

明治四年十月十五日 日越帶  
同 月 日 發遣

キヨシキ

土任

米ら長

梁長

使館府錫名山外務部長宛

安達外務省参事長

韓島日比村夜ノ改善ニ及スル

使館府意見内々之旨ノ件

外務省

お取立並申付其意を加へし降者情状等

於て之尚標その他ノ亦互以獲ニ及スル協約締結

ニ件ノ要シテハ古也不テ申配有ラ次ハ之也日

協約案ノ外尚在テ其英法諸國ノ之數ノ事未

文附シテ美ノ事由政府ニ付件協約案ヲ提出スル

標有地位未定ニ付當有ニ於テハ日英日佛其協約

案ヲ提出シ目下當候修束中ニ有テ之也



又韓西表おの林本ノ組織ハトシ西長シテ、  
主位ヲ有スル韓西人一人ヲ五年モ下ニ日本五ノ  
法律ニ依リテ又多ク日本人数名ヲ使フコトシテ  
司法權ノ行使ニ任セシムルモノナル故オ前右ノ裁  
判ハ韓西表お權ヲ行使スルモノナレハ事  
之ヲ上日本ノ人ノ手ニ在ラセシムル場合ニ於テモ以シテ  
亦亦司法權ヲ行使スル日本西表お同ノ同一視ス

外務省

ハキモノノ此ス從テ日本協約書ガ一系ノ起シテ依  
ニ歐米法西人ノ系スル裁判ノ權權ヲ有スヘキ  
ノ點ニシテモノノハ外サルモノナレハ事ト解セシ  
申ルル上ハ亦シテ英佛等ノ手ニ在リテ亦シテ  
政府ヨリ上本邦親英佛其西大使ニ交付スヘキ協約書  
ニ付テモ亦日本協約書ノ條規ニテ裁判スヘキヤ  
或ハ更ニ直接韓西表お裁判權ニ

投從之レハキヤノ一兵ハ大ニ攻究ヲ平ニスルノ内ニ悉ク



可<sup>レ</sup>日<sup>レ</sup>有<sup>レ</sup>甚<sup>レ</sup>外<sup>レ</sup>政府<sup>レ</sup>其<sup>レ</sup>韓<sup>レ</sup>亦<sup>レ</sup>於<sup>レ</sup>現<sup>レ</sup>享<sup>レ</sup>  
 及<sup>レ</sup>シ<sup>レ</sup>ソ<sup>レ</sup>アル<sup>レ</sup>飲<sup>レ</sup>事<sup>レ</sup>裁<sup>レ</sup>亦<sup>レ</sup>權<sup>レ</sup>全<sup>レ</sup>部<sup>レ</sup>撤<sup>レ</sup>回<sup>レ</sup>日<sup>レ</sup>之<sup>レ</sup>ス<sup>レ</sup>  
 ノ<sup>レ</sup>已<sup>レ</sup>ヲ<sup>レ</sup>得<sup>レ</sup>ル<sup>レ</sup>感<sup>レ</sup>得<sup>レ</sup>シ<sup>レ</sup>ル<sup>レ</sup>時<sup>レ</sup>外<sup>レ</sup>ノ<sup>レ</sup>ラ<sup>レ</sup>アル<sup>レ</sup>ハ<sup>レ</sup>シ<sup>レ</sup>即<sup>レ</sup>協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>  
 ノ<sup>レ</sup>亦<sup>レ</sup>立<sup>レ</sup>ハ<sup>レ</sup>オ<sup>レ</sup>ニ<sup>レ</sup>案<sup>レ</sup>ニ<sup>レ</sup>テ<sup>レ</sup>ハ<sup>レ</sup>多<sup>レ</sup>分<sup>レ</sup>見<sup>レ</sup>込<sup>レ</sup>ノ<sup>レ</sup>キ<sup>レ</sup>モ<sup>レ</sup>ト<sup>レ</sup>被<sup>レ</sup>之<sup>レ</sup>セ<sup>レ</sup>サ<sup>レ</sup>  
 ヲ<sup>レ</sup>得<sup>レ</sup>ヤ<sup>レ</sup>ト<sup>レ</sup>申<sup>レ</sup>ス<sup>レ</sup>彼<sup>レ</sup>存<sup>レ</sup>ハ<sup>レ</sup>協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>立<sup>レ</sup>ノ<sup>レ</sup>利<sup>レ</sup>害<sup>レ</sup>得<sup>レ</sup>失<sup>レ</sup>論<sup>レ</sup>之<sup>レ</sup>付<sup>レ</sup>  
 テ<sup>レ</sup>申<sup>レ</sup>ス<sup>レ</sup>或<sup>レ</sup>ハ<sup>レ</sup>諸<sup>レ</sup>權<sup>レ</sup>自<sup>レ</sup>身<sup>レ</sup>海<sup>レ</sup>  
 上<sup>レ</sup>或<sup>レ</sup>ハ<sup>レ</sup>年<sup>レ</sup>々<sup>レ</sup>海<sup>レ</sup>邊<sup>レ</sup>等<sup>レ</sup>ニ<sup>レ</sup>於<sup>レ</sup>テ<sup>レ</sup>有<sup>レ</sup>ル<sup>レ</sup>者<sup>レ</sup>有<sup>レ</sup>テ<sup>レ</sup>ハ<sup>レ</sup>  
 到<sup>レ</sup>存<sup>レ</sup>也<sup>レ</sup>立<sup>レ</sup>ノ<sup>レ</sup>見<sup>レ</sup>込<sup>レ</sup>キ<sup>レ</sup>協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>案<sup>レ</sup>ヲ<sup>レ</sup>法<sup>レ</sup>外<sup>レ</sup>政府<sup>レ</sup>提<sup>レ</sup>出<sup>レ</sup>シ<sup>レ</sup>ハ  
 テ<sup>レ</sup>希<sup>レ</sup>也<sup>レ</sup>政府<sup>レ</sup>背<sup>レ</sup>任<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>及<sup>レ</sup>ヲ<sup>レ</sup>料<sup>レ</sup>達<sup>レ</sup>セ<sup>レ</sup>ト<sup>レ</sup>ス<sup>レ</sup>ル<sup>レ</sup>カ<sup>レ</sup>如<sup>レ</sup>キ<sup>レ</sup>姑  
 息<sup>レ</sup>子<sup>レ</sup>也<sup>レ</sup>ヲ<sup>レ</sup>所<sup>レ</sup>字<sup>レ</sup>下<sup>レ</sup>款<sup>レ</sup>セ<sup>レ</sup>ル<sup>レ</sup>カ<sup>レ</sup>故<sup>レ</sup>目<sup>レ</sup>下<sup>レ</sup>國<sup>レ</sup>議<sup>レ</sup>提<sup>レ</sup>出<sup>レ</sup>リ  
 日<sup>レ</sup>英<sup>レ</sup>再<sup>レ</sup>協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>案<sup>レ</sup>ハ<sup>レ</sup>何<sup>レ</sup>モ<sup>レ</sup>日<sup>レ</sup>英<sup>レ</sup>再<sup>レ</sup>協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>案<sup>レ</sup>日<sup>レ</sup>英<sup>レ</sup>  
 又<sup>レ</sup>案<sup>レ</sup>ヲ<sup>レ</sup>採<sup>レ</sup>用<sup>レ</sup>政<sup>レ</sup>ニ<sup>レ</sup>ハ<sup>レ</sup>次<sup>レ</sup>中<sup>レ</sup>有<sup>レ</sup>ル<sup>レ</sup>之<sup>レ</sup>ハ<sup>レ</sup>事<sup>レ</sup>情<sup>レ</sup>大<sup>レ</sup>如<sup>レ</sup>諸  
 協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>立<sup>レ</sup>ノ<sup>レ</sup>既<sup>レ</sup>在<sup>レ</sup>韓<sup>レ</sup>諸<sup>レ</sup>外<sup>レ</sup>也<sup>レ</sup>日<sup>レ</sup>英<sup>レ</sup>再<sup>レ</sup>協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>案<sup>レ</sup>ヲ<sup>レ</sup>採<sup>レ</sup>用<sup>レ</sup>ス<sup>レ</sup>ハ<sup>レ</sup>平  
 表<sup>レ</sup>示<sup>レ</sup>ス<sup>レ</sup>日<sup>レ</sup>英<sup>レ</sup>再<sup>レ</sup>協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>案<sup>レ</sup>ハ<sup>レ</sup>何<sup>レ</sup>モ<sup>レ</sup>日<sup>レ</sup>英<sup>レ</sup>再<sup>レ</sup>協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>案<sup>レ</sup>日<sup>レ</sup>英<sup>レ</sup>  
 有<sup>レ</sup>テ<sup>レ</sup>協<sup>レ</sup>約<sup>レ</sup>也<sup>レ</sup>案<sup>レ</sup>又<sup>レ</sup>ハ<sup>レ</sup>二<sup>レ</sup>案<sup>レ</sup>中<sup>レ</sup>有<sup>レ</sup>ル<sup>レ</sup>權<sup>レ</sup>甚<sup>レ</sup>ハ<sup>レ</sup>權<sup>レ</sup>何<sup>レ</sup>存<sup>レ</sup>又<sup>レ</sup>否<sup>レ</sup>ハ<sup>レ</sup>

外務省



條也後、今日日韓其両國ノ條約、形式ラハ  
 于韓其政府ノ同意ヲ表明セシムル下ニ、  
 サル極亦見テ、ハ韓其ノ内閣、依リ日  
 其主ノ以カ、事件、我表、我權、我後、スル  
 こと、明セシムル外、アルミ、在、就、テ  
 ハ、事件、協定、立、上、韓其、内、閣、令、テ  
 其、布、一、モ、シ、ム、ト、其、ノ、申、入、ル、自、大、モ、其、之  
 以、義、併、コ、テ、其、致、主、及、上、地、使、兵、ノ、自、身、  
 其、内、ノ、事、垂、示、ス、ル、ハ、奇、ノ、事、也、  
 其、事、ハ、其、ノ、條、約、ニ、  
 日

外務省

明治 四年 十月十八日 起 節 本 局

同 大 正 三 年 郵 政 省 發 達

大 正 三 年

郵 政 省 長 官 官 署

左 斜 仔 郵 政 統 監 官

明治 四年 十月 十九 日 申 時 分

外 務 省

電 信 省 長 官 官 署

清 朝 有 意 於 此 商 標 等 他 國 相 互 以 獲 之 實

スル 日 本 協 約 案 付 テ ハ 容 易 未 申 其 意

ヲ 欲 シ 居 リ タル 事 英 佛 等 亦 同 意 年 來

之 交 涉 亦 甚 多 日 本 協 約 案 亦 同 意 故 存

リ 於 此 之 意 亦 申 故 之 事 因 日 本 協 約

案 日 本 協 約 案 之 意 亦 同 意 故 存 之 事 因 日 本 協 約

スル 事 日 本 協 約 案 目 下 閣 議 中 也 將 議

大 體 申 明 矣 存 之 事 日 本 協 約 案 目 下 閣 議 中 也

之 事 日 本 協 約 案 目 下 閣 議 中 也 將 議

之 事 日 本 協 約 案 目 下 閣 議 中 也 將 議

2-1573

0465

大臣 董 No. 四五〇七

次官 於

政務

通商

人事

會計

取調

菊池

才一六二号

東洋英和火災海上保険株式会社  
林外務大臣 伊藤純純

貴電才二三二号、高標を以て、相互保  
護協約を未だ、外英伊 支五、下保  
結スル、件、右支五、下保協約、  
果スル事、項、付、金、外、支、保、  
ニ、於、テ、法、外、法、権、ヲ、撤、去、セ、シ、テ、支、五、氏  
ヲ、シ、テ、日、本、五、裁、判、官、權、權、ト、シ、日、本  
五、法、律、ニ、依、於、セ、シ、ム、コ、ト、ニ、取、扱、ス、ル、  
於、テ、是、存、ナ、シ

2-1573

0466

大臣

次官

通商局

録

十月五日 菊地 啓

寫  
六ノ後

清韓の互に商標相互保護の協約締結前議

別紙外務大臣請議清國並韓國ニ於ケル商標ノ保護ニ  
関スル日英協約締結ノ件ヲ審査スルニ清國ニ於テハ明治三十七  
年通商航海條約追加條約第五條條款アルニ拘ラス未タ  
日本國臣民ノ商標其ノ他ノ侵害ヲ禁遏スヘキ法規ヲ制定  
ヲ見ス將來彼ノ國ニ於テ益發展セシムヘキ我商工業業ヲ  
阻碍スルコト少カラサルヲ以テ之ニ對シ相應ノ手段ヲ講スルノ  
必要アリ而シテ英國政府ニ於テモ亦我ト同様ノ感ヲ抱キ先  
ツ少クモ日英兩國臣民間ニ於テ相互ニ使用商標ノ尊重防  
護ヲ計ラムカ為適當ナル協約ヲ締結セムトシ曩ニ明治三十八年  
一月帝國政府提議スル所アリ當時外務大臣ハ司法農商

外務省

務兩大臣ト協議、上大體ニ於テ彼ノ提案ニ同意、旨ヲ回答セシ  
メ唯其ノ手續上ノ問題ニ於テ折合セ難キ點アリシヲ以テ遷延今日  
ニ及ヘリ然ルニ其ノ後更ニ米國政府ヨリモ同様ノ交渉アリ之ニ對シ  
テハ帝國政府ハ亦其ノ趣旨ニ賛同シ先ツ本年三月ノ閣議決定  
ニ基テ清國並韓國ニ於ケル發明意匠商標及著作權相互保  
護ニ關スルニ協約案ヲ作成シ之ヲ以テ協議進行中ノ處今回英  
國ニ於テハ其ノ法規中以前折合ニ困難ヲ與ヘタル點改正アリタルヲ  
以テ再々協議ヲ繼續セムトシ在京英國大使ハ本國ノ訓令ニ依リ  
テ更ニ交渉ヲ為シ来レリ之ニ付外務大臣ノ意見ハ帝國臣民ノ  
商標ニ關スル利益ヲ清國ニ於テ保護セムカ為ニハ相互均等ノ  
條件ヲ以テ協約ヲ為ササルヘカラス又此ノ際ニ於テ各外國カ韓  
國ニ有スル領事裁判權ノ一部ヲ撤回セシメ帝國ノ裁判官轄ラ  
擴張ニ得ルハ帝國ノ利益ナルカ故ニ略現在日米間ニ協議中ノ二

協約案ノ趣旨ニ於テ談判ヲ開始シ其ノ成立ヲ計リ從テ商標以  
外ノ工業所有權ニ就テ先方ヨリ相互保護ノ希望ヲ表示スルト  
キハ亦之ニ應諾シ猶一昨年未同様ノ希望ヲ抱ケル佛國政府ニ  
對シテモ必要アルトキハ此ノ範圍内ニ於テ協議ヲ開始セムト云フニ  
在リ案スルニ商標ノ保護ニ関シテハ既ニ各本國ノ間ニ周密ナル萬  
國條約ノ存在スル以上ハ其ノ條約ノ趣旨ヲ清國ニ居住スル臣民  
ノ上ニ擴張スルハ極メテ自然ノ處措ナルノミナラス今後帝國商工業  
ノ發展ニ鑑ミルトキハ之ヲ外部ノ侵害ヨリ防衛スルハ適當ノ  
政策ナルヘシト雖日米協約案第一條但書ハ舊來帝國臣民カ  
清國ニ於テ享有スル利益ヲ保全スルノ趣旨ニ出テタルモノニシテ主  
務省ハ固ヨリ當ニ其ノ徹底ヲカムヘキナリ然ルニ此ノ但書ノ留保  
付本年三月ノ閣議決定ニ反シタル讓歩ヲ為シ以テ期間ヲ過  
去三年ニ限リタルハ外交上ノ事情或ハ己ムコトヲ得ストスルモ

外務省

甚々遺憾ナキ能ハス又日英兩國民間ニ於テ假ニ相互保護ノ  
協約成立スルトスルモ若シ各々清國臣民ニ假リテ猶侵害ヲ敢テ  
スル者アルトキハ該協約ノ目的ノ大部分ハ到底之ヲ達スルコト能ハ  
サルヲ以テ清國ニ於テ速ニ所謂商標章程ノ制定施行ヲ期  
スルハ協約ノ效果ヲ收ムル上ニ於テ日英兩國ノ共ニ努ムヘキ所  
タリ故ニ主務省ハ協約締結ト同時ニ宜ク英國政府ヲシテ帝  
國政府ト同シク右法規ニ成立ニ對スル障礙ヲ除去シ清國ニ對シ  
テ其ノ實行ヲ慫慂スヘキヲ聲言セシムルノ方策ヲ執ルヘキナリ次ニ  
韓國ニ於ケル商標ノ保護ニ関シテハ事情清國ニ於ケルカ如ク  
急迫ナラス且日韓兩國ノ關係ハ交渉開始ノ當時トハ大ニ其ノ  
趣ヲ異ニスルモノナリ今モ司法制度ノ根本問題ヲ攻究シテ領事  
裁判權全部撤去問題ニモ及ムトスル機運ニ向ヒツツアルニ拘  
ラス商標ノ相互的保護ニ關スル協約ノ下ニ領事裁判權部ヲ

撤廢セシメ之ヲ裁判權ニ收メトスルカ如キハ韓國ニ對スル政  
策トシテ考慮ヲ要スヘキ問題タルヲ失ハス然レトモ現ニ米國  
政府ニ對シテ交渉シツアル協約案ト畧同ノ範圍ニ於ケル英國ノ  
希望ヲ拒ミ難キハ外交上己ハコトヲ得サルモノアルヘキヲ以テ結局外  
務大臣請議ノ通ニテ然ルヘシ終ニ佛國政府ノ曾テ表示シタル希  
望ニ關シテハ改メテ之ヲ審議スルコトト致度仍テ本案ハ上述ノ  
趣旨ノ下ニ閣議決定相成可然ト認ム

指令案

清國韓兩國ニ於ケル商標保護ニ關スル日英協約締結ノ  
件請議ノ通但シ之上同時ニ英國政府ニ於テ帝國政府ト  
共ニ清國政府カ速ニ商標等保護ノ法規ノ確定實施ニ  
關シ共同ノ措置ヲ執リ且之ヲ支持セシムル為協議ヲ為ス  
ハコト日佛間商標等保護ニ關スル協約締結ニ關シテハ

外務省

更ニ閣議ヲ經ヘシ

大臣

次官

通商局

印務局

宗

明治四十年十月廿六日接獲

香港取調書

臺菊地

機受第2783號

外甲八〇

内閣

明治四十年九月十六日機密送第87號

清韓兩國ニ於ケル商標保護ニ關スル日  
英協約締結ノ件請議ノ通但シ之ト同時  
ニ英國政府ニ於テ帝國政府ト共ニ清國  
政府力速ニ商標等保護ノ法規ノ確定實  
施ニ關シ共同ノ措置ヲ執リ且之ヲ支持セ  
シムル爲協議ヲ爲スヘシ日佛間商標等  
保護ニ關スル協約締結ニ關シテハ更ニ  
閣議ヲ經ヘシ

明治四十年十月二十五日

内閣總理大臣侯爵西園寺公望



大 3

明治四十年 十月二十三日 郵  
大 馬 路  
取調 郵便  
明治四十年十月廿五日

次官 参

在本邦英王大使の儀業 外大臣

保符及之英王の協約案に於て

以て條約の旨を傳へたる日英両王の商標の相互

に之を商標の相互に以て授けたる件ハ帝王政府に

於て之を以て授けたる件ハ帝王政府に

ナル故去三十八年七月中小外務大臣

申上りしに御用引用案ハ商標の相互に  
於て指摘セル旨を英王相に伝へし  
規定中外人の力に其英王表の如く英王人  
ヲ誦述スル者ハ各商標の相互に英王の儀

之ヲ得ルコトヲ以テあるハ一懸ハ此項法律改正ノ  
 結果不削改セラルルニ因リ本件協約締結ノ  
 為ニテ政府ノ交渉スヘキ旨其本國政府  
 訓令アリタルニ付テハ其本國政府ヨリ本件協約案  
 ヲ提出スルノ意思ヲキヤスヤ其本國政府知事亦夜夜  
 去八月百四十七号<sup>貴</sup>勅ヲ以テ申出被<sup>レ</sup>致<sup>ス</sup>ル  
 取<sup>レ</sup>次<sup>ニ</sup>本件協約締結<sup>ノ</sup>付<sup>テ</sup>ハ<sup>主務大臣</sup>協<sup>同</sup>協<sup>同</sup>協<sup>同</sup>及<sup>テ</sup>

外務省

韓<sup>國</sup>と<sup>ス</sup>ル<sup>ハ</sup>兩<sup>國</sup>協<sup>約</sup>案<sup>ヲ</sup>兩<sup>本</sup>シ<sup>テ</sup>其<sup>本</sup>國<sup>政府</sup>系<sup>列</sup>  
 案<sup>ト</sup>シ<sup>テ</sup>別<sup>紙</sup>ノ<sup>通</sup>提<sup>呈</sup>致<sup>ス</sup>ル<sup>ハ</sup>其<sup>本</sup>國<sup>政府</sup>ノ  
 申<sup>考</sup>呈<sup>呈</sup>ラ<sup>レ</sup>ル<sup>ハ</sup>其<sup>本</sup>國<sup>政府</sup>ノ  
 右<sup>本</sup>國<sup>政府</sup>ノ<sup>協</sup>約<sup>系</sup>案<sup>提</sup>出<sup>ノ</sup>際<sup>ニ</sup>亦<sup>大</sup>  
 五<sup>ノ</sup>於<sup>テ</sup>其<sup>本</sup>國<sup>政府</sup>ノ<sup>申</sup>出<sup>意</sup>ヲ<sup>受</sup>取<sup>ル</sup>セ<sup>ル</sup>コ<sup>ト</sup>欲<sup>ス</sup>ル<sup>ハ</sup>  
 他<sup>レ</sup>ニ<sup>は</sup>其<sup>本</sup>國<sup>政府</sup>ノ<sup>通</sup>提<sup>呈</sup>ノ<sup>一</sup>事<sup>ト</sup>有<sup>ス</sup>  
 其<sup>本</sup>國<sup>政府</sup>ノ<sup>協</sup>約<sup>系</sup>案<sup>提</sup>出<sup>ノ</sup>目<sup>的</sup>ハ其<sup>本</sup>國<sup>政府</sup>ノ<sup>申</sup>出<sup>意</sup>ヲ<sup>受</sup>取<sup>ル</sup>セ<sup>ル</sup>コ<sup>ト</sup>欲<sup>ス</sup>ル<sup>ハ</sup>

2-1573

0472

人ヲレテ相互ニ他ノ商標ヲ侵害スルモノヲ得サラシム  
ルニ存スルカ故ニ本協約成立ノ後至ルモ該商人  
カ其我古由臣長ノ商標ヲ侵害スルモノハ依然  
舊ノ如クナルハ又我両臣長ト雖モ協約成立ノ  
後ハ自己ノ名義ヲ以テ他人ノ名義ヲ假  
自由ニ他人ノ名義ナル利益ヲ侵害スルモノヲ得ルノ故  
地ヲ存スル次ニ之ニシテ苟モ該政府存於テ其ノ商標

外務省

旨早程之ヲ実施セズ限リ之ヲ如何トモスルヲ能ハス  
本件協約ハ結局其效果ノ大ニテ及ラズルニ至ル  
外ニ其條約上ノ義務タル商標早程之ヲ実施ラズ  
行ヒシムルモノハ本件協約之ヲ実施上必要ノ故ニカラス  
亦本件協約ヲ以テモト認メサルヲ得ス其由故存  
ニ於テモ幸ニ此兵ノ申注意ニ依ルル上ハ且臣長



玉政府力前商標章程ノ修訂案ヲ呈上現ニ列  
出ノ意嚮如何ニ依リテ之ヲ実施セムトスルノ好時  
機ヲ逸スルコトナク在清貴玉公使ヲシテ内地ノ  
事玉公使ト歩調ヲ一ニシ章程速施方十分ニ  
清玉政府ニ報告セシム早進ニ清玉政府對  
テ事玉公使ト事ヲ特許、素直及著作權  
關スル法制ヲ速ニ確立シテ之ヲ実施スルコト切

外務省

勸告セシム本件成立ニ對シ常ニ事玉公使  
ト共ニ互ニ相支持スル操持措置相成度切  
望改ル右件回答方ニ重ネテ閣下ニ向テ  
茲ニ敬意ヲ表シル敬具

別紙協約西案(口本文及英譯文トモ)添付ナリ

In forwarding my Government's drafts, I beg leave to draw the attention of the British Government to the fact that the delay <sup>in</sup> the Chinese Trade-Mark Regulations being put into force <sup>has</sup> an important bearing on the <sup>matter</sup> subject. Since the object which ~~the~~ the proposed Convention has in view is to prevent only nationals of either of the High Contracting Parties from infringing trade-marks held by nationals of the other party in China, those trade-marks belonging to nationals of the two countries appear to remain still open to ~~the~~ infringement by Chinese subjects, ~~as~~ ~~ever~~. Even after such Conventions have been concluded between the Japanese and British Governments, there will be room enough for subjects of the two countries to infringe the legitimate interests of others, if they make use <sup>of the</sup> names of Chinese subjects instead of ~~using~~ their own. This cannot be avoided, so long as the Trade-Mark Regulations are not put into force by the Chinese Government; and the new Convention cannot help losing a great part of <sup>its</sup> ~~their~~ effective operation.

Under these circumstances, it becomes an imperative necessity to cause the Chinese Government to enforce the Trade-Mark Regulations, as they are bound to by treaty, in connection with putting the present Convention into operation. If your Government take notice of the above point, as I hope they will, it would be highly desirable, now that the Chinese Government having revised the former Trade-Mark Regulations are about to put the new ones into force, in case the powers are favourably disposed towards the same, that without letting slip this good opportunity, your Government would instruct their representative in Peking to keep step with the Japanese Minister there in using his best influence with the Chinese Government in order that the

97  
 海軍省  
 上  
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 書

外務省  
 印

Department of Foreign Affairs,  
Tokio, October 26<sup>th</sup>, 1907.

Monsieur l'Ambassadeur:

I had the honour to duly receive your Excellency's note No. 75, under date of the 2nd August last, in which referring to Count Komura's note of July 1905, wherein he expressed the agreement of the Imperial Government with His <sup>British</sup> Majesty's Government in ~~considering~~ <sup>sc</sup> the reciprocal protection of Japanese and British trade-marks in China to be necessary, you inform me to the effect that ~~as~~ a provision contained in the Order in Council of 1899, requiring the consent of the British Minister to China in the case of each ~~separate~~ <sup>separate</sup> prosecution in a British Court ~~in that country~~, to which provision Count Komura had taken exception, having been eliminated in consequence of the recent revision of that Order, you are <sup>instructed</sup> ~~authorized~~ by your Government to approach the Imperial Government with a view to conclude a convention relative to the subject, and you therefore inquire whether the Imperial Government are willing to lay the draft of such a convention before your Government.

In regard to the conclusion of the above convention, two drafts relating to China and <sup>C</sup> Korea respectively, have been, as a result of the consultation held with the ~~Minister~~ <sup>Minister</sup> concerned, drawn up, which I have now the honour to herewith forward to Your Excellency as draft conventions of the Imperial Government, in order that they may receive due consideration on the part of His <sup>British</sup> Majesty's Government.

Regulations may speedily be put into force.

I avail myself of this occasion to renew to your Excellency,  
Monsieur l'Ambassadeur, the assurances of my highest and most  
distinguished consideration.

(Signed) Count Hayashi,

Minister for Foreign Affairs.

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法部省に送付

明治四十一年十一月五日 起草

月 廿二日 發遣

通商局

手

次官了

取調

あき

主任

費付了

百務局長

松尾曲直尚勢大臣宛

林大臣

法部省に於ける高橋ノ相互保護ニ関スル

日英日佛互協約案在東京英佛各大使

提出ノ次第了ルルノ件

外務省

法部省に於ける高橋ノ相互保護ニ関スル日英日佛各

協約案ノ件ニ関シテハ是ニ當省主任官より各省之

任要官ノ及協後ハ各省ニ呈テ協約案ヲ附申ス

月十八日附ラハテ閣議決定スル日英協約案ノ

シテ八月二十五日附日佛協約案ノ

夫々別紙ノ因指令亦呈付在東京英大使ハ廿六日附

公文ハ在東京佛大使ハ三十日附公文

再反  
目日  
送付

素送付段之旨以我為代主類相係及申す也  
也

別紙才一册 日英協約案 日本文字

別紙才三册 日英協約案 前記 五月五日附指令字

日才三册 日佛協約案 前記 三月三日附指令字

別紙才三册 在英英大使館 三月三日附指令 日本文字

日才三册 在英佛大使館 三月三日附指令 日本文字

外務省

以上係附下

受書課長

明治四十年十一月十一日

46

明治四十年十一月

月二十六

日

未

主任

文書部

あき

名

在英其の使節

等、林大臣

送第

一

四

號

日英、日佛其協約を案する事、英佛其

日英、日佛其協約を案する事、英佛其

大任に担い、次第に困る事、

外務省

其に於ける商標その他、相互に復た其の事、

諸外に政府より与へたる交渉の進行、模範

付する事、其の事、其の事、其の事、

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外ハ因リお祀在東京大使の才三郎・同一紙  
 ノ協約案ヲ心テ又陟ヲ開始スル相成ト視メ日  
 英、日俾其協約案ハ紙中三号ノ通函本ノ上云  
 九月中該案在東京大使指方ニ付閣議及之  
 ヲ求メ至キ去月下旬内閣ヲ本件ニ残ハ下  
 令アリメル其基キ一方ニ在テハ本件相互保護協約ヲ  
 締結スルト同時<sup>他</sup>一方ニ在テハ<sup>支那</sup>西草程速施方ニ付  
 外務省

互其列王公使ヲシテ貴方ト曰ノ支調ヲ行互ニお  
 支<sup>様各事</sup>持<sup>支</sup>シテ<sup>支</sup>別<sup>支</sup>持<sup>支</sup>四号ノ通函在東京大使  
 宛在在附<sup>支</sup>方祀協約案ヲ檢スルノ事ニ至  
 申ハ右才件協約締結<sup>支</sup>力貴方ノ申考<sup>支</sup>為<sup>支</sup>案  
 別紙並敷添附以<sup>支</sup>殺由<sup>支</sup>達<sup>支</sup>ハ教具人  
 別紙並一拜本年八月八日附在東京大使の才三郎  
 支<sup>支</sup>拜本年八月十日英大使未報英文

別紙第三号 日英協約案、日佛協約案、日米文  
約、内子四号、

（其詳は別紙第三号、内子四号、）  
在英大使館、在日大使館、在日公使館、  
在日公使館、在日公使館、  
日本文、日本文、

以上、保衛、下

外務省

大臣 差 No.

次官 差

政務

通商

人事

會計

取調

控

明治二十九年四月十七日

林外務大臣 本公使

清國高標三本程實施、義に關し十一月十

二日附書、依り昨日英國公

使、本件ヲ談及シタルに同公使ハ寧ろ本

國ヨリ高標相互保護ノ問題ハ日本

間ニ定まるマラハ本件ニ付清國政府ニ對

シテ何等ノ執ルニ及ハス、今得

ル、俟其後別段ノ人即人々、接

テ、我政府、希望カ果テ英國政府



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ヨリ当地公使ニ轉達セラハ、ニ至ラハルナルハ  
 シテ佛公使ニ未タ談及セリカモ蓋シ同  
 様ナラント思ハル就テ清國高標厚程之實  
 施ヲ迫ラハル方リ彼等列國公使カ本官  
 ト人立一歩調ニ出ツル様可成速ニ前々  
 受テラハト必妥ナル付其御令ニ通當ノ機  
 會ニ在東京關係國大使ニ御注意ヲ  
 請フ尚各國カ各々其款スルトモ、後々  
 之厚程ヲ修ムル後、非スレハ妥施ニ全ク  
 セスト之ヲ於テ清國ト妥協甚困難ニシテ  
 此迄著ク期ナキト既往ノ經驗ニ徴シテ明  
 ヲ故可成清國案ヲ是認シテ迅速ノ決意ヲ

見ルニ至ラシムルハ、必妥ナルトシテ  
 説明アリタレ

Memorandum of conversation between Mr. Adachi  
and Mr. Crowe on April 1, 1908.

Mr. Crowe said that a telegram had been received at the British Embassy from the Foreign Office in London on the subject of the Trade-marks Convention, instructing us to ascertain definitely whether it is possible under the law now in force to register marks when intended for use in China and Korea but not necessarily in Japan, and also whether in such cases it would be in the power of the Japanese Consular Courts to take action in case of infringement. Information on this point is therefore requested.

Mr. Adachi, after telephoning to the Patent Bureau for confirmation of his views, said that under the law now in force, trade-marks even though <sup>they are not in actual use</sup> not to be used in Japan, may be registered by the Patent Bureau, but that even in cases where marks were so registered it was not possible under the present law for Japanese Consular Courts in China and Korea to take action in cases of infringement.

But if, and when, the Convention for mutual protection of Trade-marks in China and Korea is signed, the Consular Courts could take action by virtue of the Convention, which will supplement the existing law.

It is to be added that <sup>for not using marks in Japan</sup> if the intention is clearly demonstrated at the moment of application <sup>for registration</sup> it will be difficult to comply with it, since <sup>the law having only</sup> territorial effect, Art. I <sup>presupposes</sup> the intention of using marks in Japan.

presupposes

Handwritten Japanese notes in the left margin, including characters like '中', '抄', '取', 'り', '等', 'の', '事', 'は', '...

Added  
Mason's  
moment

Memorandum of conversation between Mr. Adachi  
and Mr. Crowe on April 1, 1908.

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S. F. Crowe

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Secret

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Trade-marks Convention  
Patent Bureau  
Consular Courts  
China and Korea

菊地

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一、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル  
 二、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル  
 三、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル  
 四、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル  
 五、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル  
 六、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル  
 七、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル  
 八、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル  
 九、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル  
 十、商標法ニ依リテ登録セラルル商標ニ對シテ  
 他人が同種ノ商標ヲ使用スルコトヲ禁止スル

在洋泰事下各弁申ノ現日本国内ニ於テ  
 使用申ナラサル商標王亦特許局ニ於テ之ヲ  
 知スルコトヲ得ト云フテハ 商標法中ニハ 實施  
 令行ノ強制ニ與スル特許法ノ規定ヲ準用  
 するトニ徴シ其正確疑ハカサルコトヲ知ル  
 特許法才三十八条才号ノ商標法才十一條及  
 同法才二十條参照) 即特許ニ與シテハ 特許  
 權主ハ其ノ専斷權ヲ行使シテ三箇年以上ノ  
 内ニ 其特許權ヲ行使スルコトヲ行セサルハ特  
 許ヲ取消スルコトアルヘキモノトモ 商標ニ  
 關シテハ何年間該商標ヲ附スル商標  
 内ニ市場ニ販出セラルル者登録ラ得  
 サルコトナキナリ (特許局長ノ特許ニ依リテ  
 現行商標法ニ 特許局長ノ特許ニ依リテ  
 次ニ市廳領事才号ノ商標保護案件  
 二付官特許局長才号ノ商標保護案件  
 車長才号ノ商標保護案件アルコトナキ  
 本大審判院ニ於テ最近ノ判決何人





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British Embassy,  
June 26, 1908.

NO. 48.

Monsieur le Ministre,

With reference to the Convention for the mutual protection of Trade-Marks in China and Corea which it has been proposed to conclude between our two Nations, I have the honour to inform Your Excellency that I have been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to obtain definite information from Your Excellency on the following point:

There are probably a great number of British trade marks which are used in China and Corea but not in Japan, which the owners thereof would desire to have protected in China and Corea from imitation by Japanese.

If the Convention is signed will the Imperial Japanese Government be prepared in any case to vest their Courts in China and Corea with power to deal with cases of piracy by Japanese subjects in those countries of British marks

His Excellency,  
Count Tadasu Hayashi,  
Minister for Foreign Affairs,  
etc., etc., etc.,  
TOMIO.

明治四十一年六月二十六日  
英領事館  
菊地 松島

marks registered in Japan with the object of obtaining such protection and not necessarily with a view to use in Japan, conditionally upon His Majesty's Government according complete reciprocity.

In other words, would the Imperial Japanese Government be prepared to consider that owners of British marks registered in Japan, but used only in China or Corea, will be entitled to the benefits of the Convention when signed.

For example, I would like an expression of opinion from Your Excellency on the following point:-

Article XII of the Japanese Trade-Mark Law says:

"The right of exclusive use of a trade-mark expires with the cessation of the business for which it is used by the proprietor".

Supposing that a British subject registered a trade-mark in the Japanese Patent Bureau for goods which he was dealing in in Japan and China, and that he subsequently found the mark unsuited to the Japanese market and gave up using it here, but continued the use of the mark in China, would it be possible for an interested party to demand the cancellation

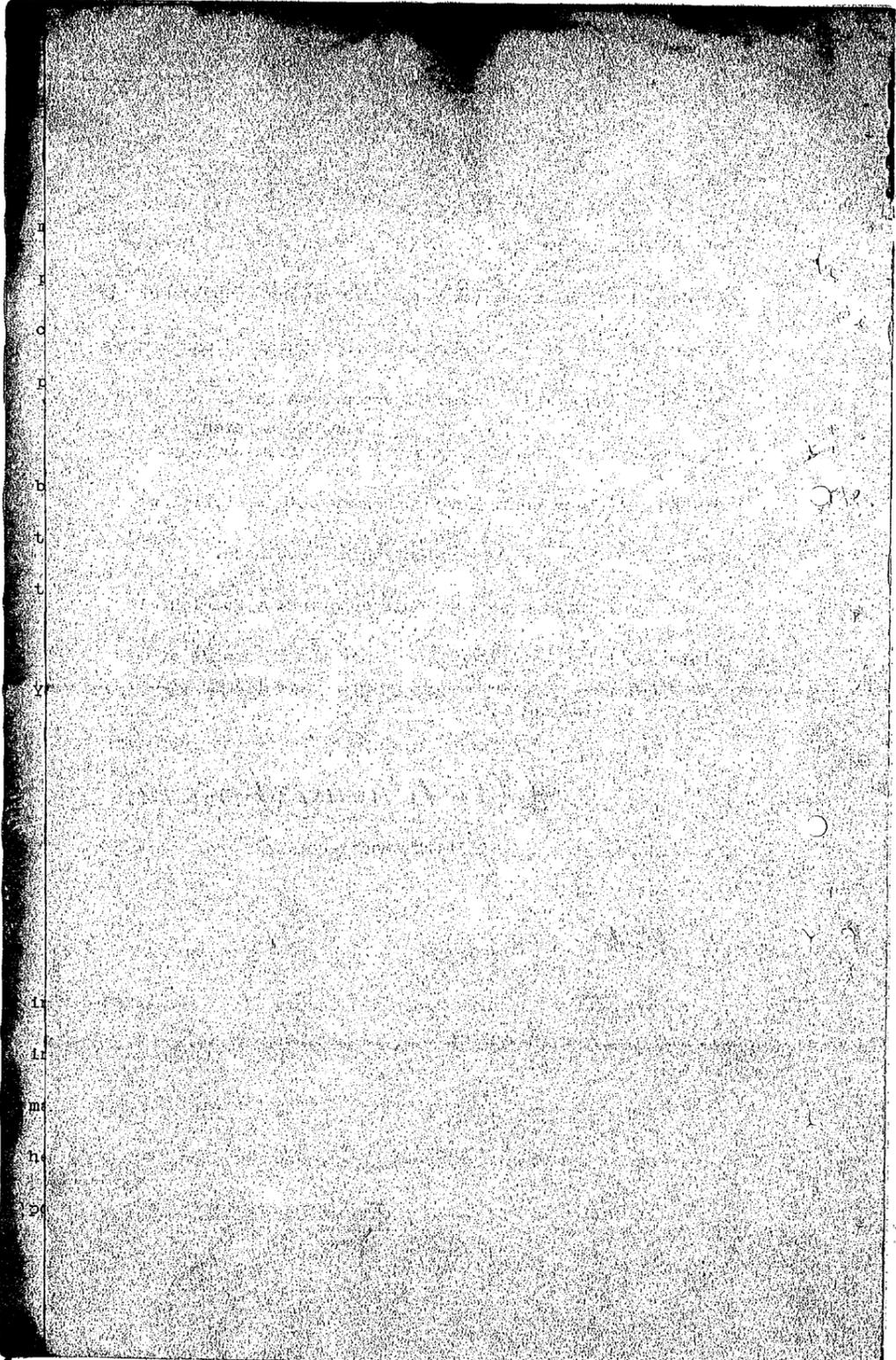
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of the mark on the ground of the cessation of the business in Japan for which the mark was used by the proprietor? If under the present law a mark could be cancelled under circumstances as detailed above, I venture to think that Your Excellency will see that some assurance from the Japanese Government which would cover cases of this sort, will be required before any Convention can be concluded.

I avail myself of this opportunity, Monsieur le Ministre, to renew to Your Excellency the assurance of my highest consideration.

*Clarendon*

British Ambassador.



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明治四十一年 六月二十九日 高島友成 謹啓

主任

高島友成 菊地

千九百一十年六月三十日

英國ケンブリッジマッドナード

英外務大臣宛

茶屋五郎

外務省

此書物致送とて陳者清韓兩國ニ

於ケル者標相互保護ノ為茲我兩國臣ニ

締結セリトスル條約ニ於テ日本決ハ尤茲

ニ自テ判然シルニ於テ示ヨ夫ノキ様

本國外務大臣ヨリ刻今モシ生

出ツニ英國古標ニ清韓兩國ニ用ヒ

ラルモ日本國ニ用ヒラレザルモノ許多アルハ

古古標ノ所存主ハ清韓兩國ニ於テ也



後令

日本國商標法第十三條

商標專用權ハ此法ニ依リ得テ之ヲ行使スルモノトシ

標ヲ使用スル此等ノ業ノ廢止ニ因リ消滅ス

ト有之片專權ハ美國臣民ニシテ口清兩國

ニ於テ販賣スル物品ノ存ニキテ國特許局ニ

於テ商標ノ此等ノ受テ其ノ後全商標ノ

日本國市場ニ不爲セラルルヲ以テ考案(日本國)

外務省

ニテハ此ノ法用ヲ廢止シタルモ清國ニテハ依然ト

シテ之ヲ法用如前トセハ右所存ニハ其ノ商標

ヲ使用スル此等ノ業ヲ廢止シタルノ故ヲ以テ利

害一區ハ係有テ此等商標ノ販賣(精練)ニ及

コトハ此等商標之ヲ業現以法ニ由リ廢

止ル前未決ニシタル事情ノ下ニ廢止(登録)ヲ

得ルモトモハ斯ル場合ニ存スル日本國政府ノ

保護ヲ維持スル事ハ此等商標ノ存スル

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○二由方公手不階下ニ於テ書ク事知相成善存

飛書語ニテ保部名ヲ録シテ居

申述テ書本出ハ茲ニ居ルニ向テ書テ居テ

者ニ在ル也

外務省

2-1573

0495

明治四年七月七日 起

度

和島 菊地

通商局 粵商等者於西二國商標之仿り本業仿正を以て

本商等業、乃るまに付度業等

左本卸英使記 業 大尺

帝國に於て其歸せらるる清韓二國に於て之を使

用せらるる商標は日英万、清韓兩國に於て之を標相

互保護の條約條條護せらるるや否や、

外務省

以上條約條條上を條も六月九日附中央東ラはテ

清韓兩國に於て之を標相互保護ノ為中央兩國

互保護の條約條條に於て中央兩國政府カ十

分、相互に條約條條に於て中央兩國政府ハ貴

國商標ノ帝國に於て登録ヲ受ケたるは清韓二

國に於て之を使テラるるモノハ所有主ニ在條約ノ

保護ヲ享有せしむるや否や即中央國臣民ニシテ

日清兩國に於て登録スルモノハ帝國政府

おのまき、  
信長

局ニ於テ高標ノ登録ヲ受ケ其ノ後今高標ノ  
帝國市場ニ不適當ナルヲ知リテ帝國內ニ之ヲ  
使用スルトシテ廢止スルトキハ清國ニ於テ之ヲ使用  
スルトモ右所存駐ハ帝國高標法オ十三條ニ依リ  
其ノ高標ヲ使用スル營業ヲ廢止シ且モトシテ  
和善關係人ヲ該高標ノ取柄ヲ請求セシム  
コトアルニキ成ニ無ニ或ハ示有ニ及否ハ希  
望。又若シ現行法ニ據リテ他ノ事情ナ  
外務省

登録高標ヲ取消スコトヲ得んモノト規定セハ斯ル  
場合ニ及ニテ帝國政府ノ承認ヲ得ルニ非サレハ  
何等條約ヲ締結スルニ由テカニキ各官申誠  
お及部系致テ其ノ按ルニ帝國法律ノ更改ハ  
立法府ノ権限ニ属スル所ニシテ行政官廳ノ全  
干渉スヘカラスル所ニシテ現行法ニ依リテ  
兼て其ノ解得ニ及ラズハ箇々ノ事件ヲ審理スル



削除  
内

高標ヲ使用スル者業ク廢止シ之ニ非スレバ  
 帝國內ニ於テ使用セラルル場合ヲ規定シ之  
 其高標  
 之ノニ無之且帝國高標在中ニ登録高標ハ  
 使用ノ場合ニ該高標専用權ノ消滅ニ由ルニキ  
 各々規定シ之條文ナキヲ以テ現行法ニ據ル  
 日本帝國臣民ニシテ帝國外ニ於テ  
 帝國特許ノニ於テ高標ノ登録ヲ受ケ其ノ  
 後ハ高標ノ使用 帝國內ニ於ケル使用ヲ廢止  
 外務省  
 ナルトモ其ノ高標ヲ使用スル者業ク廢止セザル限  
 高標専用權ハ依然トシテ健在スルニ依リ  
 之ハ其ノ著シ貴國政府ニシテ十分ニ相互存  
 在ナルニ於テハ帝國政府ハ他日米英西  
 國等ニ對シテ西國ニ於ケル高標相互保護條  
 約ヲ締結スルニ際シ帝國高標ノ帝國外ニ於  
 テ其ノ業ク之ヲ保護スル國ニ於テハ使用セ  
 ズル所有ニシテ其ノ業ク之ヲ保護スル者業

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此の各書は、傳有之、傳係右様、了  
此の各書は、傳有之、傳係右様、了  
此の各書は、傳有之、傳係右様、了

外務省

2-1573

0500

免

要再面

文書録

明治四十一年七月二十日接受

浄書 校正

明治四十一年七月二十日  
同 八月二十日

松島 菊池

次官 外務省

本

明治四十一年七月二十日

外務省

農商務大臣

大臣

帝國ニ於テ之登録セラルルハ清韓二國ニ於

テノミ使用セラルル高標ハ日英間ニ清韓

兩國ニ於ケル高標相互保護ノ條約締結ノ後ニ

保護セラルルヤ否ヤ關シ英大使ハ回答協成件

外務省

清韓兩國ニ於ケル高標相互保護ノ為日英

兩國間ニ條約ヲ締結シ且曉ニ於テ英國政

府カ十分ノ相互保護ノ約ヲ結ビ且帝國政府

ハ英國高標ノ帝國ニ於テ登録ヲ受ケルニ

清韓二國ニ於テノミ使用セラルルモノ所有ニ

在ル條約ノ保護ヲ享有セラルルヤ否ヤ例ハ

英國臣民ニシテ日清兩國ニ於テ販賣スル物品

ノ為ニ帝國特許局ニ於テ高標ノ登録ヲ受ケ

2-1573

0501



寫

明治五年七月廿五日

日本高橋信之助

オニヤ

横濱市一丁目

高橋信之助  
司合資者  
信之助

明治五年七月廿五日

陸軍大臣

外務省

（本館に送附他方における本館用）

外務省

明治五年七月廿五日

2-1573

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跡結、シメル、メホ、シロ、吾、リ、以、テ、サ、苦、矣、ト、ス  
ロ、イ、ド、カ、於、テ、是、新、の、結、激、之、矣、ス、亦、友、ノ  
信、を、終、之、化、シ、半、七、の、絶、對、的、之、辨、心  
ニ、在、ル、法、亦、法、種、ヲ、擲、去、シ、メ、ル、之、能、サ、ル、之、シ  
故、之、不、日、條、約、亦、又、ノ、云、告、ヲ、新、テ、及、之、  
研、究、セ、サ、ル、之、方、ス、要、ス、之、事、也、法、亦  
吾、ノ、日、本、ニ、對、シ、テ、一、半、七、ノ、辨、心、ヲ、擲、シ、テ  
先、著、ス、ル、ト、ス、之、事、也、(ナリ)

外 務 省

2-1573

0508

明治四十一年八月二十九日接受  
主管取調課

菊

特 第二二四號  
受第一七二九號  
七月二十日白送券五一日海リ以テ法律第五(五)

大臣

次官

取調課長

通商局

七月二十日白送券五一日海リ以テ法律第五(五)  
 於テ人商標ある互海後、為日英兩國關係  
 的締結、愛之帝國内ニ於テハ商標ノ使用度  
 中、結果ニ於テ英大使、照會ニ付スル回答、  
 件ニ照會、取寄書、大、法律ニ於テ是存  
 多、五、日英帝國現行ニ商標法ニ於テハ商  
 標、我、現、ヲ受、人、テ、ハ、改、テ、帝國自由ニ登  
 世、マ、者、ス、コ、ト、リ、我、密、ト、セ、ス、又、ハ、商標ヲ使  
 用、セ、ル、ル、其、多、業、ヲ、度、止、セ、ル、限、ハ、商標  
 專用權、ハ、消滅、セ、ル、義、ニ、有、シ、而、シ、テ、我、本  
 國、商標、多、標、ハ、是、ノ、方、ニ、於、テ、ハ、我、多、業、ヲ、度  
 止、ル、ニ、能、カ、レ、ハ、帝國内、及、帝國内、及、帝國内、  
 商標法、係、後、ノ、及、地、於、テ、ハ、多、業、在、多  
 標、ノ、使用、ヲ、度、止、ス、ル、ニ、多、業、自、權、ハ、消滅、セ  
 ス、然、レ、モ、我、國、多、業、自、權、ニ、於、テ、ハ、我、人  
 カ、他、國、人、自、權、帝國ニ於、テ、ハ、我、録、ヲ、受、テ、人  
 商標、ハ、帝國内、及、帝國内、商標法、係、後、  
 ノ、及、地、於、テ、ハ、多、業、ノ、度、止、ニ、由、リ、テ、ハ、商標  
 専用權、消滅、ス、ル、義、ニ、有、シ、而、シ、テ、ハ、我  
 標、ノ、自、權、消滅、ニ、因、リ、テ、ハ、互、海、ハ、我  
 標法施行細則、第、四、條、第、十、三、項、  
 十七條、乃、特、許、法施行細則、第、七、十、一、條  
 三、項、ノ、特、許、法、自、權、消滅、ヲ、以、テ、之、ヲ、以、テ、  
 三、項、ノ、裁、判、又、ハ、審、判、ヲ、以、テ、ス、ル、ニ、由、リ、  
 且、又、英、大、使、ノ、書、翰、及、他、多、業、ニ、依、リ

「辨回」之関ニテモ清國ト回撥ノ修約締結  
結本年ノ旨趣ニ被認スル者ハ六ヶヶ般締結  
結本年ノ旨趣ニ被認スル者ハ六ヶヶ般締結  
結本年ノ旨趣ニ被認スル者ハ六ヶヶ般締結  
結本年ノ旨趣ニ被認スル者ハ六ヶヶ般締結  
結本年ノ旨趣ニ被認スル者ハ六ヶヶ般締結

明治四十一年八月廿八日

農商務大臣



少子及月留等山村毒方ノ取

農商務省

2-1573

05 10

文書課長

たけ

明治四十一年八月八日

明治四十一年八月十二日

大正

八月十二日

附

主任

松島

松島

大正

八月十二日

附

主任

松島

松島

警察局長

警察局長

警察局長

警察局長

警察局長

機密送第... 人 辨

取調部

取調部

取調部

取調部

陸軍大臣

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アジア歴史資料センター

Japan Center for Asian Historical Records

http://www.jacar.go.jp/

同日ノ叔留ヲ取ルル得ル様外又之ヲ更換セルコトハ  
 疾ニ申承知奉下存心交英米佛法五ノ政府ハ帝王  
 政府トモ其日又ハ紳士ニ其ノ日種ノ協定ヲ遂ケ公報  
 教多クヨリ高ク控置致誠小次第有之昂キ英法政  
 府カ之協定三十七日九月中法法ニ於ケル商標ノ相互保  
 護ヲ協定之旨自ラ申出テ翌三十八日一月紳士ニ其日  
 之モ亦同様ノ前極ヲ書サムコトヲ提議シ未リタル物トシ  
 日三十八年九月六日米法政府ヨリ日種ノ協定ヲ行  
 陳シ未リ翌三十九日自在京米法大使ヨリ米法  
 本國政府ノ訓令ニ基キ法紳有之於ケル商標相互保  
 護件ニ付談判ヲ開始シ夜旨公文ヲ以テ申出テ為内  
 七月六日佛法政府ヨリモ其日又ハ紳士ニ其日種ノ協定ヲ遂ケ  
 ノ交涉アリ其他亦其日又ハ紳士ニ其日種ノ協定ヲ遂ケ  
 之ニ在リ且帝王ノ日種ノ勸誘ヲ受ケシメタル下ナリ  
 本年六月ニ至リ相違政府モ亦其日又ハ紳士ニ其日種ノ交  
 渉ヲ行ハシ未リタル事ト有之及帝王政府ニ於テ

外務省

ハ英王政府申出ノ当初ヨリ後議ノ結果本件未互以  
獲ノ故旨ニ爲シ何事主義上ノ事在リシハサレトモ  
車馬者亦ハ其ノ事ハハ事ニ批達ヲ要スル事  
約ノ形式ヲ以テスルハ其ノ後ニ在リシ難キ旨也  
為ニ及ヒタルカ故ニ爾後米佛法五ノ控後ニ爲シテモ  
曰一、私旨ヲ以テ在リシ未リタル儀ニ外ナラスルニ  
米王政府ハ一昨三十九年九月より韓王ニ對スル帝  
王ノ地位ニ對シテ其ノ事世ニ鑑ミ其ノ韓王ニ於ケル治外

外務省

法條ノ一部ヲ撤回スル事及條約ノ保護スル目的也  
此ノ意匠ニ當リ及善心權ノ旨ト爲サズラ控後  
ニ未リタルニテ帝王政府ハ其ノ控後ニ其キ攻究ヲ重  
ニスル結果昨四十年三月帝王政府ノ條約を案示ラ  
京米王大使ニ對シテ其ノ旨ヲ曰年十二月より米王政府  
ノ對案控後ニ接シタルカ談判ノ結果本年五月十九日  
盛頓ニ於テ條約ヲ訂シテ了スル次第ニ有之本  
條約ノ精神ハ別紙條約文及附屬條約ニ在リ  
本國日誌ニ於テ批達ヲ要スル事  
本國日誌ニ於テ批達ヲ要スル事

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突批本

米五政府カ方は、如ク其ノ韓必ニ於テ治外法權ノ一部  
ヲ抛棄スルコトニ同意シタル當時帝國政府ハ改約法  
ヲヨリ本件條約ノ締結ヲ要請シ未ルニ合ハスル迄  
カ米五日極先其韓必ニ於テ治外法權ヲ氏懸ニ與  
シ抛棄スルコトニ同意スルヲ条件トスル方針ヲ定メ  
四十年八月七日本英米大使カ米五政府ハ訓令ニ基キ  
本件條約案提出ニ方米五政府ニ要求致謝ハ第一  
王右ノ方針ニ基キ閣議ハ改定ヲ種テ別裁甲辨條約案  
ヲ提出致置<sup>也</sup>英五政府ハ爾来今日ニ至ル迄該案  
ニ付何等ノ意見ヲ表示シ未ラス希テ去リ月三十一日  
附テ本條約條約締結ハ進行前我々極力  
終末オチハ必旨別裁之難カク因テ各々致謝ハ  
察スルニ使五ノ関シ極力相互復ヲ約スルハ英五政  
府熱心ニ希望スルハナルモ韓必ニ其治外法權ノ  
一部ヲ抛棄セムコトハ政府ノ好ムルハカ昔自然我

外務

見次

控申案ノ前ニ意見ヲ公表スルコトヲ遲延スルニ至ルノ故  
 合ハルナルカ柝ニ帝立政府カ方計ヲ要徴セムト  
 スルニ急ナルコトハ法科カ五ニ関スル日米ニ條約ノ間ニ接  
 接不可分ノ關係ヲ設定シタルニ徴シ(別件日米条  
 約條約事項)改定(照会)照会スルニ至ラス(別件丙辨)  
 條約ノ實施ノ必要上制定ニ希セラルルニ法科カ殊ニ  
 関東州其他ノ莫スル勅令カ三条ノ規定ニ依リ(其  
 ラレタル候ハ存下)事情右ノ如クナル故ニ若シ英立政府  
 ニシテ本件ニ對シ帝立政府ノ前記方針ヲ承認スルコト  
 欲セサル限リ本件清國ニ於ケル高橋相立保護條  
 約締結ノ件ヲ為分成立ノ見込ナキモノト認メサルヲ得ス  
 英立政府ニ對シ米立日標ノ指置ヲ執ルコト亦入再録ノ政  
 諸君ハ概其何ニ從フコトカハハ韓國ニ於ケル治外法權  
 撤去ノ問題モ亦當ニ一級交渉ニ付スルニ至ルハキコトト認相  
 致在ルコト以テ對スル英立政府ニ對シ其ノ意如何ハ  
 貴官長テ目下注意有之度又米立政府ノ意如何

ニシテ  
 英立

又尋常の故有る方計す首首自之に於て有る事本  
有る事本各種の事  
米俵の用採糸以救及内洲系也

別紙甲第

此等十且王自在系英大使候三送付

別紙乙号

本年六月廿日附英大使候未納之字野々  
（英文字宛）

別紙丙第

日米俵の事候備公布七之九勅令  
（案之件字）

外日米俵印刷物並日俵の送付各一部

以上 添送之申物ス  
（送付書野々候印部紙等）

外務省

2-1573

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文書課長

明治四十一年九月五日接受



明治四十一年九月五日  
九月五日  
菊池

大臣  
通商大臣  
主任

次官  
取調官  
立

日本邦英大使館  
少村大臣

帝國兵隊登錄セルモノ法律ニ于テモ使用

セラル高標ニ日英各ニ法律兩國ニ高標保護

条約締結ノ後ニ保護セルモノヤ否トシ

外務省

機密  
大宛

以テ前致送ノ旨係ルモノ六月廿六日附書東ラ以テ  
法律西ニ於ケル高標相互保護為ル我西國右  
ニ條約ヲ締結セルニ付合ニ於テ本國政府カ十分ノ  
相互保護ヲ約セルニトキハ本國政府ハ本國高  
標ノ帝國ニ於テ登錄ヲ受ケルモノ法律ニ國ニ於  
テノミ使用セルモノ所有主ノ右條約ノ保護ヲ享  
有セルモノヤ否ヤ即本國臣民ニシテ日英兩國ニ於テ  
敗者タル物品ノ為ニ帝國特許局ニ於テ高標ノ登

~~此の文は  
削除せしむ~~

標本録ヲ受ケ其後同高標ノ帝國市場ニ不  
 適者ナルヲ或ルテ帝國内之ヲ使用スルトモ其國  
 ニ於テ之ヲ採用スルトモ右所存之ニ帝國高標法  
 オナニ依リ其高標ヲ使用スル者其責ヲ度  
 止ニシルモノトシテ相書関係人ヲ該高標ヲ取  
 消ヲ請ハセラルルコトアルニ依リ之ニ無之哉明示有  
 之候分ハ其責ヲ負ハルニ現ナク其標ノ記  
 ノ事情ハトモ其標高標ヲ取消スルコトヲ得ルモノト  
 外務省  
 假令ハ斯ル場合ニ於テモ帝國政府ノ保護ヲ得  
 ルニ非ハレハ何等修めテ保持スルニ由ナカレバ其旨中  
 誠ニ其別業致来候ニシテ帝國法律ノ更改  
 ハ主権ヲ指限スル所ニシテ行政官廳ノ全權  
 干渉スル所ニ有之又其ノ解釋ニ至リテ簡々ノ  
 事件ヲ審査スル者該及憲ノ獨立ナル意見ニ依  
 リテ宜シクモ之有之候ハ本件ノ場合ニ於テハ希  
 望ニ依リ帝國政府ノ保護ヲ與フコトハ不遂ニ成

本大臣ノ取立ニ依リテ所ニ於テ此レトモ本件ニ関シ  
 南洋ノ政府ノ意見ヲ兼テ為シ未ダ各ノ趣  
 本ニ岩高好大臣ノ及<sup>由標</sup>半會<sup>標</sup>聖旨<sup>標</sup>今般同  
 大臣ヲ回<sup>由</sup>右有之右ニ依リテ中國<sup>標</sup>高標<sup>標</sup>拉<sup>標</sup>非  
 ニ於テハ高標ノ登録ヲ受クルニ付テハ現ニ帝  
 國內ニ登録<sup>標</sup>有スルモノトシテ又高標ヲ使  
 用セザルモ其ノ登録ヲ廢止セザル限リハ高標專  
 用權ハ消滅セザル義<sup>標</sup>有之而シテ外國登録<sup>標</sup>  
 標<sup>標</sup>其ノ本國ノ於ケルニ登録<sup>標</sup>有スルニ非サレハ  
 帝國<sup>標</sup>内<sup>標</sup>各業<sup>標</sup>及<sup>標</sup>商標<sup>標</sup>ノ使用ヲ廢止スルモ高  
 標專用權ハ消滅セズ此レトモ高標カ外國登  
 録高標ニ非スニテ外國人カ内國人同様帝國ニ於テ  
 登録<sup>標</sup>ヲ受ケテハ高標<sup>標</sup>帝國内及帝國高標<sup>標</sup>保  
 護<sup>標</sup>及<sup>標</sup>此ニ於テ<sup>標</sup>登録<sup>標</sup>有スル業<sup>標</sup>ノ廢止<sup>標</sup>因テ高標專用  
 權<sup>標</sup>ノ消滅<sup>標</sup>セズ之<sup>標</sup>而シテ高標專用權<sup>標</sup>ノ消  
 滅<sup>標</sup>因テ登録<sup>標</sup>ノ取消<sup>標</sup>ハ高標<sup>標</sup>ノ施行<sup>標</sup>如<sup>標</sup>也

外務省





田中清兵衛の御返書

古

治友

御成金も少く、先年、在野に於ては、  
法を以て、名を以て、高橋を以て、  
件、更に別成、マンチエス、カア、デアン  
、新、從、ハ、長、年、多、く、成、り、少、く、成、り、  
成、り、少、く、成、り、少、く、成、り、少、く、成、り、  
成、り、少、く、成、り、少、く、成、り、少、く、成、り、

明治四年七月六日

主美

大老、一、等、知、事、陸、奥、清、兵、衛

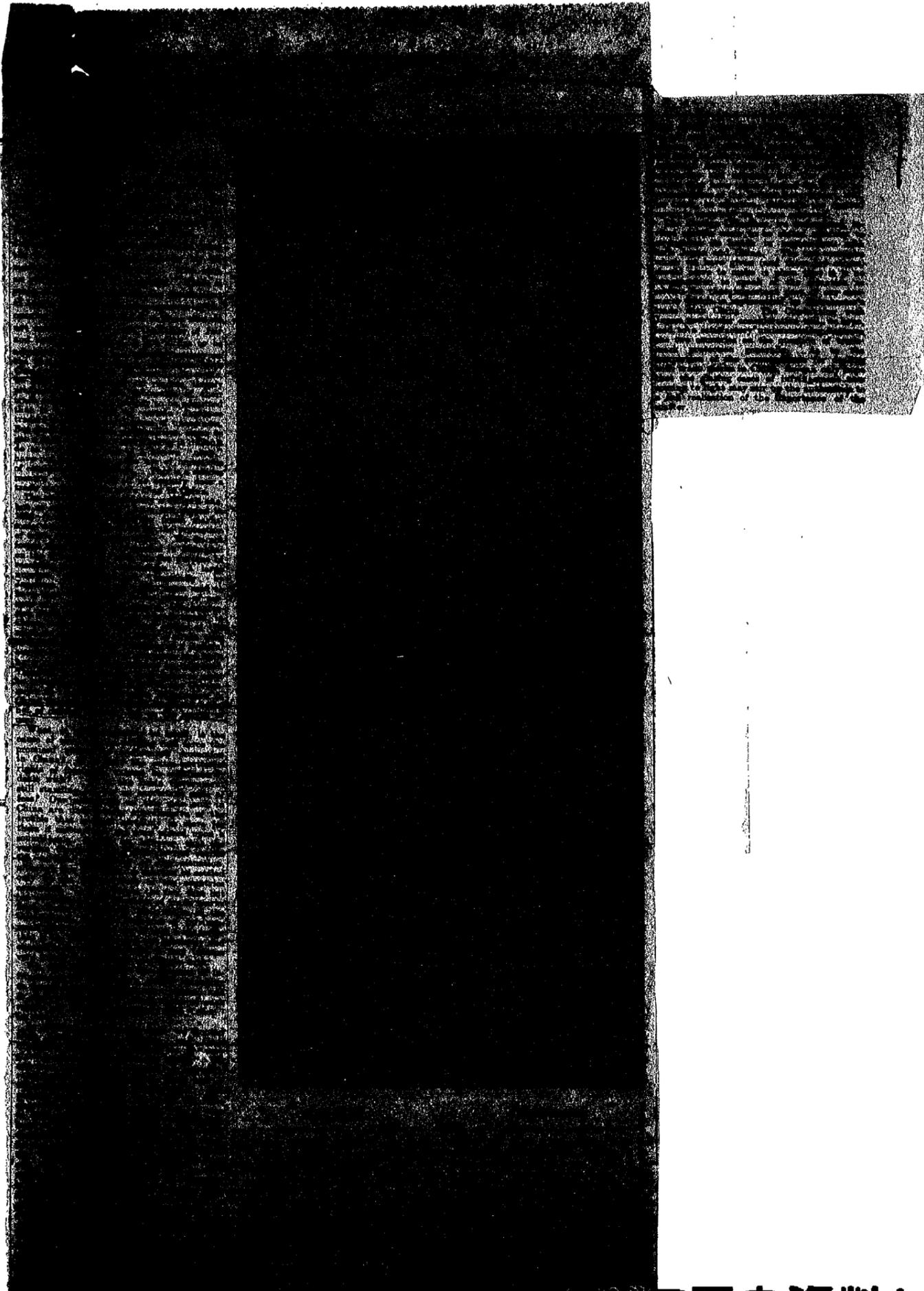
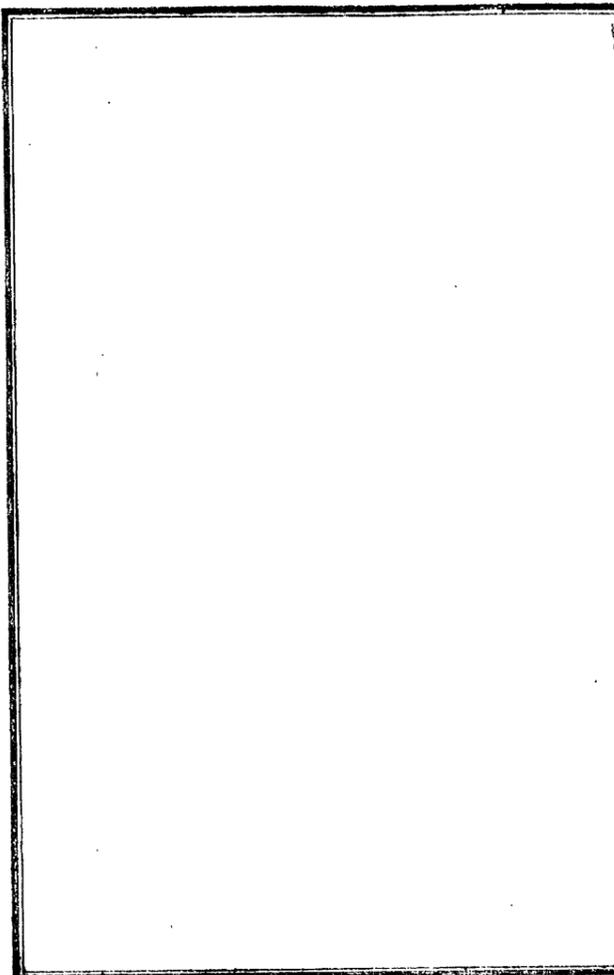
通、り、長、新、島、守、一、郎

西曆一千八百八十一年

在英國日本公使館

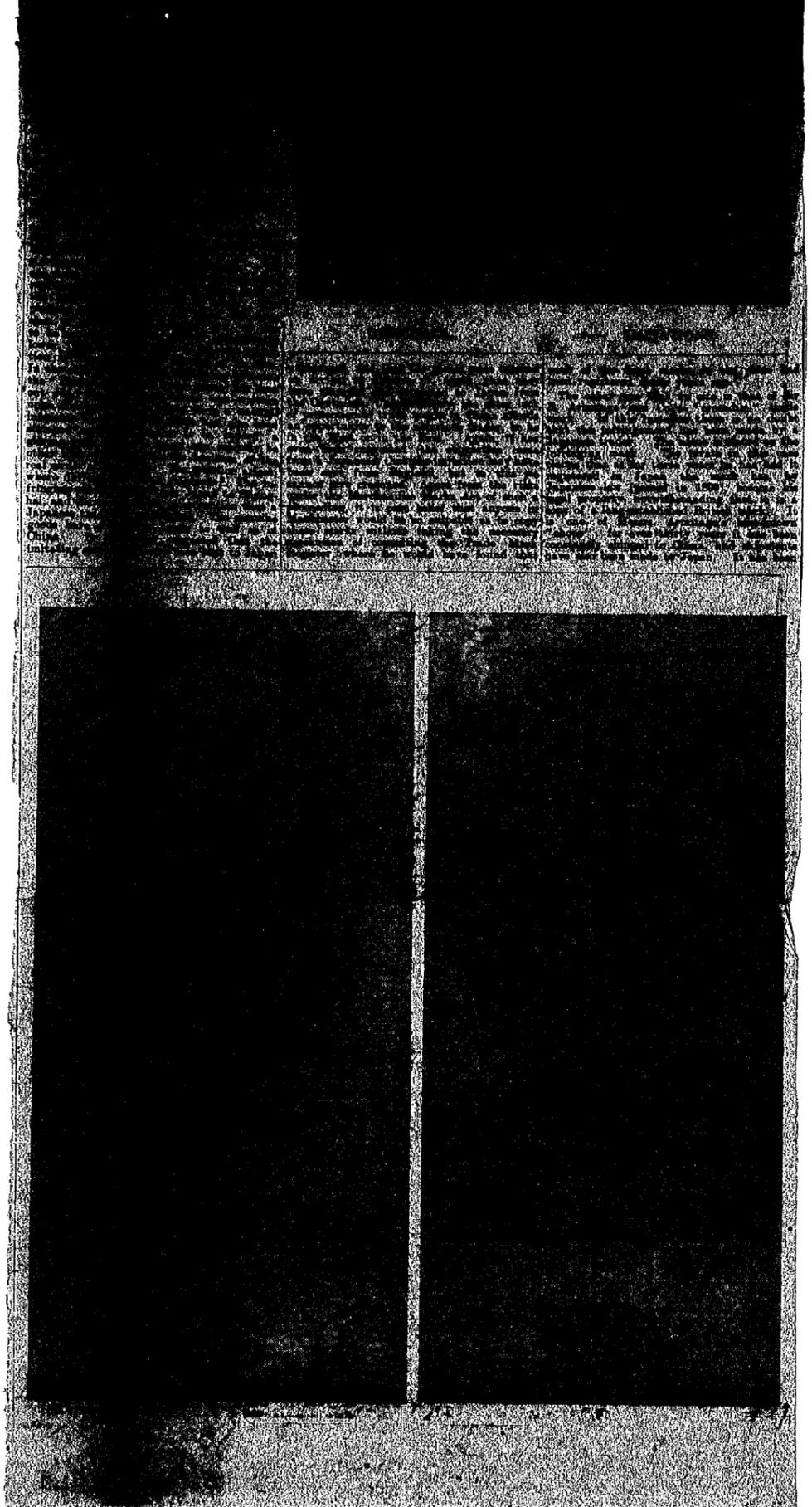
2-1573





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0522



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0523

明治三十一年八月廿二日  
同 年 月 日 起 申  
日 發 遣

通商局長

主任



用印

在英

陸奥大臣秘書長

駐英公使館長

拝啓 謹言 幸甚 謹言 幸甚 謹言 幸甚

外務省

日英商標保護法を以てマシエスル一がアテアノ

記事 抄録 幸甚 幸甚 幸甚 幸甚 幸甚 幸甚

業 旨 抄録 幸甚 幸甚 幸甚 幸甚 幸甚 幸甚

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之 旨 抄録 幸甚 幸甚 幸甚 幸甚 幸甚 幸甚

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本 旨 抄録 幸甚 幸甚 幸甚 幸甚 幸甚 幸甚

自年ヲ改テ五年ノスヨリカノハハカシヨリテ  
カノハハカシヨリテ

外務省

2-1573

0525

明治四十年  
九月廿五日  
大勅令  
何元一

JAPANESE EMBASSY,  
4 GROSVENOR GARDENS,  
LONDON, S.W.



JAPANESE EMBASSY,  
4 GROSVENOR GARDENS,  
LONDON, S.W.

場録ニ於ケル商標條約ノ件  
 本件ノ案ニ於テ於リ於百附ク以テ本國ノ臨時ニ於  
 ヲリ我政府ハ英王ノ勅令ニ對シテ日英キ廣ク其  
 案ヲ提申セルニ英政府ハ却テ之ニ對シテ其  
 シカスニ條約スルノ状アリ日英ニ對シテ其  
 ト紳士ニ於ケル法條トノ一系係ヲ好ハル  
 ノ結核ナルベシ云々云々 案示スル所アリ此  
 案下ニ於テ本國ノ案ニ對シテ英王對其案ニ對シ  
 送場ノ故案取モルハ本國ノ案ニ對シテ其  
 右等ノ外ハ公使ト行連ニ已ニ本國ニ在連ニ免  
 ト存ハ而シテ其内案ハ詳言不致ハ其カハルベ  
 ヲリ美ニ於テ提シバ本國一係ハ The Subjects of  
 One High Contracting Party..... Shall enjoy in all

Paris of China & Korea 云々ト案在ルニ於テ  
 紳士ニ於テ我提案トハ本國ノ案ニ對シテ其  
 而シテ本國ノ案ニ對シテ其  
 ノ以テ案ニ對シテ其  
 外法條トノ提解ヲ提ケテ其  
 一時ハ法條ノ提解ヲ提ケテ其  
 全件見合ハスレトシテ其  
 ナリト又英政府ハ其ノ案ニ對シテ其  
 カ先般ランソングヨリ内案ノ提上申シタル  
 通案ニ對シテ其案ニ對シテ其  
 不完全ト認ムルニ有リ其案ニ對シテ其

明治四十年九月十五日

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別紙英領事館存控出係ル條約對案ハ法科某  
 ニ付商標ノ相互保護ヲ約スルモノニシテ科某  
 於テ英領事及裁判官ノ權限ハ依然之ヲ確  
 保セムトスルモノナリ然レテ英政府力最ニ英領政  
 府ト協同シテ於テ此ノ事業ヲ保護及モ其權限保  
 護ヲ約スルモノナリハ英政府ヨリ其權限保  
 護外は權限一掃ヲ放棄セシムル結果勅令第百九  
 十六号乃チ之ヲ行フ事ナリ然レテ事係事功ニ付法  
 外法權ヲ行使スルモノハ人民又ハ人民ノ限リ法定ノ保  
 護ヲ享有セシムル法ノ主義ヲ定メ尚韓國ニ於テ  
 工業業不有權及著作權ノ保護ニ關シテ法外法權ヲ  
 行使セラルモノハ又ハ人民ノ限リ其ノ帝ヨリテ  
 享有スル特許權ノ意正權者權限及著作權ヲ  
 法外法權ニ保護スル旨勅令第百一十号及テ法外法  
 權ノ故ニ英領政府ニテ亦記事法判官手表ヲ承認  
 シ米領自標ノ對候ヲ控出シ米領領事ハ本件ハ後  
 議ノ餘地ナキモノト認メ通商局

次官

取調課長あき

兼地

Contracting Parties shall enjoy in China the protection of copyright for their works of literature and art as well as photographs to the same extent as they are protected in the dominions and possessions of the other party.

ARTICLE III.

In case of infringement in China by a subject or citizen of one of the two High Contracting Parties of any invention, design, trade mark or copyright entitled to protection in virtue of this convention the aggrieved party shall have in the competent territorial or consular courts of such Contracting Party the same rights and remedies as subjects or citizens of such Contracting Party.

ARTICLE IV.

Each High Contracting Party engages to extend to the subjects or citizens of the other Contracting Party the same treatment in China in the matter of protection of their commercial names as they enjoy in the dominions and possessions of such Contracting Party under the convention for the protection of industrial property signed at Paris March 20, 1883. "Hong" marks shall be considered to be commercial names for the purpose of this convention.

ARTICLE V.

Subjects of Korea and citizens of possessions belonging to the French Republic shall have in China the same treatment under the present convention as subjects of

修正  
署名

His Majesty the Emperor of Japan and the President of the French Republic being desirous to secure in China reciprocal protection for the inventions, designs, trade marks and copyrights of their respective subjects and citizens have resolved to conclude a convention for that purpose and have named as their Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan, -----

-----; and

The President of the French Republic, -----

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.

Inventions, designs and trade marks duly patented or registered by subjects or citizens of one High Contracting Party in the appropriate office of the other Contracting Party shall have in all parts of China the same protection against infringement by subjects or citizens of such other Contracting Party as in the dominions and possessions of such other Contracting Party.

ARTICLE II.

The subjects or citizens of each of the two High Contracting

Contracting

ARTICLE IX.

The present convention shall be ratified and the ratifications thereof shall be exchanged at ----- as soon as possible. It shall come into force ----- days after such exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed the present convention in duplicate and have thereunto affixed their seals.

Done at ----- the ---- day of the ----- month of the ----- year of Meiji corresponding to the ----- day of ----- in the ----- year of the Christian era.

----- (L.S.)

----- (E.S.)

of Japan and citizens of the French Republic respectively.

ARTICLE VI.

All rights growing out of the present convention shall be recognized in the insular and other possessions and leased territories of the High Contracting Parties and all legal remedies provided for the protection of such rights shall be duly enforced by the competent courts.

ARTICLE VII.

Any person amenable to the provisions of this convention who possesses at the time the present convention comes into force merchandise bearing an imitation of a trade mark owned by another person and entitled to protection under said convention shall remove or cancel such false trade mark or withdraw such merchandise from market in China within six months from the date of the enforcement of this convention.

ARTICLE VIII.

Unauthorized reproductions, by the subjects or citizens of one High Contracting Party prior to the operation of this convention, of the works of literature and art as well as photographs of the subjects or citizens of the other Contracting Party entitled to protection in virtue of this convention shall be withdrawn from sale or circulation in China within one year from the date of the enforcement of this convention.

大 名  
British Embassy,  
August 22, 1908

通商局  
次官 林  
NO. 70  
在東京外務省  
向貴局分送  
の件

Monsieur le Ministre,

I have the honour to inform Your Excellency that I have duly forwarded to His Majesty's Principal Secretary of State for Foreign Affairs for the consideration of His Majesty's Government the Draft Convention relating to the mutual protection Trade Marks in China and Corea which were enclosed in the Note No.97 of October 26, 1907 addressed to me by Your Excellency's predecessor Count Hayashi.

I have now received a despatch from Sir Edward Grey enclosing a Counter Draft Convention which represents the views of His Majesty's Government and which I am instructed to present to Your Excellency.

I have therefore the honour to enclose herewith a copy of this Counter Draft and to express the hope that the Imperial Japanese Government will accept it.

At the same time I am instructed to obtain from the

His Excellency,  
General Viscount Terauchi,  
Minister for Foreign Affairs,  
etc., etc., etc.,

附屬書類  
七〇五

明治四十一年八月二十四日

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the Japanese Government specific information as to the  
precise amount of protection afforded by Japanese law in  
respect of trade-marks and Hong marks. I would therefore  
be glad if Your Excellency could supply me with full parti-  
culars on this point.

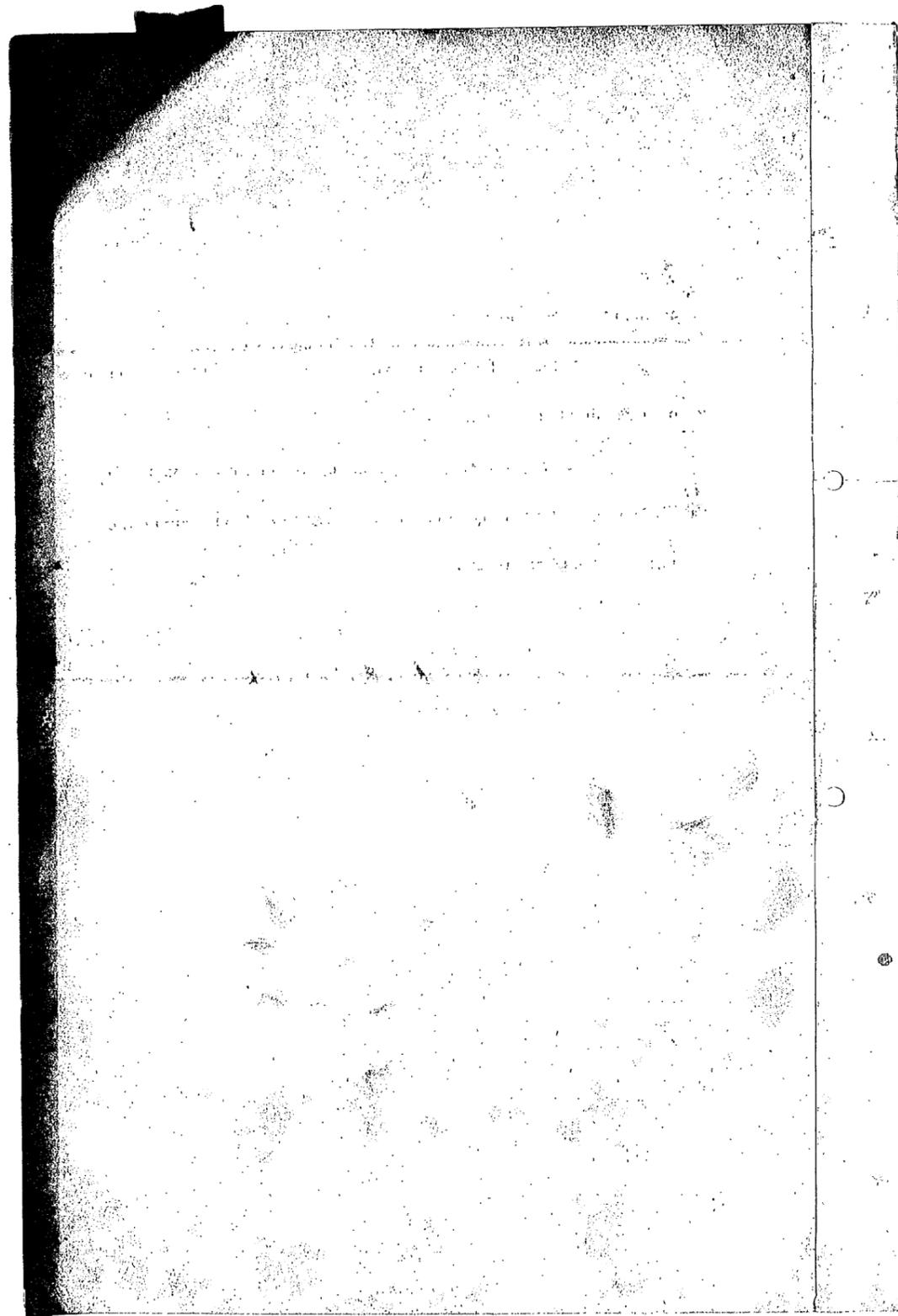
I avail myself of this opportunity, Monsieur le  
Ministre, to renew to Your Excellency the assurance of my  
highest consideration.

*Claude Martin*

British Ambassador.

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Contracting Party, the same rights and remedies as the subjects of such other Contracting Party, without being compelled to submit to any other or more onerous conditions than such subjects.

ARTICLE II.

Hong Marks belonging to the subjects of one of the Contracting Parties shall, without it being necessary to register the same in the country of the other Contracting Party, and whether such Hong Marks form part of a Trade Mark or not, receive in the country of the other Contracting Party the same protection against infringement or misuse as they would receive if they were Hong Marks belonging to the subjects of such other Contracting Party.

ARTICLE III.

In case of infringement or misuse in China or Corea by a subject of one Contracting Party of any Hong mark entitled to protection as provided in the preceding article or of any trade name entitled to protection under Articles VIII, IX and X of the International Convention for the protection of industrial property of the 20th March 1883, as amended by the additional Act of the 12th December 1900, the aggrieved party shall have, in the competent Courts of such Contracting Party the same rights and remedies as the subjects of such Contracting Party without being compelled to submit to any other or more onerous conditions than such subjects.

The provisions of this Convention shall be deemed to extend to the application to goods of any figures, words, or marks, or arrangement or combination thereof, whether including a Trade Mark or not, which are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose merchandise or manufacture they really are.

ARTICLE IV.

Counter Draft of Convention for reciprocal protection of Trade

Marks in China and Corea.

His Majesty, the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the Emperor of Japan, being desirous to secure in China and Corea reciprocal protection for the Trade Marks of their subjects and of making provision for the mutual protection of trade names and Hong Marks have resolved to conclude a Convention for that purpose and have appointed as their Plenipotentiaries that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India.

His Majesty the Emperor of Japan

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:-

ARTICLE I.

Trade Marks duly registered by the subjects of one High Contracting Party in the appropriate office of the other Contracting Party, shall enjoy, in all parts of China and Corea the same protection against infringement or misuse by the subjects of such other Contracting Party, as in the country of registration, and consequently in case of such infringement or misuse, the aggrieved party shall have, in the competent Courts of such other Contracting

ARTICLE IV.

The present Convention shall be ratified, and the ratifications thereof shall be exchanged at Tokio as soon as possible. It shall come into operation at the expiration of ten days from the date of the exchange of the ratifications and shall remain in force until the expiration of six months from the day on which either party may give notice of the intention to terminate the same.

IN WITNESS whereof the above-mentioned Plenipotentiaries have signed the present Convention and affixed thereto their seals.

Done in duplicate in the English and Japanese languages,  
this .....  
corresponding to the .....

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公家  
大臣

次官

機密  
急

明治四十二年 五月  
日 月 日  
木村

事務

通商局長

主任



閣議案

柱首相宛

小村大臣

清國に於ける商標及他工業法に互換あり  
保護の協約に於て英佛獨露列強政府  
ト交渉方、閣下政府ノ方針以て之は  
外務省

清露

清露兩國に於ける工業法に互換あり  
保護の協約に於て英佛獨露列強政府  
ト交渉方、閣下政府ノ方針以て之は  
外務省  
約締結以前後之に英佛獨露列強  
國、日露通商協約に於ける互換  
土内、於ける工業法に互換あり  
保護の協約に於て英佛獨露列強政府  
ト交渉方、閣下政府ノ方針以て之は  
外務省  
國臣氏、大外子臣氏、向て於ける商標法に互換あり





今後本件は、ソビエト政府に、在露上我政府の方  
針、一定スルノ要あり別紙案、通ガル針、以テ  
矣、漢、露、等、可、此、外、至、急、閣、議、以、決、定、を、成、及  
別紙相保、キ、及、テ、送、也

在露大使、ト、往、後、電、報、送、文、等、送、付、キ

外務省

2-1573

0530

清國ニ於テ商標其他工業法ニ權有  
保護文法亦同ニ方針也

一、本後各國政府トノ交渉ノ状態ニ於テ  
標其他工業法ニ權保護拒約ニ於テ清國

ニ國ニ於テ案件ヲ列シ先テ清國ノニ於テ  
列國ノ交渉ニ應シテ拒約ノ要ヲ進ムルコト

二、拒約ノ條項ハ凡テ明治四十二年四月締結セ

レタル清國ニ於テ發明意匠商標及著作

外務省

権保護ノ関ニ日本拒約ノ趣旨ニ準シテ定ム

ヤコト

United States, that the Japanese Govt. should consult them before finally taking the contemplated step. You are therefore instructed to approach the United States Govt. in the above sense expressing the hope that they will see no objection to our proposed action. You will at the same time assure the United States Govt. that we have no intention whatever of making any arrangement respecting Korea inconsistent with our recent Convention with the United States, but in case we should for any reason do so, we will be prepared to accord to the United States and to American citizens most favoured nation treatment.

Komura.

電送第 3344 號 暗  
 明治 41 年 11 月 28 日 午後 3 時 40 分 發

大臣  
 次官  
 政務  
 通商  
 人事  
 會計  
 取調

吉

吉

No. 280

Washington-----  
 Received, Nov. 29 1908 1- p.m.

Komura,  
 Tokio.

要旨付

No. 167. In reference to your telegram No. 215. Please telegraph for my information whether the arrangements proposed by four Powers are to be limited ~~to~~ only to trademarks and not extended to inventions, designs and copyright.

Takahira.

電信  
大正  
Takahira,  
Washington.  
no. 215

10  
大正

France, Germany, Great Britain and Russia have severally requested Japan to conclude arrangements concerning trade-marks in China similar to the Convention recently concluded with the United States and in reply to our expressed disinclination to consider the question in China distinct from the Korean question, those Powers point out that the two questions are entirely different from each other and that they are not yet prepared to negotiate regarding Korea. The Japanese Govt. are compelled to admit that the two questions are not fundamentally identical or inseparable. While they are fully persuaded that in the circumstances of the case their attitude on the subject is neither unjust nor unreasonable, nevertheless they do not wish to stand accused of obstructing any measure tending to promote the common commercial interests of all Powers in China and the due protection of trade-marks in that Empire is undoubtedly such a measure. Accordingly the Japanese Govt. are inclined to consent to treat with the Powers on the subject of China separately reserving the Korean question for subsequent negotiations. But in view of the friendly action of the United States in consenting at our request to consider the two questions together, it is due to the

2-1573

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第 門

電送第 3863 號  
明治 41 年 12 月 1 日 午後 11 時 20 分 發

電信案

明治 41 年 12 月 1 日 午後 11 時 20 分 發

了

通商局長 左

七五

高平大使

小島大臣

九一九号

電報第一六七号 日米條約

日米條約 締結方申出アリ

他三國 申出 主下 商標 日米 締結 不

日米 締結 日米 締結 不

2-1573

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七五

取 會 人 通 政  
調 計 事 商 務

大臣  
次官  
作

No. 4480

Washington, -----

Received, December 13th 1908. 10-35 a.m

Komura,

Tokyo.

No. 182. In compliance with the request of Secretary of State I sent to him a paraphrase of your telegram No. 215 in the form of memorandum, and asked his reply. I received December 12th from him, in answer to mine, a memorandum in which it is stated as follows :-

United States Government appreciate the spirit of inquiry made, and, fully sharing in the desire to promote common commercial interests of all Powers in China, would by no means wish for postponement of any action subserving that most important object. Due note has been taken of the assurance of the most favored nation treatment in case of extension to any

other power of protection of literary, artistic and industrial property in Corea, upon better terms than these now enjoyed by the American people.

Takahira.

2-1573

0543

明治四十一年一月十一日接受 通商局

機密公第五六號

明治四十一年十二月十六日

在米

特命全權公使青高平山



外務大臣伯耆山村壽太郎殿

清國、於ケル高標其他ノ保護ニ  
付、併シ英露四ヶ國ヲ、條約締結  
ノ提議ニ關スル件

13

機密公第五六號

清國、於ケル高標其他ノ保護ニ關シ  
併シ英露四ヶ國ヲ、條約締結ノ提議

在米國日本大使館

ニ付、米國政府ノ意圖、及、尙、合、者、客、月  
二十八日、貴電第一一五號ヲ以テ、尙、訓、令  
表、致、兼、併、シ、ケ、國、務、長、官、ニ、面、會、ノ、上、尙  
訓、示、ノ、次、第、及、條、陳、シ、處、同、長、官、ハ、亦  
件、ニ、關、ス、ル、覺、書、ヲ、提、出、シ、求、メ、ラ、レ、タ、付  
亦、月、會、別、紙、甲、号、字、ノ、通、リ、及、送、付、置  
テ、對、シ、同、長、官、ヨリ、別、紙、乙、号、字、ノ、通、リ  
ノ、覺、書、ヲ、添、ヘ、タル、亦、月、九、日、付、回、答、同、十二  
日、接、受、致、シ、大、要、即、日、往、電、第一八二號  
ヲ、以、テ、及、報、告、ニ、共、尚、尙、意、別、紙、ニ、通、茲  
ニ、差、進、シ、致、具

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MEMORANDUM.

The Department of State has taken due note of the memorandum transmitted with His Excellency the Japanese Ambassador's letter of the 4th instant, wherein it is stated that the Imperial Japanese Government have been approached by the Governments of France, Germany, Great Britain, and Russia with a view to the negotiation of conventions for the mutual protection in China of different categories of literary, artistic, and industrial properties.

While these Governments have been informed that simultaneous negotiations for the protection of such properties in Korea would be preferred, still the Imperial Japanese Government feel that they would rather negotiate as to China only than for one moment to be thought to obstruct in anywise measures tending to promote the common commercial interests of all powers in the Chinese Empire, one of which is the protection of trade-marks and copyrights in that country.

Before consenting to open negotiations looking to trade-mark and copyright protection in China,  
postponing

postponing for separate treatment the corresponding question in Korea, the Imperial Japanese Government courteously consult the Government of the United States and express the hope that no objection will be seen to such a course.

The Government of the United States appreciates the spirit of the inquiry made and, fully sharing in the desire to promote the common commercial interests of all powers in China, would by no means wish for a postponement of any action subserving that most important object.

Due note has been taken of the assurance of most-favored-nation treatment in case of the extension to any other power of protection of literary, artistic, and industrial property in Korea upon better terms than those now enjoyed by American citizens.

Department of State,

Washington, December 9, 1908.

IMPERIAL JAPANESE EMBASSY  
Washington

Recently France has approached Japan to conclude a convention concerning inventions, designs, trade marks and copyrights similar to that concluded between Japan and the United States. England and Russia have also proposed to sign a similar convention relating only to trade marks, and Germany similar one relating to industrial properties in general. The Japanese Government has acquainted the Governments of those Powers that it is not inclined to consider the subject in China distinct from the same subject in Korea. Those Powers, however, consider that the two subjects are entirely separate and are not yet prepared to open negotiations on the subject of Korea. The two questions may not be fundamentally identical or inseparable but the Japanese Government is fully persuaded that under the circumstances of the case its attitude on the subject is neither unjust nor unreasonable. Nevertheless it does not like to be accused of obstructing any measures that tend to promote the common commercial interests of all Powers in China such as the due pro-

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tection of trade marks in that country. Accordingly, the Japanese Government is inclined to consent to treat with the Powers on the subject in China separately reserving the Korean question for subsequent negotiations. But the United States Government having so kindly taken up the two questions together the Japanese Government thinks it proper to consult the former before definitely engaging in the negotiations with those Powers. The Japanese Ambassador has the honor under instructions of his Government to present the foregoing statement to the Secretary of State and to express the hope that the United States Government will see no objection to the proposed action of the Japanese Government. Baron Takahira has at the same time been directed to assure the United States Government that the Japanese Government has no intention of making any arrangement respecting Korea that may be inconsistent with the convention between Japan and the United States and that in case any such arrangement should for any reason be made, the Japanese Government will be prepared to accord the same treatment to the United States and to its citizens.

日英通商手続書 第五編 第五卷  
五折紙 第四号

明治二十一年十二月十五日 木村  
同 年 月 日 發 布

大臣

通商局長

吉



法友

度察



機密

署名  
保書

奉御也 閣下 閣下 閣下  
小村外務大臣

伊藤氏 監印

法國在留外國人向於此商標特許

本國係保護之件之因之近年來英佛度

外務省

獨到國政府了交涉方之交易之於此我

及歐美諸國、為工業、發展近時著し、裁

標其他業之業、所有權、因之、紛争、案件、

亦滋、之、法、權、保護、之、法、

貿易、之、發展、之、因、之、目、今、緊、要、之、事、也、

此、之、交、換、之、因、下、之、積、助、之、日、未、同、之、法、

兩國、之、於、此、為、標、特、許、之、因、協、定、締、結、

之、事、也、あり、其、際、法、佛、西、國、之、於、此、之、特、權、



ト波打ん此ん、本件ニ関シ米國、其他列國  
ト拒約ヲ異ニスル米國トノ文裡上面自云一應  
其意向ヲ同合ハス、要者之ハ其不取敢別紙  
甲部ノ通在米方平大使ヲノ本件ニ関シ米  
國政府ニ交渉セシム交別紙乙部ノ通在米  
政府ニ於テ、我政府ノ意向ヲ諒シ異存イテ之方  
令大使ヲ返電カシム此ニ令後列國政府  
ト交渉ノ状勢カ多ク先ツ情國ニ於テカ

外務省

標等相互保護ニ関シ列國政府ノ交渉ニ應  
ズ標等相互保護ニ應ニ之ニハ交際ニ関下ノ事  
主見ヲ承知スルカ、其旨ハ所詮、上ノ事  
ノ内、<sup>甲部</sup>標等相互保護ニ関シ、其旨ニ依リ

取り

甲乙子字印付

機密

宣示標案、通商條約復原、其年三月  
具附奉本年内上條、付別紙

明治四十一年十一月二十八日  
同...年...月...日發遣

査正

取調課

主任

次官

閣議案

桂首相宛

小村大臣

清國に於て之(工業)の權及考行權  
清國に於て之(工業)の權及考行權相互

保護之案に英國其他諸國ト

協約締結交渉方針に關スル件

外務省

清國兩國に於て之(工業)の權及考行權

著作權相互保護に關スル日米協約

本年一月且締結了了之

處清國兩國に於て之(工業)の權及考行權

互保護ノ件に付之(工業)の權及考行權

英兩國政府之間交渉中

本年三月日米協約案對英兩國議決

定本年三月日米兩國政府間交渉中

校印



閣政府に於ては、是等之決議決定方針  
ヲ把持シテ商議シテ望ミタルモ、英國政府は  
全權國之昇下ニテ其領事裁判  
格一部ヲ撤廢スル意思、智魯ニ連リ、  
同政府提案ノ趣旨採擇ヲ切望致来  
ク、其依テ案スルニ、領國ニ於テハ領事  
裁判格撤去ハ多標相互保護上問題  
ノ性質ヲ異ニシ之カ手段ニ至テハ別ニ其  
途ヲ講スルハ妥當ナルヲ信スルノ理由アリ、殊  
裁制官部、清國ニ於テハ事情ニ察  
スルニ多標其他工業所有格ニ関スル紛  
争案件ハ、近時、<sup>本邦</sup>裁制及欧米諸國  
貿易ノ著シキ取扱、保トシテ  
起生スルノ際、清國ニ於テハ何等權利  
保護ノ法制 備ラズ、為ニ欧米各國  
ニ互ニ保護ノ<sup>條約</sup>結ビ、以テ清國ニ

於てん自國臣民を利ノ擴張カノ  
居ル實效ナルヲ以テ他國ニ於テト自ラ  
其關係ヲ異ニシ日英兩國臣民ノ同等  
權利ノ相互保護ノ必要ヲ持テ清國ニ於テ  
急切ナル義ト相認メラシキ能ク清國ニ  
於テ我貿易ノ發展ニ伴フ列國トノ  
共同利益増進ニ願ヒ早ニ和約締結  
事裁判權一部撤去ノ理由ト下

外務省

英國政府ノ切望ヲ強イテ拒絶スルコト  
甚困難ナル事情モ有之共ニ付以際際  
固ニ解決スル問題トシテ他日ニ留保シ先ツ  
清國ノミニ就テ東洋諸國ノ希望ヲ  
案ニ高標保護條約ヲ締結スルコト  
寧ロ事宜ニ適シタル措置ト思考  
セラル

以上、專ラ英國ニ對シテ之ノ説述シタルモノ

有三ヶ年、英佛國ニ締結シテモ、客年九月  
 中國議決定ノ結果、在本邦、佛國大  
 使ハ<sup>條約</sup>締結ノ案ヲ送付致置キタル、佛國  
 政府、於テモ、佛國ニ締結スル分ヲ別問題  
 トシ先ツ清國ニ締結スル分ヲ付日米<sup>條約</sup>  
 同一ノ<sup>條約</sup>締結ヲ切望スル旨、屢々台  
 請求アリ、又、独逸政府ヨリモ、在本邦  
 全權大使ヲ遣ヒテ、清國ニ於テハ、商標  
 其他工業所有權相互保護ノ<sup>條約</sup>  
 締結ヲ提議致来、於テハ、前未  
 英國ニ締結シ競逐シタル事情ニ依リ  
 英佛獨兩國政府ノ提議ヲ應諾  
 スルコト<sup>英佛兩國政府ノ提議ヲ應諾スルコト</sup>、  
 然レニ、各標其他工業所有權ノ保護ニ  
 ツキテハ、異國政府ト間ニ、清<sup>佛</sup>

外務省

兩國之締結<sup>條約</sup>同時締結之且  
 御用ニ於ケル欲事裁判權一部ヲ撤去  
 セシメタル事情有之於今<sup>付</sup>條ノ締結ニ於テ  
 他ノ列國ト為議スルニ當リ全ク其交渉  
 ノ輕便及多法ヲ異ニスルハ米國ニ對スル  
 交渉上面白ウサル義ニ於爾先米國ノ  
 條約ニ對シテ諸事<sup>外</sup>其感情如何ヲ  
 探査セシムルニ於テ我方針ヲ決定<sup>後</sup>ニ事  
 實<sup>上</sup> 南<sup>高</sup> 當<sup>ノ</sup> 処<sup>置</sup> 下<sup>社</sup> 在<sup>在</sup> 米<sup>帝</sup> 帝  
 國大使ヲシテ右ノ事ヒ目ヲ以テ米國政府ニ  
 交渉シ其意細ク探ラシメ其意同致  
 府ニ於テモ我政府ノ意ヲ諒シ他日他  
 列國ト締結<sup>條約</sup>ニ最惠國  
 待遇ヲ米國ニ許容スルニ於テハ何等ノ  
 異ラ有ラ有セザンヒ日回答有之於能テハ  
 前陳ノ事由ニ依リ今後英佛獨三國

其他將來清國ニ於ケルニ為標相互  
保護ニ昇スル條約締結ヲ提議シ  
来リタル諸國ニ對スル應對交渉方  
ニ關シ帝國政府ノ方針ヲ定ムルノ  
要有之也付別紙記載ノ方針ヲ  
以テ交渉可然或至急以決定ス  
成度別紙相添矣及請議

外  
務  
省

外  
務  
省

其他ニ考メ有能  
ニ考メ有能

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清國ニ於ケル其標其他工業所有  
權相互保護並交渉ヲ關スル方針

案

一、今後商標相互保護條約ニ就テ

清國ニ関シ於ケル案件ヲ別離シ

御用ニ關シテ他日ノ交渉ニ留保シ

際先ク清國ノ之ニ就テ兼國政府ノ

交渉ニ應ジテ協商ノ步ヲ進ムルコト

二、條約ノ條項ハ自テ明治四十年五月

締結セラルタル清國ニ於ケル並發明ノ

意匠、商標及著作權ノ保護ニ

關スル日本條約ノ趣旨ニ準テ之ヲ定ム

ハキコト

三、英國政府ニ於テ將來若シ米國

今條約並發明、意匠著作權ニ付テ

帝國政府ト相互ノ保護ヲ條約ニ

夕キ日申出タル節「直ニ之ヲ  
承諾スルコト

外務省

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