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CIVIL AIR TRANSPORT, INC.RETURN TO
FE/6/AIRJUNE
19501. Problem

To make recommendations for a course of action concerning Civil Air Transport, Inc. and the former assets of CATC and CNAC outside Communist China.

2. Facts Bearing on the Problem

a. Upon the fall of Canton, Generalissimo Chiang Kai-shek was unable to secure compliance with his orders to Hong Kong elements of the China National Aviation Corporation (CNAC) and the Central Air Transport Corporation (CATC) to bring the planes, physical assets and other resources of these organizations at Hong Kong to Formosa. There ensued a complicated and tortuous series of business organization and reorganization actions and formalities, court actions and legal proceedings covering three continents which is still in process.

b. reported in December 1949 that the CNAC inventory included five DC-4 (C-54) planes, thirty C-46's, eleven C-47's, four DC-3's, one AT-6 and a PBY on charter from Air Carriers Limited. The assets of CATC apparently included some 5 or 6 Convairs and additional planes. On 30 March 1950, Rankin, Department of State, Hong Kong, relayed a report of Brennan, CAT, that latter's representative had seen the following aircraft stored at various places in Kaitak air port:

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<u>Type</u>	<u>CNAC</u>	<u>CATC</u>	<u>TOTAL</u>
C-46	18	18	36
C-47	6 ¹	17 ²	23 ^{1,2}
DC-4	5	0	5
Convair	0	5	5
PBY	1	0	1
AT-6	1	0	1
TOTAL	<u>31¹</u>	<u>40²</u>	<u>71^{1,2}</u>

¹ Plus one C-47 in inoperable condition, partially dismantled.

² Plus one C-47 in inoperable condition, partially dismantled.

The assets at Hong Kong of these organizations also included considerable quantities of spare parts, machinery, tools, materials and other property. In November 1949 our field staff reported that a conservative evaluation of the assets then held by CNAC and CATC was in the order of 30 million dollars. Since the fall of Canton these assets have suffered considerably from weather action, theft and sabotage, particularly by removal of vital parts from aircraft. Some of these parts and other materials have been reported removed from Hong Kong. A considerable quantity was reported to have moved toward Canton.

c. The British recognition of Communist China has highly complicated the problem of denying these former CNAC and CATC assets to the Chinese Communists. As a part of the efforts to achieve this denial, the officials in authority of the CNAC and CATC and of the Chinese Nationalist Government transferred the ownership of these enterprises to General Claire L. Chennault and Mr. Whiting Willauer on or about 11 December 1949. Chennault and Willauer then transferred their holdings so obtained to a Delaware corporation entitled "Civil

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Air Transport, Inc.", which was formed for the purpose. Legal guidance in these operations was supplied by Mr. Thomas G. Corcoran, attorney, Washington, D.C. The CATC had been wholly owned by the Chinese Nationalist Government. This government, however, only held 80% ownership in CNAC and the remaining 20% was held by Pan American Airways. In order that Civil Air Transport, Inc. might obtain complete title to all of the assets of CNAC, arrangements were made through Mr. Corcoran whereby an unknown source, presumably Chinese, (and rumored to be T.V. Soong or someone associated with him) advanced \$1,250,000 which was paid to Pan American for their 20% ownership.* Payments made by Chennault and Willauer for the assets of CNAC and CATC apparently have been in the nature of promisory notes and agreements to take contingent actions should the appropriate opportunities arise.

d. The former CNAC and CATC planes have now been registered as American-owned by the U.S. Civil Aeronautics Authority. Strenuous efforts have been made in Hong Kong to secure a determination by court action that these assets are the property of Civil Air Transport Inc. and to obtain full legal title and possession for this company. Through February 1950 the actions of the Hong Kong courts were unfavorable. Appeals were made and United Kingdom King's Order in Council threw the problem back to Hong Kong courts where litigation is still in process. After several thousand dollars had been expended to pay for the services of British lawyers in Hong Kong, General William Donovan and a legal team which he assembled, the sources of ready funds

* Some rumor has held that Pan American activities in China over a number of years have included fronting for T.V. Soong interests.

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for these purposes became greatly limited. In order to avoid possibly unwise further complications it was deemed appropriate for OPC to loan to Civil Air Transport some \$12,000 to defray legal expenses and recent approval has been given to make a further loan of \$5,000.00 for this purpose.

e. For the moment, the process of litigation continues to deny to the Chinese Communists the use of the airplanes which formerly belonged to CNAC and CATC and the use of a considerable quantity of other assets which formerly belonged to these organizations. The British are under pressure from the Chinese Communists to assure that the latter secures title and possession of these assets. Our field staff reported in late November that the Chinese Communists had publically proclaimed that a billion dollars worth of British assets in Shanghai would be forfeit if the CNAC and CATC properties were not released to the Chinese Communists. The U.S. Department of State has made strong representations to the British authorities both in London and Hong Kong to the effect that they wished these assets denied to the Chinese Communists and that they wished them released to the American owners.

f. The King's Order in Council which was issued during the second week of May 1950 returned to Hong Kong jurisdiction the problem of the determination of ownership rights which was raised in litigation with Civil Air Transport, Inc. as plaintiffs and CNAC and CATC as defendants. Accordingly, on 19 May 1950 the attorneys for Civil Air Transport, Inc. issued writs against CNAC and CATC holding that the plaintiffs are the

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owners of the aircraft, equipment, etc, as defined in the Order in Council and that they are solely entitled to possession thereof. By 25 May 1950 the attorneys for Civil Air Transport, Inc. had been unable to get the solicitors for CNAC and CATC to accept service of these writs on behalf of CNAC and CATC. On 31 May 1950, therefore, the attorneys for Civil Air Transport, Inc. presented a petition to the Hong Kong courts requesting directions of the court as to the mode in which service of such writs should be effected. At the time the writs were issued, on 19 May 1950, it was thought that the suit for determination of ownership probably might come before Justice Williams of the Hong Kong courts sometime in the winter of 1950-51. This apparently was the status of the litigation as of the beginning of June 1950.

g. As of the end of May 1950 the Hong Kong Civil Aviation Department was continuing to refuse representatives of Civil Air Transport, Inc. permission to inspect and catalogue assets which the corporation claims to own and which are located at Kaitak airport in Hong Kong. As of the end of May 1950 the aircraft were in the process of disassembly and a special brick compound was being constructed to protect the large elements of these aircraft from typhoon damage. This

indicates the high degree of protective measures being taken by the *Communists* with the *permission of the* Hong Kong government respecting these assets.

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3. Discussion

a. The "little NSC" has indicated, for example, in the discussions on 13 March 1950, that it is in the national interest to deny to the Chinese Communists the aircraft and other assets in Hong Kong which were previously owned by CNAC and CATC. The representations by the Department of State to the British, both in London and Hong Kong, provide a parallel reflection of the national interest. Litigation in the courts of Hong Kong has served and is serving to assist in denial of these assets to the Chinese Communists. It is, therefore, appropriate that insofar as funds are not available from resources of Civil Air Transport, Inc. to defray reasonable legal fees and other proper reasonable costs incident to continued attempts by the company in the courts of Hong Kong to obtain legal title and possession of these assets which were transferred to it late in 1949, that OPC continue to make loans to Civil Air Transport, Inc. to defray such proper and reasonable fees and costs.

b. Inasmuch as the British at Hong Kong are caught in the conflicting interests of the Chinese Communist Government, which the British Government has recognized, and the U.S., it is probable that they will delay making a clear-cut and definitive decision as long as possible or until something turns up which will permit them a relatively easy way out. Under these conditions the only sure way to prevent the former CNAC/CATC assets in Hong Kong from falling into the hands of the Chinese Communists is to destroy these assets. For this reason, at the earliest practicable date plans should be prepared to destroy

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these assets in place in Hong Kong. Such destruction will probably be extremely difficult in view of the high degree of surveillance being exercised over these assets both by the Hong Kong British authorities and by the Chinese Communists and their agents. It may be that the British would be highly grateful for an "act of God" which would destroy these assets. The outside possibility should be explored as to whether elements of the British Secret Service should be approached for the purpose of bringing about some "act of God" or reasonable facsimile thereof which would accomplish the destruction of these assets.

c. In the event some turn of fortune would provide the British at Hong Kong a way out which would include awarding title and possession of the former CNAC and CATC assets to Civil Air Transport, Inc., the most definite plans possible should be ready for implementation which would provide for the disposal of these assets, that is, their removal from Hong Kong to a safe haven, and provide for interim counter sabotage protection of these assets pending their removal to safe haven. In order to provide maximum definiteness to preparation of plans for the destruction of the assets in question and for the alternative contingency involving their disposal and counter sabotage protection, specific individuals should be designated to serve on a task group to make these plans. To further lend definiteness to the planning efforts a chief of the task group should be designated and directed to assume the responsibility for the efforts of the task group and for the preparation of plans.

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d. In order to have the full benefit of the views of the field staff and to possibly further sensitize the field staff for the need for plans and preparation for these alternatives, appropriate messages should be sent to the field. A draft message to the field is attached as attachment A. Before this message is dispatched this problem should be discussed with [redacted] who is to be in Washington in the last half of June 1950. It may be that protective measures being taken by the British at Hong Kong are so effective as to require the work of a clandestine survey team before any effective sabotage plan can be developed.

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4. Conclusion

It is concluded that the following recommendations should be approved and action taken in accordance therewith.

5. Recommendations

It is recommended that:

a. Funds, insofar as unavailable from the resources of Civil Air Transport, Inc., continue to be advanced to defray reasonable legal fees and other proper and reasonable costs incident to continued attempts by the company in the courts of Hong Kong to obtain legal title and possession of the former CNAC and CATC assets in Hong Kong sold to the company late in 1949.

b. A task group and chief thereof be designated to devise:

(i) Plans to destroy in place in Hong Kong former CNAC and CATC assets.

(a) The plans be developed at the earliest practicable date.

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(b) The plans be kept under review until execution thereof is accomplished or the need therefor no longer exists.

(ii) Plans for disposal and interim counter sabotage protection of the former CNAC and CATC assets should the Hong Kong courts award title and possession of these assets to Civil Air Transport, Inc.

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c. [redacted] be directed:

(i) To forward project plans for:

(a) Destruction of the former CATC and CNAC assets in Hong Kong.

(b) Disposal and interim counter sabotage protection of these assets should the Hong Kong courts award legal title and possession to Civil Air Transport, Inc.

(ii) To continue consideration of these problems and to furnish amendments to these projects plans as further consideration and new developments appear to warrant.

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d. The foregoing be discussed with [redacted]

[redacted] to be in Washington during the last half of June 1950 and the substance of attachment be considered in these discussions.

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Attachment A

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OUTGOING CLASSIFIED MESSAGE

PAGE NO. _____

CENTRAL INTELLIGENCE AGENCY

DATE: 15 June 1950	ROUTINE <input checked="" type="checkbox"/>	PRIORITY <input type="checkbox"/>	URGENT <input type="checkbox"/>
FROM: Policy Coordination	(ORIGINATING OFFICER)		(PHONE EXT.)
TRANSMIT TO:	SECRET		
	(CLASSIFICATION)		

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TYPE IN CAPITAL LETTERS, DOUBLE SPACED

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TO:

CITE: WASHJ

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1. AT EARLIEST PRACTICABLE DATE FURNISH DRAFT PLANS WITH YOUR RECOMMENDATIONS AND INTENTIONS FOR DESTRUCTION OF FORMER AND ASSETS IN HONG KONG TO BE ACCOMPLISHED IMMEDIATELY AFTER IT APPEARS POSSESSION BY CHINESE COMMUNISTS MERELY MATTER OF TIME.

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2. SIMILARLY FURNISH DRAFT WITH YOUR RECOMMENDATIONS AND INTENTIONS FOR DISPOSAL AND INTERIM COUNTER SABOTAGE PROTECTION OF THESE ASSETS SHOULD COURTS AWARD TITLE AND POSSESSION TO

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3. KEEP FOREGOING UNDER CONTINUING CONSIDERATION AND ADVISE CURRENTLY SIGNIFICANT CHANGES IN YOUR INTENTIONS AND RECOMMENDATIONS AS APPEAR WARRANTED.

CFE
RELEASING OFFICER

FE Plans FE II
COORDINATING OFFICERS

AUTHENTICATING OFFICER

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15 June 1950

MEMORANDUM FOR RECORD

1. Search of the files fails to show any plan for the destruction of the former assets of CNAC and CATC located in Hong Kong which were transferred to the ownership of Civil Air Transport, Inc. in December 1949. (Our field staff has suggested that litigation tie up movement until weather deterioration takes its full toll.) Such plans should be approved and implemented to the point of execution in order that they would be fully executed immediately after it appears possession of these assets by the Chinese Communists is merely a matter of time. (In fact, it might be better judgment to accomplish this destruction at the earliest possible moment if a sufficiently satisfactory plan can be devised, that is, with a high probability of accomplishing the desired results.) In order to have the benefit of fuller views of the field staff it is the purpose of the first paragraph of this message to obtain these views.

2. Similarly a search of the files fails to reveal an integrated plan for the disposal and interim counter-sabotage protection of the former CNAC and CATC assets in Hong Kong should the courts award title and possession of these assets to Civil Air Transport, Inc. It is the purpose of the second paragraph of this message to request the views of the field staff on this problem.

3. This message requests the intentions of the field staff as well as their recommendations for a plan in order that we may be brought up-to-date as to the field's intention with respect to these assets and possible sabotage thereof or other disposal and counter-sabotage protection.

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