No. 9605

UNITED STATES OF AMERICA
and
REPUBLIC OF KOREA

Agreement under article IV of the Mutual Defense Treaty regarding facilities and areas and the status of United States Armed Forces in the Republic of Korea (with agreed minutes, agreed understandings and exchange of letters). Signed at Seoul on 9 July 1966

Authentic texts: English and Korean.

Registered by the United States of America on 6 June 1969.

ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE DE CORÉE

Accord relatif aux zones et installations et au statut des forces armées des États-Unis dans la République de Corée, conclu conformément à l'article IV du Traité de défense mutuelle (avec minutes approuvées, protocole interprétatif et échange de lettres). Signé à Séoul le 9 juillet 1966

Textes authentiques: anglais et coréen.

Enregistré par les États-Unis d'Amérique le 6 juin 1969.

AGREEMENT [1] UNDER ARTICLE IV OF THE MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA, REGARDING FACILITIES AND AREAS AND THE STATUS OF UNITED STATES ARMED FORCES IN THE REPUBLIC OF KOREA

Whereas the United States of America has disposed its armed forces in and about the territory of the Republic of Korea pursuant to the resolutions of the United Nations Security Council of June 25, 1950, [2] June 27, 1950, [3] and July 7, 1950 [4], and pursuant to Article IV of the Mutual Defense Treaty between the United States of America and the Republic of Korea, signed on October 1, 1953; [5]

Therefore, the United States of America and the Republic of Korea, in order to strengthen the close bonds of mutual interest between their two countries, have entered into this Agreement regarding facilities and areas and the status of United States armed forces in the Republic of Korea in terms as set forth below:

Article I

DEFINITIONS

In this Agreement the expression:

(*a*) " members of the United States armed forces " means the personnel on active duty belonging to the land, sea, or air armed services of the United States of America when in the territory of the Republic of Korea except for personnel of the United States armed forces attached to the United States Embassy and personnel for whom status has been provided in the Military Advisory Group Agreement of January 26, 1950, [6] as amended; [7]

(*b*) " civilian component " means the civilian persons of United States nationality who are in the employ of, serving with, or accompanying the United States armed forces in the Republic of Korea, but excludes persons

[1] Came into force on 9 February 1967, i.e., three months after the date of a written notification from the Government of the Republic of Korea to the Government of the United States of America as it had approved the Agreement in accordance with its legal procedures, in accordance with article XXIX (1).

[2] United Nations, *Official Records of the Security Council, Fifth Year, Resolutions and Decisions of the Security Council 1950* (S.INF/5/Rev. 1), p. 4.

[3] *Ibid.*, p. 5.

[4] *Ibid.*, p. 5.

[5] United Nations, *Treaty Series*, Vol. 238, p. 199.

[6] *Ibid.*, Vol. 178, p. 97.

[7] *Ibid.*, Vol. 400, p. 386.

who are ordinarily resident in the Republic of Korea or who are mentioned in paragraph 1 of Article XV ; for the purposes of this Agreement only, dual nationals, i.e., persons having the nationality of both the United States and the Republic of Korea, who are brought into the Republic of Korea by the United States shall be considered United States nationals ;

(*c*) " dependents " means

(i) spouse and children under 21 ;

(ii) parents, children over 21, or others relatives dependent for over half their support upon a member of the United States armed forces or civilian component.

Article II

FACILITIES AND AREAS — GRANT AND RETURN

1. (*a*) The United States is granted, under Article IV of the Mutual Defense Treaty, the use of facilities and areas in the Republic of Korea. Agreements as to specific facilities and areas shall be concluded by the two Governments through the Joint Committee provided for in Article XXVIII of this Agreement. " Facilities and areas " include existing furnishing, equipment, and fixtures, wherever located, used in the operation of such facilities and areas.

(*b*) The facilities and areas of which the United States armed forces have the use at the effective date of this Agreement together with those facilities and areas which the United States armed forces have returned to the Republic of Korea with the reserved right of re-entry, when these facilities and areas have been re-entered by the United States armed forces, shall be considered as the facilities and areas agreed upon between the two Governments in accordance with subparagraph (*a*) above. Records of facilities and areas of which the United States armed forces have the use or the right of re-entry shall be maintained through the Joint Committee after this Agreement comes into force.

2. At the request of either Government, the Governments of the United States and the Republic of Korea shall review such agreements and may agree that such facilities and areas or portions thereof shall be returned to the Republic of Korea or that additional facilities and areas may be provided.

3. The facilities and areas used by the United States shall be returned to the Republic of Korea under such conditions as may be agreed through the Joint Committee whenever they are no longer needed for the purposes of this Agreement and the United States agrees to keep the needs for facilities and areas under continual observation with a view toward such return.

4. (*a*) When facilities and areas are temporarily not being used and the Government of the Republic of Korea is so advised, the Government of the Republic of Korea may make, or permit nationals of the Republic of Korea to make, interim use of such facilities and areas provided that it is agreed between the two Governments through the Joint Committee that such use would not be harmful to the purposes for which the facilities and areas are normally used by the United States armed forces.

(*b*) With respect to facilities and areas which are to be used by the United States armed forces for limited periods of time, the Joint Committee shall specify in the agreements covering such facilities and areas the extent to which the provisions of this Agreement shall not apply.

Article III

FACILITIES AND AREAS — SECURITY MEASURES

1. Within the facilities and areas, the United States may take all the measures necessary for their establishment, operation, safeguarding and control. In order to provide access for the United States armed forces to the facilities and areas for their support, safeguarding, and control, the Government of the Republic of Korea shall, at the request of the United States armed forces and upon consultation between the two Governments through the Joint Committee, take necessary measures, within the scope of applicable laws and regulations, with respect to land, territorial waters and airspace adjacent to, or in the vicinities of the facilities and areas. The United States may also take necessary measures for such purposes upon consultation between the two Governments through the Joint Committee.

2. (*a*) The United States agrees not to take the measures referred to in paragraph 1 in such a manner as to interfere unnecessarily with navigation, aviation, communication, or land travel, to, from, or within the territories of the Republic of Korea.

(*b*) All questions relating to telecommunications including radio frequencies for electromagnetic radiating devices, or like matters, shall continue to be resolved expeditiously in the utmost spirit of coordination and cooperation by arrangement between the designated communications authorities of the two Governments.

(*c*) The Government of the Republic of Korea shall, within the scope of applicable laws, regulations and agreements, take all reasonable measures to avoid or eliminate interference with electromagnetic radiation sensitive devices, telecommunications devices, or other apparatus required by the United States armed forces.

3. Operations in the facilities and areas in use by the Government of the United States shall be carried on with due regard to the public safety.

Article IV

FACILITIES AND AREAS — RETURN OF FACILITIES

1. The Government of the United States is not obliged, when it returns facilities and areas to the Government of the Republic of Korea on the expiration of this Agreement or at an earlier date, to restore the facilities and areas to the condition in which they were at the time they became available to the United States armed forces, or to compensate the Government of the Republic of Korea in lieu of such restoration.

2. The Government of the Republic of Korea is not obliged to make any compensation to the Government of the United States for any improvements made in facilities and areas or for the buildings and structures left thereon on the expiration of this Agreement or the earlier return of the facilities and areas.

3. The foregoing provisions shall not apply to any construction which the Government of the United States may undertake under special arrangements with the Government of the Republic of Korea.

Article V

FACILITIES AND AREAS — COST AND MAINTENANCE

1. It is agreed that the United States will bear for the duration of this Agreement without cost to the Republic of Korea all expenditures incident to the maintenance of the United States armed forces in the Republic of Korea, except those to be borne by the Republic of Korea as provided in paragraph 2.

2. It is agreed that the Republic of Korea will furnish for the duration of this Agreement without cost to the United States and make compensation where appropriate to the owners and suppliers thereof all facilities and areas and rights of way, including facilities and areas jointly used, such as those at airfields and ports as provided in Articles II and III. The Government of the Republic of Korea assures the use of such facilities and areas to the Government of the United States and will hold the Government of the United States as well as its agencies and employees harmless from any third party claims which may be advanced in connection with such use.

Article VI

UTILITIES AND SERVICES

1. The United States armed forces shall have the use of all utilities and services which are owned, controlled or regulated by the Government of the Republic of Korea or local administrative subdivisions thereof. The term " utilities and services " shall include, but not be limited to, transporta-

tion and communications facilities and systems, electricity, gas, water, steam, heat, light, power, and sewage disposal. The use of utilities and services as provided herein shall not prejudice the right of the United States to operate military transportation, communication, power and such other utilities and services deemed necessary for the operations of the United States armed forces. This right shall not be exercised in a manner inconsistent with the operation by the Government of the Republic of Korea of its utilities and services.

2. The use of such utilities and services by the United States shall be in accordance with priorities, conditions, and rates or tariffs no less favorable than those accorded any other user.

Article VII

RESPECT FOR LOCAL LAW

It is the duty of members of the United States armed forces, the civilian component, the persons who are present in the Republic of Korea pursuant to Article XV, and their dependents, to respect the law of the Republic of Korea and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in the Republic of Korea.

Article VIII

ENTRY AND EXIT

1. The United States may bring into the Republic of Korea persons who are members of the United States armed forces, the civilian component, and their dependents, subject to the provisions of this Article. The Government of the Republic of Korea will be notified at regular intervals, in accordance with procedures to be agreed between the two Governments, of numbers and categories of persons entering and departing.

2. Members of the United States armed forces shall be exempt from passport and visa laws and regulations of the Republic of Korea. Members of the United States armed forces, the civilian component, and their dependents shall be exempt from laws and regulations of the Republic of Korea on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territory of the Republic of Korea.

3. Upon entry into or departure from the Republic of Korea members of the United States armed forces shall be in possession of the following documents :

(*a*) personal identity card showing name, date of birth, rank and service number, service, and photograph ; and

(*b*) individual or collective travel order certifying to the status of the individual or group as a member or members of the United States armed forces and to the travel ordered. For purposes of their identification while in the Republic of Korea, members of the United States armed forces shall be in possession of the foregoing personal identity card which must be presented on request to the appropriate authorities of the Republic of Korea.

4. Members of the civilian component, their dependents, and the dependents of members of the United States armed forces shall be in possession of appropriate documentation issued by the United States authorities so that their status may be verified by the authorities of the Republic of Korea upon their entry into or departure from the Republic of Korea, or while in the Republic of Korea.

5. If the status of any person brought into the Republic of Korea under paragraph 1 of this Article is altered so that he would no longer be entitled to such admission, the authorities of the United States shall notify the authorities of the Republic of Korea and shall, if such person be required by the authorities of the Republic of Korea to leave the Republic of Korea, assure that transportation from the Republic of Korea will be provided within a reasonable time at no cost to the Government of the Republic of Korea.

6. If the Government of the Republic of Korea has requested the removal from its territory of a member of the United States armed forces or civilian component or has made an expulsion order against an ex-member of the United States armed forces or the civilian component or against a dependent of a member or an ex-member, the authorities of the United States shall be responsible for receiving the person concerned into its own territory or otherwise disposing of him outside the Republic of Korea. This paragraph shall apply only to persons who are not nationals of the Republic of Korea and have entered the Republic of Korea as members of the United States armed forces or civilian component or for the purpose of becoming such members, and to the dependents of such persons.

Article IX

Customs and Duties

1. Save as provided in this Agreement, members of the United States armed forces, the civilian component, and their dependents shall be subject to the laws and regulations administered by the customs authorities of the Republic of Korea.

2. All materials, supplies and equipment imported by the United States armed forces (including their authorized procurement agencies and

their non-appropriated fund organizations provided for in Article XIII), for the official use of the United States armed forces or for the use of the members of the United States armed forces, the civilian component, and their dependents, and materials, supplies and equipment which are to be used exclusively by the United States armed forces or are ultimately to be incorporated into articles or facilities used by such forces, shall be permitted entry into the Republic of Korea ; such entry shall be free from customs duties and other such charges. Appropriate certification shall be made that such materials, supplies and equipment are being imported by the United States armed forces (including their authorized procurement agencies and their non-appropriated fund organizations provided for in Article XIII), or, in the case of materials, supplies and equipment to be used exclusively by the United States armed forces or ultimately to be incorporated into articles or facilities used by such forces, that delivery thereof is to be taken by the United States armed forces for the purposes specified above. The exemptions provided in this paragraph shall extend to materials, supplies and equipment imported by the United States armed forces for the use of other armed forces in the Republic of Korea under the Unified Command which receive logistical support from the United States armed forces.

3. Property consigned to and for the personal use of members of the United States armed forces, the civilian component, and their dependents, shall be subject to customs duties and other such charges, except that no duties or charges shall be paid with respect to :

(*a*) furniture, household goods, and personal effects for their private use imported by the members of the United States armed forces or civilian component when they first arrive to serve in the Republic of Korea or by their dependents when they first arrive for reunion with members of such forces or civilian component ;

(*b*) vehicles and parts imported by members of the United States armed forces or civilian component for the private use of themselves or their dependents ;

(*c*) reasonable quantities of personal effects and household goods of a type which would ordinarily be purchased in the United States for the private use of members of the United States armed forces, civilian component, and their dependents, which are mailed into the Republic of Korea through United States military post offices.

4. The exemptions granted in paragraph 2 and 3 shall apply only to cases of importation of goods and shall not be interpreted as refunding customs duties and domestic excises collected by the customs authorities at the time of entry in cases of purchase of goods on which such duties and excises have already been collected.

5. Customs examination shall not be made in the following cases :

(*a*) members of the United States armed forces under orders, other than leave orders, entering or leaving the Republic of Korea ;

(*b*) official documents under official seal and First Class letter mail in the United States military postal channels under official postal seal ;

(*c*) military cargo consigned to the United States armed forces.

6. Except as such disposal may be authorized by the authorities of the United States and of the Republic of Korea in accordance with mutually agreed conditions, goods imported into the Republic of Korea free of duty shall not be disposed of in the Republic of Korea to persons not entitled to import such goods free of duty.

7. Goods imported into the Republic of Korea free from customs duties and other such charges pursuant to paragraphs 2 and 3, may be re-exported free from customs duties and other such charges.

8. The United States armed forces, in cooperation with the authorities of the Republic of Korea, shall take such steps as are necessary to prevent abuse of privileges granted to the United States armed forces, members of such forces, the civilian component, and their dependents in accordance with this Article.

9. (*a*) In order to prevent offenses against laws and regulations administered by the customs authorities of the Government of the Republic of Korea, the authorities of the Republic of Korea and the United States armed forces shall assist each other in the conduct of inquiries and the collection of evidence.

(*b*) The United States armed forces shall render all assistance within their power to ensure that articles liable to seizure by, on or behalf of, the customs authorities of the Government of the Republic of Korea are handed over to those authorities.

(*c*) The United States armed forces shall render all assistance within their power to ensure the payment of duties, taxes, and penalties payable by members of such forces or of the civilian component, or their dependents.

(*d*) The authorities of the United States armed forces shall provide all practicable assistance to the customs officials dispatched to military controlled piers and airports for the purpose of customs inspection.

(*e*) Vehicles and articles belonging to the United States armed forces seized by the customs authorities of the Government of the Republic of Korea in connection with an offense against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of such forces.

Article X

ACCESS OF VESSELS AND AIRCRAFT

1. United States and foreign vessels and aircraft operated by, for, or under the control of the United States for official purposes shall be accorded access to any port or airport of the Republic of Korea free from toll or landing charges. When cargo or passengers not accorded the exemptions of this Agreement are carried on such vessels and aircraft, motification shall be given to the appropriate authorities of the Republic of Korea, and the entry into and departure from the Republic of Korea of such cargo and passengers shall be according to the laws and regulations of the Republic of Korea.

2. The vessels and aircraft mentioned in paragraph 1, United States Government-owned vehicles including armor, and members of the United States armed forces, the civilian component, and their dependents shall be accorded access to and movement between facilities and areas in use by the United States armed forces and between such facilities and areas and the ports or airports of the Republic of Korea. Such access to and movement between facilities and areas by United States military vehicles shall be free from toll and other charges.

3. When the vessels mentioned in paragraph 1 enter ports of the Republic of Korea, appropriate notification shall, under normal conditions, be made to the proper authorities of the Republic of Korea. Such vessels shall have freedom from compulsory pilotage, but if a pilot is taken pilotage shall be paid for at appropriate rates.

Article XI

METEOROLOGICAL SERVICES

The Government of the Republic of Korea undertakes to furnish the United States armed forces with the following meteorological services in accordance with arrangements between the appropriate authorities of the two Governments :

(*a*) meteorological observations from land and ocean including observations from ships ;

(*b*) climatological information including periodic summaries and historical data wherever available ;

(*c*) telecommunications service to disseminate meteorological information ;

(*d*) seismographic data.

Article XII

AIR TRAFFIC CONTROL AND NAVIGATIONAL AIDS

1. All civil and military air traffic control shall be developed in close coordination and shall be integrated to the extent necessary for the operation of this Agreement. Procedures, and any subsequent changes thereto, necessary to effect this coordination and integration will be established by arrangement between the appropriate authorities of the two Governments.

2. The United States is authorized to establish, construct and maintain aids to navigation for vessels and aircraft, both visual and electronic as required, throughout the Republic of Korea and in the territorial waters thereof. Such navigation aids shall conform generally to the system in use in the Republic of Korea. The authorities of the United States and the Republic of Korea which have established navigation aids shall duly notify each other of their positions and characteristics and shall give advance notification where practicable before making any changes in them or establishing additional navigation aids.

Article XIII

NON-APPROPRIATED FUND ORGANIZATIONS

1. (*a*) Military exchanges, messes, social clubs, theaters, newspapers and other non-appropriated fund organizations authorized and regulated by the United States military authorities may be established by the United States armed forces for the use of members of such forces, the civilian component, and their dependents. Except as otherwise provided in this Agreement such organizations shall not be subject to Korean regulations, licenses, fees, taxes, or similar controls.

(*b*) When a newspaper authorized and regulated by the United States military authorities is sold to the general public, it shall be subject to Korean regulations, licenses, fees, taxes, or similar controls so far as such circulation is concerned.

2. No Korean tax shall be imposed on sales of merchandise or services by such organizations, except as provided in paragraph 1(*b*) of this Article. Purchases within the Republic of Korea of merchandise and supplies by such organizations shall be subject to the Korean taxes to which other purchasers of such merchandise and suppliers are subject unless otherwise agreed between the two Governments.

3. Except as such disposal may be permitted by the authorities of the United States and the Republic of Korea in accordance with mutually agreed conditions, goods which are sold by such organizations shall not be disposed of in the Republic of Korea to persons not authorized to make purchases from such organizations.

4. The organizations referred to in this Article shall, through consultation between the representatives of the two Governments in the Joint Committee, provide such information to the tax authorities of the Republic of Korea as is required by tax legislation of the Republic of Korea.

Article XIV

TAXATION

1. The United States armed forces shall not be subject to taxes or similar charges on property held, used or transferred by such forces in the Republic of Korea.

2. Members of the United States armed forces, the civilian component, and their dependents shall not be liable to pay any Korean taxes to the Government of the Republic of Korea or to any other taxing agency in the Republic of Korea on income received as a result of their service with or employment by the United States armed forces, including the organizations provided for in Article XIII. Persons in the Republic of Korea solely by reason of being members of the United States armed forces, the civilian component, or their dependents shall not be liable to pay any Korean taxes to the Government of the Republic of Korea or to any taxing agency in the Republic of Korea on income derived from sources outside of the Republic of Korea, nor shall periods during which such persons are in the Republic of Korea be considered as periods of residence or domicile in the Republic of Korea for the purpose of Korean taxation. The provisions of this Article do not exempt such persons from payment of Korean taxes on income derived from Korean sources, other than those sources referred to in the first sentence of this paragraph, nor do they exempt United States citizens who claim residence in the Republic of Korea for United States income tax purposes from payment of Korean taxes on income.

3. Members of the United States armed forces, the civilian component, and their dependents shall be exempt from taxation in the Republic of Korea on the holding, use, transfer *inter se*, or transfer by death of movable property, tangible or intangible, the presence of which in the Republic of Korea is due solely to the temporary presence of these persons in the Republic of Korea, provided that such exemption shall not apply to property held for the purpose of investment or the conduct of business in the Republic of Korea or to any intangible property registered in the Republic of Korea.

Article XV

INVITED CONTRACTORS

1. Persons, including (*a*) corporations organized under the laws of the United States, (*b*) their employees who are ordinarily resident in the United States, and (*c*) the dependents of the foregoing, present in the Repub-

lic of Korea solely for the purpose of executing contracts with the United States for the benefit of the United States armed forces or other armed forces in the Republic of Korea under the Unified Command receiving logistical support from the United States armed forces, who are designated by the Government of the United States in accordance with the provisions of paragraph 2 below, shall, except as provided in this Article, be subject to the laws and regulations of the Republic of Korea.

2. The designation referred to in paragraph 1 above shall be made upon consultation with the Government of the Republic of Korea and shall be restricted to cases where open competitive bidding is not practicable due to security considerations, to the technical qualifications of the contractors involved, to the unavailability of materials or services required by the United States standards, or to limitations of United States law. The designation shall be withdrawn by the Government of the United States :

(*a*) upon completion of contracts with the United States armed forces or other armed forces in the Republic of Korea under the Unified Command receiving logistical support from the United States armed forces ;

(*b*) upon proof that such persons are engaged in business activities in the Republic of Korea other than those pertaining to the United States armed forces or other armed forces in the Republic of Korea under the Unified Command receiving logistical support from the United States armed forces ;

(*c*) upon proof that such persons are engaged in practices illegal in the Republic of Korea.

3. Upon certification by the appropriate United States authorities as to their identity, such persons shall be accorded the following benefits of this Agreement :

(*a*) accession and movement, as provided for in Article X, paragraph 2 ;

(*b*) entry into the Republic of Korea in accordance with the provisions of Article VIII ;

(*c*) the exemption from customs duties, and other such charges provided for in Article IX, paragraph 3, for members of the United States armed forces, the civilian component, and their dependents ;

(*d*) if authorized by the Government of the United States, the use of the services of the organizations provided for in Article XIII ;

(*e*) those provided in Article XVIII, paragraph 2, for members of the United States armed forces, the civilian component and their dependents ;

(*f*) if authorized by the Government of the United States, the use of military payment certificates, as provided for in Article XIX ;

(*g*) the use of postal facilities provided for in Article XX ;

(*h*) the use of utilities and services in accordance with those priorities, conditions, rates or tariffs accorded the United States armed forces by Article VI relating to utilities and services ;

(*i*) exemption from the laws and regulations of the Republic of Korea with respect to terms and conditions of employment, and licensing and registration of businesses and corporations.

4. The arrival, departure, and place of residence in the Republic of Korea of such persons shall from time to time be notified by the United States armed forces to the authorities of the Republic of Korea.

5. Upon certification by an authorized representative of the United States armed forces, depreciable assets, except houses, held, used or transferred by such persons exclusively for the execution of contracts referred to in paragraph 1 shall not be subject to taxes or similar charges of the Republic of Korea.

6. Upon certification by an authorized representative of the United States armed forces, such persons shall be exempt from taxation in the Republic of Korea on the holding, use, transfer by death, or transfer to persons or agencies entitled to tax exemption under this Agreement, of movable property, tangible or intangible, the presence of which in the Republic of Korea is due solely to the temporary presence of these persons in the Republic of Korea, provided that such exemption shall not apply to property held for the purpose of investment or the conduct of other business in the Republic of Korea or to any intangible property registered in the Republic of Korea.

7. Such persons shall not be liable to pay income or corporation taxes to the Government of the Republic of Korea or to any other taxing agency in the Republic of Korea on any income derived under a contract with the Government of the United States in connection with the construction, maintenance or operation of any of the facilities or areas covered by this Agreement. Such persons shall not be liable to pay any Korean taxes to the Government of the Republic of Korea or to any taxing agency in the Republic of Korea on income derived from sources outside of the Republic of Korea nor shall periods during which such persons are in the Republic of Korea be considered periods of residence or domicile in the Republic of Korea for the purposes of Korean taxation. The provisions of this paragraph do not exempt such persons from payment of income or corporation taxes on income derived from Korean sources, other than those sources referred to in the first sentence of this paragraph, nor do they exempt such persons who claim residence in the Republic of Korea for United States income tax purposes from payment of Korean taxes on income.

8. The authorities of the Republic of Korea shall have the right to exercise jurisdiction over such persons for offenses committed in the Republic of Korea and punishable by the law of the Republic of Korea. In recognition of the role of such persons in the defense of the Republic of Korea, they shall be subject to the provisions of paragraphs 5, 7(*b*), and 9 and the related Agreed Minutes, of Article XXII. In those cases in which the authorities of the Republic of Korea decide not to exercise jurisdiction they shall notify the military authorities of the United States as soon as possible. Upon such notification the military authorities of the United States shall have the right to exercise such jurisdiction over the persons referred to as is conferred on them by the law of the United States.

Article XVI

LOCAL PROCUREMENT

1. The United States may contract for any materials, supplies, equipment and services (including construction work) to be furnished or undertaken in the Republic of Korea for purpose of, or authorized by, this Agreement, without restriction as to choice of contractor, supplier or person who provides such services. Such materials, supplies, equipment and services may, upon agreement between the appropriate authorities of the two Governments, also be procured through the Government of the Republic of Korea.

2. Materials, supplies, equipment and services which are required from local sources for the maintenance of the United States armed forces and the procurement of which may have an adverse effect on the economy of the Republic of Korea shall be procured in coordination with, and, when desirable, through or with the assistance of, the competent authorities of the Republic of Korea.

3. Materials, supplies, equipment and services procured for official purposes in the Republic of Korea by the United States armed forces, including their authorized procurement agencies, or procured for ultimate use by the United States armed forces shall be exempt from the following Korean taxes upon appropriate certification in advance by the United States armed forces :

(*a*) commodity tax ;
(*b*) traffic tax ;
(*c*) petroleum tax ;
(*d*) electricity and gas tax ;
(*e*) business tax.

With respect to any present or future Korean taxes not specifically referred to in this Article which might be found to constitute a significant and readily identifiable part of the gross purchase price of materials, supplies,

equipment and services procured by the United States armed forces, or for ultimate use by such forces, the two Governments will agree upon a procedure for granting such exemption or relief therefrom as is consistent with the purpose of this Article.

4. Neither members of the United States armed forces, civilian component, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or similar charges relating to personal purchases of goods and services in the Republic of Korea chargeable under legislation of the Republic of Korea.

5. Except as such disposal may be authorized by the authorities of the United States and the Republic of Korea in accordance with mutually agreed conditions, goods purchased in the Republic of Korea exempt from taxes referred to in paragraph 3, shall not be disposed of in the Republic of Korea to persons not entitled to purchase such goods exempt from such taxes.

Article XVII

LABOR

1. In this Article the expression :

(*a*) " employer " refers to the United States armed forces (including non-appropriated fund organizations) and the persons referred to in the first paragraph of Article XV ;

(*b*) " employee " refers to any civilian (other than a member of the civilian component or a contractor employee under Article XV) employed by an employer, except (1) a member of the Korean Service Corps and (2) a domestic employed by an individual member of the United States armed forces, the civilian component or dependent thereof. Such employees shall be nationals of the Republic of Korea.

2. Employers may recruit, employ and administer their personnel. Recruitment services of the Government of the Republic of Korea will be utilized insofar as is practicable. In case employers accomplish direct recruitment of employees, employers will provide such relevant information as may be required for labor administration to the Office of Labor Affairs of the Republic of Korea.

3. To the extent not inconsistent with the provisions of this Article or the military requirements of the United States armed forces, the conditions of employment, compensation, and labor-management relations established by the United States armed forces for their employees shall conform with provisions of labor legislation of the Republic of Korea.

4. (*a*) In consideration of provision for collective action in labor legislation of the Republic of Korea, any dispute between employers and employees or any recognized employee organization, which cannot be settled through grievance or labor relations procedures of the United States armed forces, shall be settled as follows :

(i) The dispute shall be referred to the Office of Labor Affairs of the Republic of Korea for conciliation.

(ii) In the event that thed ispute is not settled by the procedure described in (i) above, the matter will be referred to the Joint Committee, which may refer the matter to a special committee designated by the Joint Committee for further conciliation efforts.

(iii) In the event that the dispute is not settled by the procedures outlined above, the Joint Committee will resolve the dispute, assuring that expeditious procedures are followed. The decisions of the Joint Committee shall be binding.

(iv) Failure of any recognized employee organization or employee to abide by the decision of the Joint Committee on any dispute, or engaging in practices disruptive of normal work requirements during settlement procedures, shall be considered just cause for the withdrawal of recognition of that organization and the discharge of that employee.

(v) Neither employee organizations nor employees shall engage in any practices disruptive of normal work requirements unless a period of at least 70 days has elapsed after the dispute is referred to the Joint Committee, as stipulated in subparagraph (ii), above.

(*b*) Employees or any employee organization shall have the right of further collective action in the event a labor dispute is not resolved by the foregoing procedures except in cases where the Joint Committee determines such action seriously hampers military operations of the United States armed forces for the joint defense of the Republic of Korea. In the event an agreement cannot be reached on this question in the Joint Committee, it may be made the subject of review through discussions between appropriate officials of the Government of the Republic of Korea and the diplomatic mission of the United States of America.

(*c*) In the event of a national emergency, such as war, hostilities, or situations where war or hostilities may be imminent, the application of this Article shall be limited in accordance with emergency measures taken by the Government of the Republic of Korea in consultation with the military authorities of the United States.

5. (*a*) Should the Republic of Korea adopt measures allocating labor, the United States armed forces shall be accorded allocation privileges no less favorable than those enjoyed by the armed forces of the Republic of Korea.

(*b*) In the event of a national emergency, such as war, hostilities, or situations where war or hostilities may be imminent, employees who have acquired skills essential to the mission of the United States armed forces shall, upon request of the United States armed forces be deferred through mutual consultation from Republic of Korea military service or other compulsory service. The United States armed forces shall furnish in advance to the Republic of Korea lists of those employees deemed essential.

6. Members of the civilian component shall not be subject to laws or regulations of the Republic of Korea with respect to their terms and condition of employment.

Article XVIII

Foreign Exchange Controls

1. Members of the United States armed forces, the civilian component and their dependents, shall be subject to the foreign exchange controls of the Government of the Republic of Korea.

2. The preceding paragraph shall not be construed to preclude the transmission into or out of the Republic of Korea of United States dollars or dollar instruments representing the official funds of the United States or realized as a result of service or employment in connection with this Agreement by members of the United States armed forces and the civilian component, or realized by such persons and their dependents from sources outside of the Republic of Korea.

3. The United States authorities shall take suitable measures to preclude the abuse of the privileges stipulated in the preceding paragraph or circumvention of the foreign exchange controls of the Republic of Korea.

Article XIX

Military Payment Certificates

1. (*a*) United States military payment certificates denominated in dollars may be used by persons authorized by the United States for internal transactions. The Government of the United States will take appropriate action to ensure that authorized personnel are prohibited from engaging in transactions involving military payment certificates except as authorized by United States regulations. The Government of the Republic of Korea will take necessary action to prohibit unauthorized persons from engaging in transactions involving military payment certificates and with the aid of United States authorities will undertake to apprehend and punish any person or persons under its jurisdiction involved in the counterfeiting or uttering of counterfeit military payment certificates.

(*b*) It is agreed that the United States authorities will, to the extent authorized by United States law, apprehend and punish members of the United States armed forces, the civilian component, or their dependents, who tender military payment certificates to unauthorized persons and that no obligation will be due to such unauthorized persons or to the Government of the Republic of Korea or its agencies from the United States or any of its agencies as a result of any unauthorized use of military payment certificates within the Republic of Korea.

2. In order to exercise control of military payment certificates the United States may designate certain American financial institutions to maintain and operate, under United States supervision, facilities for the use of persons authorized by the United States to use military payment certificates. Institutions authorized to maintain military banking facilities will establish and maintain such facilities physically separated from their Korean commercial banking business, with personnel whose sole duty is to maintain and operate such facilities. Such facilities shall be permitted to maintain United States currency bank accounts and to perform all financial transactions in connection therewith including receipt and remission of funds to the extent provided by Article XVIII, paragraph 2, of this Agreement.

Article XX

MILITARY POST OFFICES

The United States may establish and operate, within the facilities and areas in use by the United States armed forces, United States military post offices for the use of members of the United States armed forces, the civilian component, and their dependents, for the transmission of mail between United States military post offices in the Republic of Korea and between such military post offices and other United States post offices.

Article XXI

ACCOUNTING PROCEDURES

It is agreed that arrangements will be effected between the Governments of the United States and the Republic of Korea for accounting applicable to financial transactions arising out of this Agreement.

Article XXII

CRIMINAL JURISDICTION

1. Subject to the provisions of this Article,

(*a*) the military authorities of the United States shall have the right to exercise within the Republic of Korea all criminal and disciplinary jurisdiction

conferred on them by the law of the United States over members of the United States armed forces or civilian component, and their dependents;

(*b*) the authorities of the Republic of Korea shall have jurisdiction over the members of the United States armed forces or civilian component, and their dependents, with respect to offenses committed within the territory of the Republic of Korea and punishable by the law of the Republic of Korea.

2. (*a*) The military authorities of the United States shall have the right to exercise exclusive jurisdiction over members of the United States armed forces or civilian component, and their dependents, with respect to offenses, including offenses relating to its security, punishable by the law of the United States, but not by the law of the Republic of Korea.

(*b*) The authorities of the Republic of Korea shall have the right to exercise exclusive jurisdiction over members of the United States armed forces or civilian component, and their dependents, with respect to offenses, including offenses relating to the security of the Republic of Korea, punishable by its law but not by the law of the United States.

(*c*) For the purpose of this paragraph and of paragraph 3 of this Article, a security offense against a State shall include:

(i) treason against the State;

(ii) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defense of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

(*a*) The military authorities of the United States shall have the primary right to exercise jurisdiction over members of the United States armed forces or civilian component, and their dependents, in relation to:

(i) offenses solely against the property or security of the United States, or offenses solely against the person or property of another member of the United States armed forces or civilian component or of a dependent;

(ii) offenses arising out of any act or omission done in the performance of official duty.

(*b*) In the case of any other offense, the authorities of the Republic of Korea shall have the primary right to exercise jurisdiction.

(*c*) If the State having the primary right decides not to exercice jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other state considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the United States to exercise jurisdiction over persons who are nationals of or ordinarily resident in the Republic of Korea, unless they are members of the United States armed forces.

5. (*a*) The military authorities of the United States and the authorities of the Republic of Korea shall assist each other in the arrest of members of the United States armed forces, the civilian component, or their dependents in the territory of the Republic of Korea and in handing them over to the authority which is to have custody in accordance with the following provisions.

(*b*) The authorities of the Republic of Korea shall notify promptly the military authorities of the United States of the arrest of any member of the United States armed forces, or civilian component, or a dependent. The military authorities of the United States shall promptly notify the authorities of the Republic of Korea of the arrest of a member of the United States armed forces, the civilian component, or a dependent in any case in which the Republic of Korea has the primary right to exercise jurisdiction.

(*c*) The custody of an accused member of the United States armed forces or civilian component, or of a dependent, over whom the Republic of Korea is to exercise jurisdiction shall, if he is in the hands of the military authorities of the United States, remain with the military authorities of the United States pending the conclusion of all judicial proceedings and until custody is requested by the authorities of the Republic of Korea. If he is in the hands of the Republic of Korea, he shall, on request, be handed over to the military authorities of the United States and remain in their custody pending completion of all judicial proceedings and until custody is requested by the authorities of the Republic of Korea. When an accused has been in the custody of the military authorities of the United States, the military authorities of the United States may transfer custody to the authorities of the Republic of Korea at any time, and shall give sympathetic consideration to any request for the transfer of custody which may be made by the authorities of the Republic of Korea in specific cases. The military authorities of the United States shall promptly make any such accused available to the authorities of the Republic of Korea upon their request for purposes of investigation and trial, and shall take all appropriate measures to that end and to prevent any prejudice to the course of justice. They shall take full account of any special request regarding custody made by the authorities of the Republic of Korea. The authorities of the Republic of Korea shall give sympathetic consideration to a request from the military authorities of the United States for assistance in maintaining custody of an accused member of the United States armed forces, the civilian component, or a dependent.

(*d*) In respect of offenses solely against the security of the Republic of Korea provided in paragraph 2(*c*), an accused shall be in the custody of the authorities of the Republic of Korea.

6. (*a*) The military authorities of the United States and the authorities of the Republic of Korea shall assist each other in the carrying out of all necessary investigations into offenses, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(*b*) The military authorities of the United States and the authorities of the Republic of Korea shall notify each other of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7. (*a*) A death sentence shall not be carried out in the Republic of Korea by the military authorities of the United States if the legislation of the Republic of Korea does not provide for such punishment in a similar case.

(*b*) The authorities of the Republic of Korea shall give sympathetic consideration to a request from the military authorities of the United States for assistance in carrying out a sentence of imprisonment pronounced by the military authorities of the United States under the provisions of this Article within the territory of the Republic of Korea. The authorities of the Republic of Korea shall also give sympathetic consideration to a request from the authorities of the United States for the custody of any member of the United States armed forces or civilian component or a dependent, who is serving a sentence of confinement imposed by a court of the Republic of Korea. If such custody is released to the military authorities of the United States, the United States shall be obligated to continue the confinement of the individual in an appropriate confinement facility of the United States until the sentence to confinement shall have been served in full or until release from such confinement shall be approved by competent authorities of the Republic of Korea. In such cases, the authorities of the United States shall furnish relevant information on a routine basis to the authorities of the Republic of Korea, and a representative of the Government of the Republic of Korea shall have the right to have access to a member of the United States armed forces, the civilian component, or a dependent who is serving a sentence imposed by a court of the Republic of Korea in confinement facilities of the United States.

8. Where an accused has been tried in accordance with the provisions of this Article either by the military authorities of the United States or the authorities of the Republic of Korea and has been acquitted, or has been convicted and is serving, or has served, his sentence, or his sentence has been

remitted or suspended, or he has been pardoned, he may not be tried again for the same offense within the territory of the Republic of Korea by the authorities of the other State. However, nothing in this paragraph shall prevent the military authorities of the United States from trying a member of its armed forces for any violation of rules of discipline arising from an act or omission which constituted an offense for which he was tried by the authorities of the Republic of Korea.

9. Whenever a member of the United States armed forces or civilian component or a dependent is prosecuted under the jurisdiction of the Republic of Korea he shall be entitled :

(*a*) to a prompt and speedy trial ;

(*b*) to be informed, in advance of trial, of the specific charge or charges made against him ;

(*c*) to be confronted with the witnesses against him ;

(*d*) to have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of the Republic of Korea ;

(*e*) to have legal representation of his own choice for his defense or to have free or assisted legal representation under the conditions prevailing for the time being in the Republic of Korea ;

(*f*) if he considers it necessary, to have the services of a competent interpreter ; and

(*g*) to communicate with a representative of the Government of the United States and to have such a representative present at his trial.

10. (*a*) Regularly constituted military units or formations of the United States armed forces shall have the right to police any facilities or areas which they use under Article II of this Agreement. The military police of such forces may take all appropriate measures to ensure the maintenance of order and security within such facilities and areas.

(*b*) Outside these facilities and areas, such military police shall be employed only subject to arrangements with the authorities of the Republic of Korea and in liaison with those authorities, and insofar as such employment is necessary to maintain discipline and order among the members of the United States armed forces, or ensure their security.

11. In the event of hostilities to which the provisions of Article II of the Mutual Defense Treaty apply, the provisions of this Agreement pertaining to criminal jurisdiction shall be immediately suspended and the military authorities of the United States shall have the right to exercise exclusive jurisdiction over members of the United States armed forces, the civilian component, and their dependents.

12. The provisions of this Article shall not apply to any offenses committed before the entry into force of this Agreement. Such cases shall be governed by the provisions of the Agreement between the United States of America and the Republic of Korea effected by an exchange of notes at Taejon on July 12, 1950. [1]

Article XXIII

CLAIMS

1. Each Party waives all its claims against the other Party for damage to any property owned by it and used by its armed forces, if such damage:

(*a*) was caused by a member or an employee of the armed forces of the other Party, in performance of his official duties; or

(*b*) arose from the use of any vehicle, vessel or aircraft owned by the other Party and used by its armed forces, provided either that the vehicle, vessel or aircraft causing the damage was being used for official purposes or that the damage was caused to property being so used.

Claims for maritime salvage by one Party against the other Party shall be waived, provided that the vessel or cargo salved was owned by the other Party and being used by its armed forces for official purposes.

2. (*a*) In the case of damage caused or arising as stated in paragraph 1 to other property owned by either Party, the issue of liability of the other Party shall be determined and the amount of damage shall be assessed, unless the two Governments agree otherwise, by a sole arbitrator selected in accordance with subparagraph (*b*) of this paragraph. The arbitrator shall also decide any counterclaims arising out of the same incident.

(*b*) The arbitrator referred to in subparagraph (*a*) above shall be selected by agreement between the two Governments from among the nationals of the Republic of Korea who hold or have held high judicial office.

(*c*) Any decision taken by the arbitrator shall be binding and conclusive upon the Parties.

(*d*) The amount of any compensation awarded by the arbitrator shall be distributed in accordance with the provisions of paragraph 5 (*e*) (i), (ii) and (iii) of this Article.

(*e*) The compensation of the arbitrator shall be fixed by agreement between the two Governments and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by them.

[1] United Nations, *Treaty Series*, Vol. 222, p. 229.

(*f*) Each Party waives its claim in any such case up to the amount of 1,400 United States dollars or its equivalent in Korean currency at the rate of exchange provided for in the Agreed Minute to Article XVIII at the time the claim is filed.

3. For the purpose of paragraphs 1 and 2 of this Article the expression " owned by a Party " in the case of a vessel includes a vessel on bare boat charter to that Party or requisitioned by it on bare boat terms or seized by it in prize (except to the extent that the risk of loss or liability is borne by some person other than such Party).

4. Each Party waives all its claims against the other Party for injury or death suffered by any member of its armed forces while such member was engaged in the performance of his official duties.

5. Claims (other than contractual claims and those to which paragraph 6 or 7 of this Article apply) arising out of acts or omissions of members or employees of the United States armed forces, including those employees who are nationals of or ordinarily resident in the Republic of Korea, done in the performance of official duty, or out of any other act, omission or occurrence for which the United States armed forces are legally responsible, and causing damage in the Republic of Korea to third Parties, other than the Government of the Republic of Korea, shall be dealt with by the Republic of Korea in accordance with the following provisions :

(*a*) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the Republic of Korea with respect to the claims arising from the activities of its own armed forces.

(*b*) The Republic of Korea may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by the Republic of Korea in won.

(*c*) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the Republic of Korea, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive upon the Parties.

(*d*) Every claim paid by the Republic of Korea shall be communicated to the appropriate United States authorities together with full particulars and a proposed distribution in conformity with subparagraph (*e*) (i) and (ii) below. In default of a reply within two months, the proposed distribution shall be regarded as accepted.

(*e*) The cost incurred in satisfying claims pursuant to the preceding subparagraph and paragraph 2 of this Article shall be distributed between the Parties as follows

(i) Where the United States alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 percent

chargeable to the Republic of Korea and 75 percent chargeable to the United States.

(ii) Where the Republic of Korea and the United States are responsible for the damage, the amount awarded or adjudged shall be distributed equally between them. Where the damage was caused by the armed forces of the Republic of Korea or of the United States and it is not possible to attribute it specifically to one or both of those armed forces, the amount awarded or adjudged shall be distributed equally between the United States and the Republic of Korea.

(iii) Every half year, a statement of the sums paid by the Republic of Korea in the course of the half-yearly period in respect of every case regarding which the liability, amount, and proposed distribution on a percentage basis has been approved by both Governments shall be sent to the appropriate authorities of the United States, together with a request for reimbursement. Such reimbursement shall be made in won within the shortest possible time. The approval by both Governments as referred to in this subparagraph shall not prejudice any decision taken by the arbitrator or adjudication by a competent tribunal of the Republic of Korea as set forth in paragraphs 2 (*c*) and 5 (*c*) respectively.

(*f*) Members or employees of the United States armed forces, including those employees who are nationals of or ordinarily resident in the Republic of Korea, shall not be subject to any proceedings for the enforcement of any judgment given against them in the Republic of Korea in a matter arising from the performance of their official duties.

(*g*) Except insofar as subparagraph (*e*) of this paragraph applies to claims covered by paragraph 2 of this Article, the provisions of this paragraph shall not apply to any claim arising out of or in connection with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo, other than claims for death or personal injury to which paragraph 4 of this Article does not apply.

6. Claims against members or employees of the United States armed forces (except employees who are nationals of or ordinarily resident in the Republic of Korea) arising out of tortious acts or omissions in the Republic of Korea not done in the performance of official duty shall be dealt with in the following manner :

(*a*) The authorities of the Republic of Korea shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.

(*b*) The report shall be delivered to the appropriate United States authorities, who shall then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount.

(*c*) If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the United States authorities shall make the payment themselves and inform the authorities of the Republic of Korea of their decision and of the sum paid.

(*d*) Nothing in this paragraph shall affect the jurisdiction of the courts of the Republic of Korea to entertain an action against a member or employee of the United States armed forces unless and until there has been payment in full satisfaction of the claim.

7. Claims arising out of the unauthorized use of any vehicle of the United States armed forces shall be dealt with in accordance with paragraph 6 of this Article, except insofar as the United States armed forces are legally responsible.

8. If a dispute arises as to whether a tortious act or omission of a member or an employee of the United States armed forces was done in the performance of official duty or as to whether the use of any vehicle of the United States armed forces was unauthorized, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2(*b*) of this Article, whose decision on this point shall be final and conclusive.

9. (*a*) The United States shall not claim immunity from the jurisdiction of the courts of the Republic of Korea for members or employees of the United States armed forces in respect of the civil jurisdiction of the courts of the Republic of Korea except in respect of proceedings for the enforcement of any judgment given against them in the Republic of Korea in a matter arising from the performance of their official duties or except after payment in full satisfaction of a claim.

(*b*) In the case of any private movable property, excluding that in use by the United States armed forces, which is subject to compulsory execution under the law of the Republic of Korea, and is within the facilities and areas in use by the United States armed forces, the authorities of the United States shall, upon the request of the courts of the Republic of Korea, render all assistance within their power to see that such property is turned over to the authorities of the Republic of Korea.

(*c*) The authorities of the United States and the Republic of Korea shall cooperate in the procurement of evidence for a fair disposition of claims under this Article.

10. Disputes arising out of contracts concerning the procurement of materials, supplies, equipment, or services by or for the United States armed forces, which are not resolved by the Parties to the contract concerned, may be submitted to the Joint Committee for conciliation, provided that the provisions of this paragraph shall not prejudice any right, which Parties to the contract may have, to file a civil suit.

11. Paragraphs 2 and 5 of this Article shall apply only to claims arising incident to non-combat activities.

12. For the purposes of this Article, members of the Korean Augmentation to the United States Army (KATUSA) shall be considered as member of the United States armed forces.

13. The provisions of this Article shall not apply to any claims which arose before the entry into force of this Agreement. Such claims shall be processed and settled by the authorities of the United States.

Article XXIV

VEHICLE AND DRIVER'S LICENSES

1. The Republic of Korea shall accept as valid, without a driving test or fee, the driving permit or license or military driving permit issued by the United States, or political subdivision thereof, to a member of the United States armed forces, the civilian component, and their dependents.

2. Official vehicles of the United States armed forces and the civilian component shall carry distinctive numbered plates or individual markings which will readily identify them.

3. The Government of the Republic of Korea will license and register those vehicles privately owned by members of the United States armed forces, the civilian component, or dependents. The names of the owners of such vehicles and such other pertinent information as is required by the law of the Republic of Korea to effect the licensing and registration of such vehicles shall be furnished to the Government of the Republic of Korea by officials of the Government of the United States through the Joint Committee. Except for the actual cost of the issuance of license plates, members of the United States armed forces, the civilian component, and their dependents shall be exempt from the payment of all fees and charges relating to the licensing, registration, or operation of vehicles in the Republic of Korea and, in accordance with the provisions of Article XIV, from the payment of all taxes relating thereto.

Article XXV

SECURITY MEASURES

The United States and the Republic of Korea will cooperate in taking such steps as may from time to time be necessary to ensure the security of the United States armed forces, the members thereof, the civilian component, the persons who are present in the Republic of Korea pursuant to Article XV, their dependents and their property. The Government of the Republic of Korea agrees to seek such legislation and to take such other action as may

be necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records, and official information of the United States and, consistent with Article XXII, to ensure the punishment of offenders under the applicable laws of the Republic of Korea.

Article XXVI

HEALTH AND SANITATION

Consistent with the right of the United States to furnish medical support for its armed forces, civilian component and their dependents, matters of mutual concern pertaining to the control and prevention of diseases and the coordination of other public health, medical, sanitation, and veterinary services shall be resolved by the authorities of the two Governments in the Joint Committee established under Article XXVIII.

Article XXVII

ENROLLMENT AND TRAINING OF RESERVISTS

The United States may enroll in its reserve forces and train, in the Republic of Korea, eligible United States citizens who are in the Republic of Korea.

Article XXVIII

JOINT COMMITTEE

1. A Joint Committee shall be established as the means for consultation between the Government of the United States and the Government of the Republic of Korea on all matters requiring mutual consultation regarding the implementation of this Agreement except where otherwise provided. In particular, the Joint Committee shall serve as the means for consultation in determining the facilities and areas in the Republic of Korea which are required for the use of the United States in carrying out the purposes of this Agreement.

2. The Joint Committee shall be composed of a representative of the Government of the United States and a representative of the Government of the Republic of Korea, each of whom shall have one or more deputies and a staff. The Joint Committee shall determine its own procedures, and arrange for such auxiliary organs and administrative services as may be required. The Joint Committee shall be so organized that it may meet immediately at any time at the request of the representative of either the Government of the United States or the Government of the Republic of Korea.

3. If the Joint Committee is unable to resolve any matter, it shall refer that matter to the respective Governments for further consideration through appropriate channels.

Article XXIX

ENTRY INTO FORCE OF AGREEMENT

1. This Agreement shall enter into force three months after the date of a written notification from the Government of the Republic of Korea to the Government of the United States that it has approved the Agreement in accordance with its legal procedures.

2. The Government of the Republic of Korea shall undertake to seek from its legislature all legislative and budgetary action necessary to give effect to the provisions of this Agreement.

3. Subject to the provisions of Article XXII, paragraph 12, this Agreement shall, upon its entry into force, supersede and replace the Agreement between the Government of the United States and the Government of the Republic of Korea on jurisdictional matters, effected by an exchange of notes at Taejon on July 12, 1950.

4. Within the scope of this Agreement, paragraph 13 of Article III of the Agreement on Economic Coordination between the Republic of Korea and the Unified Command of May 24, 1952, [1] shall not apply to members of the United States armed forces, civilian component, invited contractors, or dependents thereof.

Article XXX

REVISION OF AGREEMENT

Either Government may at any time request the revision of any Article of this Agreement, in which case the two Governments shall enter into negotiations through appropriate channels.

Article XXXI

DURATION OF AGREEMENT

This Agreement, and agreed revisions thereof, shall remain in force while the Mutual Defense Treaty between the United States and the Republic of Korea remains in force unless terminated earlier by agreement between the two Governments.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

[1] United Nations, *Treaty Series*, Vol. 179, p. 23.

DONE in duplicate, in the English and Korean languages. Both texts shall have equal authenticity, but in case of divergence the English text shall prevail.

DONE at Seoul this ninth day of July 1966.

For the United States of America :

Dean RUSK

Winthrop P. BROWN
[SEAL]

For the Republic of Korea :

TONG WON LEE

POK KEE MIN
[SEAL]

AGREED MINUTES TO THE AGREEMENT UNDER ARTICLE IV OF THE MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA, REGARDING FACILITIES AND AREAS AND THE STATUS OF UNITED STATES ARMED FORCES IN THE REPUBLIC OF KOREA

The Plenipotentiaries of the United States of America and the Republic of Korea wish to record the following understanding which they have reached during the negotiations for the Agreement under Article IV of the Mutual Defense Treaty between the United States of America and the Republic of Korea, Regarding Facilities and Areas and the Status of United States Armed Forces in the Republic of Korea, signed today :

Article I

With regard to subparagraph (*b*), it is recognized that persons possessing certain skills, not available from United States or Korean sources, who are nationals of third states, may be brought into the Republic of Korea by the United States armed forces solely for employment by the United States armed forces. Such persons, and third state nationals who are employed by, serving with, or accompanying the United States armed forces in the Republic of Korea when this Agreement becomes effective, shall be considered as members of the civilian component.

Article III

It is agreed that in the event of an emergency, the United States armed forces shall be authorized to take such measures in the vicinity of the facilities and areas as may be necessary to provide for their safeguarding and control.

Article IV

1. All removable facilities erected or constructed by or on behalf of the United States at its expense and all equipment, material and supplies brought into or procured in the Republic of Korea by or on behalf of the United States in connection with the construction, development, operation, maintenance, safeguarding and control of the facilities and areas will remain the property of the United States Government and may be removed from the Republic of Korea.

2. All removable facilities, equipment and material or portions thereof provided by the Republic of Korea under this Agreement and located within the facilities and areas referred to in this Article shall be returned to the

Republic of Korea whenever they are no longer needed for the purpose of this Agreement.

Article VI

1. It is understood that any changes determined by the authorities of the Republic of Korea in priorities, conditions, and rates or tariffs, applicable to the United States armed forces shall be the subject of consultation in the Joint Committee prior to their effective date.

2. This Article will not be construed as in any way abrogating the Utilities Claims Settlement Agreement of December 18, 1958, [1] which continues in full force and effect unless otherwise agreed by the two Governments.

3. In an emergency the Republic of Korea agrees to take appropriate measures to assure provision of utilities and services necessary to meet the needs of the United States armed forces.

Article VIII

1. With regard to paragraph 3 (*a*), United States armed forces law enforcement personnel (such as Military Police, Shore Patrol, Air Police, Office of Special Investigations, Criminal Investigation Division, and Counterintelligence Corps), who engage in military police activities in the Republic of Korea, will carry a bilingual identity card containing the bearer's name, position, and the fact that he is a member of a law enforcement agency. This card will be shown upon request to persons concerned when the bearer is in the performance of duty.

2. The United States armed forces will furnish, upon request, to the authorities of the Republic of Korea the form of the identification cards of the members of the United States armed forces, the civilian component, and their dependents and descriptions of the various uniforms of the United States armed forces in the Republic of Korea.

3. The final sentence of paragraph 3 means that members of the United States armed forces will display their identity cards upon request but will not be required to surrender them to authorities of the Republic of Korea.

4. Following a change of status pursuant to paragraph 5, the responsibilities of the United States authorities under paragraph 6 shall arise only if the expulsion order is issued within a reasonable time after the notice under paragraph 5 has been communicated to the authorities of the Republic of Korea.

[1] United Nations, *Treaty Series*, Vol. 325, p. 233.

Article IX

1. The quantity of goods imported under paragraph 2 by non-appropriated fund organizations of the United States armed forces for the use of persons authorized by Article XIII and its Agreed Minute shall be limited to the extent reasonably required for such use.

2. Paragraph 3(*a*) does not require concurrent shipment of goods with travel of owner nor does it require single loading or shipment. In this connection, members of the United States armed forces or civilian component and their dependents may import free of duty reasonable quantities of their furniture, household goods and personal effects during a period of six months from the date of their first arrival.

3. The term " military cargo " as used in paragraph 5(*c*) is not confined to arms and equipment but refers to all cargo consigned to the United States armed forces (including their authorized procurement agencies and their non-appropriated fund organizations provided for in Article XIII). Pertinent information on cargo consigned to non-appropriated fund organizations will be furnished on a routine basis to the authorities of the Republic of Korea. The extent of the pertinent information will be determined by the Joint Committee.

4. The United States armed forces will take every practicable measure to ensure that goods will not be imported into the Republic of Korea by or for the members of the United States armed forces, the civilian component, or their dependents, the entry of which would be in violation of customs laws and regulations of the Republic of Korea. The United States armed forces will promptly notify customs authorities of the Republic of Korea whenever the entry of such goods is discovered.

5. The customs authorities of the Republic of Korea may, if they consider that there has been an abuse or infringement in connection with the entry of goods under Article IX, take up the matter with the appropriate authorities of the United States armed forces.

6 The words " The United States armed forces shall render all assistance within their power, " etc., in paragraph 9 (*b*) and (*c*) refer to reasonable and practicable measures by the United States armed forces.

7. It is understood that the duty-free treatment provided in paragraph 2 shall apply to materials, supplies, and equipment imported for sale through commissaries and non-appropriated fund organizations, under such regulations as the United States armed forces may promulgate, to those individuals and organizations referred to in Article XIII and its Agreed Minute.

Article X

1. " United States and foreign vessels... operated by, for, or under the control of the United States for official purposes " means public vessels and chartered vessels (bare boat charter, voyage charter and time charter). Space charter is not included. Commercial cargo and private passengers are carried by them only in exceptional cases.

2. The ports of the Republic of Korea mentioned herein will ordinarily mean „ open ports ".

3. The exemption from making the " appropriate notification " referred to in paragraph 3 will apply only in unusual cases where such is required for security of the United States armed forces or similar reasons.

4. The laws and regulations of the Republic of Korea will be applicable except as specifically provided otherwise in this Article.

Article XII

Installation by the United States armed forces of permanent navigational aids for vessels and aircraft outside of facilities and areas in use by the United States armed forces will be effected in accordance with the procedures established under paragraph 1 of Article III.

Article XIII

The United States armed forces may grant the use of the organizations referred to in paragraph 1 of Article XIII to : (*a*) other officers or personnel of the Government of the United States ordinarily accorded such privileges ; (*b*) those other non-Korean armed forces in the Republic of Korea under the Unified Command which receive logistical support from the United States armed forces, and their members ; (*c*) those non-Korean persons whose presence in the Republic of Korea is solely for the purpose of providing contract services financed by the Government of the United States ; (*d*) those organizations which are present in the Republic of Korea primarily for the benefit and service of the United States armed forces, such as the American Red Cross und the United Service Organizations, and their non-Korean personnel ; (*e*) dependents of the foregoing ; and (*f*) other persons and organizations with the express consent of the Government of the Republic of Korea.

Article XV

1. The execution of contracts with the United States in addition to those specified in paragraph 1 of Article XV shall not exclude the persons provided for in Article XV from the application of that Article.

2. Contractor employees who are present in the Republic of Korea on the effective date of this Agreement and who would qualify for the privileges contained in Article XV but for the fact that they are not ordinarily resident in the United States shall be entitled to enjoy such privileges so long as their presence is for the purpose stated in paragraph 1 of Article XV.

Article XVI

1. The United States armed forces will furnish the authorities of the Republic of Korea with appropriate information as far in advance as practicable on anticipated major changes in their procurement program in the Republic of Korea.

2. The problem of a satisfactory settlement of difficulties with respect to procurement contracts arising out of differences between economic laws and business practices of the Republic of Korea and the United States will be studied by the Joint Committee or other appropriate representatives.

3. The procedures for securing exemptions from taxation on purchases of goods for ultimate use by the United States armed forces will be as follows:

(*a*) Upon appropriate certification by the United States armed forces that materials, supplies and equipment consigned to or destined for such forces, are to be used, or wholly or partially used up, under the supervision of such forces, exclusively in the execution of contracts for the construction, maintenance or operation of the facilities and areas referred to in Article V or for the support of the forces therein, or are ultimately to be incorporated into articles or facilities used by such forces, an authorized representative of such forces shall take delivery of such materials, supplies and equipment directly from manufacturers thereof. In such circumstances the collection of taxes referred to in Article XVI, paragraph 3, shall be held in abeyance.

(*b*) The receipt of such materials, supplies and equipment in the facilities and areas shall be confirmed by an authorized representative of the United States armed forces to the authorities of the Republic of Korea.

(*c*) Collection of the taxes on such materials, supplies and equipment shall be held in abeyance until

(i) the United States armed forces confirm and certify the quantity or degree of consumption of the above referred to materials, supplies and equipment, or

(ii) the United States armed forces confirm and certify the amount of the above referred to materials, supplies, and equipment which have been incorporated into articles or facilities used by the United States armed forces.

(*d*) Materials, supplies and equipment certified under (*c*) (i) or (ii) shall be exempt from taxes referred to in Article XVI, paragraph 3, insofar as the price thereof is paid out of appropriations of the Government of the United States or out of funds contributed by the Government of the Republic of Korea for disbursement by the Government of the United States.

4. Regarding paragraph 3 it is understood that " materials, supplies, equipment and services procured for official purposes " refers to direct procurement by the United States armed forces or their authorized procurement agencies from Korean suppliers. " Materials supplies, equipment and services procured for ultimate use " refers to procurement by contractors of the United States armed forces from Korean suppliers of items to be incorporated into or necessary for the production of the end product of their contracts with the United States armed forces.

Article XVII

1. It is understood that the Government of the Republic of Korea shall be reimbursed for direct costs incurred in providing assistance requested pursuant to paragraph 2.

2. The undertaking of the Government of the United States to conform to the provisions of labor legislation of the Republic of Korea does not imply any waiver by the Government of the United States of its immunities under international law. The Government of the United States may terminate employment at any time the continuation of such employment is inconsistent with the military requirements of the United States armed forces.

3. Employers will withhold from the pay of their employees, and pay over to the Government of the Republic of Korea, withholdings required by the income tax legislation of the Republic of Korea.

4. When employers cannot conform with provisions of labor legislation of the Republic of Korea applicable under this Article on account of the military requirements of the United States armed forces, the matter shall be referred, in advance, to the Joint Committee for consideration and appropriate action. In the event mutual agreement cannot be reached in the Joint Committee regarding appropriate action, the issue may be made the subject of review through discussions between appropriate officials of the Government of the Republic of Korea and the diplomatic mission of the United States of America.

5. A union or other employee group shall be recognized by the employers unless its objectives are inimical to the common interests of the United States and the Republic of Korea. Membership or non-membership in such groups shall not be a factor in employment or other actions affecting employees.

Article XVIII

Payment in the Republic of Korea by the United States armed forces, including those organizations provided for in Article XIII, to persons other than members of the United States armed forces, civilian component, their dependents and those persons referred to in Article XV shall be effected in accordance with the Foreign Exchange Control Law and regulations of the Republic of Korea. The funds to be used for these transactions shall be convertible into currency of the Republic of Korea at the highest rate in terms of the number of Korean won per United States dollar which, at the time the conversion is made, is not unlawful in the Republic of Korea.

Article XX

United States military post offices may be used by other officers and personnel of the Government of the United States, and their dependents, ordinarily accorded such privileges abroad.

Article XXII

The provisions of this Article shall not affect existing agreements, arrangements, or practices, relating to the exercise of jurisdiction over personnel of the United Nations forces present in the Republic of Korea other than forces of the United States.

Re Paragraph 1 (*a*)

It is understood that under the present state of United States law, the military authorities of the United States have no effective criminal jurisdiction in peacetime over members of the civilian component or dependents. If the scope of United States military jurisdiction changes as a result of subsequent legislation, constitutional amendment, or decision by appropriate authorities of the United States, the Government of the United States shall inform the Government of the Republic of Korea through diplomatic channels.

Re Paragraph 1 (*b*)

1. In the event that martial law is declared by the Republic of Korea, the provisions of this Article shall be immediately suspended in the part of the Republic of Korea under martial law, and the military authorities of the United States shall have the right to exercise exclusive jurisdiction over members of the United States armed forces or civilian component, and their dependents, in such part until martial law is ended.

2. The jurisdiction of the authorities of the Republic of Korea over members of the United States armed forces or civilian component, and their dependents, shall not extend to any offenses committed outside the Republic of Korea.

Re Paragraph 2

The Republic of Korea, recognizing the effectiveness in appropriate cases of the administrative and disciplinary sanctions which may be imposed by the United States authorities over members of the United States armed forces or civilian component, and their dependents, may, at the request of the military authorities of the United States, waive its right to exercise jurisdiction under paragraph 2.

Re Paragraph 2 (*c*)

Each Government shall inform the other of the details of all security offenses mentioned in this subparagraph, and of the provisions regarding such offenses in its legislation.

Re Paragraph 3 (*a*)

1. Where a member of the United States armed forces or civilian component is charged with an offense, a certificate issued by competent military authorities of the United States stating that the alleged offense, if committed by him, arose out of an act or omission done in the performance of official duty shall be sufficient evidence of the fact for the purpose of determining primary jurisdiction. The term " official duty " as used in this Article and Agreed Minute is not meant to include all acts by members of the United States armed forces and the civilian component during periods when they are on duty, but is meant to apply only to acts which are required to be done as functions of those duties which the individuals are performing.

2. In those exceptional cases where the Chief Prosecutor for the Republic of Korea considers that there is proof contrary to a certificate of official duty, it shall be made the subject of review through discussions between appropriate officials of the Government of the Republic of Korea and the diplomatic mission of the United States in the Republic of Korea.

Re Paragraph 3 (*b*)

1. The authorities of the Republic of Korea, recognizing that it is the primary responsibility of the military authorities of the United States to maintain good order and discipline where persons subject to United States military laws are concerned, will, upon the request of the military authorities of the United States pursuant to paragraph 3 (*c*), waive their primary right to exercise jurisdiction under paragraph 3 (*b*) except when they determine that it is of particular importance that jurisdiction be exercised by the authorities of the Republic of Korea.

2. With the consent of the competent authorities of the Republic of Korea, the military authorities of the United States may transfer to the courts or authorities of the Republic of Korea for investigation, trial and decision, particular criminal cases in which jurisdiction rests with the United States.

With the consent of the military authorities of the United States, the competent authorities of the Republic of Korea may transfer to the military authorities of the United States for investigation, trial and decision, particular criminal cases in which jurisdiction rests with the Republic of Korea.

3. (*a*) Where a member of the United States armed forces or civilian component, or a dependent, is arraigned before a court of the United States, for an offense committed in the Republic of Korea against Korean interests, the trial shall be held within the Republic of Korea.

(i) except where the law of the United States requires otherwise, or

(ii) except where, in cases of military exigency or in the interests of justice, the military authorities of the United States intend to hold the trial outside the Republic of Korea. In this event they shall afford the authorities of the Republic of Korea timely opportunity to comment on such intention and shall give due consideration to any comments the latter may make.

(*b*) Where the trial is held outside of the Republic of Korea the military authorities of the United States shall inform the authorities of the Republic of Korea of the place and date of the trial. A representative of the Republic of Korea shall be entitled to be present at the trial. The authorities of the United States shall inform the authorities of the Republic of Korea of the judgment and the final outcome of the proceedings.

4. In the implementation of the provisions of this Article, and to facilitate the expeditious disposal of offenses, arrangements may be made between the competent authorities of the Republic of Korea and the military authorities of the United States.

Re Paragraph 6

1. The military authorities of the United States and the authorities of the Republic of Korea shall assist each other in obtaining the appearance of witnesses necessary for the proceedings conducted by such authorities within the Republic of Korea.

When a member of the United States armed forces in the Republic of Korea is summoned to appear before a court of the Republic of Korea, as a witness or as a defendant, United States military authorities shall, unless military exigency requires otherwise, secure his attendance provided such attendance is compulsory under the law of the Republic of Korea. If military exigency prevents such attendance, the military authorities of the United States shall furnish a certificate stating the estimated duration of such disability.

Service of process upon a member of the United States armed forces or civilian component, or a dependent required as a witness or a defendant must be personal service in the English language. Where the service of process is to be effected by a process server of the Republic of Korea upon any person

who is inside a military installation or area, the military authorities of the United States shall take all measures necessary to enable the process server to effect such service.

In addition, the authorities of the Republic of Korea shall promptly give copies of all criminal writs (including warrants, summonses, indictments, and subpoenas) to an agent designated by the United States military authorities to receive them in all cases of criminal proceedings of the Republic of Korea involving a member of the United States armed forces or civilian component, or a dependent.

When citizens or residents of the Republic of Korea are required as witnesses or experts by the military authorities of the United States, the courts and authorities of the Republic of Korea shall, in accordance with the law of the Republic of Korea, secure the attendance of such persons. In these cases the military authorities of the United States shall act through the Attorney General of the Republic of Korea, or such other agency as is designated by the authorities of the Republic of Korea.

Fees and other payments for witnesses shall be determined by the Joint Committee established under Article XXVIII.

2. The privileges and immunities of witnesses shall be those accorded by the law of the court, tribunal or authority before which they appear. In no event shall a witness be required to provide testimony which may tend to incriminate him.

3. If, in the course of criminal proceedings before authorities of the United States or the Republic of Korea, the disclosure of an official secret of either of these States or the disclosure of any information which may prejudice the security of either appears necessary for the just disposition of the proceedings, the authorities concerned shall seek written permission to make such disclosure from the appropriate authority of the State concerned.

Re Paragraph 9 (*a*)

The right to a prompt and speedy trial by the courts of the Republic of Korea shall include public trial by an impartial tribunal composed exclusively of judges who have completed their probationary period. A member of the United States armed forces, or civilian component, or a dependent, shall not be tried by a military tribunal of the Republic of Korea.

Re Paragraph 9 (*b*)

A member of the United States armed forces or civilian component, or a dependent, shall not be arrested or detained by the authorities of the Republic of Korea without adequate cause, and he shall be entitled to an immediate hearing at which such cause must be shown in open court in his presence and the presence of his counsel. His immediate release shall be ordered if adequate cause is not shown. Immediately upon arrest or detention

he shall be informed of the charges against him in a language which he understands.

He shall also be informed a reasonable time prior to trial of the nature of the evidence that is to be used against him. Counsel for the accused shall, upon request, be afforded the opportunity before trial to examine and copy the statements of witnesses obtained by authorities of the Republic of Korea which are included in the file forwarded to the court of the Republic of Korea scheduled to try the case

Re Paragraph 9 (*c*) and (*d*)

A member of the United States armed forces or civilian component, or a dependent, who is prosecuted by the authorities of the Republic of Korea shall have the right to be present throughout the testimony of all witnesses, for and against him, in all judicial examinations, pretrial hearings, the trial itself, and subsequent proceedings, and shall be permitted full opportunity to examine the witnesses.

Re Paragraph 9 (*e*)

The right to legal representation shall exist from the moment of arrest or detention and shall include the right to have counsel present, and to consult confidentially with such counsel, at all preliminary investigations, examinations, pretrial hearings, the trial itself, and subsequent proceedings, at which the accused is present.

Re Paragraph 9 (*f*)

The right to have the services of a competent interpreter shall exist from the moment of arrest or detention.

Re Paragraph 9 (*g*)

The right to communicate with a representative of the Government of the United States shall exist from the moment of arrest or detention, and no statement of the accused taken in the absence of such a representative shall be admissible as evidence in support of the guilt of the accused. Such representative shall be entitled to be present at all preliminary investigations, examinations, pretrial hearings, the trial itself, and subsequent proceedings, at which the accused is present.

Re Paragraph 9

A member of the United States armed forces or civilian component, or a dependent, tried by the authorities of the Republic of Korea shall be accorded every procedural and substantive right granted by law to the citizens of the Republic of Korea. If it should appear that an accused has been, or is likely to be, denied any procedural or substantive right granted by law to the citizens of the Republic of Korea, representatives of the two Governments shall consult in the Joint Committee on the measures necessary to prevent or cure such denial of rights.

In addition to the rights enumerated in items (*a*) through (*g*) of paragraph 9 of this Article, a member of the United States armed forces or civilian component, or a dependent, who is prosecuted by the authorities of the Republic of Korea :

(*a*) shall have the right to appeal a conviction or sentence ;

(*b*) shall have credited to any sentence of confinement his period of pretrial confinement in a confinement facility of the United States or the Republic of Korea ;

(*c*) shall not be held guilty of a criminal offense on account of any act or omission which did not constitute a criminal offense under the law of the Republic of Korea at the time it was committed ;

(*d*) shall not be subject to a heavier penalty than the one that was applicable at the time the alleged criminal offense was committed or was adjudged by the court of first instance as the original sentence ;

(*e*) shall not be held guilty of an offense on the basis of rules of evidence or requirements of proof which have been altered to his prejudice since the date of the commission of the offense ;

(*f*) shall not be compelled to testify against or otherwise incriminate himself ;

(*g*) shall not be subject to cruel or unusual punishment ;

(*h*) shall not be subject to prosecution or punishment by legislative or executive act ;

(*i*) shall not be prosecuted or punished more than once for the same offense ;

(*j*) shall not be required to stand trial if he is physically or mentally unfit to stand trial and participate in his defense ;

(*k*) shall not be subject to trial except under conditions consonant with the dignity of the United States armed forces, including appearing in appropriate military or civilian attire and unmanacled.

No confession, admission or other statement, obtained by torture, violence, threat, deceit, or after prolonged arrest, or detention, or which has been made involuntarily, and no real evidence which has been obtained by torture, violence, threat, deceit, or as a result of an unreasonable search and seizure without a warrant, will be considered by the courts of the Republic of Korea as evidence in support of the guilt of the accused under this Article.

In any case prosecuted by the authorities of the Republic of Korea under this Article no appeal will be taken by the prosecution from a judgment of not guilty or an acquittal nor will an appeal be taken by the prosecution from any judgment which the accused does not appeal, except upon grounds of errors of law.

The military authorities of the United States shall have the right to inspect any confinement facility of the Republic of Korea in which a member of the United States armed forces, civilian component, or a dependent is confined, or in which it is proposed to confine such an individual.

In the event of hostilities, the Republic of Korea will take all possible measures to safeguard members of the United States armed forces, members of the civilian component, and their dependents who are confined in confinement facilities of the Republic of Korea, whether awaiting trial or serving a sentence imposed by the courts of the Republic of Korea. The Republic of Korea shall give sympathetic consideration to requests for release of these persons to the custody of responsible United States military authorities. Necessary implementing provisions shall be agreed upon between the two Governments through the Joint Committee.

Facilities utilized for the execution of a sentence to death or a period of confinement, imprisonment, or penal servitude, or for the detention of members of the United States armed forces or civilian component or dependents, will meet minimum standards as agreed by the Joint Committee. The military authorities of the United States shall have the right upon request to have access at any time to members of the United States armed forces, the civilian component, or their dependents who are confined or detained by authorities of the Republic of Korea. During the visit of these persons at confinement facilities of the Republic of Korea, military authorities of the United States shall be authorized to provide supplementary care and provisions for such persons, such as clothing, food, bedding, and medical and dental treatment.

Re Paragraph 10 (*a*) and 10 (*b*)

1. The military authorities of the United States will normally make all arrests within facilities and areas in use by the United States armed forces. This shall not preclude the authorities of the Republic of Korea from making arrests within facilities and areas in cases where the competent authorities of the United States armed forces have given consent, or in cases of pursuit of a flagrant offender who has committed a serious crime.

Where persons whose arrest is desired by the authorities of the Republic of Korea, and who are not members of the United States armed forces or civilian component or dependents, are within facilities and areas in use by the United States armed forces, the military authorities of the United States will undertake, upon request, to arrest such persons. Any person arrested by the military authorities of the United States who is not a member of the United States armed forces or civilian component or a dependent shall immediately be turned over to the authorities of the Republic of Korea.

The military authorities of the United States may arrest or detain in the vicinity of a facility or area any person in the commission or attempted commission of an offense against the security of that facility or area. Any

such person who is not a member of the United States armed forces or civilian component or a dependent shall immediately be turned over to the authorities of the Republic of Korea.

2. The authorities of the Republic of Korea will normally not exercise the right of search, seizure, or inspection with respect to any person or property within facilities and areas in use by the United States armed forces or with respect to property of the United States wherever situated, except in cases where the competent military authorities of the United States consent to such search, seizure, or inspection by the authorities of the Republic of Korea of such persons or property.

Where search, seizure, or inspection with respect to persons or property within facilities and areas in use by the United States armed forces or with respect to property of the United States in the Republic of Korea is desired by the authorities of the Republic of Korea, the military authorities of the United States will undertake, upon request, to make such search, seizure, or inspection. In the event of a judgment concerning such property, except property owned or utilized by the Government of the United States or its instrumentalities, the United States will in accordance with its laws turn over such property to the authorities of the Republic of Korea for disposition in accordance with the judgment.

Article XXIII

1. Unless otherwise provided, the provisions of paragraphs 5, 6, 7 and 8 of this Article will become effective six months from the date of entry into force of this Agreement with respect to claims arising from incidents in the Seoul Special City area, and one year from that date with respect to claims arising elsewhere in the Republic of Korea.

2. Until such time as the provisions of paragraphs 5, 6, 7 and 8 become effective in any given area :

(*a*) The United States shall process and settle claims (other than contractual claims) arising out of the acts or omissions of members or employees of the United States armed forces done in the performance of official duty or out of any other act, omission or occurrence for which the United States armed forces are legally responsible, which cause damage in the Republic of Korea to Parties other than the two Governments ;

(*b*) The United States shall entertain other non-contractual claims against members or employees of the armed forces and may offer an *ex gratia* payment in such cases and in such amounts as is determined by the appropriate United States authorities ; and

(*c*) Each Party shall have the right to determine whether a member or employee of its armed forces was engaged in the performance of official duties and whether property owned by it was being used by its armed forces for official purposes.

3. For the purposes of subparagraph 2 (*d*), subparagraph 5(*e*), shall be effective throughout the Republic of Korea from the date of entry into force of this Agreement.

Article XXVIII

The exception provided for in the first sentence of paragraph 1 is relevant only to paragraph 2, subparagraphs (*b*) and (*c*) of Article III.

Seoul, July 9, 1966.

AGREED UNDERSTANDINGS TO THE AGREEMENT UNDER ARTICLE IV OF THE MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA, REGARDING FACILITIES AND AREAS AND THE STATUS OF UNITED STATES ARMED FORCES IN THE REPUBLIC OF KOREA AND RELATED AGREED MINUTES

Article IX

Paragraph 5

1. Examination of parcels in the United States military post office mails in the Republic of Korea by customs inspectors of the Republic of Korea will be conducted so as not to damage the contents of the parcels inspected or delay delivery of the mail.

2. Such examinations will be conducted in United States military post office installations in the presence of United States officials.

3. No parcel in the military post office mails will be removed from United States postal channels except as mutually agreed.

4. It is understood that the right of inspection will be exercised on a " sample check " basis so as not to unduly delay delivery or increase the administrative burden of the postal authorities.

Agreed Minute 3

1. Pertinent information shall include cargo manifests and shipping documents.

2. In addition to information provided on a routine basis, other pertinent information will be provided on request through the Joint Committee.

Article XIII

Agreed Minute

It is understood that the present use of non-appropriated fund organizations by organizations and persons other than those referred to in items (*a*), (*b*), (*c*), (*d*), and (*e*) shall immediately be suspended at the time of the entry into force of this Agreement. The extent of organizations and persons to be granted the use of such organizations under item (*f*) of this Minute shall be left to further negotiations between the appropriate authorities of the two Governments.

Article XV

Paragraph 1

If the United States authorities determine that there would be significant advantage for United States-Republic of Korea mutual defense to utilize

one or more third-country corporations as United States armed forces invited contractors, the authorities of the Government of the Republic of Korea shall give sympathetic consideration to a United States request to extend the benefits of this Agreement to such non-United States corporations.

Paragraph 8

Unless otherwise agreed in the Joint Committee, the privileges provided for in the second sentence of paragraph 8 of this Article shall be extended only to United States nationals.

Article XVII

Paragraph 1 (*b*)

1. Local residents, who are third-country nationals and are also local-hire United States armed forces employees, and local-hire invited contractor employees paid in won, on the effective date of the Agreement, shall be excluded from the application of this provision.

2. The provisions of paragraph 1 (*b*) do not preclude the United States armed forces from bringing into the Republic of Korea, without privileges, third-country contractor employees possessing special skills not available from the Korean labor force.

Paragraph 3 and Agreed Minute 4

It is understood that the deviation from labor legislation of the Republic of Korea need not be referred to the Joint Committee in cases when such referral would seriously hamper military operations in an emergency.

Article XIX

The United States and the Republic of Korea agree that nothing in this Agreement in any way prevents the appropriate authorities of either the United States or the Republic of Korea from raising any appropriate matter at any time with each other. The United States authorities recognize the desire of the authorities of the Republic of Korea to discuss the disposal of military payment certificates under custody of the Government of the Republic of Korea. However, both the United States and Republic of Korea authorities have agreed to remove from the text of the Status of Forces Agreement any reference to the question of compensation for military payment certificates held by unauthorized persons. This agreement does not prejudice the position of either Party in connection with discussion of this question through other channels.

Article XXII

Agreed Minute Re Paragraph 1 (*a*)

The Government of the Republic of Korea agrees that, upon notification under the second sentence of the Agreed Minute Re Paragraph 1 (*a*), the military authorities of the United States may exercise jurisdiction over such persons in accordance with the terms of the Criminal Jurisdiction Article.

Paragraph 1 (*b*)

The civil authorities of the Republic of Korea will retain full control over the arrest, investigation and trial of a member of the United States armed forces or civilian component or a dependent.

Agreed Minute Re Paragraph 2

It is understood that the United States authorities shall exercise utmost restraint in requesting waivers of exclusive jurisdiction as provided for in the Agreed Minute Re Paragraph 2 of this Article.

Agreed Minute Re Paragraph 3 (*a*)

1. With regard to the Agreed Minute Re Paragraph 3 (*a*), a substantial departure from the acts a person is required to perform in a particular duty usually will indicate an act outside of his "official duty".

2. A duty certificate shall be issued only upon the advice of a Staff Judge Advocate, and the competent authority issuing the duty certificate shall be a general grade officer.

3. (*a*) The certificate will be conclusive unless modification is agreed upon. The United States authorities shall give due consideration to any objection which may be raised by the Chief Prosecutor for the Republic of Korea.

(*b*) The accused should not be deprived of his entitlement to a prompt and speedy trial as a result of protracted reconsideration of the duty certificate.

Agreed Minute Re Paragraph 3 (*b*)

1. It is understood that the term "of particular importance" has reference to those cases in which, after a careful examination of each specific case, the exercise of jurisdiction by the Republic of Korea is deemed essential, and the term has reference, in general but not exclusively, to the following types of offense:

(*a*) security offenses against the Republic of Korea;

(*b*) offenses causing the death of a human being, robbery, and rape, except where the offenses are directed against a member of the United States armed forces, the civilian component, or a dependent; and

(*c*) attempts to commit such offenses or participation therein.

2. In respect of the offenses referred to in the above paragraph, the authorities concerned shall proceed in particularly close cooperation from the beginning of the preliminary investigation in order to provide the mutual assistance envisaged in paragraph 6 of Article XXII.

3. In cases where, in the view of the United States authorities, any question arises concerning the determination that a case is one " of particular importance," the United States diplomatic mission reserves the right and expects to be afforded an opportunity to confer with the proper authorities of the Republic of Korea.

Paragraph 5

With regard to the custody of the accused in the hands of the authorities of the Republic of Korea in connection with security offenses :

1. There must be mutual United States-Republic of Korea agreement as to the circumstances in which such custody is appropriate.

2. Confinement facilities of the Republic of Korea must be adequate by United States standards.

Agreed Minute Re Paragraph 9, sub-Paragraph (*a*) of second unnumbered Paragraph

Under the appellate procedure of the courts of the Republic of Korea, the accused may request a re-examination of the evidence, including new evidence and witnesses, as a basis for new findings of fact by the appellate court.

Article XXIII

Paragraph 12

The liability for claims generated by Korean Service Corps personnel will be determined by other negotiations between the United States and the Republic of Korea.

Article XXV

In cooperating with each other under this Article, the two Governments agree that each will take such measures as may be necessary to ensure the security and protection of the United States armed forces, the members thereof, the civilian component, the persons who are present in the Republic of Korea pursuant to the Article dealing with invited contractors, their dependents and their property.

[TRANSLATION [1] — TRADUCTION [2]]

REPUBLIC OF KOREA
MINISTRY OF FOREIGN AFFAIRS

July 9, 1966

Dear Mr. Ambassador :

Today the Governments of the Republic of Korea and the United States have formally signed the agreement between the United States of America and the Republic of Korea regarding facilities and areas and the status of United States armed forces in the Republic of Korea. Article XXII of that Agreement and its Agreed Minutes provide for the exercise of jurisdiction over members of the United States armed forces, the civilian component, and their dependents in the Republic of Korea. In this regard, the Government of the Republic of Korea, conscious of the strong ties of mutual respect and friendship which bind our two countries, and recognizing the vital role which United States armed forces play in the defense of the Republic of Korea, proposes the following understandings for procedural arrangements pursuant to Paragraph 4 of the Agreed Minute Re Paragraph 3 (*b*) :

[*See letter II*]

I would be grateful for your confirmation of the above understandings.

Sincerely yours,

TONG WON LEE
Minister of Foreign Affairs

His Excellency Winthrop G. Brown
Ambassador of the United States of America
Seoul, Korea

II

SEOUL, KOREA

July 9, 1966

Dear Mr. Minister :

I have received your letter of this date on the subject of the agreement signed today between the Republic of Korea and the United States of America regarding facilities and areas and the status of United States armed

[1] Translation by the Government of the United States of America.
[2] Traduction du Gouvernement des États-Unis d'Amérique.

forces in the Republic of Korea, and confirm the following understandings contained therein with respect to the exercise of jurisdiction over members of the United States armed forces, the civilian component, and their dependents :

That, to facilitate the processing of cases resulting from the presence of United States armed forces deployed in Korea for mutual defense purposes, in implementation of the provisions of the Agreed Minute Re Paragraph 3 (*b*), the Government of the Republic of Korea will not require the military authorities of the United States to make a request for a waiver in each particular case, and the military authorities of the United States shall have jurisdiction unless the Government of the Republic of Korea determines in a specific case that it is of particular importance that jurisdiction be exercised therein by the authorities of the Republic of Korea ;

That, in the interest of expediting the administration of justice, any such determination by the Government of the Republic of Korea shall be provided in writing by the Minister of Justice to the appropriate military authorities of the United States within fifteen days after the Republic of Korea is notified or is otherwise apprised of the commission of an offense falling within its primary jurisdiction, or such shorter period as may be mutually agreed upon pursuant to Paragraph 4 of the Agreed Minute Re Paragraph 3 (*b*). The military authorities of the United States shall not exercise jurisdiction before the expiration of the fifteen days or other agreed period.

Very sincerely yours,

Winthrop G. BROWN
Ambassador

His Excellency Tong Won Lee
Minister of Foreign Affairs
of the Republic of Korea
Seoul