

No. 179

CHINA
and
UNITED STATES OF AMERICA

Agreement for the use of funds made available in accordance with Article 6 (b) (1) of the Surplus War Property Sales Agreement of 30 August, 1946. Signed at Nanking, on 10 November 1947

Chinese and English official texts communicated by the Director of the Office of the Permanent Chinese Delegation to the United Nations. The registration took place on 8 January 1948.

CHINE
et
ETATS-UNIS D'AMERIQUE

Accord relatif à l'utilisation des fonds rendus disponibles en application des dispositions de l'article 6 b) 1) de l'Accord du 30 août 1946 relatif à la vente des biens militaires en surplus. Signé à Nankin, le 10 novembre 1947

Textes officiels chinois et anglais communiqués par le Directeur du Bureau de la délégation permanente chinoise auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 8 janvier 1948.

No. 179. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHINA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE USE OF FUNDS MADE AVAILABLE IN ACCORDANCE WITH ARTICLE 6 (b) (1) OF THE SURPLUS WAR PROPERTY SALES AGREEMENT OF 30 AUGUST 1946. SIGNED AT NANKING, ON 10 NOVEMBER 1947

The Government of the Republic of China and the Government of the United States of America,

Desiring to promote further mutual understanding between the peoples of the Republic of China and the United States of America by a wider exchange of knowledge and professional talents through educational contacts,

Considering that Section 32 (b) of the United States Surplus Property Act of 1944, as amended (Public Law No. 584, 79th Congress; 60 Stat. 754), provides that the Secretary of State of the United States of America may enter into an agreement with any foreign government for the use of currencies or credits for currencies of such foreign government acquired as a result of surplus property disposals for certain educational activities, and

Considering that under the provisions of the agreement between the Government of the Republic of China and the Government of the United States of America for the sale of certain surplus war property, signed at Shanghai on August 30, 1946, it is provided that the Government of the Republic of China shall make available to the Government of the United States of America the equivalent of \$20,000,000 (United States currency) for research, instruction, and other educational activities under the terms of Section 32 (b) of the Surplus Property Act of 1944, as amended,

Have agreed as follows:

¹ Came into force on 10 November 1947, as from the date of signature, in accordance with Article 14.

Article 1

There shall be established in the capital city of China a foundation to be known as the United States Educational Foundation in China (hereinafter designated "the Foundation"), which shall be recognized by the Government of the Republic of China and the Government of the United States of America as an organization created and established to facilitate the administration of the educational program to be financed by funds made available by the Government to the Republic of China in accordance with Article 6 (b) (1) of the agreement for the sale of certain surplus war property signed at Shanghai on August 30, 1946. Except as provided in Article 3 hereof the Foundation shall be exempt from the domestic and local laws of the United States of America as they relate to the use and expenditure of currencies and credits for currencies for the purposes set forth in the present agreement.

The funds made available by the Government of the Republic of China shall be used by the Foundation for the purpose, as set forth in Section 32 (b) of the United States Surplus Property Act of 1944, as amended, of

- (1) financing studies, research, instruction, and other educational activities of or for citizens of the United States of America in schools and institutions of higher learning located in China, or of the citizens of China in United States schools and institutions of higher learning located outside the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands, including payment for transportation, tuition, maintenance, and other expenses incident to scholastic activities; or
- (2) furnishing transportation for citizens of China who desire to attend United States schools and institutions of higher learning in the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands and whose attendance will not deprive citizens of the United States of America of an opportunity to attend such schools and institutions.

Article 2

In furtherance of the aforementioned purposes, the Foundation may, subject to the provisions of Article 10 of the present agreement, exercise all powers necessary to the carrying out of the purposes of this agreement including the following:

- (1) Receive funds.
- (2) Open and operate bank accounts in the name of the Foundation in a depository or depositories to be designated by the Secretary of State of the United States of America.
- (3) Disburse funds and make grants and advances of funds for the authorized purposes of the Foundation.
- (4) Acquire, hold, and dispose of property in the name of the Foundation as the Board of Directors of the Foundation may consider necessary or desirable, provided however that the acquisition of any real property shall be subject to the prior approval of the Secretary of State of the United States of America and also to such conditions and requirements as are or may be prescribed by laws and regulations enforced in the territory where the property is situated.
- (5) Plan, adopt, and carry out programs, in accordance with its purposes of Section 32 (b) of the United States Surplus Property Act of 1944, as amended, and the purposes of this agreement.
- (6) Recommend to the Board of Foreign Scholarships provided for in the United States Surplus Property Act of 1944, as amended, students, professors, research scholars, resident in China, and institutions of China qualified to participate in the program in accordance with the aforesaid Act.
- (7) Recommend to the aforesaid Board of Foreign Scholarships such qualifications for the selection of participants in the programs as it may deem necessary for achieving the purpose and objectives of the Foundation.
- (8) Provide for periodic audits of the accounts of the Foundation as directed by auditors selected by the Secretary of State of the United States of America.
- (9) Engage administrative and clerical staff and fix and pay the salaries and wages thereof.

Article 3

All expenditures by the Foundation shall be made pursuant to an annual budget to be approved by the Secretary of State of the United States of America pursuant to such regulations as he may prescribe.

Article 4

The Foundation shall plan its annual programs in such a way that full use shall as far as possible be made of the funds made available to the Foundation for each year. The Foundation shall not enter into any commitments or create any obligation which shall bind the Foundation in excess of the funds to be received during any given calendar year.

Article 5

The management and direction of the affairs of the Foundation shall be vested in the Board of Directors (hereinafter designated the "Board") consisting of five Directors.

The Principal Officer in Charge of the Diplomatic Mission of the United States of America to the Republic of China (hereinafter designated "Chief of Mission") shall be Chairman of the Board. He shall have the power of appointment and removal of members of the Board at his discretion. The four other members of the Board shall be as follows: (a) two members of the Embassy Staff, one of whom shall serve as treasurer; and (b) two citizens of the United States of America, one representative of American business interests in China and one representative of American educational interests in China.

The two members specified in (b) of the last preceding paragraph shall be resident in China and shall serve from the time of their appointment until the succeeding December 31 next following such appointment. They shall be eligible for reappointment. All the four members shall be designated by the Chief of Mission. Vacancies by reason of resignations, transfers of residence outside of China, expiration of term of service, or otherwise shall be filled in accordance with this procedure.

The Chinese Government shall appoint a number of Advisers to the Board not to exceed five, who may attend all the meetings of the Board and participate in its discussions. The Advisers shall have no vote but their opinion shall be given due consideration by the Board at all its deliberations.

The Directors and Advisers shall serve without compensation, but the Foundation is authorized to pay the necessary expenses of the Directors and Advisers in attending meetings of the Board.

Article 6

The Board shall adopt such by-laws and appoint such committees as it shall deem necessary for the conduct of the affairs of the Foundation.

Article 7

Reports as directed by the Secretary of State of the United States of America shall be made annually on the activities of the Foundation to the Government of the Republic of China and the Secretary of State of the United States of America.

Article 8

The principal office of the Foundation shall be in the capital city of China, but meetings of the Board and any of its committees may be held in such other places as the Board may from time to time determine, and the activities of any of the Foundation's officers or staff may be carried on at such places as may be approved by the Board.

Article 9

The Board may appoint an Executive Officer and determine his salary and term of service, provided, however, that in the event it is found to be impracticable for the Board to secure an appointee acceptable to the Chairman, the Government of the United States of America may provide an Executive Officer and such assistants as may be deemed necessary to ensure the effective operation of the program. The Executive Officer shall be responsible for the direction and supervision of the Board's programs and activities in accordance with the Board's resolutions and directives. In his absence or disability, the Board may appoint a substitute for such time as it deems necessary or desirable.

Article 10

The decisions of the Board in all matters may, in the discretion of the Secretary of State of the United States of America, be subject to his review.

Article 11

The Government of the Republic of China shall, within 30 days of the date of the signature of the present agreement, deposit with the Treasurer of the United States of America an amount of Chinese national currency equivalent to \$250,000 (United States currency). Thereafter commencing with January 1, 1948, the Government of the Republic of China shall during each calendar year, deposit with the Treasurer of the United States of America, upon demand of the United States Government, amounts of Chinese national currency not to exceed the equivalent of one million dollars (United States currency) and in aggregate totalling the equivalent of \$20,000,000 (United States currency). The first deposit of Chinese national currency equivalent to \$250,000 (United States currency) shall be considered as part of the deposit for the

calendar year 1948. The rate of exchange between currency of the Government of the Republic of China and United States currency to be used in determining the amount of currency of the Government of the Republic of China to be deposited from time to time hereafter, shall be at the par value between Chinese dollars and United States dollars established in conformity with procedures of the International Monetary Fund or in the absence of such a par value the rate shall be the open market rate as established by the Central Bank of China. Should this latter rate for any reason appear to be inequitable or be abolished, the rate can be the subject of discussion between the Governments of the Republic of China and of the United States of America.

The Secretary of State of the United States of America will make available to the Foundation Chinese national currency in such amounts as may be required by the Foundation, but in no event in excess of the budgetary limitation established pursuant to Article 3 of the present agreement.

Article 12

Wherever, in the present agreement, the term "Secretary of State of the United States of America" is used, it shall be understood to mean the Secretary of State of the United States of America or any officer or employee of the Government of the United States of America designated by him to act in his behalf.

Article 13

The present agreement may be amended by the exchange of diplomatic notes between the Government of the Republic of China and the Government of the United States of America.

Article 14

The present agreement shall come into force upon the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present agreement.

DONE at Nanking, in duplicate, in the Chinese and English languages, this tenth day of the eleventh month of the thirty-sixth year of the Republic of China, corresponding to the tenth day of November, 1947.

For the Government of the Republic of China:
(Signed) WANG SHIH-CHIEH

For the Government of the United States of America:
(Signed) J. Leighton STUART