

## WHANGPOO CONSERVANCY

*Agreement amending the agreement of September 27, 1905,<sup>1</sup> proposed by the Chinese Government, approved by the Diplomatic Body<sup>2</sup> at Peking April 9, 1912*

*Entered into force April 9, 1912*

*Supplementary article (no. 12) pursuant to article 8 adopted October 19, 1915<sup>3</sup>*

*Terminated as between the United States and China May 20, 1943, by treaty of January 11, 1943<sup>4</sup>*

Department of State files; enclosure to letter of October 23, 1915, from U.S. Minister at Peking

1. The Whangpu Conservancy Board of Administration, to be known shortly as the Conservancy Board, shall consist of the Shanghai Taotai, the Shanghai Customs Commissioner, and the Coast Inspector.

2. The authority with which the Conservancy Board is invested is delegated to it by the Chinese Government; and consequently the Board is in no way subordinate to the Provincial Authorities. The several members of the Board, have, as such, equal authority, and the opinion of the majority is to be determinative.

3. The Board shall have entire charge of the finances connected with conservancy matters. In this connection:

- (a) The original annual government grant of Tls. 460,000 shall periodically, on fixed dates, be paid to the Board's accounts, in whatever Bank or banks such accounts may be kept, and the Board will take charge of the existing conservancy loan account and will provide for the payment of the principal and interest as they fall due.
- (b) All conservancy funds, in whosoever's hands, shall, within 30 days of the promulgation of this Agreement, be paid to the Conservancy Board account.

<sup>1</sup> TS 448, *ante*, p. 446.

<sup>2</sup> The 11 powers whose diplomatic representatives at Peking constituted the Diplomatic Body were: Austria-Hungary, Belgium, France, Germany, Italy, Japan, the Netherlands, Russia, Spain, the United Kingdom, and the United States.

<sup>3</sup> For text, see *post*, p. 897.

<sup>4</sup> TS 984, *post*.

- (c) Any new annual government grant that may be made shall periodically, on fixed dates, be paid in full on the Conservancy Board's account.
- (d) The Conservancy Tax on Imports and Exports referred to in Article 4, shall be collected by the Commissioner of Customs and shall periodically, on fixed dates, be paid to the Conservancy Board's account.
- (e) The Conservancy Board will disburse conservancy funds for the execution of the necessary works and for the maintenance of staff and office at its discretion. Cheques will be cashed on the signature of any two members.

4. The several Chambers of Commerce and Associations representing the Commercial interests of Shanghai, having agreed to the raising of a tax for conservancy purposes, consisting of 3% of the Customs Duties and, in the case of duty-free goods, of 1½ per mille of value, the tax shall be dealt with, as provided in Article 3 (d), as soon as such formalities as are necessary to regularize it have been completed and notified to the Conservancy Board by the Ministers.

NOTE: This tax is based generally on the figures given in Mr. Commissioner Merrill's Memorandum of the 15th April, 1910, in order to provide the Hk. Taels 300,000 which is Mr. Merrill's estimate of the sum necessary for the modest programme set forth therein.

5. For all contracts in connection with the works, and for the purchase of material or machinery, etc., public tenders will be invited, and the tender offering the most advantageous conditions accepted.

6. The Conservancy Board shall appoint, at its discretion, and shall control the staff necessary for the work to be effected, including the Secretary and Engineer-in-Charge.

7. The general jurisdiction of the Conservancy Board extends over the Whangpu from the Yangtse to its tidal limit, that is to say within those limits—between the high water lines—no operation which may possibly affect the regimen of the river shall be undertaken without the Board's consent, nor without such consent shall pontoons or hulks connected to the shore be established.

All applications for the Board's consent for such works, etc., on the Whangpu below the upper harbor limit, shall be made to the Harbor Master and be replied to by him as heretofore.

The control of the River Police, of sanitary arrangements, of aids to navigation and pilotage, remain as heretofore in the hands of the Maritime Customs.

8. Under the Conservancy Agreement of 1905, provision that the Conservancy funds benefit by the sale of crown lands, insofar as such sales were rendered justifiable by the conservancy scheme, was left undefined. During the operation of that Agreement large quantities of crown land with the con-

servancy normal line as a boundary, have been sold by the Shenko Office, by which the Conservancy funds should have, but have not benefited.

This matter needs settlement but is too involved to be dealt with herein. It is therefore decided that, subsequent to the promulgation of this Agreement, this matter be jointly investigated by the Taotai and the Consular Body, as the preliminary to the addition of a supplementary article to this Agreement.

9. The duties of the Conservancy Board are:

1. At an early date to come to a conclusion in consultation with the Engineer-in-Charge concerning:
  - (a) what should be the ultimate aim of conservancy works.
  - (b) what measures are necessary to secure that end.
  - (c) what is the estimated cost of such measures.
2. To maintain existing conservancy works in effective condition including the construction of such new works as are necessary for that purpose.
3. To provide and maintain a channel from the Yangtse to Shanghai having, as far as circumstances and funds permit, a least depth of 20 feet at mean low water of spring tides over a least width of 900 feet.
4. To undertake such additional new works as may from time to time be advisable for the maintenance or improvement of the regimen of the river, when funds are available.
5. To cooperate with the riparian owners in respect to dredging operations to secure improved wharfage facilities. Such cooperation to take the form of dredging at reasonable rates.

10. (1) The Whangpu Conservancy Consultative Board, to be known shortly as the Consultative Board, shall consist of:

(a) Five members appointed as follows: The several Ministers at Peking of the five nations having the largest tonnage entering and clearing at Shanghai, shall each determine at his discretion the means by which one member of his nationality shall be selected, and the Consuls-General at Shanghai concerned shall notify the Conservancy Board of the selection made and of any subsequent changes.

(b) One member appointed by the Chinese Chamber of Commerce.

The Secretary will serve both Boards.

(2) The primary functions of the Consultative Board will be to watch conservancy proceedings on behalf of the commercial interests of Shanghai and to make such representations to the Conservancy Board as it thinks proper. To this end the Consultative Board shall be supplied with full information concerning all projected works, concerning progress of current works and concerning finance. It will also be consulted in regard to the appointment of the Engineer-in-Chief.

(3) In the event of the Consultative Board considering that its representations are insufficiently attended to and that the commercial interests of the port are thereby threatened, it will refer the matter to a Consular Committee consisting of the Consuls-General of the nations referred to in Article 10 (1). If the Consular Committee is unable to arrange matters to their satisfaction with the Conservancy Board, they will refer the question at issue to their respective Ministers for diplomatic settlement.

11. The object of the existence of the two Boards is as follows:

(a) to provide that the Conservancy Board, in view of its executive nature, be small in order to expedite business.

(b) to provide that members of the Conservancy Board be officials of the Chinese Government in view of the extensive jurisdiction, namely to the head of tidal influence, which it is desirable the Conservancy Board should have.

(c) to provide nevertheless that the commercial interests of the port be effectively represented.

It is considered that the representation as provided will be more usefully effective than would be the case were the representatives of commercial interests on the Conservancy Board.