

BRITISH NORTH BORNEO TREATIES.

BRITISH NORTH BORNEO, 1885. PROTOCOL OF 1885.

The undersigned, Sir robber B. D. Morier, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, his Excellency Don Jose Elduayen, Marquis del Pazo de la Merced, Minister of State of his Majesty the King of Spain, and Count Solms Sonnenwale, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the German Emperor, duly authorised to bring to a close the negotiations conducted in London and at Berlin during the years 1881-82 by the Representatives of his Majesty the King of Spain at the Courts of Great Britain and Germany, for the purpose of obtaining from these two Powers the formal recognition of the sovereignty of Spain over the Archipelago of Sulu (Jolo), have agreed upon the following Articles:-

ARTICLE I

The Governments of Great Britain and of Germany recognise the sovereignty of Spain over the places effectively occupied, as well as over those places not yet occupied, of the Archipelago of Sulu (Jolo), of which the limits are laid down in Article II.

ARTICLE II

The Archipelago of Sulu (Jolo), conformably to the definition contained in Article I of the treaty signed September 23rd, 1836, between the Spanish Government and the Sultan of Sulu (Jolo), comprises all the islands which are found between the western extremity of the island of Mindanao on the one, and the continent of Borneo and the Island of Paragua on the other side, with the exception of those which are indicated in Article III.

It is understood that the Islands of Balabac and of Cagayan-Jolo form part of the archipelago.

ARTICLE III

The Spanish Government renounces, as far as regards the British Government, all claims of sovereignty over the territories of the continent of Borneo, which belong, or which have belonged in the past to the Sultan of Sulu (Jolo), and which comprise the neighbouring islands of Balambangan, Banguay, and Malawali, as well as all those comprised within a zone of three maritime leagues from the coast, and which form part of the territories administered by the Company styled the "British North Borneo Company."

ARTICLE IV

The Spanish Government engages to carry out, in the Archipelago of Sulu (Jolo), the stipulations contained in Articles I, II and III of the Protocol signed at Madrid, March 11th, 1877, that is to say: "(1) The commerce and the direct traffic of vessels and subjects of Great Britain, Germany, and the other powers, with the Archipelago of Sulu (Jolo), and in all parts thereof, are declared to be, and shall be, absolutely free; as well as the right of fishing, without prejudice to the rights of Spain recognised by the present Protocol, conformably to the following declarations. (2) The Spanish authorities shall not be able to require in future that vessels and subjects of Great Britain, Germany, and the other Powers, freely repairing to the Archipelago of Sulu, or from one point of it to another indiscriminately, or thence to any other part of the world, shall be under the necessity of touching, before or after, at a point indicated in the archipelago or elsewhere; or of paying any dues whatsoever; or of procuring permission from the said authorities; whom on their side, shall abstain from all obstruction and all intervention in the abovenamed traffic. It is well understood that the Spanish authorities shall not hinder in any manner, or under any pretext, the free importation and exportation of all kinds of merchandise without exception, save at such places as are occupied, and conformably to Declaration III; and that in all

the places not effectively occupied by Spain, neither the vessels, nor the subjects above-mentioned, nor their merchandise, shall be submitted to any tax or duty or payment whatever, nor to any regulation, sanitary or otherwise.

(3) In those places in the Archipelago of Sulu, which are occupied by Spain, the Spanish government shall be able to establish taxes and regulations, sanitary or otherwise, during the effective occupation of the places indicated. But Spain, on its side, engages to maintain in those places the establishment and employees necessary for the needs of commerce, and for the application of the said regulations.

“It is, nevertheless, expressly understood, and the Spanish Government being resolved on its side not to apply restrictive regulations to the places occupied, undertakes the engagement willingly, that it shall not introduce in the said places any taxes or duties greater than those fixed by the Spanish tariffs, or by the Treaties or Conventions between Spain and any other Power. It shall not, moreover, put into force exceptional regulations applicable to the commerce or to the subjects of Great Britain, Germany, or the other powers.

“In case Spain shall effectively occupy other places in the Archipelago of Sulu, maintaining there the establishments and employees necessary for the needs of commerce, the Government of Great Britain and of Germany shall make no objection to the application of the same rules agreed upon for the places already occupied. But in order to prevent new cases of claims which might arise from the uncertainty as to trade with places which are occupied, and which are subject to regulations and tariffs, the Spanish Government shall communicate in each case the effective occupation of a place in the Archipelago of Sulu to the Governments of Great Britain and of Germany, and shall, at the same time, inform the trading interest concerned by a suitable notification published in the official journals of Madrid and Manila. As regards the tariffs and regulations for commerce agreed upon for the places actually occupied, they shall not be applicable to the places subsequently occupied by Spain until after a period of six months, dating from the said publication in the official journal of Madrid. It is agreed, however, that no vessel or subject of Great Britain, of Germany, or of other Powers shall be obliged to touch at one of the places occupied, either in going or returning from a place not occupied, either in going or returning from a place not occupied, either in going or returning from a places not occupied by Spain, and that no prejudice will be caused to them on this account, nor in respect of any kind of merchandise destined for a place in the archipelago which is not occupied.

ARTICLE V

The Government of Her Britannic Majesty engages to see that there is entire freedom of commerce and navigation, without distinction of flag, in the territory of North Borneo administered by the company styled “British North Borneo Company.”

ARTICLE VI

If the Governments of Great Britain and of Germany have not refused their adhesion to the present Protocol within a period of fifteen days from this date or if they notify their adhesion before the expiration of this period through their undersigned representatives, the present declarations shall immediately come into force.

Done at Madrid, March 7th, 1885.

(L.S.)

R. B. D. MORIER.

(L.S.)

J. ELDUAYEN.

(L.S.)

P. C. SOLMS