

No. 11402

**UNITED STATES OF AMERICA
and
REPUBLIC OF KOREA**

Exchange of notes constituting an agreement for the lease of the auxiliary ocean tug USS *Tillamook* (ATA-192) by the Government of the United States to the Government of the Republic of Korea (with annex). Seoul, 28 June and 1 July 1971

Authentic text: English.

Registered by the United States of America on 9 November 1971.

**ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE DE CORÉE**

Échange de notes constituant un accord relatif à la location du remorqueur auxiliaire de haute mer USS *Tillamook* (ATA-192) par le Gouvernement des États-Unis au Gouvernement de la République de Corée (avec annexe). Séoul, 28 juin et 1^{er} juillet 1971

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 9 novembre 1971.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
THE REPUBLIC OF KOREA FOR THE LEASE OF THE
AUXILIARY OCEAN TUG USS *TILLAMOOK* (ATA-192)
BY THE GOVERNMENT OF THE UNITED STATES TO
THE GOVERNMENT OF THE REPUBLIC OF KOREA

I

The American Ambassador to the Korean Minister of Foreign Affairs

No. 300

Seoul, June 28, 1971

Excellency:

I have the honor to refer to recent discussions between the representatives of our two Governments regarding the lease by the Government of the United States to the Government of the Republic of Korea of the auxiliary ocean tug USS *Tillamook* (ATA-192).

In response to the request of the Government of the Republic of Korea, the Government of the United States agrees to the lease of the auxiliary ocean tug USS *Tillamook* (ATA-192) for a period of five years as from July 1, 1971 under the terms and conditions and the general provisions of the lease set forth in the Annex of this note. Accordingly, the expiration of this lease will be July 1, 1976.

If the foregoing is acceptable to the Government of the Republic of Korea, I have the honor further to propose that Your Excellency's reply to that effect and my note shall together constitute the agreement between our two Governments regarding this matter, which shall enter into force on the date of Your Excellency's reply.

Accept, Excellency, the renewed assurances of my highest consideration.

WILLIAM J. PORTER

His Excellency Kim Yong Shik,
Minister of Foreign Affairs
Seoul

¹ Came into force on 1 July 1971, the date of the note in reply, in accordance with the provisions of the said notes.

LEASE OF AUXILIARY OCEAN TUG USS *TILLAMOOK* (ATA-192)
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF
AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF
KOREA

This Lease, made as of the first of July 1971, between the Government of the United States of America (hereinafter called the "Lessor Government") and the Government of the Republic of Korea (hereinafter called the "Lessee Government").

Whereas, The Secretary of the Navy of the Lessor Government (hereinafter called the "Secretary") has determined that the Auxiliary Ocean Tug USS *Tillamook* (ATA-192) (hereinafter referred to as the Defense Article) is not excess to the needs of the Department of the Navy of the Lessor Government within the meaning of Section 472 of Title 40 of the United States Code, but is not, for the time being, required for public use, and

Whereas, The Secretary has determined that it will be in the public interest to lease the Defense Article without cost to the Lessee Government upon the terms and conditions hereinafter set forth, and

Whereas, This lease is made under the authority of Section 2667 of Title 10 of the United States Code (70A Stat. 150)

Now therefore, The parties do mutually agree as follows:

1. In consideration of the maintenance and other obligations assumed by the Lessee Government, the Lessor Government, hereby leases to the Lessee Government and the Lessee Government hereby leases from the Lessor Government the Defense Article for a term of five years from the date of delivery thereof to the Lessee Government and under the terms and conditions set forth in the General Provisions hereto annexed.

2. The Lessor Government shall deliver the Defense Article to the Lessee Government at such time and place as may be mutually agreed upon. Such delivery shall be evidenced by a certification of delivery.

3. By mutual agreement, this lease may be extended for additional terms, not to exceed five years each, if the Secretary determines that any such extension will promote the national defense or be in the public interest.

4. This lease is made for the express purpose of providing a suitable ship to the Republic of Korea for use as a coastal survey ship in the geological survey of the Korean Peninsula. The employment of USS *Tillamook* (ATA-192) in oil exploration operations in the Yellow Sea, East China Sea, and the Sea of Japan in any capacity, is expressly prohibited. If such oil exploration operations are conducted with this ship by the Republic of Korea, contrary to this provision, USS

Tillamook (ATA-192) will be subject to immediate recall by the Lessor Government.

GENERAL PROVISIONS

(Intergovernmental Lease of Defense Article)

1. *Operations and use.* Except as may be otherwise authorized by the Lessor Government and except during transfer from the United States and return to the place of redelivery, the Lessee Government shall keep the Defense Article in its own possession, custody, and control.

2. *Initial Condition.* The Defense Article is leased to the Lessee Government on an "as is, where is" basis without warranty or representation concerning the condition or state of repair of the Defense Article or any part thereof and without any agreement by the Lessor Government to alter, improve, adapt or repair the Defense Article or any part thereof.

3. *Conditioning and Transfer Costs.* The Lessee Government shall bear the cost of rendering the Defense Article operable and transferable, and of transferring the Defense Article from the United States and back to the place of redelivery, except that if this Lease is terminated before expiration by the Lessor Government or by mutual agreement at the request of the Lessor Government, the Lessee Government shall not be required to pay the cost of redelivery.

4. *Inspection and Inventory.* Immediately prior to the delivery of the Defense Article to the Lessee Government, an inspection of the physical condition of the Defense Article and an inventory of all related items shall be made by representatives of the Lessor Government and the Lessee Government. A joint report of their findings shall be made which shall be conclusive evidence as to the physical condition of said Defense Article and as to such items as of the time of delivery. A similar inspection, inventory and joint report shall be made by the parties upon the termination or expiration of this Lease. The findings of that report shall be conclusive evidence as to the physical condition of the Defense Article and as to such item as of the date of termination or expiration of this Lease. The Lessee Government shall promptly replace any deficiency in such items shown by the terminal inventory and may remove any excess thereof but in the absence of removal, title to any such excess shall vest in the Lessor Government.

5. *Maintenance.* The Lessee Government shall maintain the Defense Article in good order, repair and operable condition and, except as provided in paragraph six, shall upon expiration or termination of this Lease return the Defense Article in operable condition and in as good condition as when received, normal wear and tear excepted.

6. *Risk or Loss.* All risk or loss of or damage to the Defense Article during the term of this Lease and until its return to the place of redelivery, not arising out of enemy action, shall be borne by the Lessee Government. In the event of such loss or damage, the Lessee Government, at the option of the Lessor Government, shall either compensate the Lessor Government therefor or shall rebuild, replace, or repair such loss or damage.

7. *Indemnification.* The Lessee Government renounces all claims against the Lessor Government, its officers, agents, and employees arising out of or incidental to transfer, possession, use or operation of the Defense Article and will indemnify and hold harmless the Lessor Government, its officers, agents, and employees for any such claims of third parties.

8. *Alterations.* The Lessee Government shall not make any substantial alterations or additions to the Defense Article without prior consent of the Lessor Government. All such alterations or additions shall become the property of the Lessor Government except items which can be readily removed without injury to the Defense Article and are removed by the Lessee Government prior to redelivery of the Defense Article. As a condition of its approval of any alteration or addition, the Lessor Government may require the Lessee Government to restore the Defense Article to its prior condition.

9. *Termination.* This Lease may be terminated:

- (a) By mutual agreement of the parties;
- (b) By the Lessee Government on 30-days' written notice;
- (c) By the Lessor Government (i) during any national emergency declared by its President or Congress or (ii) upon 30-days' written notice to the Lessee Government.

10. *Place of Redelivery.* Upon expiration or termination of this Lease, the Defense Article shall be returned at a place and time to be mutually agreed upon.

11. *Title.* Title to the Defense Article shall remain in the Lessor Government. The Lessee Government may, however, place the Defense Article under its Flag, when appropriate.

12. *Reimbursement for Services.* The Lessee Government will pay the Lessor Government for any services, spare parts or materials furnished for the Defense Article by the Lessor Government at the Lessee Government's request in such amounts and at such times as may be mutually agreed upon.

13. *Covenant Against Contingent Fees.* The Lessee Government warrants that it has not employed any person to solicit or secure this Lease upon any agreement for a commission, percentage, brokerage or contingent fee.

14. *Officials Not to Benefit.* No Members of or Delegate to Congress of the United States, or Resident Commissioner of the United States, shall be admitted to any share or part of this Lease or to any benefit that may arise therefrom.

15. *Inconsistent Terms.* In case of any conflict between these General Provisions and any other terms and conditions of this Lease, such other terms and conditions shall control.

II

REPUBLIC OF KOREA
MINISTRY OF FOREIGN AFFAIRS

OBJ-795

Seoul, July 1, 1971

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's note dated June 28, 1971, which reads as follows:

[*See note I*]

I further have the honour to inform Your Excellency that the proposal contained in Your Excellency's note is acceptable to the Government of the Republic of Korea and to confirm that Your Excellency's note and this reply thereto constitute an agreement between our two Governments on this matter, which shall enter into force on the date of this reply.

Accept, Excellency, the assurances of my highest consideration.

YONG SHIK KIM
Minister of Foreign Affairs

His Excellency William J. Porter
Ambassador of the United States of America