘキ時期間ニ於テ外國人ヲシテ敢テ一定明確ナル諸條件ノ存スルニ非サレハ充分ニ享有シ難キ所ノ所有權ヲ領得セシメントスルハ穩當ナリト云フヲ得ス大不列顛國ニ於テ外國人ニ土地所有權ヲ許與セシハ千八百七十年ノ事ニシテ其主要ナル諸殖民地ニ於テハ今尙ホ全ク此權利ヲ許與スルコトナシ又其他ノ殖民地ニ於テハ制限ヲ附シテ之ヲ許與スルニ過キス合衆國ハ近頃ニ至リ此特典ヲ撤回スルヲ必要ト認メタリ而シテ歐洲

大陸ノ諸國ニ於テモ悉ク全體ニ此特典ヲ許與スト云フニ非ラス前述ノ事情ニ徴シ且ツ古來交通貿易ノ關係アル諸國間ニ於テスラ土地所有權ハ最終ニ外國人ニ許與セシ一ノ特典ナルコトヲ顧ミルトキハ該修正ノ公正ナルコトニ關シテハ敢テ疑ヲ容ルルノ要ナシ然レトモ帝國政府ニ於テ外國人ニ土地所有權ヲ享有セシムルヲ安全ト認ムルトキハ直ニ之ヲ許與スヘキコトヲ確言スルハ法律ノ精神寛大ナルヘキヲ期スルカ故ナリ尤モ其間ハ帝國政府ハ居住及ヒ商業ノ爲メ土地ヲ賃借シ并ニ家屋倉庫ヲ所有シ使用シ賃借スルノ權利ヲ大不列顛國ノ臣民ニ附與スル覺悟ナリ此約款ノ有益ナルコトヲ示ス爲メ新民法ノ規定ニ依レハ通常不動産ノ有效貸借期限ハ三十年ニシテ永貸借期ハ五十年ナルコトヲ明言スルナリ

千八百九十年二月ノ覺書ニ於ケル第四項ノ修正ノ主義ヲ揭ケタル約款ヲ設クルノ有益ナルヘキハ今尙ホ帝國政府ノ確信スル所ナリ然レトモ大不列顛國政府ニ於テ斯ノ如キ約款ヲ加フルヲ欲セサルノ意ヲ表明シタルニ依リ帝國政府ハ該修正ヲ撤回シ唯タ本件ニ關シ大不列

シタル事情ノ必要ニ起由シタルモノナレトモ帝國政府ハ之ヲ度外視スルノ得策ニ非ラサルヲ思惟スルモノナリ

第一及ヒ第二ノ修正ハ全ク新問題ニ屬スルヲ以テ毫モ從前在來ノ特許ニ干渉セサル故ニ之ヲ協定スルニハ重大ナル困難ニ遭遇スルコトヲ豫期セサルヘシト雖モ第三ノ修正ニ關シテハ帝國政府ハ重大ナル不利益ヲ負擔スルモノナリ即チ此不利益ハ若シ該問題カ全ク新規ニシテ從來讓與セシ權利ヲ回復スルコトニ努力スルニ非サレハ初ヨリ存在セルモノナリ

若シ帝國ニシテ現存條約ヲ改正スルニ非ラスシテ直チニ新條約ヲ締結スル目的ヲ以テ談判ニ取掛ル位置ニ立タシメハ何等ノ契約稅則ニ拘ハラス一方ニノミ適用スルモノニハ同シテ同意ヲ表スルコトヲ肯シセス必ラス對等ノ契約ヲ談判スルカ若クハ全ク談判セサルコトヲ主張セント欲スルナリ然レトモ帝國政府ハ稅則ノ事項并ニ裁判權ニ關シテハ利益關係ノ業已ニ生スルモノアルヲ以テ之ヲ全ク度外視スヘカラサルコトヲ承認スルニ憚カラス而シテ此等ノ利益關係ハ帝國カ關稅并ニ裁

顧國政府ノ提案ニ掲クル提議ノ文體ニ聊カ變更ヲ加ヘタルニ過キサレハ此修正ハ必ラス大不列顛國政府ノ是認スル所ナルヘキヲ確信スルナリ

第三節 帝國政府ノ所見ニテハ内地ニ於ケル外國人ニ關スル現行規則ハ新條約ヨリ生スル新事件ニ應スルニハ充分ナルヘキヲ以テ本節ハ其節ニ明示スル如ク修正スルヲ要スルモノトス

第四節 帝國政府ニ於テ將來時宜ニ依リ工業上ノ所有權及ヒ版權ニ關スル萬國條約ニ加盟スルコトナキニ非ラスト雖モ差當リ本件ニ關スル約定ハ新條約ヲ締結スル諸國ニ限ルヲ可トス

### 結 論

今般帝國政府カ不列顛國ノ對案ニ對シ提出スル修正中ニ就キ最モ緊要ナリトス可キモノハ僅カニ三箇條ニ過キス即チ第一ニ土地所有權ヲ許與スル條款ヲ削除スルコト第二ニ不列顛國草案ノ第十條ヲ削除スルコト及ヒ第三ニ契約稅則ノ繼續期限ヲ短縮スルコト是ナリ

第一ノ修正ハ千八百九十年二月ノ覺書中ニ包含セリ第二及ヒ第三ノ修正ハ新案ニシテ該覺書調製以後ニ發生

判ニ關スル主權ヲ回復スルニ對シ永久其阻碍ヲ爲スヘキモノタルコトヲ要求シ難キヲ以テ左ノ問題ヲ起スモ亦當然ナルヘシ即チ帝國ハ斯ル例外且ツ無報酬ナル讓與ニ起由スル關係ノ爲メ幾時カ其獨立主權ヲ抑制セラハ不列顛國政府カ該利益關係ハ新稅則ヲ六年限リト爲スヲ以テ充分ナリトノ案ニ同意センコト是ナリ

現行條約ヲ基礎トシテ之ヲ考フルトキハ帝國政府ハ此修正ヲ提出スレハ今般ノ改正事業ハ大ニ其利益ト爲ルノ事實ハ充分ニ諒知スル所ナル故ニ帝國政府ハ一方ニ於テハ實際ニ於テ該事實ヲ承認スルコトヲ示シ又他ノ一方ニ於テハ不列顛政府ノ親厚ナル舉措ヲ感荷スル旨ヲ表彰スル手段ヲ發見スルコトニ勉メタリ此等ノ目的アルヲ以テ帝國政府ハ左ノ取極ヲ爲スコトニ同意スヘシ

第一、領事裁判權ノ繼續期限ヲ一箇年延長スル事

第二、噸稅及燈稅ノ率ヲ低減スルコト即チ左ノ變更ヲ爲ス

一、貳拾五錢ヲ改メ貳拾錢ト爲ス

二、參拾錢ヲ改メテ貳拾五錢ト爲ス  
三及四、八拾錢ヲ改メテ七拾錢ト爲ス

帝國政府ハ以上ノ提議ヲ以テ此說明書ニ附隨スル條約案中ノ條項中ニ編入スルコトヲ好マス何ナレハ此等ノ箇條ハ全ク他ノ修正ノ採納如何ニ屬スレハナリ

若シ不列顛國政府ニ於テ修正箇條ヲ採納セラルルカ如キハ帝國政府ニ於テハ管ニ以上ノ提議ヲ以テ相當ノ場所及ヒ形式ニ於テ挿入シ得ルノミナラテ直チニ新條約ヲ締結スルヲ得ヘシ

註 右發遣ノ日付明カナラザルモ青木子「條約改正記事」ニヨレハ英國公使ハ直チニ回答ヲ寄セタリトアリ依テ假リニ英公使回答ノ日付トス

## 別錄

條約草案ニ對スル青木外務大臣意見

註 以下ハ青木子「條約改正記事」所載ノ意見ナリ

當時周藏退テ事ノ情勢ヲ沈思默考セルニ隨テ得テ蜀ヲ望ムハ恰モ人生ノ常情ニシテ未タ必スシモ之ヲ非望視スヘキニ非ス況ンヤ對外ノ國務ヲ處裁スルニ當リ會テ失ヘルノ國權ヲ恢復セント欲セハ既ニ一步ヲ得ルニ及テハ更ニ進テ一步

略ノ意嚮ヲ察知セサル可ラス依テ該條款ニ關スル各國ノ慣例ヲ調査シタルニ其類例正シク左ノ如クナルヲ以テ到底今ノ時ニ方リ規約附隨ノ條款ヲ主張スルモ各國ノ承認ヲ得難キコトヲ洞觀シタリ

## 記

英政府カ其貿易上ノ利ヲ保護スルノ目的ヲ主張シ及ヒ他國モ其主義ヲ認許シタルヲ以テ千八百六十五年後ニ於テ外國ト締結セル十二條約中ノ最惠國條款ニ無條件ノ句ヲ挿入セルノ事實ヲ明證スルト同時ニ英國ト諸外國トノ間ニ締結セル條約中ノ最惠國條款ヲ類別シテ五種ト爲シ參考ノ材料ニ供ス

## 第一種

大不列顛國ト西洋各國トノ現行條約中ノ相互最惠國條款ノ拔萃  
條件附キノ明文ヲ有スル分  
コスタリカ國ト

(千八百四十九年十一月二十七日締結條約第四條)  
兩締盟國ハ前二條ノ主旨ニ依リ相互ニ最惠國ノ待遇ヲ約スルコトヲ目的トスル故ニ此ニ通商及ヒ航海上ノ事

ヲ占メサル可カラス是レ當時周藏ト雖モ亦感念セサルニ非ス故ニ何卒シテ層一層進收ノ籌ヲ運ラシ出來得ヘキ丈ケ完全ナル條約ヲ締結シ十分朝野ノ希望ヲ満足セシメンコトヲ苦慮セシナリ去ナカラスル難事ヲ處スルニ方リ成ルヘキモノト成ル可ラサルモノトヲ區別セスシテ濫リニ強硬的手段ヲ取り之カ爲メ却テ英國ノ好意ヲ害シ隨テ曠日彌久時機ヲ誤ルカ如キハ周藏ノ決テ與セサル所ナリ例ヘハ規約附隨ノ最惠國條款ノ認可ヲ要求スルカ如キハ英公使ノ到底同意ヲ表シ能ハサル處ナリ何トナレハ英國嚮ニ自由貿易ノ主義ヲ收採セシ以來ハ大ニ該條款ニ注意ヲ爲スニ至リタルヲ以テ千八百六十五年以後ニ締結シタル十二箇ノ條約中ニハ最惠國條款ニ關シ必ス無規約ノ文字ヲ挿入シタルノ事實アリ且千八百七十年ノ頃布哇國ト彼ノ世評ニ喧シキ砂糖ノ問題起リタル以來ハ英國議院モ大ニ此點ニ注意ヲ加フルニ至リタルヲ以テ誰何ヲ問ハス凡ソ英國公使ノ位地ニ立ツ者ハ縱令枉テ無規約條款ヲ承諾スルモ其政府ニ對シ大ニ吳險ヲ踏ム者ナリ而シテ我締盟國ハ單ニ英國ノミニ限ラス其他十數國アリ故ニ縱令英國ニシテ我請求ヲ納ルルモ佛獨奧伊露等諸國カ所謂世界若クハ萬國經濟ノ區域ニ於テ固執スル通商政

項ニ關シテハ兩締盟國ノ一方カ別國ノ臣民或ハ人民ニ現ニ許與シタルカ若クハ將來許與スルコトアルヘキ恩典、特許若クハ免除ハ他ノ一方ノ臣民或ハ人民ニモ許與スヘシ但別國ニ讓與シタルモノニシテ無條件ナレハ即ニ無條件ニシテ之ヲ許與スヘク若シ條件附キナレハ成ルヘク丈ケ同様ノ價值及ヒ效力アル交換ヲ得テ讓與スヘシ

リベリア國ト (千八百四十八年十一月二十一日締結ノ條約第七條及ヒ「ドミニカン」共和國ト (千八百六十年九月七日締結條約第六條)  
前顯ノ條約文ト粗ホ相同シ唯前二條ト云フ三字ノ代リニ現條約ノ字ヲ換置ケリ

布哇國ト (千八百五十一年七月十日締結條約第三條)  
前顯ノ條約文ト同一ナレトモ其前項ヲ略シ「兩締盟國ハ此ニ」ノ所ヨリ起項セリ

## 第二種

蘭國ト (千八百三十七年締結條約第一條)

無條件トモ條件付キトモ明文ヲ有セサル分  
前略、兩締盟國ノ臣民ハ他ノ一方ノ國內ニ於テハ通商及ヒ航海ノ事項ニ關シ他ノ一方ニ於テ最惠國ノ臣民ニ

許與セシカ若クハ許與スルコトアルヘキ權利、特許、自由、殊遇免除及ヒ除役ヲ享有スヘシ

瑞典國ト(千八百五十五年九月六日締結條約第十條)

兩締盟國ハ又左ノ約束ヲ爲ス即チ通商上ノ事項ニ關シテハ甲ノ一方カ將來別國ニ許與スルコトアルヘキ總テノ殊遇ハ同時ニ於テ乙ノ一方ニモ許與スヘシ

露國ト(千八百五十九年一月十二日締結條約第十條)

不列國顚皇帝陛下ハ通商及ヒ航海上ノ各事項ニ關シテハ全露國皇帝陛下ノ臣民ハ不列國領地内ニ於テ不列國皇帝陛下カ別國ノ臣民或ハ人民ニ現ニ許與シ若クハ將來許與スルコトアルヘキ總テノ特許、殊遇及ヒ免除ヲ享有スルコトヲ約ス又全露國皇帝陛下ハ兩國間ノ通商上ノ關係ヲ増進スルコトヲ希望スルカ故ニ通商及ヒ航海ニ關シテハ別國ノ臣民若クハ人民ニ現ニ許與シ若クハ將來許與スルコトアルヘキ總テノ特許、殊遇及ヒ免除ハ不列國皇帝陛下ノ臣民ニモ許與スルコトヲ約ス

白耳義國ト

(千八百六十二年七月二十三日締結條約第三條)

イクキドール國ト

(千八百八十年十月十八日締結條約第十二條)

伊國ト

(千八百八十三年六月十五日締結條約第十一條)

ブラグイ國ト

(千八百八十四年十月十六日締結條約第二條)

ウルグイ國ト

(千八百八十五年十一月十三日締結條約第一條)

希臘國ト

(千八百八十六年十一月十日締結條約第十條)

墨西哥國ト

(千八百八十八年十一月二十七日締結條約第二條)

以上六個國條約同文

兩締盟國ハ其一方ノ貿易ヲシテ他ノ一方ニ於テ各般ノ事項ニ就キ最惠國ノ基礎ニ置クヘシトノ意思ヲ有スルニ因リ通商及ヒ航海ニ關スル一切ノ事項ニ於テ現時或ハ將來其一方ヨリ別國ノ臣民ハ許與スルコトアルヘキ特許、殊遇或ハ免除ハ他ノ一方ノ臣民ニモ即時且ツ無條件ニテ之ヲ許與スヘキコトヲ兩締盟國ニ於テ約ス

モンテネグロ國ト

總テ航海及ヒ通商上ノ關係ニ付テハ兩締盟國ハ他ノ一方ノ臣民ニ均一及ヒ直接ニ許與スル所ノ總テノ特許、殊遇或ハ免除ノ外ハ別國ニ許與セサルヘシ

### 第三種

無條件ノ明文ヲ有スル分

獨逸國「ツウルフヘルアイン」ト

(千八百六十五年三月三十日締結條約第五條)

各殊遇、特許若クハ輸出入關稅ノ輕減ニ關シテハ兩締盟國ノ各方ハ他ノ國ニ許與シタル所ノモノハ即時且ツ無條件ニテ他ノ一方ニモ之ヲ許與スヘシ

奧、匈國ト

(千八百七十六年十二月五日締結條約第三條)

輸出入關稅ノ各輕減ニ關シ及ヒ各殊遇及ヒ免除ニシテ兩締盟國ノ一方カ別國ノ臣民及ヒ通商上ニ許與スルモノハ他ノ一方ニモ同様且ツ無條件ニテ許與スヘシ

羅馬尼亞國ト

(千八百八十年四月五日締結條約第六條)

前條ト同一ナレトモ航海及ヒ臣民、通商ノ事項ニ關シ

テモ讓與スルトノ字句ヲ加フ

(千八百八十二年一月二十一日締結條約第八條)

兩締盟國ノ一方ニ於テ別國ノ臣民或ハ通商ニ對シ既ニ許與シタルカ若クハ將來許與スルコトアルヘキ各殊遇及ヒ免除ハ他ノ一方ニモ同様且ツ無條件ニテ許與スヘシ

佛國ト

(千八百八十二年二月二十八日締結條約第一條)

前略、兩締盟國ハ通商若クハ工業上ニ關スル總テノ事項ニ付テハ兩締盟國ノ一方カ別國ニ既ニ讓與シタルカ若クハ讓與スルコトアルヘキ各殊遇、免除或ハ特許ノ利益ハ他ノ一方ニモ即時且ツ無條件ニテ讓與スルコトヲ約ス

葡萄牙國ト

(千八百八十二年五月二十二日締結條約第一條)

大不列顛聯合王國及ヒ愛蘭土國ト葡萄牙國及ヒ其領地内ニ於テ兩締盟國ハ左ノ事項ニ關シ互ニ即時且ツ無條件ニテ讓與スルコトヲ約ス即チ總テ利益、權利、殊遇免除及ヒ商品ノ輸出入ニ關シ關稅ノ特許若クハ輕減ニシテ兩締盟國ノ一方カ都テノ外國ニ讓與シタルカ若ク

ハ讓與スルヘキコトアルモノ是レナリ

摘要

前來ノ條款ヲ分析スレハ左ノ事實ヲ觀察スヘシ即チ

- 一 列擧スル所ノ條款中其二十八特ニ貿易及ヒ通商ニ關スル問題ノ範圍内ニ止マル

- 一 右中ノ四ハ無條件トモ條件付トモ宣言スルコトナシニ最惠國條款ヲ保證ス

右中十二ハ特ニ無條件タルコトヲ宣言ス

而シテ最モ注意スヘキハ條件付ノ條款ハ千八百四十九年乃至千八百六十年間ニ成ルモノナリ

蘭國トノ古キ條款ヲ除クノ外ハ無條件トモ條件付キトモ宣言セサル條款ハ千八百五十五年乃至千八百六十二年間ニ成レリ

其中十二無條件ノ條款ハ千八百六十五年後ノ締結ニ係ル條約ニ挿入セリ而シテ此十二中ノ十八千八百八十年後ニ係ルモノナリ將又注意スルノ價值アルモノハ右十二無條件條款中十六ハ世ニ英伊條約ノ最惠國條款ト知ラレタルモノト同義同文ナリ

第四種

(千八百五十六年十二月九日締結條約第一條)

大不列顛國女皇ノ臣民ハ他ノ最惠國臣民或ハ人民及ヒ他ノ外國人ニ將來許與スヘキ各爾ノ權利及ヒ特許ヲ享有スヘシ又「モロコー」國素丹殿下ノ臣民ハ其返報トシテ不列顛國女皇陛下ノ領内ニ於テ最惠國臣民或ハ人民ニ許與セラレ若クハ許與セラルヘキ同様ノ保護及ヒ特許ヲ享有スヘシ

チーニス國ト

(千八百七十五年七月十九日締結條約第五條)

不列顛國臣民、船舶、通商及ヒ航海ハ「チーニス」國ニ於テ別國ノ臣民、船舶、通商及ヒ航海ニ對シ現ニ許與シアルカ若クハ將來許與スルコトアルヘキ總テノ特許、殊遇及ヒ免除ヲ何等ノ制限ナシニ享有スヘシ又不列顛國皇帝陛下ハ「チーニス」國臣民、船舶、通商及ヒ航海ノ爲メニ其領内ニ於テ最惠國ノ臣民、船舶、通商及ヒ航海ニ對シ許與シタルカ若クハ許與スルコトアルヘキ保護及ヒ特許ヲ享有セシムルコトヲ保スヘシ

トンガ國ト

(千八百七十九年十一月二十九日締結條約第二條)

不列顛國ト領事裁判ヲ執行スル諸國トノ間ノ現行條約中ノ最惠國條款

益五ノ約

モスカット國ト

(千八百三十九年五月三十一日締結條約第一條)

ボルネオ國ト

(千八百四十九年五月二十七日締結條約第二條)

マダガスカル國ト

(千八百六十五年六月二十七日締結條約第二條)

以上三國同文

「モスカット」國素丹殿下ノ臣民ハ歐羅巴及ヒ亞細亞ノ不列顛國皇帝陛下ノ領内ニ於テ通商若クハ其他ノ事項ニ關シ他ノ最惠國ノ臣民或ハ人民ニ許與シ若クハ許與スルコトアルヘキ總テノ特許及ヒ利益ヲ享有スヘシ又不列顛國皇帝陛下ノ臣民ハ右同様ニ「モスカット」素丹殿下ノ領内ニ於テ總テノ通商及ヒ利益ニ關シ最惠國臣民若クハ人民ニ許與セラレ若クハ許與スルコトアルヘキモノヲ享有スヘシ

モロコー國ト

「トンガ」國王陛下ハ同國ニ於テ不列顛國皇帝陛下ニ

許與シタルヨリ餘分ノ權利、勢力、職權或ハ特許ヲ他ノ君主若クハ國ニ許與セサルコトヲ約定ス又不列顛國皇帝陛下ノ臣民ハ「トンガ」國ニ於テ「トンガ」國臣民ハ不列顛國皇帝陛下ノ領地ニ於テ最惠國臣民カ現ニ保有シ若クハ許與セラレタル總テノ權利、特許及ヒ免除ヲ享有スヘシ而シテ將來「トンガ」國ニ於テ不列顛國皇帝陛下ノ臣民ニ均一且ツ無條件ニテ許與セサル所ノ權利、特許或ハ免除ヲ他ノ外國ノ臣民ニ許與セサルヘシ

第五種

非相互ノ約

土耳其國ト

(千八百七十五年締結條約第十八條)

佛蘭西「ウエネシア」及ヒ其他ノ君主ニシテ土耳其政府ト國際ヲ有セルモノニ讓與セシ治外法權、特許并ニ條款ハ朕カ特別ノ勅命ヲ以テ之ヲ英國人ニ惠與シタリ依テ右治外法權、特許并ニ條款ハ必ス約スル所ニ從ヒテ之ヲ遵守シ向後之ヲ破毀シ若クハ之ヲ違反スル者ア

ラシムヘカラス

暹羅國ト

(千八百五十五年四月十八日締結條約第三條)  
暹羅政府カ已ニ他國政府若クハ其臣民ニ讓與シ或ハ向後讓與スルコトアル特許ハ其何タルヲ問ハス大不列顛國政府并ニ其臣民ニ於テ自由且ツ均等ニ之ヲ享有シ得ルモノトス

波斯國ト

(千八百五十七年三月四日締結條約第十二條)  
凡ソ執レノ場國ヲ問ハス大不列顛國政府ハ波斯國政府カ最惠國條款ヲ享有セル外國政府及ヒ其臣民ニ授與シ且之ニ享有ヲ許容スル特典、免除及ヒ待遇ハ波斯國內ニ於テ之ヲ大不列顛政府其官吏及ヒ其臣民ニ授與シ又之カ享有ヲ許サントヲ要求スヘク而シテ波斯政府ハ必ス之ヲ承諾スヘシ

清國ト

(千八百五十八年六月二十六日締結條約第五十四條)  
上年立約所有英國官民理應取益防損各事今仍存之勿失倘若他國今後別有潤及之處英國無不同獲其美

他國并他國臣民人等之處英國及英國臣民人等亦可一體均霑

埃及國ト

(千八百八十四年三月三日締結條約)  
埃及政府カ他ノ外國臣民、船舶、通商及ヒ航海ニ對シ現ニ讓與シ若クハ將來讓與スルコトアルヘキカ或ハ之ニ其享有ヲ許容スル所ノ權利、特典又ハ免除ハ總テ均等ニ之ヲ大不列顛國ノ臣民、船舶、通商並ニ航海ニ對シテ讓與シ且ツ之ニ其享有ヲ許容スヘシ

コンゴ―萬國連合

(千八百八十四年十二月六日締結條約第三條)  
本連合ハ不列顛國臣民ニ等一ノ便益ヲ與フルニ非サレハ何等ノ便益モ之ヲ他國ノ臣民ニ附與セサル事ヲ約ス

摘要

前陳ノ條款中注意ヲ要スヘキモノ一ニシテ足ラス蓋シ十五箇條ノ中相互ノ性質ヲ有スルハ僅カ六箇條ニシテ其約スル所單ニ通商及航海ノミニ止ラス皆一般ノ性質ヲ帶ヒ其恩惠、特典、免除及ヒ便益ノ如キハ諸般事項ヲ含蓄ス而シテ無條件主義ヲ明載スルハ唯二個ノ場合

日本國ト

(千八百五十八年八月二十六日締結條約第二十三條)  
日本政府ヨリ向後外國ノ政府及臣民ニ許スヘキ殊典アル時ハ貌利太尼亞政府國民ヘモ同様ノ免許アルヘシ

サモア國ト

(千八百七十九年八月二十八日締結條約第二條)  
「サモア」國王及ヒ其政府ハ「サモア」國ニ於テ不列顛國皇帝陛下ニ許與シ或ハ許與スルコトアルヘキ權利、特許、職權若クハ顯位ヨリ餘分ノモノハ之ヲ他ノ君主或ハ國ニ讓與セサルコトヲ約ス  
不列顛國皇帝陛下ノ臣民ハ「サモア」國ニ於テ最惠國ノ臣民ニ讓與スヘキ權利、特許及ヒ免除ハ其何タルヲ問ハス總テ之ヲ享有スヘク而シテ他ノ外國ノ臣民ニ讓與スヘキ權利、特許若クハ免除ハ必ス均等且ツ無條件ニテ之ヲ不列顛國皇帝陛下ノ臣民ニ讓與スヘシ

朝鮮國ト

(千八百八十三年十一月二十六日締結條約第十條)  
現經兩國議定自以上條約施行日期之後大朝鮮國大君主於各項進出口貨稅則及一切事宜今後有何惠政利權施及

ニ止ルト雖モ又條件ヲ有スル條款ハ更ニ是レアラサルナリ

且通商航海ノ區域ニ於テモ亦タ徹頭徹尾所謂國民待遇ヲ拒絕スルカ如キハ到底行ハルヘキモノニ非ラス故ニ此等ノ項ニ關シ折詳論談スルハ當ニ時機ヲ誤ルノミナラス英國ヲシテ我政府ハ最初ヨリ條約ヲ改正スルノ眞意ナカリシトノ疑ヲ起サシムルノ虞アルナリ然レトモ彼ノ請求ニ出タル沿海貿易ノ特權ヲ拒絕シ稅約終了期限ヲ短縮シ且條約ノ一部分ヲ成セル港則噸稅法及貿易章程ヲ條約書面ヨリ削除シ之ヲ我帝國ノ法律ヲ以テ整理スルカ如キハ英公使モ敢テ不同意ヲ表シ能ハサルモノト察知セリ  
故ニ周藏ハ隨ヲ得テ蜀ヲ望ムノ念起リタルニ方リ左ノ要求ヲ爲ス事ニ決心セリ

一 海關稅ニ關スル約條ハ本條約締結後六年ニシテ終了スル事

一 其交換トシテ領事裁判ハ一年ヲ延期シ五年ノ代リニ六年間之ヲ繼續セシムル事

一 第九條即チ外國船舶備入ノ條項ヲ削除スル事  
一 或ル開港場間ノ回漕業ヲ從前ノ通り差許スコトハ六



## 簡年間ニ制限スル事

一 港則及噸稅規則等ハ帝國法律ヲ以テ之ヲ發布スル事  
噸稅ノ條款ハ左ノ條約書ヨリ創除セス其故ハ條約締  
結ノ前ニ至リ之ヲ削ルノ内話アリタレハナリ

以上ノ趣旨及其他種々ノ修正ヲ包含スル條約案ヲ表シ説明  
書ヲ添付シ本年三月中旬ノ頃極テ懇信ナル手續ヲ以テ之ヲ  
英公使ニ送リタリ

## 附 錄

## 第一條 (大隈伯ノ案ニ修正ヲ加ヘタル分)

本日調印シタル議定書ノ條款ニ從ヒ日本ニ於ケル不列顛國  
領事裁判權應止ノ日ヨリ兩締盟國ノ一方ノ臣民ハ他ノ一方  
ノ版圖内何ノ處ニ到リ施行シ或ハ居住スルモ全ク隨意タル  
ヘク而シテ其身體及ヒ財産ニ對シテハ完全ナル保護ヲ享受  
シ且該臣民ハ其權利ヲ伸張シ及ヒ防護センカ爲メ自由ニ且  
容易ニ裁判所ニ訴出ルコトヲ得ヘク又該裁判所ニ於テ其權  
利ヲ伸張シ及ヒ防護スルニ付キ内國臣民ト同様ニ代言人辯  
護人及ヒ代人ヲ選擇シ且使用スルコトヲ得ヘク而シテ右ノ  
外司法取扱ニ關スル各般ノ事項ニ關シテ内國臣民ノ享有ス  
ル總テノ權利及ヒ特權ヲ享有スヘシ

兩締盟國ノ一方ノ臣民ハ他ノ一方ノ版圖内何ノ處ニ於テモ  
自身若クハ代理人ヲ以テ單獨ニ或ハ外國人若クハ内國人ト  
組合ヲ結ビ適法ナル各種ノ產物、製造品及ヒ商品ノ卸賣若  
クハ小賣營業ニ從事シ住居及ヒ商業ノ爲メニ家屋倉庫ヲ所  
有シ賃借シ若クハ占用シ及ヒ土地ヲ賃借スルコトヲ得ヘシ  
該臣民ハ他ノ一方ノ版圖内ニ於テ外國通商ノ爲メ現ニ開カ  
レ若クハ將來開カルヘキ各地各港及ヒ各河ニ船舶及ヒ貨物  
ヲ以テ自由ニ到ルヲ得、又政府、官吏、一己人、會社若ク  
ハ各般ノ造營物ノ名義ヲ以テ若クハ其利益ノ爲メニ課スル  
所ノ租稅、賦金若クハ通關稅ハ其性質若クハ名稱ノ如何ヲ  
論セス總テ内國臣民ニ課スル所ニ異ナリ若クハ之ヨリ多額  
ノモノヲ課セラルルコトナク工業、製造、通商及ヒ航海ノ  
事項ニ關シテハ内國臣民ト同一ノ待遇ヲ受クヘシ

三七八

明治三十四年三月二十四日

英國公使ヨリ  
青木外務大臣宛

## 我修正素ニ付回答ノ件

## (私信)

青木外務大臣時代 對英交渉 三七八

居住權各種動產ノ所有遺囑又ハ其他ノ方法ニ因ル所ノ動產  
ノ相續并ニ各種財產ノ授受ニ關シ兩締盟國ノ一方ノ臣民ハ  
他ノ一方ノ版圖内ニ在テ内國臣民ト同様ノ特典、自由及ヒ  
權利ヲ享有シ且此等ノ事項ニ關シテハ唯内國臣民ト同一ノ  
租稅若クハ賦課金ヲ徵收セラルヘシ兩締盟國ノ一方ノ臣民  
ハ他ノ一方ノ版圖内ニ於テ良心ニ關シ完全ナル自由及ヒ法  
律、規則ニ從テ公私ノ禮拜ヲ行フノ權利并ニ其宗教上ノ慣  
習ニ從ヒ自國人ヲ埋葬スルノ權利ヲ享有スヘシ尙ホ其爲メ  
適當且便宜ノ埋葬地ヲ設置保存セラルルコトアルヘシ  
兩締盟國ノ一方ノ臣民ニシテ他ノ一方ノ版圖内ニ居住スル  
モノハ陸軍、海軍、護國軍、民兵等ニ論ナク總テ強迫兵役  
ヲ免カレ且其服役ノ代リトシテ取立ル所ノ一切ノ納金ヲ免  
カレ又一切ノ強募公債及ヒ軍事上ノ賦歛或ハ損害ヲ免カル  
ヘシ但土地ノ借用及ヒ其他ノ不動產ノ所有又ハ借用ニ關シ  
テ内國臣民一般ニ賦課スル所ノ責務及ヒ取立金ハ免除ノ限  
ニアララス

## 第二條

前條ニ示記セル日ヨリ兩締盟國ノ版圖内ニハ充分ナル通商  
及ヒ航海ノ自由アルヘシ

謹啓陳ハ條約改正件ニ關シ閣下カ御親切ニ通知セラレタル  
所ノ私信ニ係ル覺書及ヒ英政府ノ提出案ニ對スル印刷修正  
案ヲ細密ニ誦讀致候就テハ拙者ハ本問題現今ノ有様ニ對シ  
拙者カ權力ノ區域内ニ於テ迅速ノ御回答ニ及候  
若シ拙者ニシテ帝國日本政府カ已ニ承認セラレタル談判ノ  
基礎ノ範圍ヲ出テサラント欲セハ拙者ハ先ツ閣下ノ提出案  
中ノ或ル箇條ヲ創除セサルヲ得ス何ナレハ其等ノ箇條ハ英  
政府カ考察ヲ費スノ義務ヲ有セサルモノナレハナリ而シテ  
別ニ顯然タル一種ノ事情アリテ亦タ其考察ヲ要セサルニ似  
タリ即チ若シ新案ヲシテ兩國ノ承認ヲ得セシメントナラハ  
其約款ハ勿論緩裕ナラサル可カラス會テ閣下ノ唱道アリタ  
ル如ク今回ノ新案ハ他ノ與國ト締結セラルヘキ條約ノ濫觴  
模範トセラルル目的ナラハ其條項ハ尙更ラ緩裕ナラサル可  
カラス而シテ拙者ハ新案ニ對シ幾分カ永久的性質ヲ付スル  
コトヲ要求スルノ權ヲ有スルモノト考察スルナリ何ナレハ  
新案ハ永久的舊條約ニ對スル交換物ナレハナリ且夫改正  
事業ニ關シテハ業既ニ無用ノ談判ニ許多ノ歲月ヲ徒費シタ  
ルコトヲ思ハサル可カラス又他ノ一面ニ於テハ英政府ハ眞  
實ニ帝國日本ニ對シ出來得ヘキ丈ケ緩裕及ヒ親切ニ交際ス

ルノ冀望ヲ有スルコトヲ表彰セルカ故ニ拙者ハ充分ニ閣下ノ希望ヲ満足スルコトニ盡力スヘシ

然リト雖トモ拙者ハ將ニ拙者ノ政府ハ提出セントスル方案ニ就キ英政府力取ルヘキ方針意見ノ何タルヤハ此ニ豫言スルコトヲ得ス併シ帝國日本政府ハ確カニ其眞面目ヲ表證シ且ツ英政府力彙キニ充分ニ表證シタルト同様ノ好和的精神ヲ以テ熱心シ居ラルルコトヲ確明セラルルニ於テハ拙者ハ閣下ノ修正案ノ大部分ヲノースベリ候ノ考案ニ付スルコトヲ得ヘシ而シテ之ト同時ニ於テ閣下ノ修正案中ニ二三箇條アリテ到底賛成スル能ハサル旨ヲ此ニ直言セサルヲ得ス即チ

議定書中ノ日本ノ新法典一年間實施云々ノ保證ヲ創除スルコトハ逆モ英政府ニ提出シ難シ將又條約ニ於テ貿易規則ヲ取消シ及ヒ六個年間繼續ノ後ハ第一條第五條及ヒ第六條ノ全分ヲ抹殺スルコトニハ同意ヲ表シ難キコト是ナリ右得貴意候也 敬具

千八百九十二年三月二十四日

ヒン・ハーチー

青木子閣下

(原稿)

Private and  
Very Confidential

H. B. M's Legation,  
Tokio  
March 24th 1891.

Monsieur le Ministre,

I have carefully read the private Memorandum and the Printed Scheme of amendments to the proposals to Her Majesty's Government in regard to Treaty Revision which You Excellency has kindly communicated to me, and I hasten to reply to them so far as it may rest with me, at this stage of the proceedings, to do so.

If I were to limit myself exactly to the basis of negotiation accepted by the Imperial Japanese Government, I might be compelled to set aside some of the proposals in Your Excellency's draft as more than Her Majesty's Government can be thought bound to entertain, and there are other considerations besides of a natural and obvious kind which tend in the same direction. For the new engagements must evidently be reasonable in terms if they are to be accepted at

judgment.

In the Protocol Her Majesty's Government cannot be asked to dispense with the guarantee afforded by a year's operation of the Japanese Codes; nor in the Convention either to dispense with the signing of Trade Regulations, or to allow three whole Articles (I, V and VI) to be cancelled after six years' service.

I take this opportunity to renew to Your Excellency the assurance of my highest consideration.

Hugh Fraser.

His Excellency

Viscount Aoki Shiuzo

H. F. M's Minister for Foreign Affairs.

&c. &c. &c.

語 青木子「條約改正記事」ヨリ曰ク

此書翰ノ旨趣ハ少シク明瞭ナラサルニ似タリ即チ其末段ノ「第一條第五條及第六條ノ全文ヲ 條ヲ悉ク 抹殺スルコトニハ同意ヲ表シ難キコト是レナリ」ナル文字ノ如キ之ヲ一讀スレバ稅約ノ終リ期限ヲ六箇年ニ限ルコトヲ拒ムニ似タルヲ以テ内々其眞意ヲ探究シタルニ稅約ノ終リ期限ニハ此際我内情ヲ察シ其難キヲ忍(ノ反對ニ堪ルルノ意ナリ)ンテ同意スバク然レトモ第六條ノ税金拂戻ノ項ヲ抹殺セサルコトヲ

all, and especially so if they are to serve, as Your Excellency has suggested, as a model for the new treaties in general; and it seems only right to require that they should have some degree of permanence, since they are to be accepted in exchange for permanent engagements, and long years have been spent in vain negotiation over them already. On the other hand, Her Majesty's Government has shown a very sincere desire to deal with the Japanese Empire as liberally and amicably as possible, and therefore I will do my utmost to meet Your Excellency's wishes.

I cannot of course undertake to say what view Her Majesty's Government may take of anything that I may lay before it. But if I can be assured that the Imperial Government is really in earnest, and animated by the same conciliatory spirit of which Her Majesty's Government has given ample proof, I think it possible to recommend to the Marquis of Salisbury's consideration a very large proportion of Your Excellency amendments in principle. At the same time there remain a few points upon which it seems necessary to express at once a finally unfavourable

要求スル旨ヲ答ヘタリ

### 三七九 明治三十四年六月十六日 青木子意見書

#### 將來條約改正ニ對スル意見

註 以下ハ青木子「條約改正記事」末段論說ナリ

周藏在職中英國ニ對シ其好意ヲ博シテ談判シタル進捗ノ結果ヲ序述スレハ概ネ前記ノ如シ英國力我要求ヲ承諾シ隨テ之ト結約ノ調印ヲ捺シタル後其他ノ締盟國ニ對スル政略特ニ最惠條款ノ關係ナキ清國ニ對シテハ其治外法權ヲ棄却シ我増賦ノ海關稅則ヲ認可セシメ却テ我治外法權ヲ清國ニ於テ維持スル等自ラ成案アリト雖モ今ヤ此ニ贅言スルノ要ナシ

周藏固ヨリ朝野ノ希望ニ應シ直チニ完備無缺ナル條約ヲ締結シ以テ帝國ノ福利ヲ増進シ以テ國權ヲ完全ナラシムルコトヲ熱望セサルニ非サリシト雖トモ稟賦不敏ニシテ身ニ德望ト威望ヲ具セス且本件ニ關スル最前ノ行懸リ及種々ナル晩今ノ事情ニ圍繞セラレタルトニ因リ一年餘ノ長月日ヲ借りナカラ僅カニ前記ノ進捗ニ止マリシハ遺憾ニ堪ヘサル所

ルコトヲ准許シタリ而シテ該裁判所ハ十餘國ノ管轄ニ屬シ其君主若クハ政府ノ名ニ於テ公然法律ヲ執行スルモノナリ

第二 條約附隨ノ稅則、就中其輸入稅則ハ外國產出ノ貨物ニ對シ四分強以上ノ稅額ヲ取立ツルコトヲ得セシメサルモノナリ

第三 外國船舶ハ噸稅ノ賦課ヲ免カルル事

第四 外國船舶ハ沿海貿易ノ特權ヲ有スル事

第五 外國人ハ内地稅ヲ免除セラルル事

第六 日本國內ニ於テ外國貨幣ヲ融通セシムル事

第七 歐米各國ト日本トノ條約ハ相互ノ主義ニ基由セサルヲ以テ左ノ損害アリ

- 一 日本ノ貨物ハ外國ニ於テ他ノ最惠國ノ貨物ヨリ餘分ノ課稅ヲ蒙ムル増合アリ
- 一 日本人民ハ歐米各國ニ於テ條約上何等ノ權利ヲモ有セサル事

前顯ノ事項タル總テ日本ノ利益ヲ損害スルヤ明カナリ何トナレハ之カ爲メ我政府ハ奮ニ其財政々略ヲ檢束セラルルノミナラス特ニ第一ノ箇條ノ如キハ日本ノ主權ヲ毀傷スルノ

ナリ唯此上ハ改正問題ニ關シ周藏力抱持セル將來ノ企圖ヲ記スヘシ

抑々現行條約ハ爲政上我帝國ニ不利有害ナルヲ以テ之ヲ改正スルノ必要ナルコトハ固ヨリ周藏ノ辨明ヲ待タスシテ顯然タリ唯其改正ノ方案ニ至リテハ人々意見ノ投合セサルモノアリテ互ニ論議抗議シ世論紛々歸着スル所ヲ知ラス國家學會雜誌第五十二號其他某々新聞誌ノ如キハ現行條約ノ改正ヲ以テ恰モ二十年以外又ハ永世ニ亘ル一箇ノ不正當ナル條約ヲ締結スルモノト假想シ痛ク政府ノ意嚮ニ反對スルモノナリ故ニ政府ニシテ一旦之ヲ改正事業ヲ斷行セント欲スルトキハ天下ノ人情復タ騷然トシテ搖動スルモ測リ難シ是レ當局者ノ大ニ注意熟考ヲ要スル所ニシテ容易ニ決行シ難キ所以ナリ然リト雖トモ亦一方ヨリ之ヲ觀察スレハ現行條約ハ固ヨリ永遠ヲ期シテ之ヲ維持スヘキモノニ非ラサルヲ以テ其改正若クハ適用期限ヲ終了セシムルコトハ政府力到底決行セサル可カラサルノ責務ト確信ス故ニ茲ニ現行條約ノ不利ナル要點ヲ掲ケテ後圖ヲ論セン

第一 舊政府ハ外國人ヲシテ帝國日本ノ裁判管轄ヨリ脫セシメタル結果トシテ我皇國內ニ外國裁判所ヲ設立ス

最モ甚シキモノナリ國家ノ行政、立法及司法權ニ干渉シ且構戰ノ場合ニハ一面ニ於テ日本ノ中立義務ヲ固守スルコトヲ妨ケ他ノ一面ニ於テハ其構戰ノ權利ヲ檢束スルニ至ルヘシ將又假令文字上ニ於テ故障ナシトスルモ學理上ニ於テハ必然憲法第三十七條、五十七條及五十八條ト衝突スルモノナリ此等ノ事實ヲ按シ且明治元年三月十四日ノ詔勅ニ根據シ進歩開明ヲ以テ主張トナセル大體ノ政略上ヨリ事態ヲ觀察スルトキハ凡ソ日本ヲ以テ父母ノ本國ト爲シ明治天皇ヲ此國ノ君主ト奉戴スル者ハ誰何ヲ問ハス斯ル障礙アル條款ヲ我國國際上ノ條約ヨリ削除スルコトヲ希望セシムハアラス然ルニ此障礙多キ條款ヲ包含スル現行條約ハ所謂終了期限ナキ一種ノ永代通用的性質ヲ有シ單ニ或ル年月ノ後ニハ相互ノ談判ニ付シテ之ヲ改正スルコトヲ得ルノミ是ヲ以テ若シ我帝國日本カ現行條約ニ由テ負擔スル困難ヲ脫却セント欲スレハ其手段自ラ兩岐ニ分ル可シ即チ

甲 現行條約ヲ改正スル事

乙 現行條約ヲ廢棄スル事

改正手段ニ依リテ現行條約ノ困難ヲ脫却スルハ洵トニ溫和妥當ノ手續ニシテ國威ヲ傷ケス各國ノ情誼ヲ損セス和氣洋

洋ノ間ニ糾紛ヲ解キ難局ヲ處裁スルヲ得ルヲ以テ周藏ハ從前此方案ヲ贊成シ躬ラ其局ニ當ルモ尙ホ此案ヲ保持セリ故ニ忍ンテ六箇年ノ星霜ヲ過經セシメ第七ノ歳首ニ方リ法稅兩權ヲ恢復シ併セテ其他ノ有害ナル約束ヲ一掃スヘシト斷定シタリキ然レトモ該提議ニシテ尙ホ朝野ノ輿望ニ副ハス其斷行困難ナルカ如キアラハ其期ニ至リ始メテ廢棄手段ヲ執ルヘキノ計畫ヲ抱持セシナリ

夫レ廢棄ノ方案タル尋常ナル外交ノ規矩外ニ跳越スルモノナリト雖トモ凡ソ國際條約ニシテ當該國ノ生存ニ害アルトキハ之ヲ廢棄スルモ國際公法ノ認可スル所タルヲ以テ我政府ハ或ル時日ヲ限リ我ト歐米各國トノ間ニ締結セル現行條約ヲ無効ニ歸スル旨ヲ宣言スルノ權利ヲ有スルヤ更ニ疑フヘキノ非ス然レトモ此權利タル或ル他ノ權利ト齊シク唯理論上ニノミ成立ツコトヲ得ルモノナリ今ヤ此理論上ニノミ成立ツ所ノ權利ヲ利用シ若クハ實際上ノ權利ト化成セント欲セハ須ク強硬且斷乎タル手段ニ據ルヲ要ス之ヲ例セハ海陸軍備ノ擴張上下人心ノ統一等はレナリ何トナレタ現行條約ノ下ニ於テ外國人ノ利益ノ大ニ發達シタルヲ以テ各外國政府ハ其權利ノ許ス限ニハ其人民ノ爲メニ該利益ヲ保護

ス寧ロ廢棄手段ニ據リテ此有害ナル國際條約ヲ除却スル爲メ實算及豫算ニ於テ幾許ノ人命ヲ犠牲トシ幾許ノ費用ヲ用スヘキヤヲ念ハサル可カラス且又平和秩序の手段即チ改正ノ結果ニ由リテ之ヲ廢棄スルト之ヲ比較シテ孰レカ得ナルヤヲ考量セサル可カラス

若夫レ廢棄手段ヲ斷行セント欲セハ先ツ軍備ノ擴張ヲ要スルコトハ前段已ニ之ヲ陳述セリ而シテ廢棄通知以前ニ於テ必要ナル軍備ヲ完全ナラシメンニハ勿論許多ノ歲月ヲ消費スヘキノミナラス廢棄宣言ノ日ト條約カ實際廢棄ニ歸スヘキ日トノ間ニハ多分ノ時間ヲ費スヘシ今ヤ慎重ニ之ヲ思量スルニ若シ廢棄手段ニ據ルトスレハ現行條約ハ尙ホ多數ノ年月間之ヲ繼續セシメサル可カラス而シテ此數年間ニハ一方ニ於テハ海關稅及噸稅ヲ増加シ從前收入セル金額ノ外毎年更ニ五百萬前後ノ歲入ヲ收ムルノ利ヲ得ル能ハス又他ノ一方ニ於テハ海陸軍ノ經費ハ大ニ増加セサル可カラス又假令ヘ廢棄ノ結果トシテ大ナル不幸ヲ來タザストスルモ廢棄ニ因リテ生スル所ノ結果トシテハ大ニ人氣ニ異常ナル感觸ヲ與ヘ之カ爲メ外國トノ通商及交際上ニ重大ナル障礙ヲ來タシ國力ノ凋衰或ハ更ニ不測ノ事故ヲ招致スルモ知ル可カ

スルヲ以テ缺ク可ラサルノ義務ト爲ヤ必セリ將又一片ノ通知書ヲ以テ現行條約ヲ撤回スルニ於テハ我ハ當ニ一二外國政府ノ利益ニ衝突スルノミナラス十六列國ノ共同利益ヲ排拒スルモノナリ是亦容易ニ看過スヘカラサルノ事實タリ抑々利益ヲ以テ結合スルノ社會タル事變ニ遭遇スルハ防禦ノ手段上ニ於テモ亦タ結合スルコト少カラス今此ニ一人アリ廢棄ニ由テ起ル所ノ已ムヲ得サルノ結果ヲ直チニ構戰ナリト放言セハ必ス智慮アル人ニ非ラス又一人アリ廢棄ノ舉ハ決シテ示威脅迫若クハ控償返報等ノ結果ヲ招クモノニ非スト速了セハ是亦タ智慮アル人ト云フ可カラス之ヲ要スルニ充分ナル準備ヲ爲サシテ廢棄ヲ實ヲ舉ゲンコトヲ唱道スルモノハ凡テ安全着實ナル思慮ヲ有スル人ニ非ラサルナリ構戰ノ準備ハ即チ平和ヲ維持スルノ最好擔保ナル故ニ廢棄ヲ實施センニハ充分ナル軍備ヲ増加セサル可ラス即チ此手段ヲ平和ニ施行スル爲メノ最良擔保ナリ

西洋各國ト我帝國ト遙遠相隔絕スル地理上ヨリ之ヲ觀察スレハ假令歐米ノ同盟者カ萬里波濤ヲ破リテ鐵艦純粋ヲ送ルヲ我豈ニ之ヲ退クルノ勇ナカラスヤ然レトモ廢棄ヲ宣言スルノ前ニ於テ深慮遠算セサル可カラサルモノハ此點ニ非ラ

ラス

以上ノ理由アルヲ以テ若シ驟カニ廢棄手段ヲ實行セント欲スレハ意外ノ場所ヨリ伏匿セル禍害ヲ挑發スルモ料リ難シ故ニ改正手段ヲ以テ事務局ヲ結了スルヲ上乘トス然レトモ內國ノ情勢變又一變シ之カ爲メ改正事業ノ成就終ニ豫期スヘカラサル場合ニ至ラハ始メテ一ノ變則手段ヲ假リテ廢棄ノ計畫ヲ執行スルハ甚タ可ナリ是平素周藏カ把持スル所ノ意見ニシテ在職ノ末路ニ際シ改正事件ノ方針ニ關シ内話アリタルヲ以テ殆ント此案ヲ松方總理大臣ニ建議セント考慮シツツアリシカ會々五月十一日湖南ノ變アリ尋テ同月二十九日ニ至リ職ヲ辭スルヲ以テ事遂ニ寢ム矣

#### 平和的廢棄ノ手段要略

一 外交文書ノ交換ニ憑リ日本ノ爲メニ前一個年ノ通知ヲ以テ今ヨリ五箇年ノ後ニハ現行條約ヲ終了スルノ權ヲ掌握スルコト若クハ現行條約中ニ改正條項ノ外更ニ終了條項ヲ追加挿入スル事

一 文書ノ書式及旨意ハ豫メ懇親ナル談判ニ由テ之ヲ取極ムル事

一 此談判ヲ開クニ方リテ客年二月ノ覺書中ニ宣言セル憲法制度ト領事裁判ノ兩者ハ相併行スルコト能ハス云々及同様に有効ナル文字即チ該覺書付添ノ書翰ニ所謂ル立憲制度ト領事裁判ハ共ニ無期限ニ併行スルコト能ハス云々ノ箇條ヲ以テ現行諸條約ノ終了期限ヲ定ムルノ必要ヲ主張スヘシ而シテ一方ニ於テハ條約改正ニ就テハ日本ノ輿論未タ一定セスト云フ理由ヲ掲ケ之ニ由テ現今ノ談判ハ強テ之ヲ結了セシム可カラストノ口實ト爲スヘシ

一 日本ノ外交文書ニハ左ノ約束ヲ挿入スルコト最モ必要ナルヘシ即チ日本カ五箇年以後新條約ヲ締結スルニ先テチ平和的廢棄ノ權ヲ執行スルニ於テハ此文書ヲ交換シタル各國ト相互ニ最惠國待遇ノ權利ヲ享有スルコトヲ盟約スルコト又廢棄ニシテ効力ヲ有スルニ至ルトキハ我ニ於テハ平和的適法ノ商業、旅行及住居ノ爲メ該各國人ニ對シ帝國ノ全部ヲ開放スル事

一 此計畫ヲ實施スルトキハ談判ノ基礎固ヨリ一變スト雖トモ別ニ從前ノ談判ヲ中止スルノ虞ナカルヘシ何トナレ

以上ハ周藏カ在職中條約改正ニ關シ實際ニ施行シ或ハ將來ヲ期シ運籌シタルモノヲ蒐集シテ其要略ヲ筆記シタルモノナリ

明治二十四年六月十六日東京上貳番町ニ於テ記之

子爵 青木周藏

## 第二節 對米交渉

三八〇 明治二十三年二月二十六日

米國公使ヨリ  
青木外務大臣宛

日米新條約ノ修正及上院附議問題ニ付通告ノ件

チョン・エフ・スウキフト

外務大臣子爵 青木周藏閣下

以書翰啓上致候陳ハ一千八百八十九年二月廿日合衆國ノ代表委員ト日本國皇帝陛下ノ代表委員トカ東京ニ於テ調印致シタル條約ハ種々重要ナル修正ヲ加ヘサル限りハ大統領ヨリ之上院ニ附セサルコトニ相成候右本日我政府ヨリ接手致候訓令ノ旨ニ從ヒ及御通知候此段得貴意候 敬具

一千八百九十年二月二十六日

青木外務大臣時代 對米交渉 三八〇

ハ將來締結スヘキ各條約ハ完全ナル完全ナル對等主義ニ基キ今ヨリ之ヲ談判スルノ餘地ヲ得レハナリ

一 右ノ如キ満足ナル終了條項ヲ取極メタル後我政府ハ直チニ一步ヲ進メテ現行稅率ノ改正ヲ要求スヘシ其際ニ方リ改正ノ理由ハ他ニ即チ現行稅率ハ業既ニ舊腐ニ屬シタルヲ以テ今日之ヲ改正スルハ正當且公平ナリト云フニ在リ國家經濟ノ本旨ニ基キ開明事業ノ擴張ヲ指示シテ談判セハ各國豈之ヲ拒絕スルノ辭柄アラシヤ但シ現行諸條約ノ繼續スル限リハ該新稅率モ亦繼續スルモノトス

此取極案ハ一定ノ時期ヲ限リ現行諸條約ヲ廢棄セント欲スルモノニ非ス寧ロ或ル年月ノ後ニハ何時ニテモ現行諸條約ヲ終了シ得ルノ權ヲ我國ニ掌握スルコトヲ計ルニ在リ故ニ我政府ニシテ一旦此權ヲ掌握シタルノ後ハ五箇年間ヲ期シ外ニ在テハ廣ク所謂萬國經濟上ノ形勢ヲ探知シ内ニ於テハ國家經濟ノ現況特ニ農工商ノ發達如何ヲ參酌シ確乎タル善後ノ籌策ヲ定メタル上内外局外者ノ干涉ヲ壓制シ不羈獨立實直ニシテ強硬正當ニシテ勇毅ナル談判ヲ以テ各國ニ當ラハ完全ナル條約得テ締結スヘキナリ

註 1 前掲對英交渉ノ次第ヲ指ス

因ニ青木子カ湖南事件ニ引責辭任シタルハ五月二十九日ナリ

東京合衆國公使館ニ於テ

(右原文)

No. 42

Legation of the United States  
Tokio, February 26, 1890.

His Excellency,

Viscount Shiuzeo Aoki,

H. I. J. M's Minister for

Foreign Affairs.

Viscount:

In obedience to instructions received from my Government this day I have the honour to inform you, hereby, that the President will not send to the Senate