

法規名稱：AGREEMENT BETWEEN CHINA AND THE UNITED STATES FOR THE SALE OF CERTAIN SURPLUS WAR PROPERTY

簽訂日期：民國 35 年 08 月 30 日

This agreement between the Government of the Republic of China, hereinafter called "China," and the Government of the United States of America, hereinafter called "United States."

WITNESSETH:

Whereas, the cessation of active military operations in the War with Japan has rendered surplus to the needs of the United States quantities of its property now situated in the Western Pacific Area, and

Whereas, such surplus property available for sale to China represents an estimated aggregate procurement cost of approximately Five Hundred Million Dollars (\$500,000,000) in movables and Eighty-Four Million Dollars (\$84,000,000) in fixed installations, of which over one-half has already been declared surplus, and

Whereas, the Congress of the United States has, by the Surplus Property Act of 1944, as amended, authorized the disposal of the surplus property of the United States; and the Foreign Liquidation Commissioner has been charged with responsibility for that disposal in the Western Pacific Area, and

Whereas, the prosecution of the War with Japan caused widespread damage and loss in China, and

Whereas, it is the policy of the United States, as declared in the Surplus Property Act, to establish and develop foreign markets and promote mutually advantageous economic relations between the United States and other countries by the orderly disposition of surplus property in other countries, and to dispose of surplus property as promptly as feasible without fostering monopoly or restraint of trade, Now, therefore, in consideration of the promises and the mutual agreements and covenants hereinafter stated

#### ARTICLE I

##### Property Sold

That be these presents the United States sells and China buys all that property owned by the United States on the date hereof but surplus to its needs in China, Okinawa, Guam, Saipan, Tinian, Eniwotok, Marcus, Kwajalein, Los Negros, Ulithi, Majuro, Makin, Monus, Peleliu, Finschhaven, Iwo Jima, Wake and Roi, except aircraft, nondemilitarized combat material, ships and other maritime equipment, and fixed installations outside Chinese Territory, subject, however, to the limitations following:

- (1) That the United States owning agency, as defined in the Surplus Property Act, shall be the sole determining agency as to what property is surplus to the needs of the United States.

- es, and
- (2) No property is sold hereby which is already under contract of firm commitment for sale or transfer. All information available as to such property shall be furnished on request of China by appropriate United States representatives.

## ARTICLE II

### Transfer of Possession

- a. That the right to possession of the property sold under Article 1 hereof shall, after declaration to the Foreign Liquidation Commissioner for disposal as surplus, pass to China upon either (1) the surrender by the United States and the acceptance by China of physical possession, or (2) the passage of sixty (60) days' time after a notice to China that specified property is available for transfer, whichever shall first occur. That such notice shall be deemed to have been duly given when delivered in writing to the office of the Director of the Board of Supplies or its successor, in Shanghai, China, and shall be deemed sufficient if it either generally describes the property available or generally describes the location thereof.
- b. That until right to possession passes to China pursuant to paragraph a of this Article, the United States shall continue to have custody and control of the property sold, and shall give said property the same care and protection as is accorded its own property of like character.
- c. That after the right to possession with respect to specified property has passed to China pursuant to paragraph a, all responsibility, risk of loss, and liability for the care, custody, protection and maintenance of such property shall be upon China, including rents and liabilities for the storage thereof and damages and claims of any nature arising out of or incident to the ownership of such property and China shall indemnify and hold the United States harmless from any such responsibilities, risks, liabilities, rents, damages and claims.
- d. That China shall take the necessary steps to ensure that its personnel engaged in the custody or handling of the property sold outside the territory of China, comply with all orders, rules and regulations of the owning agency of the United States having jurisdiction of the territory where the property is located, and shall, within sixty (60) days after removal of the property, repatriate all non-citizens of the United States engaged in the custody or handling of the property sold, in default of which the United States is authorized to accomplish repatriation for China's account.
- e. That the owning agency of the United States shall make property available for visual inspection before the transfer of right to possession.

### ARTICLE III

#### Handling

- a. That all storage, crating, conditioning, handling, loading and transportation of the property sold shall be arranged and paid for by China, and that all of such property shall be removed within a period of twentytwo (22) months from the date hereof, or a period of six (6) months after China acquires right of possession of the property, whichever shall later expire. That in the event of China's failure to remove the said property within the specified period, the United States is authorized to remove, destroy or otherwise dispose of the property for China's account.
- b. The Board of Supplies being convinced of the value to China of obtaining export technical assistance in connection with this operation; that China proposes to employ an established American firm or firms acting under the direction of the Board of Supplies to coordinate the overall operation of packing, out loading the property from the islands, rehabilitating, shipping to China, unloading and moving the property to storage in China in conjunction with Chinese personnel and that China shall afford to such firm, such personnel, facilities, support, resources and other assistance as it may require in order to accomplish the removal to China of the property sold within the time specified.
- c. That the United States shall forthwith make a payment of Thirty Million Dollars (\$30,000,000) on its Yuan obligations to China for use by China in accomplishing the transfer of the property sold hereby in manner following:
  - (1) The sum of Twenty Five Million Dollars (\$25,000,000) to be deposited in a special account in the United States to the credit of China subject to appropriate withdrawal restrictions guaranteeing the payment of charter hire of United States flag vessels, and thereafter the payment of dollar obligations to the United States arising from this agreement, and
  - (2) The sum of Five Million Dollars (\$5,000,000) to be deposited in a second special account in the United States to the credit of China subject to withdrawal restrictions guaranteeing the payment of the fees of the engineering firm employed pursuant to paragraph b of this Article, the reimbursement of expenses incurred by the United States under this agreement, the cost of services and materials furnished China by agencies of the United States on an agreed compensatory basis in connection with the transfer operation and dollar obligations to a limit of Two Million Dollars (\$2,000,000) incurred in the United States for the purchase of materials and parts needed initially to rehabilitate the property sold.

That when the transfer (by which is meant the removal of the property from non-Chinese territory) has been completed, the uncommitted balance of both account shall pass to China. That to the extent that the sums so deposited are insufficient to cover the United States dollar costs of the transfer, China shall make available, as required, the necessary United States dollars.

#### ARTICLE IV

##### Distribution

That China shall utilize to the greatest extent possible established commercial distribution channels for the resale of property sold hereby and that United States distributors established in China shall have an equal opportunity to bid for and to obtain such property. That China shall recognize normal distribution practices including the marketing wherever practicable of name brand products through the established agencies for such products.

#### ARTICLE V

##### Warranties

That the United States warrants title to the property sold and that in lieu of any other warranty or undertaking as to the kind, size, weight, quantity, quality, character, value, description, condition or fitness for use of the property sold, it is understood that if a material disparity is found to exist between the property sold to China hereunder and the consideration given therefor by China hereunder, the two Governments will consult together to fix an appropriate adjustment in the price paid.

#### ARTICLE VI

##### Money Consideration

- a. That China hereby releases and acquits the United States of the balance of the United States obligations to China for Yuan and Taiwan Yen advances to and expenditures on behalf of the United States and its Armed Forces in China to the date hereof; the said balance being understood to be the total of the Yuan and Taiwan Yen debt less
  - (1) payments made by the United States to date, including the payment provided for in paragraph c of Article 3 hereof, and
  - (2) certain obligations of China to the United States specifically agreed to be offset against the Yuan debt, and hereby agreed to total Seventy Four Million Dollars (\$74,000,000), and identified as:
    - (a) The Calcutta Stockpile sale at approximately Twenty Five Million Dollars (\$25,000,000),
    - (b) The Hogan Project at approximately Six Million Dollars (\$6,000,000),
    - (c) The Small Ship program, totaling about Twenty Eight Million Dollars (\$28,000,000), of which about Twelve Million Dollars (\$12,000,000) has been delivered and

Sixteen Million Dollars (\$16,000,000) remains to be delivered,

(d) The down payment on the United States Army's West China sale of Five Million Dollars (\$5,000,000), and

(e) Miscellaneous small sales of about Ten Million Dollars (\$10,000,000).

b. That China shall make available to the United States the equivalent of Fifty Five Million Dollars (\$55,000,000) United States dollars in manner following:

(1) The equivalent of Twenty Million Dollars (\$20,000,000) to be available for the implementation of agreements between the United States and China for research, instruction and other educational activities under the terms of section 32 (b) of the Surplus Property Act of 1944, as amended, and

(2) The equivalent of Thirty Five Million Dollars (\$35,000,000) to be available for the payment of United States Governmental expenses in China at rate not exceeding the equivalent of Two Million Dollars (\$2,000,000) a year, and for the purchase of designated real estate and improvements to real estate for the use and benefit of the United States which China agrees promptly to make available at prices to be agreed upon by the Government.

## ARTICLE VII

### Miscellaneous Provisions

a. That in connection with the fixed installations and the weather station and communication service equipment in China which is sold to China hereunder, and as additional consideration therefor, China shall undertake by separate agreement in the usual form to operate and maintain weather and communication services in a manner, to an extent and within limits to be negotiated.

b. That China shall use its best endeavors to insure that property not now in the United States transferred pursuant to this agreement shall not be imported into the United States in the same or substantially the same form, if such property was originally produced in the United States and is readily identifiable as such, unless such property is to be imported into the United States on consignment to a person or firm in the United States for the purpose of reconditioning for re-export, or by a member of the United States Armed Forces for his personal use.

c. That no duty, tax, excise, or other governmental exaction is included in the price, and if any such duty, tax, excise or governmental exaction is levied or found to be payable, China shall pay such sum in addition to the purchase price of the property sold. The United States represents that no duties, taxes, excises, or other governmental exactions are due to t-

- he Government of the United States.
- d. That this agreement is without prejudice to the final settlement of accounts between the United States and China arising out of the war and that China will undertake negotiations for such final settlement at Washington as soon as possible.
  - e. That the United States owning agencies shall from time to time designate by location quantities of scrap as they become available and upon acceptance by China by location title and right to possession thereto shall pass to China without further consideration. Such scrap shall be subject to the provisions of Article 3.
  - f. That in the event any surplus property is available in the Philippine Islands after fulfilling the requirements of the Government of the Republic of the Philippines and its nationals, as well as the requirements of certain other governments to which credit has been extended, then the residual surplus property in the Philippine Islands shall be offered to China for acceptance within thirty (30) days at price and on terms to be determined by the Office of the Foreign Liquidation Commissioner in Manila.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed the present agreement at Shanghai on the thirtieth day of August 1946.

For the Government of the Republic of China

(Signed) T.V. Soong

President of the Executive Yuan

For the Government of the United States of America

(Signed) Thomas B. McCabe

Foreign Liquidation Commissioner