

**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: [¹]

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,

¹ *Ante*, p. 1.

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.

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 [²] 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

¹ TIAS 4168; 10 UST 41.

² Ante, p.10; post, pp. 96, 138.

reasonable quantities of their furniture, household goods and personal effect 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 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 Agree 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 and 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 the 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 to 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, of 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 9(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 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 ground 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 waiting 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 noncontractual 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 the 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, subparagraph (b) and (c) of Article III.

Seoul, July 9, 1966

— /Initial/
W.G.B.

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T.W.L.