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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	re legal aspects of use of force (9 pages)	03/30/1994	P1/b(1)
002a. memo	US State Dept Patrick Norton to Mr Lambertson et al re legal aspects of peace talks (31 pages)	03/19/1984	P1/b(1)
002b. memcon	re record of discussion re treaty with Japan (1 page)	01/19/1960	P1/b(1)
002c. paper	re minute, statements by Ambassador Douglas MacArthur and Foreign Minister Aichiro Fujiyama (2 pages)	06/23/1960	P1/b(1)

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Mr. Marin referred to Secretary-General Trygve Lie's appeal to the North Korean authorities and to the Republic of Korea, suggesting that both use the services of the International Red Cross to insure implementation of the Geneva conventions in the Korean conflict. The Chairman then said:

The Commission believes it will be failing in its duty if it does not make every possible effort to secure the adoption of these humanitarian measures in the present hostilities. It therefore makes a heartfelt appeal for action to be taken by the North Korean authorities and the Republic

of Korea that will ensure that no breach of the Conventions are committed by their forces.

The Commission feels deeply that at all costs anything that will further embitter relations must be avoided. It is convinced that nothing is better calculated to keep alive hatred in Korea than cruel and barbarous acts contrary to the Geneva Conventions.

The Commission is in session on the soil of Korea and will wholeheartedly support any steps which might be taken by the International Red Cross, by the Republic of Korea or by the North Korean authorities to establish measures for the application of the Conventions.

The Chairman's message was broadcast from the Commission's headquarters in Korea.

Authority of the President To Repel the Attack in Korea

DEPARTMENT OF STATE MEMORANDUM OF JULY 3, 1950¹

[Excerpts]

This memorandum is directed to the authority of the President to order the Armed Forces of the United States to repel the aggressive attack on the Republic of Korea.

As explained by Secretary Acheson to the press on June 28, as soon as word of the attack on Korea was received in Washington, it was the view of the President and of all his advisers that the first responsibility of the Government of the United States was to report the attack to the United Nations.

Accordingly, in the middle of the night of Saturday, June 24, 1950, Ambassador Gross, the United States deputy representative at the Security Council of the United Nations, notified Mr. Trygve Lie, the Secretary-General of the United Nations, that armed forces from North Korea had commenced an unprovoked assault against the territory of the Republic of Korea.

The President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof. He also has authority to conduct the foreign relations of the United States. Since the beginning of United States history, he has, upon numerous occasions, utilized these powers in sending armed forces abroad. The preservation of the United Nations for the maintenance of peace is a cardinal interest of the United States. Both traditional international law and article 39 of the United Nations Charter and the resolution pursuant thereto authorize the United States to repel the armed aggression against the Republic of Korea.

¹ This memorandum also appeared in H. Rept. 2495, 81st Cong., 2d sess., p. 61.

July 31, 1950

Constitutional Powers of the President

The President's control over the Armed Forces of the United States is based on article 2, section 2 of the Constitution which provides that he "shall be Commander in Chief of the Army and Navy of the United States."

In *United States v. Sweeney*, the Supreme Court said that the object of this provision was "evidently to vest in the President the supreme command over all the military forces,—such supreme and undivided command as would be necessary to the prosecution of a successful war."²

That the President's power to send the Armed Forces outside the country is not dependent on Congressional authority has been repeatedly emphasized by numerous writers.

For example, ex-President William Howard Taft wrote:

The President is made Commander in Chief of the Army and Navy by the Constitution evidently for the purpose of enabling him to defend the country against invasion, to suppress insurrection and to take care that the laws be faithfully executed. If Congress were to attempt to prevent his use of the Army for any of these purposes, the action would be void. . . . Again, in the carrying on of war as Commander in Chief, it is he who is to determine the movements of the Army and of the Navy. Congress could not take away from him that discretion and place it beyond his control in any of his subordinates, nor could they themselves, as the people of Athens attempted to carry on campaigns by votes in the market-place.³

Professor Willoughby writes:

As to his constitutional power to send United States forces outside the country in time of peace when this is deemed by him necessary or expedient as a means of preserving or advancing the foreign interests or relations of the United States, there would seem to be equally little doubt, although it has been contended by some that the exercise of this discretion can be limited by congressional statute. That Congress has this right to limit or to

² 157 U.S. (1895) 281, 284.

³ *Our Chief Magistrate and His Powers*, 1916, pp. 128-129.

forbid the sending of United States forces outside of the country in time of peace has been asserted by so eminent an authority as ex-Secretary Root. It would seem to author, however, that the President, under his powers as Commander in Chief of the Army and Navy, and his general control of the foreign relations of the United States, has this discretionary right constitutionally vested in him, and, therefore, not subject to congressional control. Especially, since the argument of the court in *Myers v. United States* with reference to the general character of the executive power vested in the President, and, apparently, the authority impliedly vested in him by reason of his obligation to take care that the laws be faithfully executed, it is reasonable to predict that, should the question be presented to it, the Supreme Court will so hold. Of course, if this sending is in pursuance of express provisions of a treaty, or for the execution of treaty provisions, the sending could not reasonably be subject to constitutional objection.⁴

In an address delivered before the American Bar Association in 1917 on the war powers under the Constitution, Mr. Hughes stated that "There is no limitation upon the authority of Congress to create an army and it is for the President as Commander-in-Chief to direct the campaigns of that Army wherever he may think they should be carried on." He referred to a statement by Chief Justice Taney in *Fleming v. Page* (9 How. 615) in which the Chief Justice said that as Commander in Chief the President "is authorized to direct the movements of the naval and military forces placed by law at his command."⁵

At the time the approval of the Treaty of Versailles was under consideration in the Senate, there was under discussion a reservation to article 10, presented by Senator Lodge, to the effect that "Congress . . . under the Constitution, has the sole power to declare war or authorize the employment of the military or naval forces of the United States." Senator Walsh of Montana stated in debate on November 10, 1919 that the statement was a recital of "What is asserted to be a principle of constitutional law." He said that if—

any declaration of that character should ever be made by the Senate of the United States, it would be singularly unfortunate. It is not true. It is not sound. It is fraught with the most momentous consequences, and may involve disasters the extent of which it is hardly possible to conceive.

The whole course of our history has been a refutation of such a declaration, namely, that the President of the United States, the Chief Executive of the United States, the Commander in Chief of the Army of the United States, has no power to employ the land or naval forces without any express authorization upon the part of Congress. Since the beginning of our Government, our Navy has been sent over the seven seas and to every port in the world. Was there ever any congressional act authorizing the President to do anything of that kind?

He stated that our Navy travels the sea "in order to safeguard and protect the rights of American citizens in foreign lands. Who can doubt that the President has no authority thus to utilize the naval and land forces of the United States?"

⁴ *The Constitutional Law of the United States*, 1929, vol. III, p. 1567.)

⁵ S. doc. 106, 65th Cong., 1st sess., p. 7.

Mr. Borah stated:

I agree fully with the legal or constitutional proposition which the Senator states, and I hope this [reservation] will be stricken out. It is an act of supererogation to put it in. It does not amount to anything. It is a recital which is not true.

It can not change the Constitution, and it ought not to be there. . . . It would simply be vain and futile and, if I may say so, with due respect to those who drew it, the doing of an inconsequential thing."⁶

Not only is the President Commander in Chief of the Army and Navy, but he is also charged with the duty of conducting the foreign relations of the United States and in this field he "alone has the power to speak or listen as a representative of the Nation."⁷

Obviously, there are situations in which the powers of the President as Commander in Chief and his power to conduct the foreign relations of this country complement each other.

The basic interest of the United States is international peace and security. The United States has, throughout its history, upon orders of the Commander in Chief to the Armed Forces and without congressional authorization, acted to prevent violent and unlawful acts in other states from depriving the United States and its nationals of the benefits of such peace and security. It has taken such action both unilaterally and in concert with others. A tabulation of 85 instances of the use of American Armed Forces without a declaration of war was incorporated in the *Congressional Record* for July 10, 1941.

Purposes for Sending American Troops Abroad

It is important to analyze the purposes for which the President as Commander in Chief has authorized the despatch of American troops abroad. In many instances, of course, the Armed Forces have been used to protect specific American lives and property. In other cases, however, United States forces have been used in the broad interests of American foreign policy, and their use could be characterized as participation in international police action.

The traditional power of the President to use the Armed Forces of the United States without consulting Congress was referred to in debates in the Senate in 1945. Senator Connally remarked:

The historical instances in which the President has directed armed forces to go to other countries have not been confined to domestic or internal instances at all. Senator Millikin pointed out that in many cases the President has sent troops into a foreign country to protect our foreign policy . . . notably in Central and South America. That was done, he continued, in order to keep foreign countries out of there—was not aimed at protecting any particular American citizen. It was aimed at protecting our foreign policy.

⁶ 58 Cong. Rec., pt. 8, p. 8195, Nov. 10, 1919, 66th Cong., 1st sess.

⁷ *United States v. Curtiss-Wright Export Corp. et al.* (299 U.S. (1936) 304, 319).

Charter of the United Nations we had laid down a foreign policy which we could protect, Senator Connally replied that that was absolutely correct. He added:

I was trying to indicate that fact by reading the list of instances of intervention on our part in order to keep another government out of territory in this hemisphere. That was a question of carrying out our international policy, and not a question involving the protection of some American citizen or American property at the moment.⁹

During the Boxer Rebellion in China in 1900-1901, the President sent about 5,000 troops to join with British, Russian, German, French, and Japanese troops to relieve the siege of the foreign quarters in Peking and reestablish the treaty status. This was done without express congressional authority. In defining United States policy at the time Secretary of State Hay said:

... The purpose of the President is, as it has been heretofore, to act concurrently with the other powers; first, in opening up communication with Peking and rescuing the American officials, missionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and, fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and a recurrence of such disasters. It is, of course, too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.¹⁰

After the opening up of Japan to foreigners in the 1850's through the conclusion of commercial treaties between Japan and certain Western powers, antforeign disturbances occurred. In 1863, the American Legation was burned following previous attacks on the British Legation. The commander of the U. S. S. *Wyoming* was instructed to use all necessary force for the safety of the legation or of Americans residing in Japan. Secretary of State Seward said that the prime objects of the United States were:

First, to deserve and win the confidence of the Japanese Government and people, if possible, with a view to the common interest of all the treaty powers; secondly, to sustain and cooperate with the legations of these powers, in good faith, so as to render their efforts to the same end effective.¹¹

In 1864, the Mikado, not recognizing the treaties with the Western powers, closed the straits of Shimonoseki. At the request of the Tycoon's government (opposed to the Mikado), American, British, French, and Netherlands forces, in a joint

operation, opened the straits by force. The object of the Western powers was the enforcement of treaty rights, with the approval of the government that granted them.¹²

Again, in 1868, a detachment of Japanese troops assaulted foreign residents in the streets of Hiogo. One of the crew of the *Oneida* was seriously wounded. The safety of the foreign population being threatened, naval forces of the treaty powers made a joint landing and adopted measures to protect the foreign settlement.¹³

Former Assistant Secretary of State James Grafton Rogers has characterized these uses of force as "international police action", saying:

They amounted to executive use of the Armed Forces to establish our own and the world's scheme of international order. Two American Presidents used men, ships and guns on a large and expensive scale.¹⁴

In 1888 and 1889, civil war took place in Samoa where the United States, Great Britain, and Germany had certain respective treaty rights for the maintenance of naval depots. German forces were landed, and the German Government invited the United States to join in an effort to restore calm and quiet in the islands in the interest of all the treaty powers. The commander of the United States naval forces in the Pacific was instructed by the Secretary of the Navy that the United States was willing to cooperate in restoring order "on the basis of the full preservation of American treaty rights and Samoan authority, as recognized and agreed to by Germany, Great Britain, and the United States." He was to extend full protection and defense to American citizens and property, to protest the displacement of the native government by Germany as violating the positive agreement and understanding between the treaty powers, but to inform the British and German Governments of his readiness to cooperate in causing all treaty rights to be respected and in restoring peace and order on the basis of the recognition of the Samoan right to independence.¹⁵

On July 7, 1941, The President sent to the Congress a message announcing that as Commander in Chief he had ordered the Navy to take all necessary steps to insure the safety of communications between Iceland and the United States as well as on the seas between the United States and all other strategic outposts and that American troops had been sent to Iceland in defense of that country. The United States, he said, could not permit "the occupation by Germany of strategic outposts in the Atlantic to be used as air or naval bases for eventual attack against the Western Hemisphere." For the same reason, he said, substantial forces of the United States had been sent to the bases ac-

⁹ *Cong. Rec.*, 79th Cong., 1st sess., vol. 91, pt. 8, Nov. 26, 1945, p. 10997.

¹⁰ John Bassett Moore, *A Digest of International Law*, vol. v, p. 482. See also Taft, *op. cit.* pp. 114-115; Rogers, *op. cit.* pp. 58-62.

¹¹ John Bassett Moore, *A Digest of International Law*, vol. v, pp. 747-748.

¹² John Bassett Moore, *A Digest of International Law*, vol. v, p. 750; S. Ex. Doc. 58, 41 Cong. 2d sess.

¹³ *Report of the Secretary of the Navy*, 1868, p. xi.

¹⁴ *World Policing and the Constitution*, published by the World Peace Foundation, 1945, pp. 66, 67.

¹⁵ John Bassett Moore, *A Digest of International Law*, vol. i, pp. 545-546.

quired from Great Britain in Trinidad and British Guiana in the South to forestall any pincers movement undertaken by Germany against the Western Hemisphere.¹⁵

Thus, even before the ratification of the United Nations Charter, the President had used the Armed Forces of the United States without consulting the Congress for the purpose of protecting the foreign policy of the United States. The ratification of the United Nations Charter was, of course, a landmark in the development of American foreign policy. As noted above, Senator Connally and Senator Millikin agreed that the President was entitled to use armed forces in protection of the foreign policy represented by the Charter. This view was also expressed in the Senate debates in connection with the ratification of the Charter. For example, Senator Wiley made the following pertinent statement:

It is my understanding, according to the testimony given before the Foreign Relations Committee of the Senate, that the terms "agreement or agreements" as used in article 43 are synonymous with the word "treaty." On the other hand, I recognize that Congress might well interpret them as agreements brought about by the action of the Executive and ratified by a joint resolution of both Houses. These agreements would provide for a police force and the specific responsibility of each nation. But outside of these agreements, there is the power in our Executive to preserve the peace, to see that the "supreme laws" are faithfully executed. When we become a party to this charter, and define our responsibilities by the agreement or agreements, there can be no question of the power of the Executive to carry out our commitments in relation to international policing. His constitutional power, however, is in no manner impaired.¹⁶

An even fuller exposition of the point was made by Senator Austin, who stated:

Mr. President, I am one of those lawyers in the United States who believe that the general powers of the President—not merely the war powers of the President but the general authority of the President—are commensurate with the obligation which is imposed upon him as President, that he take care that the laws are faithfully executed. That means that he shall take all the care that is required to see that the laws are faithfully executed.

Of course, there are other specific references in the Constitution which show that he has authority to employ armed forces when necessary to carry out specific things named in the Constitution; but the great over-all and general authority arises from his obligation that he take care that the laws are faithfully executed. That has been true throughout our history, and the Chief Executive has taken care, and has sent the armed forces of the United States, without any act of Congress preceding their sending, on a great many occasions. I have three different compilations of those occasions. One of them runs as high as 150 times; another of them 72 times, and so forth. It makes a difference whether we consider the maneuvers which were merely shows of force as combined in the exercise of this authority—as I do—or whether we limit the count to those cases in which the armed forces have actually entered upon the territory of a peaceful neighbor. But there is no doubt in my mind of his obligation and authority to employ all the force that is necessary to enforce the laws.

¹⁵ *Cong. Rec.*, 77th Cong., 1st sess., vol. 87, pt. 6, July 7, 1941, p. 5868.

¹⁶ *Cong. Rec.*, 79th Cong., 1st sess., vol. 91, July 27, 1945, p. 8127-8128.

It may be asked, How does a threat to international security and peace violate the laws of the United States? Perhaps, Mr. President, it would not have violated the laws of the United States previous to the obligations set forth in this treaty. Perhaps we have never before recognized as being true the fundamental doctrine with which I opened my remarks. But we are doing so now. We recognize that a breach of the peace anywhere on earth which threatens the security and peace of the world is an attack upon us; and after this treaty is accepted by 29 nations, that will be the express law of the world. It will be the law of nations, because according to its express terms it will bind those who are nonmembers, as well as members, and it will be the law of the United States, because we shall have adopted it in a treaty. Indeed, it will be above the ordinary statutes of the United States, because it will be on a par with the Constitution, which provides that treaties made pursuant thereto shall be the supreme law of the land.

So I have no doubt of the authority of the President in the past, and his authority in the future, to enforce peace. I am bound to say that I feel that the President is the officer under our Constitution in whom there is exclusively vested the responsibility for maintenance of peace.¹⁷

Action contrary to the Charter of the United Nations is action against the interests of the United States. Preservation of peace under the Charter is a cornerstone of American foreign policy. President Truman said in his inaugural address in 1949:

In the coming years, our program for peace and freedom will emphasize four major courses of action.

First, we will continue to give unflinching support to the United Nations and related agencies, and we will continue to search for ways to strengthen their authority and increase their effectiveness.

In the Korean situation, the resolution of the Security Council of June 25 determined, under article 39 of the Charter, that the action of the North Koreans constituted a breach of the peace and called upon "the authorities in North Korea (a) to cease hostilities forthwith; and (b) to withdraw their armed forces to the thirty-eighth parallel." It also called upon "all Members to render every assistance to the United Nations in the execution of this resolution." This is an application of the principles set forth in article 2, paragraph 5 of the Charter, which states: "All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter . . ." The Security Council resolution of June 27, passed after the North Korean authorities had disregarded the June 25 resolution, recommended "that Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area." This recommendation was also made under the authority of article 39 of the Charter.

The President's action seeks to accomplish the objectives of both resolutions.

The continued defiance of the United Nations by the North Korean authorities would have meant that the United Nations would have ceased to

¹⁷ *Cong. Rec.*, 79th Cong., 1st sess., vol. 91, July 26, 1945, p. 8064-8065.

tenance of international peace. The continued existence of the United Nations as an effective international organization is a paramount United States interest. The defiance of the United Nations is in clear violation of the Charter of the United Nations and of the resolutions adopted by the Security Council of the United Nations to bring about a settlement of the problem. It is a threat to international peace and security, a threat to the peace and security of the United States and to the security of United States forces in the Pacific.

These interests of the United States are interests which the President as Commander in Chief can protect by the employment of the Armed Forces of the United States without a declaration of war. It was they which the President's order of June 27 did protect. This order was within his authority as Commander in Chief.

USE OF LAND AND NAVAL FORCES OF THE UNITED STATES FOR PROTECTION PURPOSES¹

The United States has used its land and naval forces in foreign territories during peacetime on

many occasions during the past hundred years. They have been landed, *inter alia*, for the protection of American citizens and American territory, as in the instance of the Spanish Floridas in 1817; for the protection of American citizens located in disturbed areas; for the suppression of piracy; for meting out punishment (in an early day) to lawless bands who had murdered American citizens; for the suppression of local riots and the preservation of order; for the purpose of securing the payment of indemnity; and to prevent massacre.

Although there may have been earlier instances, the first instance that has been drawn to my attention of the landing of United States troops occurred in 1812 when President Monroe sent forces to expel freebooters who had taken possession in the name of the Governments of Buenos Aires and Venezuela of Amelia Island, off the coast of Florida. Although the island belonged to Spain the measure was not taken in concert with the Spanish Government or the local authorities of Florida. I find that as late as 1932 American forces were sent to Shanghai owing to the Sino-Japanese conflict as a measure of protection for the lives and property of American citizens in that area.

A list of various landings of American forces and the occasions therefor follows:

Place	Year	Purpose
1. Amelia Island.....	1812.....	To protect Spanish island from foreign invasion or control.
2. Spanish Florida.....	1814.....	To expel the British.
3. Cuba.....	1823.....	To pursue and break up an establishment of pirates.
4. Puerto Rico.....	1824.....	To atone for insult to the flag and procure apology.
5. Falkland Islands.....	1831.....	To procure the release of certain vessels and their crews.
6. Island of Sumatra.....	1832.....	To punish natives for attack and seizure of American ship and murder of crew.
7. Fiji Islands.....	1840.....	To punish natives for an attack upon Americans.
8. Samoa.....	1841.....	To punish natives for the murder of a white man.
9. Island of Johanna.....	1851.....	To collect indemnity (display of force).
10. Japan.....	1853-54.....	To procure a commercial treaty.
11. China.....	1854.....	American and British forces acted jointly during civil war in China to protect American and British nationals.
12. Greytown.....	1854.....	To protect American property rights.
13. Fiji Islands.....	1855.....	To protect American life.
14. Uruguay.....	1855.....	To protect American consulate and American life and property.
15. China.....	1856.....	To prevent injury to American interests.
16. Egypt.....	1858.....	To secure protection of American citizens.
17. Uruguay.....	1858.....	To protect life and property of foreign residents; action taken at request of regular Government in conjunction with forces of other powers.
18. Fiji Islands.....	1858.....	To punish natives for murder of two Americans.
19. China.....	1859.....	To restore order in Shanghai.
20. Kisembo, Africa.....	1860.....	To prevent destruction of American property.
21. Panama.....	1860.....	To restore order during insurrection.
22. Japan.....	1863.....	To obtain redress for an unwarranted attack upon an American vessel.
23. Do.....	1864.....	To open the Straits of Shimonoseki in conjunction with other powers; action taken at request of the Tycoon's government.
24. Formosa.....	1867.....	To punish natives who had murdered the crew of a wrecked American bark.
25. Japan.....	1868.....	To protect American interests during local hostilities.
26. Uruguay.....	1868.....	To protect American interests at request of local authorities.
27. Korea.....	1871.....	To capture Korean forts after a surveying party which had been granted permission to make certain surveys and soundings in the interest of science and commerce had been treacherously attacked.
28. Honolulu.....	1874.....	To suppress riotous proceedings at request of local authorities.
29. Mexico.....	1876.....	To preserve order, pending arrival of regular Government forces after evacuation of revolutionists.

¹ Reprinted from H. Rept. 2495, 81st Cong., 2d sess., p. 67.

Place	Year	Purpose
30. Egypt.....	1882.....	To suppress riots and protect American interests.
31. Korea.....	1888.....	To protect American residents.
32. Samoa.....	1888.....	To establish a stable government; joint action by United States, Great Britain, and Germany.
33. Haiti.....	1888.....	To obtain the release of an American merchant vessel captured by a Haitian war vessel.
34. Navassa Island.....	1891.....	To protect American life and property.
35. Chile.....	1891.....	To protect American consulate at Valparaiso.
36. Hawaii.....	1893.....	To protect life and property at the time of the deposition of the Queen.
37. Brazil.....	1893.....	To protect American commerce in Brazilian waters during a revolt of the Brazilian Navy; it was reported that the insurgents had the assistance of certain European powers.
38. Korea.....	1894.....	To protect the American Legation.
39. Samoa.....	1899.....	To assist in settling controversy over succession to Samoan throne.
40. Nicaragua.....	1899.....	To protect life and property, upon petition of foreign merchants during insurrection.
41. China.....	1900.....	To protect life and property at time of Boxer uprising.
42. Dominican Republic.....	1903.....	To protect American interests.
43. Do.....	1903.....	To protect American lives and property and to prevent fighting within certain area.
44. Honduras.....	1907.....	To protect American consulate and American interests during hostilities between Honduras and Nicaragua.
45. Nicaragua.....	1910.....	To protect American life and property during revolution; to prevent the bombardment of Bluefields.
46. Honduras.....	1910-11.....	To protect American interests during revolutionary disturbances.
47. China.....	1911.....	To protect the consulate and property of American citizens of Foochow.
48. Do.....	1911.....	To protect American consulate and American citizens at Chinkiang.
49. Do.....	1911.....	To increase the guard of the American Legation at Peking.
50. Do.....	1912.....	To keep open the railroad from Peking to the sea.
51. Do.....	1912.....	To extend protection.
52. China, Swatow.....	1912.....	To save a woman and some children and conduct them to safety.
53. Cuba.....	1912.....	To quell uprising; to protect American life and property.
54. Honduras.....	1912.....	To protect an American-owned railroad.
55. Nicaragua.....	1912-13.....	To protect American property, at request of Government of Nicaragua.
56. Dominican Republic.....	1912-14.....	To protect Dominican customshouses, in conformity with the provisions of the treaty of 1907.
57. China, Chapei.....	1913.....	To prevent disorder and give protection.
58. China, Shanghai.....	1913.....	For protection.
59. Paris.....	1914.....	To act as a guard for the American Embassy.
60. Mexico, Veracruz.....	1914.....	To enforce demands for amends for affronts and indignities to an officer of the U. S. S. <i>Dolphin</i> and the crew of the whaleboat of the <i>Dolphin</i> .
61. Haiti.....	1914-1915.....	To protect American life and property during disturbed conditions.
62. China, Nanking.....	1916.....	To quell a riot.
63. Mexico.....	1916-17.....	To pursue Villa after his invasion of American territory.
64. Dominican Republic.....	1916-24.....	To suppress revolution; to establish military government.
65. Cuba.....	1917-19.....	To protect American consulate and American lives and property during insurrection and banditti fighting.
66. China, Chungking.....	1918.....	For protection during a political crisis.
67. Honduras.....	1919.....	To cooperate with the forces of Honduras in maintaining order in a neutral zone.
68. Panama.....	1919.....	To extend protection, at request of Panamanian Government.
69. China, Kiukiang.....	1920.....	To restore order during riot.
70. China, Youchow.....	1920.....	To guard American property.
71. Guatemala.....	1920.....	To protect the American Legation during local fighting.
72. Smyrna.....	1922.....	To protect American life and property during the advance of Turkish forces on that city.
73. China, Tungchow.....	1922.....	To protect against possible violence by retreating Fengtien forces.
74. China, Foochow.....	1922.....	To protect American nationals.
75. China, Masu Island.....	1923.....	To protect Americans against brigandage.
76. Honduras.....	1924.....	To protect American life and property during unsettled conditions; intermittent landing of forces.
77. Do.....	1925.....	To protect American property.
78. Panama.....	1925.....	To extend protection during unsettled conditions, at request of Panamanian Government.
79. Nicaragua.....	1926.....	To protect life and property during revolution.
80. China, Hankow.....	1927.....	To protect lives and interests of Americans during mob-riot disturbances.
81. China, Shanghai.....	1927.....	To protect American lives and property.
82. China, Nanking.....	1927.....	To afford protection against looting and general disorder.
83. China, Chinkiang.....	1927.....	To extinguish fire on American property caused by gunfire.
84. China, Canton.....	1927.....	To aid in evacuation.
85. China, Shanghai.....	1932.....	To strengthen forces at Shanghai, as a measure of protection for the lives and property of American nationals.

KOREA: CHRONOLOGY OF EVENTS JULY 1, 1949 TO JUNE 30, 1950*

July 1, 1949: Korean Military Advisory Group (KMAG) established.

August 4, 1949: North Korean forces launch a new and large-scale invasion of the Ongjin Peninsula, but are repulsed after heavy fighting.

August 6, 1949: Generalissimo Chiang Kai-shek arrives in Korea for talks with President Rhee on projected Pacific Pact.

August 9, 1949: North Korean radio calls for revolt against the government of Syngman Rhee in South Korea.

August 23, 1949: The Republic of Korea is formally admitted to membership in the World Health Organization as its sixty-fifth member.

September: The "Democratic People's Republic of Korea" fails to hold the all-Korea election called for in the manifesto issued on June 28, 1949, by the Communist-dominated Democratic Front for the attainment of unification of the fatherland. No explanation is given for the failure to carry out previously announced plans.

September 9-20, 1949: Extremely heavy guerrilla warfare commences across 38th parallel; heavy casualties are reported on both sides.

September 22, 1949: Steamship *Kimball Smith* defects to Chinnampo, North Korea, with ECA employees, Willis and Meschter, held captive by crew.

September 28, 1949: The United States Congress passes the Mutual Defense Assistance Act, which authorizes expenditure of \$27,000,000 for military aid to Iran, the Philippines, and the Republic of Korea.

October 2, 1949: The United States presents to the Soviet Foreign Office a note requesting that the U. S. S. R. assist in determining the location of the missing ship and ECA officials and facilitate their return.

Two hundred and forty-nine guerrillas are executed on Cheju Island with approval of President Rhee as a result of riots earlier in the year. Those executed include 1 officer and 20 enlisted men of Ninth Regiment, formerly stationed on Cheju.

October 6, 1949: "Democratic People's Republic of Korea" recognizes the People's Republic of China.

October 10, 1949: The President signed Public Law 343, the third deficiency bill appropriating \$30,000,000 for economic assistance to the Republic of Korea during the period July 1-October 15, 1949, and covering sums appropriated by Public Law 154 of June 30, 1949, which permitted spending on the basis of the annual budget estimate for 1 month ending July 30, 1949, and Public Law 196 approved August 1, 1949, permitting the continuation of spending on the same basis until August 16, 1949.

October 12, 1949: S. 2819 authorizing an appropriation of \$120,000,000 for economic assistance to the Republic of Korea passed by the Senate.

October 14, 1949: The U. S. S. R. rejects the request made in the American note of October 2, stating that the matter is within the province of the "Democratic People's Republic of Korea."

The Foreign Minister of the "Democratic People's Republic of Korea" sends a letter to the Secretary-General of the UN challenging the legality of UN activity in Korea and expressing determination to drive the UN Commission out of Korea.

North Korean forces begin a new offensive on the Ongjin Peninsula, and severe fighting continues for several days.

October 23, 1949: The UN General Assembly decides to continue the UN Commission on Korea (UNCOK) and to charge it to investigate developments "which might lead to or otherwise involve military conflict in Korea."

The Economic Commission for Asia and the Far East (ECAFE) admits the Republic of Korea as an associate member and rejects the application of the "Democratic People's Republic of Korea."

* Reprinted from H. Rept. 2495, 81st Cong., 2d sess., p. 69.

July 31, 1950

October 25, 1949: The Home Minister of the Republic of Korea announces that "SKLP (South Korea Labor Party) Extermination Week" will begin on November 1; those who wish to repent and join the National Guidance Alliance (an organization for converted ex-Communists) are urged to do so before that date.

October 28, 1949: The President of the United States signs Public Law 430, second supplemental appropriation bill, appropriating another \$30,000,000 for economic aid to the Republic of Korea during the period October 15, 1949 to February 15, 1950.

October 29, 1949: The United States presents to the U.S.S.R. a second note concerning the Steamship *Kimball Smith* and the two American officials of the Economic Cooperation Administration held in northern Korea.

November 7, 1949: The "Democratic People's Republic of Korea" recognizes the (East) German Democratic Republic.

November 14, 1949: The U.S.S.R., replying to the American note of October 29, agrees to inform the North Korean authorities, through the Soviet Ambassador in Pyongyang, of the United States request for information.

November 15, 1949: In a radio broadcast, the "Democratic People's Republic of Korea" acknowledges for the first time the presence of the two American officials in northern Korea and states that the authorities in the north are willing to turn them over to the American Government.

November 23, 1949: The Republic of Korea is admitted to membership in the UN Food and Agriculture Organization.

November 24-25, 1949: Village people's committees are elected in North Korea.

November 26, 1949: The new Secretary General of the UN Commission on Korea and other staff members arrive in Seoul.

December 3, 1949: Township people's committees are elected in North Korea.

December 11, 1949: Meschter and Willis, the two American officials of the Economic Cooperation Administration held in North Korea since September 22, are turned over to a representative of the American Embassy at the 38th parallel.

December 14, 1949: Kim Il Sung, Premier of the "Democratic People's Republic," and party leave North Korea for Moscow to participate in the celebration of Stalin's seventieth birthday.

December 17, 1949: Republic of Korea approved program discussed with them by MDAP Survey Team.

December 26, 1949: MDAP Survey Team arrives in Republic of Korea. Chung Paek, prominent and long-time Communist arrested in South Korea in late November on his return from North Korea, denounces the North Korean regime and pledges his allegiance to the Republic, lending prominence to the National Guidance Alliance and the South Korea "Voluntary Surrender Week."

January 12, 1950: Ambassador Philip Jessup speaks before the National Assembly of the Republic of Korea.

January 18, 1950: UN International Children's Emergency Fund (UNICEF) announces plans for a \$550,000 child welfare program in Korea; Dr. Clarence W. MacCharles, of Canada, is named director.

January 19, 1950: H. R. 5380 authorizing the appropriation of \$120,000,000 for economic assistance to the Republic of Korea defeated in the House of Representatives by a vote of 192-191.

January 26, 1950: The military defense assistance program and Korea Military Advisory Group (KMAG) agreements are signed.

February 8, 1950: The UN Economic and Social Council (ECOSOC) at Lake Success endorses the Republic of Korea's application by membership in the United Nations Educational, Scientific and Cultural Organisation (UNESCO).

February 9, 1950: S. 2819 authorizing the appropriation of \$120,000,000 for economic assistance to the Republic of Korea for fiscal year 1950 with an amendment extending aid to China passed by the House of Representatives.

February 10, 1950: S. 2319, as amended by the House, passed by the Senate; President Rhee hands foreign correspondents message of gratitude for passage of the aid bill.

February 14, 1950: President Rhee, accompanied by Foreign Minister, Director of Office of Public Information (OPI), Deputy Chief of Staff of Korean Army, and staff, departs for Tokyo for consultation.

February 15, 1950: Korea requests spare parts and ammunition for 10 AT6 planes, and State Department allocates money to Defense Department.

February 17, 1950: The World Health Organization grants the Republic of Korea \$750,000 for public health program for fiscal year 1950.

February 24, 1950: The Republic of Korea signs a contract with Japan for export of 100,000 metric tons of rice to Japan at \$142 per ton.

February 27, 1950: President Truman transmits to the United States Congress requests for appropriation of \$60,000,000 for aid to the Republic of Korea for fiscal year 1950 and for the authorization of \$100,000,000 for economic assistance for fiscal year 1951.

March 3, 1950: Headquarters of the Special Army-Police Joint Search Organ in South Korea announces arrest of 196-man "destruction party" led by Ch'oe Yung Ch'oo. The party allegedly was taking orders from the North Korean Vice Minister of Internal Security in order to stage a revolt in March.

March 4, 1950: The Secretary-General of the UN announces that, in compliance with a request from the UN Commission on Korea, eight observers are being sent to Korea to observe clashes along the 38th parallel.

March 15, 1950: Korean program submitted by Department of Defense to Department of State.

March 20, 1950: KMAAG agreement ratified by Korean legislature.

March 29, 1950: Korean military aid program approved by State Department.

March 30, 1950: The South Korea Assembly ratifies the Korea Military Advisory Group and military defense assistance program agreement by a vote of 90 to 1.

March 31, 1950: The United States House of Representatives passes H. R. 7797, authorizing the appropriation of \$100,000,000 for aid to the Republic of Korea during fiscal year 1951.

April 3, 1950: Korean Ambassador in Washington (John M. Chang) is handed United States aide-memoire regarding financial situation in Korea and ECA assistance.

April 4, 1950: United States Ambassador to Korea (John J. Muccio) hands United States aide-memoire to President Rhee. Ambassador Muccio is subsequently recalled for consultation regarding financial situation in Korea.

April 11, 1950: South Koreans request armament and ammunition for PC boats (sec. 408 (e) MDA Act).

April 19, 1950: The Office of Public Information of the Republic of Korea announces that a general election for members of the National Assembly is to be held on May 30.

April 20, 1950: Air Force directed to supply machine guns, spare parts, and ammunition to South Korea under section 408 (e) of the MDA Act on patrol craft sailing from west coast in May 1950.

April 24, 1950: The Foreign Minister of the Republic of Korea invites the United Nations Commission on Korea to observe general elections in the Republic. Allocation made by Department of State to Defense Department of funds to carry out supply action by Air Force.

April 28, 1950: Fulbright agreement between United States and Korea (ROK) is signed.

May 5, 1950: Senate passed S. 3304, authorizing the

appropriation of 100 million dollars for economic assistance to the Republic of Korea.

May 15, 1950: State Department authorizes additional Army and Coast Guard military assistance to South Korea.

May 18, 1950: House and Senate conferees agreed on H. R. 7797.

May 23, 1950: H. R. 7797 as reported by conference passed by House. Allocation by State Department to Defense Department of funds to carry out supply action.

May 25, 1950: H. R. 7797 as reported by conference passed by Senate. Joint Chiefs of Staff directed to program the additional Army and Coast Guard items authorized May 15, 1950.

May 30, 1950: National Assembly elections are held in the Republic of Korea. About 90 percent of the electorate votes, and the established political parties, including both the supporters of and the opposition to President Rhee, retain only a small percentage of their Assembly membership; over 65 percent of the seats go to independents.

June 5, 1950: President approves Foreign Economic Assistance Act of 1950 (Public Law 535), including authorization of \$100,000,000 economic aid to Korea.

June 7, 1950: The North Korea regime proposes a general all-Korea election on August 5, a meeting of a Supreme Korean Assembly on August 15, and the holding of a preliminary Joint North-South Conference near the 38th parallel. The proposal specifically forbids the participation of members of the UN Commission on Korea, President Rhee, Lee Bum Suk, and other so-called national traitors.

June 19, 1950: The new National Assembly of the Republic of Korea convenes for its first meeting. The final turn-over in Assembly membership is approximately 85 percent.

June 20, 1950: North Korea makes a second unification proposal, varying only slightly from original offer. This second proposal emanates from the North Korean Government directly rather than from the Democratic Front, the political instrument for unification propaganda.

June 25, 1950: The North Korea People's Army and border constabulary forces invade South Korea and launch amphibious landings, supported by air attacks on Seoul and other strategic locations. General MacArthur directed to send available MDAP equipment from stocks of the Far Eastern Command.

June 25, 1950: The United States sponsors resolution before UN Security Council that armed attack on Republic of Korea by forces from North Korea constitutes breach of the peace and calling for immediate cessation of hostilities. Resolution passes 9 to 0.

June 27, 1950: Statement by President of United States announcing he has ordered air and sea forces to give troops of Republic of Korea cover and support.

General MacArthur begins implementation of the President's order.

UN Security Council resolution adopted, calling upon members of UN to furnish such assistance to the Republic of Korea as may be necessary to repel armed attack. Adopted 7 to 1 (later changed to 8 to 1, when India on June 29 voted in favor).

June 30, 1950: Statement by President of United States that he has authorized General MacArthur to use certain supporting ground units, authorizing USAF to conduct missions on specific targets in northern Korea wherever militarily necessary, and ordering naval blockade of entire Korean coast.

As of this date, the following countries have announced they would assist in enforcing the UN Security Council's resolutions: The United Kingdom, Australia, New Zealand, China, and the Netherlands.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	re legal aspects of use of force (9 pages)	03/30/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Mary Derosa (Legal Advisor)
OA/Box Number: 2959

FOLDER TITLE:

Korea [3]

2009-0528-F
kc1439

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

~~SECRET~~

To: Alan

Attached are the materials we discussed.

Also enclosed FxI is a paper Jeff Kovan & I prepared on a contingency basis to address the relevant legal issues.

Conrad is reviewing it. I have not given it to Jack, Jim, or Walter, but expect to do so after Conrad is comfortable with it.

It is really "secret" due to the discussion of nuclear weapons.

Clear. Ed.

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ATTACHMENTS
Initials: W Date: 03/17/15
2009-0528-F

~~SECRET~~

March 29, 1994

TO: NSC -- Alan Kreczko
Justice -- Walter Dellinger
OSD -- Jack McNeill/Harvey Dalton
JCS -- Jim Terry

FROM: State -- Ed Cummings/Jeff Kovar

SUBJECT: Korea Documents *2*

Attached FYI are some background documents which you may find useful to review before the meeting on Korea scheduled for Thursday morning in Alan's office.

Cheers.

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ATTACHMENTS
Initials: *CU* Date: *03/17/15*
2009-0528-F

DATE SENT: <i>3/29/94</i>	CLASSIFIED MATERIAL Return Receipt To Sender	V2784205
TO: _____		
FROM: <i>Alan Kreczko NSC</i>		
PART IV DATE RECEIVED: _____	(Signature of Addressee) _____	
IDENTIFICATION: <i>Korea Documents</i>		
ADDRESSEE SIGN AFTER CHECKING AND RETURN TO SENDER. RETAINED BY SENDER FOR 3 YEARS		
Optional Form 112 Rev. 8/79 State AID-USICA		

TIAS 2782
July 27, 1953.

**MILITARY ARMISTICE IN KOREA
AND
TEMPORARY SUPPLEMENTARY AGREEMENT**

- Signed at Panmunjom, Korea,
July 27, 1953
- Entered into force July 27, 1953

ARMISTICE AGREEMENT

VOLUME I

Text of Agreement

AGREEMENT BETWEEN THE COMMANDER-IN-CHIEF, UNITED NATIONS COMMAND, ON THE ONE HAND, AND THE SUPREME COMMANDER OF THE KOREAN PEOPLE'S ARMY AND THE COMMANDER OF THE CHINESE PEOPLE'S VOLUNTEERS, ON THE OTHER HAND, CONCERNING A MILITARY ARMISTICE IN KOREA

P R E A M B L E

The undersigned, the Commander-in-Chief, United Nations Command, on the one hand, and the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, on the other hand, in the interest of stopping the Korean conflict, with its great toll of suffering and bloodshed on both sides, and with the objective of establishing an armistice which will insure a complete cessation of hostilities and of all acts of armed force in Korea until a final peaceful settlement is achieved, do individually, collectively, and mutually agree to accept and to be bound and governed by the conditions and terms of armistice set forth in the following Articles and Paragraphs, which said conditions and terms are intended to be purely military in character and to pertain solely to the belligerents in Korea.

ARTICLE I

MILITARY DEMARCATION LINE AND DEMILITARIZED ZONE

1. A Military Demarcation Line shall be fixed and both sides shall withdraw two (2) kilometers from this line so as to establish a Demilitarized Zone between the opposing forces. A Demilitarized Zone shall be established as a buffer zone to prevent the occurrence of incidents which might lead to a resumption of hostilities.

2. The Military Demarcation Line is located as indicated on the attached map (Map 1).^[1]

3. The Demilitarized Zone is defined by a northern and a southern boundary as indicated on the attached map (Map 1).^[1]

4. The Military Demarcation Line shall be plainly marked as directed by the Military Armistice Commission hereinafter established. The Commanders of the opposing sides shall have suitable markers erected along the boundary between the Demilitarized Zone and their respective areas. The Military Armistice Commission shall supervise the erection of all markers placed along the Military Demarcation Line and along the boundaries of the Demilitarized Zone.

5. The waters of the Han River Estuary shall be open to civil shipping of both sides wherever one bank is controlled by one side and the other bank is controlled by the other side. The Military Armistice Commission shall prescribe rules for the shipping in that part of the Han River Estuary indicated on the attached map (Map 2).^[1] Civil shipping of each side shall have unrestricted access to the land under the military control of that side.

6. Neither side shall execute any hostile act within, from, or against the Demilitarized Zone.

7. No person, military or civilian, shall be permitted to cross the Military Demarcation Line unless specifically authorized to do so by the Military Armistice Commission.

^[1] The originals of these maps, large-scale in size, are deposited with the signed original Agreement in the archives of the Department of State where they are available for reference.

8. No person, military or civilian, in the Demilitarized Zone shall be permitted to enter the territory under the military control of either side unless specifically authorized to do so by the Commander into whose territory entry is sought.

9. No person, military or civilian, shall be permitted to enter the Demilitarized Zone except persons concerned with the conduct of civil administration and relief and persons specifically authorized to enter by the Military Armistice Commission.

10. Civil administration and relief in that part of the Demilitarized Zone which is south of the Military Demarcation Line shall be the responsibility of the Commander-in-Chief, United Nations Command; and civil administration and relief in that part of the Demilitarized Zone which is north of the Military Demarcation Line shall be the joint responsibility of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. The number of persons, military or civilian, from each side who are permitted to enter the Demilitarized Zone for the conduct of civil administration and relief shall be as determined by the respective Commanders, but in no case shall the total number authorized by either side exceed one thousand (1,000) persons at any one time. The number of civil police and the arms to be carried by them shall be as prescribed by the Military Armistice Commission. Other personnel shall not carry arms unless specifically authorized to do so by the Military Armistice Commission.

11. Nothing contained in this Article shall be construed to prevent the complete freedom of movement to, from, and within the Demilitarized Zone by the Military Armistice Commission, its assistants, its Joint Observer Teams with their assistants, the Neutral Nations Supervisory Commission hereinafter established, its assistants, its Neutral Nations Inspection Teams with their assistants, and of any other persons, materials, and equipment specifically authorized to enter the Demilitarized Zone by the Military Armistice Commission. Convenience of movement shall be permitted through the territory under the military control of

[4 UST] *Multilateral—Military Armistice in Korea—July 27, 1953*

either side over any route necessary to move between points within the Demilitarized Zone where such points are not connected by roads lying completely within the Demilitarized Zone.

ARTICLE II

CONCRETE ARRANGEMENTS FOR CEASE-FIRE AND ARMISTICE

A. GENERAL

12. The Commanders of the opposing sides shall order and enforce a complete cessation of all hostilities in Korea by all armed forces under their control, including all units and personnel of the ground, naval, and air forces, effective twelve (12) hours after this Armistice Agreement is signed. (See Paragraph 63 hereof for effective date and hour of the remaining provisions of this Armistice Agreement.)

13. In order to insure the stability of the Military Armistice so as to facilitate the attainment of a peaceful settlement through the holding by both sides of a political conference of a higher level, the Commanders of the opposing sides shall:

a. Within seventy-two (72) hours after this Armistice Agreement becomes effective, withdraw all of their military forces, supplies, and equipment from the Demilitarized Zone except as otherwise provided herein. All demolitions, minefields, wire entanglements, and other hazards to the safe movement of personnel of the Military Armistice Commission or its Joint Observer Teams, known to exist within the Demilitarized Zone after the withdrawal of military forces therefrom, together with lanes known to be free of all such hazards, shall be reported to the Military Armistice Commission by the Commander of the side whose forces emplaced such hazards. Subsequently, additional safe lanes shall be cleared; and eventually, within forty-five (45) days after the termination of the seventy-two (72) hour period, all such hazards shall be removed from the Demilitarized Zone as

directed by and under the supervision of the Military Armistice Commission. At the termination of the seventy-two (72) hour period, except for unarmed troops authorized a forty-five (45) day period to complete salvage operations under Military Armistice Commission supervision, such units of a police nature as may be specifically requested by the Military Armistice Commission and agreed to by the Commanders of the opposing sides, and personnel authorized under Paragraphs 10 and 11 hereof, no personnel of either side shall be permitted to enter the Demilitarized Zone.

b. Within ten (10) days after this Armistice Agreement becomes effective, withdraw all of their military forces, supplies, and equipment from the rear and the coastal islands and waters of Korea of the other side. If such military forces are not withdrawn within the stated time limit, and there is no mutually agreed and valid reason for the delay, the other side shall have the right to take any action which it deems necessary for the maintenance of security and order. The term "coastal islands", as used above, refers to those islands which, though occupied by one side at the time when this Armistice Agreement becomes effective, were controlled by the other side on 24 June 1950; provided, however, that all the islands lying to the north and west of the provincial boundary line between HWANGHAE-DO and KYONGGI-DO shall be under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, except the island groups of PAENGYONG-DO (37°58'N, 124°40'E), TAECHONG-DO (37°50'N, 124°42'E), SOCHONG-DO (37°46'N, 124°46'E), YONPYONG-DO (37°38'N, 125°40'E), and U-DO (37°36'N, 125°58'E), which shall remain under the military control of the Commander-in-Chief, United Nations Command. All the islands on the west coast of Korea lying south of the above-mentioned boundary line shall remain under the military control of the Commander-in-Chief, United Nations Command. (See Map 3.)¹

c. Cease the introduction into Korea of reinforcing military personnel; provided, however, that the rotation of units and personnel, the arrival in Korea of personnel on a temporary

¹ See footnote 1, *ante*, p. 237.

duty basis, and the return to Korea of personnel after short periods of leave or temporary duty outside of Korea shall be permitted within the scope prescribed below. "Rotation" is defined as the replacement of units or personnel by other units or personnel who are commencing a tour of duty in Korea. Rotation personnel shall be introduced into and evacuated from Korea only through the ports of entry enumerated in Paragraph 43 hereof. Rotation shall be conducted on a man-for-man basis; provided, however, that no more than thirty-five thousand (35,000) persons in the military service shall be admitted into Korea by either side in any calendar month under the rotation policy. No military personnel of either side shall be introduced into Korea if the introduction of such personnel will cause the aggregate of the military personnel of that side admitted into Korea since the effective date of this Armistice Agreement to exceed the cumulative total of the military personnel of that side who have departed from Korea since that date. Reports concerning arrivals in and departures from Korea of military personnel shall be made daily to the Military Armistice Commission and the Neutral Nations Supervisory Commission; such reports shall include places of arrival and departure and the number of persons arriving at or departing from each such place. The Neutral Nations Supervisory Commission, through its Neutral Nations Inspection Teams, shall conduct supervision and inspection of the rotation of units and personnel authorized above, at the ports of entry enumerated in Paragraph 43 hereof.

d. Cease the introduction into Korea of reinforcing combat aircraft, armored vehicles, weapons, and ammunition; provided, however, that combat aircraft, armored vehicles, weapons, and ammunition which are destroyed, damaged, worn out, or used up during the period of the armistice may be replaced on the basis of piece-for-piece of the same effectiveness and the same type. Such combat aircraft, armored vehicles, weapons, and ammunition shall be introduced into Korea only through the ports of entry enumerated in Paragraph 43 hereof. In order to justify the requirement for combat aircraft, armored vehicles, weapons, and ammunition to be introduced into Korea

for replacement purposes, reports concerning every incoming shipment of these items shall be made to the Military Armistice Commission and the Neutral Nations Supervisory Commission; such reports shall include statements regarding the disposition of the items being replaced. Items to be replaced which are removed from Korea shall be removed only through the ports of entry enumerated in Paragraph 43 hereof. The Neutral Nations Supervisory Commission, through its Neutral Nations Inspection Teams, shall conduct supervision and inspection of the replacement of combat aircraft, armored vehicles, weapons, and ammunition authorized above, at the ports of entry enumerated in Paragraph 43 hereof.

e. Insure that personnel of their respective commands who violate any of the provisions of this Armistice Agreement are adequately punished.

f. In those cases where places of burial are a matter of record and graves are actually found to exist, permit graves registration personnel of the other side to enter, within a definite time limit after this Armistice Agreement becomes effective, the territory of Korea under their military control, for the purpose of proceeding to such graves to recover and evacuate the bodies of the deceased military personnel of that side, including deceased prisoners of war. The specific procedures and the time limit for the performance of the above task shall be determined by the Military Armistice Commission. The Commanders of the opposing sides shall furnish to the other side all available information pertaining to the places of burial of the deceased military personnel of the other side.

g. Afford full protection and all possible assistance and cooperation to the Military Armistice Commission, its Joint Observer Teams, the Neutral Nations Supervisory Commission, and its Neutral Nations Inspection Teams, in the carrying out of their functions and responsibilities hereinafter assigned; and accord to the Neutral Nations Supervisory Commission, and to its Neutral Nations Inspection Teams, full convenience of movement between the headquarters of the Neutral Nations Supervisory Commission and the ports of

entry enumerated in Paragraph 43 hereof over main lines of communication agreed upon by both sides (See Map 4),¹ and between the headquarters of the Neutral Nations Supervisory Commission and the places where violations of this Armistice Agreement have been reported to have occurred. In order to prevent unnecessary delays, the use of alternate routes and means of transportation will be permitted whenever the main lines of communication are closed or impassable.

h. Provide such logistic support, including communications and transportation facilities, as may be required by the Military Armistice Commission and the Neutral Nations Supervisory Commission and their Teams.

i. Each construct, operate, and maintain a suitable airfield in their respective parts of the Demilitarized Zone in the vicinity of the headquarters of the Military Armistice Commission, for such uses as the Commission may determine.

j. Insure that all members and other personnel of the Neutral Nations Supervisory Commission and of the Neutral Nations Repatriation Commission hereinafter established shall enjoy the freedom and facilities necessary for the proper exercise of their functions, including privileges, treatment, and immunities equivalent to those ordinarily enjoyed by accredited diplomatic personnel under international usage.

14. This Armistice Agreement shall apply to all opposing ground forces under the military control of either side, which ground forces shall respect the Demilitarized Zone and the area of Korea under the military control of the opposing side.

15. This Armistice Agreement shall apply to all opposing naval forces, which naval forces shall respect the waters contiguous to the Demilitarized Zone and to the land area of Korea under the military control of the opposing side, and shall not engage in blockade of any kind of Korea.

16. This Armistice Agreement shall apply to all opposing air forces, which air forces shall respect the air space over the Demilitarized Zone and over the area of Korea under the military control of the opposing side, and over the waters contiguous to both.

¹ See footnote 1, *ante*, p. 237.

17. Responsibility for compliance with and enforcement of the terms and provisions of this Armistice Agreement is that of the signatories hereto and their successors in command. The Commanders of the opposing sides shall establish within their respective commands all measures and procedures necessary to insure complete compliance with all of the provisions hereof by all elements of their commands. They shall actively cooperate with one another and with the Military Armistice Commission and the Neutral Nations Supervisory Commission in requiring observance of both the letter and the spirit of all of the provisions of this Armistice Agreement.

18. The costs of the operations of the Military Armistice Commission and of the Neutral Nations Supervisory Commission and of their Teams shall be shared equally by the two opposing sides.

B. MILITARY ARMISTICE COMMISSION

1. COMPOSITION

19. A Military Armistice Commission is hereby established.

20. The Military Armistice Commission shall be composed of ten (10) senior officers, five (5) of whom shall be appointed by the Commander-in-Chief, United Nations Command, and five (5) of whom shall be appointed jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. Of the ten members, three (3) from each side shall be of general or flag rank. The two (2) remaining members on each side may be major generals, brigadier generals, colonels, or their equivalents.

21. Members of the Military Armistice Commission shall be permitted to use staff assistants as required.

22. The Military Armistice Commission shall be provided with the necessary administrative personnel to establish a Secretariat charged with assisting the Commission by performing record-keeping, secretarial, interpreting, and such other functions as the Commission may assign to it. Each side

shall appoint to the Secretariat a Secretary and an Assistant Secretary and such clerical and specialized personnel as required by the Secretariat. Records shall be kept in English, Korean, and Chinese, all of which shall be equally authentic.

23. a. The Military Armistice Commission shall be initially provided with and assisted by ten (10) Joint Observer Teams, which number may be reduced by agreement of the senior members of both sides on the Military Armistice Commission.

b. Each Joint Observer Team shall be composed of not less than four (4) nor more than six (6) officers of field grade, half of whom shall be appointed by the Commander-in-Chief, United Nations Command, and half of whom shall be appointed jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. Additional personnel such as drivers, clerks, and interpreters shall be furnished by each side as required for the functioning of the Joint Observer Teams.

2. FUNCTIONS AND AUTHORITY

24. The ~~general mission of the Military Armistice Commission shall be to supervise the implementation of this Armistice Agreement and to settle through negotiations any violations of this Armistice Agreement.~~

25. The Military Armistice Commission shall:

a. Locate its headquarters in the vicinity of PANMUNJOM (37°57'29"N, 126°40'00"E). The Military Armistice Commission may re-locate its headquarters at another point within the Demilitarized Zone by agreement of the senior members of both sides on the Commission.

b. Operate as a joint organization without a chairman.

c. Adopt such rules of procedure as it may, from time to time, deem necessary.

d. Supervise the carrying out of the provisions of this Armistice Agreement pertaining to the Demilitarized Zone and to the Han River Estuary.

- e. Direct the operations of the Joint Observer Teams.
- f. Settle through negotiations any violations of this Armistice Agreement.
- g. Transmit immediately to the Commanders of the opposing sides all reports of investigations of violations of this Armistice Agreement and all other reports and records of proceedings received from the Neutral Nations Supervisory Commission.
- h. Give general supervision and direction to the activities of the Committee for Repatriation of Prisoners of War and the Committee for Assisting the Return of Displaced Civilians, hereinafter established.
- i. Act as an intermediary in transmitting communications between the Commanders of the opposing sides; provided, however, that the foregoing shall not be construed to preclude the Commanders of both sides from communicating with each other by any other means which they may desire to employ.
- j. Provide credentials and distinctive insignia for its staff and its Joint Observer Teams, and a distinctive marking for all vehicles, aircraft, and vessels, used in the performance of its mission.

26. The mission of the Joint Observer Teams shall be to assist the Military Armistice Commission in supervising the carrying out of the provisions of this Armistice Agreement pertaining to the Demilitarized Zone and to the Han River Estuary.

27. The Military Armistice Commission, or the senior member of either side thereof, is authorized to dispatch Joint Observer Teams to investigate violations of this Armistice Agreement reported to have occurred in the Demilitarized Zone or in the Han River Estuary; provided, however, that not more than one half of the Joint Observer Teams which have not been dispatched by the Military Armistice Commission may be dispatched at any one time by the senior member of either side on the Commission.

28. The Military Armistice Commission, or the senior member of either side thereof, is authorized to request the Neutral Nations Supervisory Commission to conduct special observations and inspections at places outside the Demilitarized Zone where violations of this Armistice Agreement have been reported to have occurred.

29. When the Military Armistice Commission determines that a violation of this Armistice Agreement has occurred, it shall immediately report such violation to the Commanders of the opposing sides.

30. When the Military Armistice Commission determines that a violation of this Armistice Agreement has been corrected to its satisfaction, it shall so report to the Commanders of the opposing sides.

3. GENERAL

31. The Military Armistice Commission shall meet daily. Recesses of not to exceed seven (7) days may be agreed upon by the senior members of both sides; provided, that such recesses may be terminated on twenty-four (24) hour notice by the senior member of either side.

32. Copies of the record of the proceedings of all meetings of the Military Armistice Commission shall be forwarded to the Commanders of the opposing sides as soon as possible after each meeting.

33. The Joint Observer Teams shall make periodic reports to the Military Armistice Commission as required by the Commission and, in addition, shall make such special reports as may be deemed necessary by them, or as may be required by the Commission.

34. The Military Armistice Commission shall maintain duplicate files of the reports and records of proceedings required by this Armistice Agreement. The Commission is authorized to maintain duplicate files of such other reports, records, etc., as

may be necessary in the conduct of its business. Upon eventual dissolution of the Commission, one set of the above files shall be turned over to each side.

35. The Military Armistice Commission may make recommendations to the Commanders of the opposing sides with respect to amendments or additions to this Armistice Agreement. Such recommended changes should generally be those designed to insure a more effective armistice.

C. NEUTRAL NATIONS SUPERVISORY COMMISSION

1. COMPOSITION

36. A Neutral Nations Supervisory Commission is hereby established.

37. The Neutral Nations Supervisory Commission shall be composed of four (4) senior officers, two (2) of whom shall be appointed by neutral nations nominated by the Commander-in-Chief, United Nations Command, namely, SWEDEN and SWITZERLAND, and two (2) of whom shall be appointed by neutral nations nominated jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, namely, POLAND and CZECHOSLOVAKIA. The term "neutral nations" as herein used is defined as those nations whose combatant forces have not participated in the hostilities in Korea. Members appointed to the Commission may be from the armed forces of the appointing nations. Each member shall designate an alternate member to attend those meetings which for any reason the principal member is unable to attend. Such alternate members shall be of the same nationality as their principals. The Neutral Nations Supervisory Commission may take action whenever the number of members present from the neutral nations nominated by one side is equal to the number of members present from the neutral nations nominated by the other side.

38. Members of the Neutral Nations Supervisory Commission shall be permitted to use staff assistants furnished by the neutral nations as required. These staff assistants may be appointed as alternate members of the Commission.

39. The neutral nations shall be requested to furnish the Neutral Nations Supervisory Commission with the necessary administrative personnel to establish a Secretariat charged with assisting the Commission by performing necessary record-keeping, secretarial, interpreting, and such other functions as the Commission may assign to it.

40. a. The Neutral Nations Supervisory Commission shall be initially provided with, and assisted by, twenty (20) Neutral Nations Inspection Teams, which number may be reduced by agreement of the senior members of both sides on the Military Armistice Commission. The Neutral Nations Inspection Teams shall be responsible to, shall report to, and shall be subject to the direction of, the Neutral Nations Supervisory Commission only.

b. Each Neutral Nations Inspection Team shall be composed of not less than four (4) officers, preferably of field grade, half of whom shall be from the neutral nations nominated by the Commander-in-Chief, United Nations Command, and half of whom shall be from the neutral nations nominated jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. Members appointed to the Neutral Nations Inspection Teams may be from the armed forces of the appointing nations. In order to facilitate the functioning of the Teams, sub-teams composed of not less than two (2) members, one of whom shall be from a neutral nation nominated by the Commander-in-Chief, United Nations Command, and one of whom shall be from a neutral nation nominated jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, may be formed as circumstances require. Additional personnel such as drivers, clerks, interpreters, and communications personnel, and such equipment as may be required by the Teams to perform their missions, shall be furnished by the Commander of each side, as required, in the Demilitarized Zone and in the territory under his military control. The Neutral Nations Supervisory Commission may provide itself and the Neutral Nations Inspection Teams with such of the above personnel and

equipment of its own as it may desire; provided, however, that such personnel shall be personnel of the same neutral nations of which the Neutral Nations Supervisory Commission is composed.

2. FUNCTIONS AND AUTHORITY

41. The mission of the Neutral Nations Supervisory Commission shall be to carry out the functions of ~~investigation~~ ~~as stipulated in~~ ~~Paragraph 43 hereof~~ and to report the results of such supervision, observation, inspection, and investigation to the Military Armistice Commission.

42. The Neutral Nations Supervisory Commission shall:

a. Locate its headquarters in proximity to the headquarters of the Military Armistice Commission.

b. Adopt such rules of procedure as it may, from time to time, deem necessary.

c. Conduct, through its members and its Neutral Nations Inspection Teams, the supervision and inspection provided for in Sub-paragraphs 13c and 13d of this Armistice Agreement at the ports of entry enumerated in Paragraph 43 hereof, and the special observations and inspections provided for in Paragraph 28 hereof at those places where violations of this Armistice Agreement have been reported to have occurred. The inspection of combat aircraft, armored vehicles, weapons, and ammunition by the Neutral Nations Inspection Teams shall be such as to enable them to properly insure that reinforcing combat aircraft, armored vehicles, weapons, and ammunition are not being introduced into Korea; but this shall not be construed as authorizing inspections or examinations of any secret designs or characteristics of any combat aircraft, armored vehicle, weapon, or ammunition.

d. Direct and supervise the operations of the Neutral Nations Inspection Teams.

e. Station five (5) Neutral Nations Inspection Teams at the ports of entry enumerated in Paragraph 43

hereof located in the territory under the military control of the Commander-in-Chief, United Nations Command; and five (5) Neutral Nations Inspection Teams at the ports of entry enumerated in Paragraph 43 hereof located in the territory under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers; and establish initially ten (10) mobile Neutral Nations Inspection Teams in reserve, stationed in the general vicinity of the headquarters of the Neutral Nations Supervisory Commission, which number may be reduced by agreement of the senior members of both sides on the Military Armistice Commission. Not more than half of the mobile Neutral Nations Inspection Teams shall be dispatched at any one time in accordance with requests of the senior member of either side on the Military Armistice Commission.

f. Subject to the provisions of the preceding Sub-paragraph, conduct without delay investigations of reported violations of this Armistice Agreement, including such investigations of reported violations of this Armistice Agreement as may be requested by the Military Armistice Commission or by the senior member of either side on the Commission.

g. Provide credentials and distinctive insignia for its staff and its Neutral Nations Inspection Teams, and a distinctive marking for all vehicles, aircraft, and vessels, used in the performance of its mission.

43. Neutral Nations Inspection Teams shall be stationed at the following ports of entry:

Territory under the military control of the United Nations Command		Territory under the military control of the Korean People's Army and the Chinese People's Volunteers	
INCHON	(37°28'N, 126°38'E)	SINUIJU	(40°06'N, 124°24'E)
TAEGU	(35°52'N, 128°36'E)	CHONGJIN	(41°46'N, 129°49'E)
PUSAN	(35°06'N, 129°02'E)	HUNGNAM	(39°50'N, 127°37'E)
KANGNUNG	(37°45'N, 128°54'E)	MANPO	(41°09'N, 126°18'E)
KUNSAN	(35°59'N, 126°43'E)	SINANJU	(39°36'N, 125°36'E)

These Neutral Nations Inspection Teams shall be accorded full convenience of movement within the areas and over the routes of communication set forth on the attached map (Map 5).¹

¹ See footnote 1, ante, p. 237.

13c - introduction of reinforcing personnel
13d - cease introduction of reinforcing material & equip.
25 - investigate reported violations

3. GENERAL

44. The Neutral Nations Supervisory Commission shall meet daily. Recesses of not to exceed seven (7) days may be agreed upon by the members of the Neutral Nations Supervisory Commission; provided, that such recesses may be terminated on twenty-four (24) hour notice by any member.

45. Copies of the record of the proceedings of all meetings of the Neutral Nations Supervisory Commission shall be forwarded to the Military Armistice Commission as soon as possible after each meeting. Records shall be kept in English, Korean, and Chinese.

46. The Neutral Nations Inspection Teams shall make periodic reports concerning the results of their supervision, observations, inspections, and investigations to the Neutral Nations Supervisory Commission as required by the Commission and, in addition, ~~shall make such special reports as may be required by the Commission.~~

Reports shall be submitted by a Team as a whole, but may also be submitted by one or more individual members thereof; provided, that the reports submitted by one or more individual members thereof shall be considered as informational only.

47. Copies of the reports made by the Neutral Nations Inspection Teams shall be forwarded to the Military Armistice Commission by the Neutral Nations Supervisory Commission without delay and in the language in which received. They shall not be delayed by the process of translation or evaluation. The Neutral Nations Supervisory Commission shall evaluate such reports at the earliest practicable time and shall forward their findings to the Military Armistice Commission as a matter of priority. The Military Armistice Commission shall not take final action with regard to any such report until the evaluation thereof has been received from the Neutral Nations Supervisory Commission. Members of the Neutral Nations Supervisory Commission and of its Teams shall be subject to appearance before the Military Armistice Commission, at the request of the senior member of either side on the Military Armistice Commission, for clarification of any report submitted.

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48. The Neutral Nations Supervisory Commission shall maintain duplicate files of the reports and records of proceedings required by this Armistice Agreement. The Commission is authorized to maintain duplicate files of such other reports, records, etc., as may be necessary in the conduct of its business. Upon eventual dissolution of the Commission, one set of the above files shall be turned over to each side.

49. The Neutral Nations Supervisory Commission may make recommendations to the Military Armistice Commission with respect to amendments or additions to this Armistice Agreement. Such recommended changes should generally be those designed to insure a more effective armistice.

50. The Neutral Nations Supervisory Commission, or any member thereof, shall be authorized to communicate with any member of the Military Armistice Commission.

ARTICLE III

ARRANGEMENTS RELATING TO PRISONERS OF WAR

51. The release and repatriation of all prisoners of war held in the custody of each side at the time this Armistice Agreement becomes effective shall be effected in conformity with the following provisions agreed upon by both sides prior to the signing of this Armistice Agreement.

a. Within sixty (60) days after this Armistice Agreement becomes effective, each side shall, without offering any hindrance, directly repatriate and hand over in groups all those prisoners of war in its custody who insist on repatriation to the side to which they belonged at the time of capture. Repatriation shall be accomplished in accordance with the related provisions of this Article. In order to expedite the repatriation process of such personnel, each side shall, prior to the signing of the Armistice Agreement, exchange the total numbers, by nationalities, of personnel to be directly repatriated. Each group of prisoners of war delivered to the other side shall be accompanied by rosters, prepared by nationality, to include name, rank (if any) and internment or military serial number.

of the Red Cross Society of the People's Republic of China on the other hand, shall be established. The joint Red Cross teams shall assist in the execution by both sides of those provisions of this Armistice Agreement relating to the repatriation of all the prisoners of war specified in Sub-paragraph 51a hereof, who insist upon repatriation, by the performance of such humanitarian services as are necessary and desirable for the welfare of the prisoners of war. To accomplish this task, the joint Red Cross teams shall provide assistance in the delivering and receiving of prisoners of war by both sides at the place(s) of delivery and reception of prisoners of war, and shall visit the prisoner of war camps of both sides to comfort the prisoners of war and to bring in and distribute gift articles for the comfort and welfare of the prisoners of war. The joint Red Cross teams may provide services to prisoners of war while en route from prisoner of war camps to the place(s) of delivery and reception of prisoners of war.

b. The joint Red Cross teams shall be organized as set forth below:

(1) One team shall be composed of twenty (20) members, namely, ten (10) representatives from the national Red Cross Societies of each side, to assist in the delivering and receiving of prisoners of war by both sides at the place(s) of delivery and reception of prisoners of war. The chairmanship of this team shall alternate daily between representatives from the Red Cross Societies of the two sides. The work and services of this team shall be coordinated by the Committee for Repatriation of Prisoners of War.

(2) One team shall be composed of sixty (60) members, namely, thirty (30) representatives from the national Red Cross Societies of each side, to visit the prisoner of war camps under the administration of the Korean People's Army and the Chinese People's Volunteers. This team may provide services to prisoners of war while en route from the prisoner of war camps to the place(s) of delivery and reception of prisoners of war. A representative of the Red Cross Society of the Democratic People's Republic of Korea or of the Red Cross Society of the People's Republic of China shall serve as chairman of this team.

(3) One team shall be composed of sixty (60) members, namely, thirty (30) representatives from the national Red Cross Societies of each side, to visit the prisoner of war camps under the administration of the United Nations Command. This team may provide services to prisoners of war while en route from the prisoner of war camps to the place(s) of delivery and reception of prisoners of war. A representative of a Red Cross Society of a nation contributing forces to the United Nations Command shall serve as chairman of this team.

(4) In order to facilitate the functioning of each joint Red Cross team, sub-teams composed of not less than two (2) members from the team, with an equal number of representatives from each side, may be formed as circumstances require.

(5) Additional personnel such as drivers, clerks, and interpreters, and such equipment as may be required by the joint Red Cross teams to perform their missions, shall be furnished by the Commander of each side to the team operating in the territory under his military control.

(6) Whenever jointly agreed upon by the representatives of both sides on any joint Red Cross team, the size of such team may be increased or decreased, subject to confirmation by the Committee for Repatriation of Prisoners of War.

c. The Commander of each side shall cooperate fully with the joint Red Cross teams in the performance of their functions, and undertakes to insure the security of the personnel of the joint Red Cross team in the area under his military control. The Commander of each side shall provide such logistic, administrative, and communications facilities as may be required by the team operating in the territory under his military control.

d. The joint Red Cross teams shall be dissolved upon completion of the program of repatriation of all the prisoners of war specified in Sub-paragraph 51a hereof, who insist upon repatriation.

58. a. The Commander of each side shall furnish to the Commander of the other side as soon as practicable, but not later than ten (10) days after this Armistice Agreement becomes

effective, the following information concerning prisoners of war:

(1) Complete data pertaining to the prisoners of war who escaped since the effective date of the data last exchanged.

(2) Insofar as practicable, information regarding name, nationality, rank, and other identification data, date and cause of death, and place of burial, of those prisoners of war who died while in his custody.

b. If any prisoners of war escape or die after the effective date of the supplementary information specified above, the detaining side shall furnish to the other side, through the Committee for Repatriation of Prisoners of War, the data pertaining thereto in accordance with the provisions of Sub-paragraph 58a hereof. Such data shall be furnished at ten-day intervals until the completion of the program of delivery and reception of prisoners of war.

c. Any escaped prisoner of war who returns to the custody of the detaining side after the completion of the program of delivery and reception of prisoners of war shall be delivered to the Military Armistice Commission for disposition.

59. a. All civilians who, at the time this Armistice Agreement becomes effective, are in territory under the military control of the Commander-in-Chief, United Nations Command, and who, on 24 June 1950, resided north of the Military Demarcation Line established in this Armistice Agreement shall, if they desire to return home, be permitted and assisted by the Commander-in-Chief, United Nations Command, to return to the area north of the Military Demarcation Line; and all civilians who, at the time this Armistice Agreement becomes effective, are in territory under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, and who, on 24 June 1950, resided south of the Military Demarcation Line established in this Armistice Agreement shall, if they desire to return home, be permitted and assisted by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers to return to the area south

of the Military Demarcation Line. The Commander of each side shall be responsible for publicizing widely throughout territory under his military control the contents of the provisions of this Sub-paragraph, and for calling upon the appropriate civil authorities to give necessary guidance and assistance to all such civilians who desire to return home.

b. All civilians of foreign nationality who, at the time this Armistice Agreement becomes effective, are in territory under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers shall, if they desire to proceed to territory under the military control of the Commander-in-Chief, United Nations Command, be permitted and assisted to do so; all civilians of foreign nationality who, at the time this Armistice Agreement becomes effective, are in territory under the military control of the Commander-in-Chief, United Nations Command, shall, if they desire to proceed to territory under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, be permitted and assisted to do so. The Commander of each side shall be responsible for publicizing widely throughout the territory under his military control the contents of the provisions of this Sub-paragraph, and for calling upon the appropriate civil authorities to give necessary guidance and assistance to all such civilians of foreign nationality who desire to proceed to territory under the military control of the Commander of the other side.

c. Measures to assist in the return of civilians provided for in Sub-paragraph 59a hereof and the movement of civilians provided for in Sub-paragraph 59b hereof shall be commenced by both sides as soon as possible after this Armistice Agreement becomes effective.

d. (1) A Committee for Assisting the Return of Displaced Civilians is hereby established. It shall be composed of four (4) officers of field grade, two (2) of whom shall be appointed by the Commander-in-Chief, United Nations Command, and two (2) of whom shall be appointed jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. This

Committee shall, under the general supervision and direction of the Military Armistice Commission, be responsible for coordinating the specific plans of both sides for assistance to the return of the above-mentioned civilians, and for supervising the execution by both sides of all of the provisions of this Armistice Agreement relating to the return of the above-mentioned civilians. It shall be the duty of this Committee to make necessary arrangements, including those of transportation, for expediting and coordinating the movement of the above-mentioned civilians; to select the crossing point(s) through which the above-mentioned civilians will cross the Military Demarcation Line; to arrange for security at the crossing point(s); and to carry out such other functions as are required to accomplish the return of the above-mentioned civilians.

(2) When unable to reach agreement on any matter relating to its responsibilities, the Committee for Assisting the Return of Displaced Civilians shall immediately refer such matter to the Military Armistice Commission for decision. The Committee for Assisting the Return of Displaced Civilians shall maintain its headquarters in proximity to the headquarters of the Military Armistice Commission.

(3) The Committee for Assisting the Return of Displaced Civilians shall be dissolved by the Military Armistice Commission upon fulfillment of its mission.

ARTICLE IV

RECOMMENDATION TO THE GOVERNMENTS CONCERNED ON BOTH SIDES

60. In order to insure the peaceful settlement of the Korean question, the military Commanders of both sides hereby recommend to the governments of the countries concerned on both sides that, within three (3) months after the Armistice Agreement is signed and becomes effective, a political conference of a higher level of both sides be held by representatives appointed respectively to settle through negotiation the questions of the withdrawal of all foreign forces from Korea, the peaceful settlement of the Korean question, etc.

ARTICLE V

MISCELLANEOUS

61. Amendments and additions to this Armistice Agreement must be mutually agreed to by the Commanders of the opposing sides.

62. The Articles and Paragraphs of this Armistice Agreement shall remain in effect until expressly superseded either by mutually acceptable amendments and additions or by provision in an appropriate agreement for a peaceful settlement at a political level between both sides.

63. All of the provisions of this Armistice Agreement, other than Paragraph 12, shall become effective at 2200 hours on 27 JULY 1953.

Done at Panmunjom, Korea, at 1000 hours on the 27th day of JULY, 1953, in English, Korean, and Chinese, all texts being equally authentic.

7/27/53 朴世榮 Mark W. Clark
 KIM IL SUNG PENG TEH-HUAI MARK W. CLARK
 Marshal, Democratic Commander, General, United States
 People's Republic Chinese People's Army
 of Korea Volunteers Commander-in-Chief,
 Supreme Commander, United Nations
 Korean People's Army Command

PRESENT

NAM IL WILLIAM K. HARRISON, JR.
 General, Korean People's Army Lieutenant General, United States
 Senior Delegate, Army
 Delegation of the Korean People's Senior Delegate,
 Army and the Chinese People's United Nations Command Delegation
 Volunteers

ANNEX

TERMS OF REFERENCE

FOR

NEUTRAL NATIONS REPATRIATION COMMISSION

(See Sub-paragraph 51b)

I

GENERAL

1. In order to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated following an armistice, Sweden, Switzerland, Poland, Czechoslovakia and India shall each be requested by both sides to appoint a member to a Neutral Nations Repatriation Commission which shall be established to take custody in Korea of those prisoners of war who, while in the custody of the detaining powers, have not exercised their right to be repatriated. The Neutral Nations Repatriation Commission shall establish its headquarters within the Demilitarized Zone in the vicinity of Panmunjom, and shall station subordinate bodies of the same composition as the Neutral Nations Repatriation Commission at those locations at which the Repatriation Commission assumes custody of prisoners of war. Representatives of both sides shall be permitted to observe the operations of the Repatriation Commission and its subordinate bodies to include explanations and interviews.

2. Sufficient armed forces and any other operating personnel required to assist the Neutral Nations Repatriation Commission in carrying out its functions and responsibilities shall be provided exclusively by India, whose representative shall be the umpire in accordance with the provisions of Article 132 of the Geneva Convention, and shall also be chairman and executive agent of the Neutral Nations Repatriation Commission. Representatives from each of the other four powers shall be allowed staff assistants in equal number not to exceed fifty (50) each. When any of the representatives of the neutral nations is absent for some reason, that representative shall designate an alternate representative of his own nationality to exercise his functions and authority. The arms of all personnel provided for in this Paragraph shall be limited to military police type small arms.

3. No force or threat of force shall be used against the prisoners of war specified in Paragraph 1 above to prevent or effect their repatriation, and no violence to their persons or affront to their dignity or self-respect shall be permitted in any manner for any purpose whatsoever (but see Paragraph 7 below). This duty is enjoined on and entrusted to the Neutral Nations Repatriation Commission. This Commission shall ensure that prisoners of war shall at all times be treated humanely in accordance with the specific provisions of the Geneva Convention, and with the general spirit of that Convention.

II

CUSTODY OF PRISONERS OF WAR

4. All prisoners of war who have not exercised their right of repatriation following the effective date of the Armistice Agreement shall be released from the military control and from the custody of the detaining side as soon as practicable, and, in all cases, within sixty (60) days subsequent to the effective date of the Armistice Agreement to the Neutral Nations Repatriation Commission at locations in Korea to be designated by the detaining side.

5. At the time the Neutral Nations Repatriation Commission assumes control of the prisoner of war installations, the military forces of the detaining side shall be withdrawn therefrom, so that the locations specified in the preceding Paragraph shall be taken over completely by the armed forces of India.

6. Notwithstanding the provisions of Paragraph 5 above, the detaining side shall have the responsibility for maintaining and ensuring security and order in the areas around the locations where the prisoners of war are in custody and for preventing and restraining any armed forces (including irregular armed forces) in the area under its control from any acts of disturbance and intrusion against the locations where the prisoners of war are in custody.

7. Notwithstanding the provisions of Paragraph 3 above, nothing in this agreement shall be construed as derogating from the authority of the Neutral Nations Repatriation Commission to exercise its legitimate functions and responsibilities for the control of the prisoners of war under its temporary jurisdiction.

III

EXPLANATION

8. The Neutral Nations Repatriation Commission, after having received and taken into custody all those prisoners of war who have not exercised their right to be repatriated, shall immediately make arrangements so that within ninety (90) days after the Neutral Nations Repatriation Commission takes over the custody, the nations to which the prisoners of war belong shall have freedom and facilities to send representatives to the locations where such prisoners of war are in custody to explain to all the prisoners of war depending upon these nations their rights and to inform them of any matters relating to their return to their homelands, particularly of their full freedom to return home to lead a peaceful life, under the following provisions:

a. The number of such explaining representatives shall not exceed seven (7) per thousand prisoners of war held in custody by the Neutral Nations Repatriation Commission; and the minimum authorized shall not be less than a total of five (5);

b. The hours during which the explaining representatives shall have access to the prisoners shall be as determined by the Neutral Nations Repatriation Commission, and generally in accord with Article 53 of the Geneva Convention Relative to the Treatment of Prisoners of War;

c. All explanations and interviews shall be conducted in the presence of a representative of each member nation of the Neutral Nations Repatriation Commission and a representative from the detaining side;

d. Additional provisions governing the explanation work shall be prescribed by the Neutral Nations Repatriation

Commission, and will be designed to employ the principles enumerated in Paragraph 3 above and in this Paragraph;

e. The explaining representatives, while engaging in their work, shall be allowed to bring with them necessary facilities and personnel for wireless communications. The number of communications personnel shall be limited to one team per location at which explaining representatives are in residence, except in the event all prisoners of war are concentrated in one location, in which case, two (2) teams shall be permitted. Each team shall consist of not more than six (6) communications personnel.

9. Prisoners of war in its custody shall have freedom and facilities to make representations and communications to the Neutral Nations Repatriation Commission and to representatives and subordinate bodies of the Neutral Nations Repatriation Commission and to inform them of their desires on any matter concerning the prisoners of war themselves, in accordance with arrangements made for the purpose by the Neutral Nations Repatriation Commission.

IV

DISPOSITION OF PRISONERS OF WAR

10. Any prisoner of war who, while in the custody of the Neutral Nations Repatriation Commission, decides to exercise the right of repatriation, shall make an application requesting repatriation to a body consisting of a representative of each member nation of the Neutral Nations Repatriation Commission. Once such an application is made, it shall be considered immediately by the Neutral Nations Repatriation Commission or one of its subordinate bodies so as to determine immediately by majority vote the validity of such application. Once such an application is made to and validated by the Commission or one of its subordinate bodies, the prisoner of war concerned shall immediately be transferred to and accommodated in the tents set up for those who are ready to be repatriated. Thereafter, he shall, while still in the custody of the Neutral Nations

Repatriation Commission, be delivered forthwith to the prisoner of war exchange point at Panmunjom for repatriation under the procedure prescribed in the Armistice Agreement.

11. At the expiration of ninety (90) days after the transfer of custody of the prisoners of war to the Neutral Nations Repatriation Commission, access of representatives to captured personnel as provided for in Paragraph 8 above, shall terminate, and the question of disposition of the prisoners of war who have not exercised their right to be repatriated shall be submitted to the Political Conference recommended to be convened in Paragraph 60, Draft Armistice Agreement, which shall endeavor to settle this question within thirty (30) days, during which period the Neutral Nations Repatriation Commission shall continue to retain custody of those prisoners of war. The Neutral Nations Repatriation Commission shall declare the relief from the prisoner of war status to civilian status of any prisoners of war who have not exercised their right to be repatriated and for whom no other disposition has been agreed to by the Political Conference within one hundred and twenty (120) days after the Neutral Nations Repatriation Commission has assumed their custody. Thereafter, according to the application of each individual, those who choose to go to neutral nations shall be assisted by the Neutral Nations Repatriation Commission and the Red Cross Society of India. This operation shall be completed within thirty (30) days, and upon its completion, the Neutral Nations Repatriation Commission shall immediately cease its functions and declare its dissolution. After the dissolution of the Neutral Nations Repatriation Commission, whenever and wherever any of those above-mentioned civilians who have been relieved from the prisoner of war status desire to return to their fatherlands, the authorities of the localities where they are shall be responsible for assisting them in returning to their fatherlands.

V

RED CROSS VISITATION

12. Essential Red Cross service for prisoners of war in custody of the Neutral Nations Repatriation Commission shall be provided by India in accordance with regulations issued by the Neutral Nations Repatriation Commission.

VI

PRESS COVERAGE

13. The Neutral Nations Repatriation Commission shall insure freedom of the press and other news media in observing the entire operation as enumerated herein, in accordance with procedures to be established by the Neutral Nations Repatriation Commission.

VII

LOGISTICAL SUPPORT FOR PRISONERS OF WAR

14. Each side shall provide logistical support for the prisoners of war in the area under its military control, delivering required support to the Neutral Nations Repatriation Commission at an agreed delivery point in the vicinity of each prisoner of war installation.

15. The cost of repatriating prisoners of war to the exchange point at Panmunjom shall be borne by the detaining side and the cost from the exchange point by the side on which said prisoners depend, in accordance with Article 118 of the Geneva Convention.

16. The Red Cross Society of India shall be responsible for providing such general service personnel in the prisoner of war installations as required by the Neutral Nations Repatriation Commission.

17. The Neutral Nations Repatriation Commission shall provide medical support for the prisoners of war as may be practicable. The detaining side shall provide medical support as practicable upon the request of the Neutral Nations Repatriation Commission and specifically for those cases requiring extensive treatment or hospitalization. The Neutral Nations Repatriation Commission shall maintain custody of prisoners of war during such hospitalization. The detaining side shall facilitate such custody. Upon completion of treatment, prisoners of war shall be returned to a prisoner of war installation as specified in Paragraph 4 above.

18. The Neutral Nations Repatriation Commission is entitled to obtain from both sides such legitimate assistance as it may require in carrying out its duties and tasks, but both sides shall not under any name and in any form interfere or exert influence.

VIII

LOGISTICAL SUPPORT FOR THE NEUTRAL NATIONS REPATRIATION COMMISSION

19. Each side shall be responsible for providing logistical support for the personnel of the Neutral Nations Repatriation Commission stationed in the area under its military control, and both sides shall contribute on an equal basis to such support within the Demilitarized Zone. The precise arrangements shall be subject to determination between the Neutral Nations Repatriation Commission and the detaining side in each case.

20. Each of the detaining sides shall be responsible for protecting the explaining representatives from the other side while in transit over lines of communication within its area, as set forth in Paragraph 23 for the Neutral Nations Repatriation Commission, to a place of residence and while in residence in the vicinity of but not within each of the locations where the prisoners of war are in custody. The Neutral Nations Repatriation Commission shall be responsible for the security of such representatives within the actual limits of the locations where the prisoners of war are in custody.

21. Each of the detaining sides shall provide transportation, housing, communication, and other agreed logistical support to the explaining representatives of the other side while they are in the area under its military control. Such services shall be provided on a reimbursable basis.

IX

PUBLICATION

22. After the Armistice Agreement becomes effective, the terms of this agreement shall be made known to all prisoners of war who, while in the custody of the detaining side, have not exercised their right to be repatriated.

X

MOVEMENT

23. The movement of the personnel of the Neutral Nations Repatriation Commission and repatriated prisoners of war shall be over lines of communication as determined by the command(s) of the opposing side and the Neutral Nations Repatriation Commission. A map showing these lines of communication shall be furnished the command of the opposing side and the Neutral Nations Repatriation Commission. Movement of such personnel, except within locations as designated in Paragraph 4 above, shall be under the control of, and escorted by, personnel of the side in whose area the travel is being undertaken; however, such movement shall not be subject to any obstruction and coercion.

XI

PROCEDURAL MATTERS

24. The interpretation of this agreement shall rest with the Neutral Nations Repatriation Commission. The Neutral Nations Repatriation Commission, and/or any subordinate bodies to which functions are delegated or assigned by the Neutral Nations Repatriation Commission, shall operate on the basis of majority vote.

25. The Neutral Nations Repatriation Commission shall submit a weekly report to the opposing Commanders on the status of prisoners of war in its custody, indicating the numbers repatriated and remaining at the end of each week.

26. When this agreement has been acceded to by both sides and by the five powers named herein, it shall become effective upon the date the Armistice becomes effective.

Done at Panmunjom, Korea, at 1400 hours on the 8th day of June 1953, in English, Korean, and Chinese, all texts being equally authentic.

NAM IL

General, Korean People's Army
Senior Delegate,
Delegation of the Korean People's
Army and the Chinese People's
Volunteers

WILLIAM K. HARRISON, JR.

Lieutenant General, United
States Army
Senior Delegate,
United Nations Command
Delegation

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b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

of the functions assigned to the latter under agreements made between the parties;

(e) To report to the Security Council as he may consider necessary, submitting his conclusions and any recommendations which he may desire to make;

3. *Requests* the two Governments to take all necessary precautions to ensure that their agreements regarding the cease-fire shall continue to be faithfully observed, and calls upon them to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations;

4. *Extends its best thanks* to the members of the United Nations Commission for India and Pakistan and to General A. G. L. McNaughton for their arduous and fruitful labours;

5. *Agrees* that the United Nations Commission for India and Pakistan shall be terminated, and decides that this shall take place one month after both parties have informed the United Nations Representative of their acceptance of the transfer to him of the powers and responsibilities of the United Nations Commission referred to in paragraph 2 (c) above.

*Adopted at the 470th meeting by 8 votes to none, with 2 abstentions (India, Yugoslavia). **

Decision

At its 471st meeting, on 12 April 1950, the Council appointed Sir Owen Dixon United Nations Representative for India and Pakistan.

*Adopted by 8 votes to none, with 2 abstentions (India, Yugoslavia). **

du plébiscite puisse exercer les fonctions qui lui ont été conférées par les accords conclus entre les parties;

e) De soumettre au Conseil de sécurité tout rapport qu'il jugera nécessaire, avec les conclusions et les recommandations qu'il estimera devoir présenter;

3. *Prie* les deux gouvernements de prendre toutes les précautions utiles pour s'assurer que les accords relatifs à la suspension d'armes seront fidèlement observés et invite ces gouvernements à prendre toutes les mesures possibles pour créer et maintenir un climat favorable à la poursuite des négociations;

4. *Exprime ses remerciements* aux membres de la Commission des Nations Unies pour l'Inde et le Pakistan et au général A. G. L. McNaughton pour les travaux ardues et fructueux qu'ils ont accomplis;

5. *Décide* que la Commission des Nations Unies pour l'Inde et le Pakistan sera dissoute et que cette dissolution prendra effet un mois après le jour où les deux parties auront fait connaître au représentant des Nations Unies qu'elles acceptent le transfert audit représentant des pouvoirs et attributions visés à l'alinéa c du paragraphe 2 ci-dessus.

*Adoptée à la 470^e séance par 8 voix contre zéro, avec 2 abstentions (Inde, Yougoslavie) *.*

Décision

A sa 471^e séance, le 12 avril 1950, le Conseil a nommé sir Owen Dixon représentant des Nations Unies pour l'Inde et le Pakistan.

*Adoptée par 8 voix contre zéro, avec 2 abstentions (Inde, Yougoslavie) *.*

COMPLAINT OF AGGRESSION UPON THE REPUBLIC OF KOREA

Decision

At its 473rd meeting, on 25 June 1950, the Council decided, under rule 39 of the provisional rules of procedure, to invite the representative of the Republic of Korea to take a place at the Council table during the consideration of the question.

* One member (Union of Soviet Socialist Republics) was absent.

PLAINTE POUR AGRESSION CONTRE LA RÉPUBLIQUE DE CORÉE

Décision

A sa 473^e séance, le 25 juin 1950, le Conseil a décidé, en vertu de l'article 39 de son règlement intérieur provisoire, d'inviter le représentant de la République de Corée à prendre place à la table du Conseil pendant l'examen de la question.

* Un des membres (Union des Républiques socialistes soviétiques) était absent.

The Security Council,

Recalling the finding of the General Assembly in its resolution 293 (IV) of 21 October 1949 that the Government of the Republic of Korea is a lawfully established government having effective control and jurisdiction over that part of Korea where the United Nations Temporary Commission on Korea was able to observe and consult and in which the great majority of the people of Korea reside; that this Government is based on elections which were a valid expression of the free will of the electorate of that part of Korea and which were observed by the Temporary Commission; and that this is the only such Government in Korea,

Mindful of the concern expressed by the General Assembly in its resolutions 195 (III) of 12 December 1948 and 293 (IV) of 21 October 1949 about the consequences which might follow unless Member States refrained from acts derogatory to the results sought to be achieved by the United Nations in bringing about the complete independence and unity of Korea; and the concern expressed that the situation described by the United Nations Commission on Korea in its report^a menaces the safety and well-being of the Republic of Korea and of the people of Korea and might lead to open military conflict there,

Noting with grave concern the armed attack on the Republic of Korea by forces from North Korea,

Determines that this action constitutes a breach of the peace; and

I

Calls for the immediate cessation of hostilities;

Calls upon the authorities in North Korea to withdraw forthwith their armed forces to the 38th parallel;

II

Requests the United Nations Commission on Korea:

(a) To communicate its fully considered recommendations on the situation with the least possible delay;

(b) To observe the withdrawal of North Korean forces to the 38th parallel;

(c) To keep the Security Council informed on the execution of this resolution;

III

Calls upon all Member States to render every assistance to the United Nations in the execution of this resolution

^a See *Official Records of the Security Council, Fifth Year, No. 15*, 473rd meeting, p. 2, footnote 2 (document S/1496, incorporating S/1496/Corr.1).

Le Conseil de sécurité,

Rappelant les conclusions que l'Assemblée générale a formulées dans sa résolution 293 (IV) du 21 octobre 1949, à savoir que le Gouvernement de la République de Corée est un gouvernement légitime qui exerce effectivement son autorité et sa juridiction sur la partie de la Corée où la Commission temporaire des Nations Unies pour la Corée a été en mesure de procéder à des observations et à des consultations et dans laquelle réside la grande majorité de la population de la Corée; que ce gouvernement est né d'élections qui ont été l'expression valable de la libre volonté du corps électoral de cette partie de la Corée et qui ont été observées par la Commission temporaire; et que ledit gouvernement est le seul qui, en Corée, possède cette qualité,

Conscient de ce que l'Assemblée générale, dans ses résolutions 195 (III) du 12 décembre 1948 et 293 (IV) du 21 octobre 1949, s'inquiète des conséquences que pourraient avoir des actes préjudiciables aux résultats que cherchent à obtenir les Nations Unies en vue de l'indépendance et de l'unité complètes de la Corée et invite les Etats Membres à s'abstenir d'actes de cette nature; et conscient de ce que l'Assemblée générale craint que la situation décrite par la Commission dans son rapport^a ne menace la sûreté et le bien-être de la République de Corée et du peuple coréen et ne risque de conduire à un véritable conflit armé en Corée,

Prenant acte de l'attaque dirigée contre la République de Corée par des forces armées venues de Corée du Nord, attaque qui le préoccupe gravement,

Constate que cette action constitue une rupture de la paix; et

I

Demande la cessation immédiate des hostilités;

Invite les autorités de la Corée du Nord à retirer immédiatement leurs forces armées sur le 38^e parallèle;

II

Prie la Commission des Nations Unies pour la Corée:

(a) De communiquer, après mûr examen et dans le plus bref délai possible, ses recommandations au sujet de la situation;

(b) D'observer le retrait des forces de la Corée du Nord sur le 38^e parallèle;

(c) De tenir le Conseil de sécurité au courant de l'exécution de la présente résolution;

III

Invite tous les Etats Membres à prêter leur entier concours à l'Organisation des Nations Unies pour

^a Voir *Procès-verbaux officiels du Conseil de sécurité, cinquième année, n° 15*, 473^e séance, p. 2, note 2 (document S/1496) et document S/1496/Corr.1 (mimeographié) figurant quant au fond dans la déclaration du Président, p. 3 et 4 de la même séance.

and to refrain from giving assistance to the North Korean authorities.

Adopted at the 473rd meeting by 9 votes to none, with 1 abstention (Yugoslavia).¹⁰

83 (1950). Resolution of 27 June 1950

[S/1511]

The Security Council,

Having determined that the armed attack upon the Republic of Korea by forces from North Korea constitutes a breach of the peace,

Having called for an immediate cessation of hostilities,

Having called upon the authorities in North Korea to withdraw forthwith their armed forces to the 38th parallel,

Having noted from the report of the United Nations Commission on Korea¹¹ that the authorities in North Korea have neither ceased hostilities nor withdrawn their armed forces to the 38th parallel, and that urgent military measures are required to restore international peace and security,

Having noted the appeal from the Republic of Korea to the United Nations for immediate and effective steps to secure peace and security,

Recommends that the Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area.

Adopted at the 474th meeting by 7 votes to 1 (Yugoslavia).¹²

84 (1950). Resolution of 7 July 1950

[S/1588]

The Security Council,

Having determined that the armed attack upon the Republic of Korea by forces from North Korea constitutes a breach of the peace,

Having recommended that Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area,

¹⁰ One member (Union of Soviet Socialist Republics) was absent.

¹¹ *Official Records of the Security Council, Fifth Year, No. 16, 474th meeting, p. 2 (document S/1507).*

¹² Two members (Egypt, India) did not participate in the voting; one member (Union of Soviet Socialist Republics) was absent.

l'exécution de la présente résolution et à s'abstenir de venir en aide aux autorités de la Corée du Nord.

Adoptée à la 473^e séance par 9 voix contre zéro, avec une abstention (Yougoslavie).¹⁰

83 (1950). Résolution du 27 juin 1950

[S/1511]

Le Conseil de sécurité,

Ayant constaté que l'attaque dirigée contre la République de Corée par des forces armées venues de Corée du Nord constitue une rupture de la paix,

Ayant demandé la cessation immédiate des hostilités,

Ayant invité les autorités de la Corée du Nord à retirer immédiatement leurs forces armées sur le 38^e parallèle,

Ayant constaté, d'après le rapport de la Commission des Nations Unies pour la Corée¹¹, que les autorités de la Corée du Nord n'ont ni suspendu les hostilités, ni retiré leurs forces armées sur le 38^e parallèle, et qu'il faut prendre d'urgence des mesures militaires pour rétablir la paix et la sécurité internationales,

Ayant pris acte de l'appel adressé aux Nations Unies par la République de Corée, qui demande que des mesures efficaces soient prises immédiatement pour garantir la paix et la sécurité,

Recommande aux Membres de l'Organisation des Nations Unies d'apporter à la République de Corée toute l'aide nécessaire pour repousser les assaillants et rétablir dans cette région la paix et la sécurité internationales.

Adoptée à la 474^e séance par 7 voix contre une (Yougoslavie).¹²

84 (1950). Résolution du 7 juillet 1950

[S/1588]

Le Conseil de sécurité,

Ayant constaté que l'attaque dirigée contre la République de Corée par des forces armées venues de Corée du Nord constitue une rupture de la paix,

Ayant recommandé aux Membres de l'Organisation des Nations Unies d'apporter à la République de Corée toute l'aide nécessaire pour repousser les assaillants et rétablir dans cette région la paix et la sécurité internationales,

¹⁰ Un des membres (Union des Républiques socialistes soviétiques) était absent.

¹¹ *Procès-verbaux officiels du Conseil de sécurité, cinquième année, n° 16, 474^e séance, p. 2 (document S/1507).*

¹² Deux des membres (Égypte, Inde) n'ont pas participé au vote; un des membres (Union des Républiques socialistes soviétiques) était absent.

1. *Welcomes* the prompt and vigorous support which Governments and peoples of the United Nations have given to its resolutions 82 (1950) and 83 (1950) of 25 and 27 June 1950 to assist the Republic of Korea in defending itself against armed attack and thus to restore international peace and security in the area;

2. *Notes* that Members of the United Nations have transmitted to the United Nations offers of assistance for the Republic of Korea;

3. *Recommends* that all Members providing military forces and other assistance pursuant to the aforesaid Security Council resolutions make such forces and other assistance available to a unified command under the United States of America;

4. *Requests* the United States to designate the commander of such forces;

5. *Authorizes* the unified command at its discretion to use the United Nations flag in the course of operations against North Korean forces concurrently with the flags of the various nations participating;

6. *Requests* the United States to provide the Security Council with reports as appropriate on the course of action taken under the unified command.

Adopted at the 476th meeting by 7 votes to none, with 3 abstentions (Egypt, India, Yugoslavia).¹³

85 (1950). Resolution of 31 July 1950

[S/1657]

The Security Council,

Recognizing the hardships and privations to which the people of Korea are being subjected as a result of the continued prosecution by the North Korean forces of their unlawful attack,

Appreciating the spontaneous offers of assistance to the Korean people which have been made by Governments, specialized agencies, and non-governmental organizations,

1. *Requests* the Unified Command to exercise responsibility for determining the requirements for the relief and support of the civilian population of Korea and for establishing in the field the procedures for providing such relief and support;

2. *Requests* the Secretary-General to transmit all offers of assistance for relief and support to the Unified Command;

3. *Requests* the Unified Command to provide the Security Council with reports, as appropriate, on its relief activities;

¹³ One member (Union of Soviet Socialist Republics) was absent.

1. *Se félicite* de l'appui rapide et vigoureux que les gouvernements et les peuples des Nations Unies ont apporté à ses résolutions 82 (1950) et 83 (1950) des 25 et 27 juin 1950 en vue d'aider la République de Corée à se défendre contre ladite attaque armée, et ainsi rétablir la paix et la sécurité internationales dans la région;

2. *Prend acte* de ce que des Membres de l'Organisation des Nations Unies ont transmis à celle-ci des offres d'assistance à la République de Corée;

3. *Recommande* que tous les Membres fournissant en application des résolutions précitées du Conseil de sécurité des forces militaires et toute autre assistance mettent ces forces et cette assistance à la disposition d'un commandement unifié sous l'autorité des Etats-Unis d'Amérique;

4. *Prie* les Etats-Unis de désigner le commandant en chef de ces forces;

5. *Autorise* le commandement unifié à utiliser à sa discrétion, au cours des opérations contre les forces de la Corée du Nord, le drapeau des Nations Unies en même temps que les drapeaux des diverses nations participantes;

6. *Prie* les Etats-Unis de fournir au Conseil de sécurité des rapports d'importance et de fréquence appropriées concernant le déroulement de l'action entreprise sous l'autorité du commandement unifié.

Adoptée à la 476^e séance par 7 voix contre zéro, avec 3 abstentions (Egypte, Inde, Yougoslavie).¹⁴

85 (1950). Résolution du 31 juillet 1950

[S/1657]

Le Conseil de sécurité,

Conscient des épreuves et des privations qu'impose au peuple coréen la poursuite de l'attaque illégale déclenchée par les forces de la Corée du Nord,

Accueillant avec reconnaissance les offres d'aide au peuple coréen faites spontanément par des gouvernements, des institutions spécialisées et des organisations non gouvernementales,

1. *Prie* le Commandement unifié de se charger de déterminer les secours et l'aide dont la population civile de la Corée a besoin et d'organiser sur place la répartition de ces secours et de cette aide;

2. *Prie* le Secrétaire général de transmettre au Commandement unifié toutes les offres de secours et d'aide;

3. *Prie* le Commandement unifié d'adresser au Conseil de sécurité, toutes les fois qu'il le jugera utile, des rapports sur l'œuvre qu'il aura accomplie dans le domaine des secours;

¹⁴ Un des membres (Union des Républiques socialistes soviétiques) était absent.

RESOLUTIONS

adopted by the General Assembly during the period
16 December 1950 to 5 November 1951

I

VERIFICATION OF CREDENTIALS

On behalf of the Credentials Committee,¹ its Chairman made a report² to the General Assembly. The Assembly took note of the report.

332nd plenary meeting,
5 November 1951.

II

RESOLUTIONS

498 (V). Intervention of the Central People's Government of the People's Republic of China in Korea

(Resolution adopted on the report of the
First Committee)

The General Assembly,

Noting that the Security Council, because of lack of unanimity of the permanent members, has failed to exercise its primary responsibility for the maintenance of international peace and security in regard to Chinese Communist intervention in Korea,

Noting that the Central People's Government of the People's Republic of China has not accepted United Nations proposals³ to bring about a cessation of hostilities in Korea with a view to peaceful settlement, and that its armed forces continue their invasion of Korea and their large-scale attacks upon United Nations forces there,

1. Finds that the Central People's Government of the People's Republic of China, by giving direct aid and assistance to those who were already committing aggression in Korea and by engaging in hostilities against United Nations forces there, has itself engaged in aggression in Korea;

2. Calls upon the Central People's Government of the People's Republic of China to cause its forces and nationals in Korea to cease hostilities against the United Nations forces and to withdraw from Korea;

3. Affirms the determination of the United Nations to continue its action in Korea to meet the aggression;

4. Calls upon all States and authorities to continue to lend every assistance to the United Nations action in Korea;

5. Calls upon all States and authorities to refrain from giving any assistance to the aggressors in Korea;

6. Requests a Committee composed of the members of the Collective Measures Committee as a matter of urgency to consider additional measures to be employed to meet this aggression and to report thereon to the General Assembly, it being understood that the Committee is authorized to defer its report if the Good Offices Committee referred to in the following paragraph reports satisfactory progress in its efforts;

7. Affirms that it continues to be the policy of the United Nations to bring about a cessation of hostilities in Korea and the achievement of United Nations objectives in Korea by peaceful means, and requests the President of the General Assembly to designate forthwith two persons who would meet with him at any suitable opportunity to use their good offices to this end.

327th plenary meeting,
1 February 1951

The President of the General Assembly, on 19 February 1951, informed (A/1779) the members of the General Assembly that Dr. Luis Pazolla (Mexico) and Mr. Sven Grafron (Sweden) had accepted his invitation to form with him the Good Offices Committee, as provided in the above resolution.

¹ See *Official Records of the General Assembly, Fifth Session, Supplement No. 29* (A.1775), page 1.

² See document A/1936.

³ See documents A/C.1/643 and A/C.1/645.

RESOLUTIONS ADOPTED ON THE REPORTS OF THE FIRST COMMITTEE

376 (V). The problem of the independence of Korea

The General Assembly,

Having regard to its resolutions of 14 November 1947 (112 (II)), of 12 December 1948 (195 (III)) and of 21 October 1949 (293 (IV)),

Having received and considered the report¹ of the United Nations Commission on Korea,

Mindful of the fact that the objectives set forth in the resolutions referred to above have not been fully accomplished and, in particular, that the unification of Korea has not yet been achieved, and that an attempt has been made by an armed attack from North Korea to extinguish by force the Government of the Republic of Korea,

Recalling the General Assembly declaration of 12 December 1948 that there has been established a lawful government (the Government of the Republic of Korea) having effective control and jurisdiction over that part of Korea where the United Nations Temporary Commission on Korea was able to observe and consult and in which the great majority of the people of Korea reside; that this government is based on elections which were a valid expression of the free will of the electorate of that part of Korea and which were observed by the Temporary Commission; and that this is the only such government in Korea,

Having in mind that United Nations armed forces are at present operating in Korea in accordance with the recommendations² of the Security Council of 27 June 1950, subsequent to its resolution³ of 25 June 1950, that Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area,

Recalling that the essential objective of the resolutions of the General Assembly referred to above was the establishment of a unified, independent and democratic Government of Korea,

1. Recommends that

(a) All appropriate steps be taken to ensure conditions of stability throughout Korea;

(b) All constituent acts be taken, including the holding of elections, under the auspices of the United Nations, for the establishment of a unified, independent

and democratic government in the sovereign State of Korea;

(c) All sections and representative bodies of the population of Korea, South and North, be invited to co-operate with the organs of the United Nations in the restoration of peace, in the holding of elections and in the establishment of a unified government;

(d) United Nations forces should not remain in any part of Korea otherwise than so far as necessary for achieving the objectives specified in sub-paragraphs (a) and (b) above;

(e) All necessary measures be taken to accomplish the economic rehabilitation of Korea;

2. Resolves that

(a) A Commission consisting of Australia, Chile, Netherlands, Pakistan, Philippines, Thailand and Turkey, to be known as the United Nations Commission for the Unification and Rehabilitation of Korea, be established to (i) assume the functions hitherto exercised by the present United Nations Commission on Korea; (ii) represent the United Nations in bringing about the establishment of a unified, independent and democratic government of all Korea; (iii) exercise such responsibilities in connexion with relief and rehabilitation in Korea as may be determined by the General Assembly after receiving the recommendations of the Economic and Social Council. The United Nations Commission for the Unification and Rehabilitation of Korea should proceed to Korea and begin to carry out its functions as soon as possible;

(b) Pending the arrival in Korea of the United Nations Commission for the Unification and Rehabilitation of Korea, the governments of the States represented on the Commission should form an Interim Committee composed of representatives meeting at the seat of the United Nations to consult with and advise the United Nations Unified Command in the light of the above recommendations; the Interim Committee should begin to function immediately upon the approval of the present resolution by the General Assembly;

(c) The Commission shall render a report to the next regular session of the General Assembly and to any prior special session which might be called to consider the subject-matter of the present resolution, and shall render such interim reports as it may deem appropriate to the Secretary-General for transmission to Members;

The General Assembly furthermore,

Mindful of the fact that at the end of the present hostilities the task of rehabilitating the Korean economy will be of

¹ See *Official Records of the General Assembly, Fifth Session, Supplement No. 13.*

² See *Official Records of the Security Council, Fifth Year, No. 10, Ind., No. 15.*

10
General Assembly—Third Session

3. *Requests* the Economic and Social Council, in consultation with the specialized agencies, to develop plans for relief and rehabilitation on the termination of hostilities and to report to the General Assembly within three weeks^a of the adoption of the present resolution by the General Assembly;

4. *Also recommends* the Economic and Social Council to expedite the study of long-term measures to promote the economic development and social progress of Korea, and meanwhile to draw the attention of the authorities which decide requests for technical assistance to the urgent and special necessity of affording such assistance to Korea;

5. *Expresses* its appreciation of the services rendered by the members of the United Nations Commission on Korea in the performance of their important and difficult task;

6. *Requests* the Secretary-General to provide the United Nations Commission for the Unification and Rehabilitation of Korea with adequate staff and facilities, including technical advisers as required; and authorizes the Secretary-General to pay the expenses and *per diem* of a representative and alternate from each of the States members of the Commission.

2911th plenary meeting,
7 October 1950.

377 (V). Uniting for peace

A

The General Assembly,

Recognizing that the first two stated Purposes of the United Nations are:

"To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace", and

"To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace",

Reaffirming that it remains the primary duty of all Members of the United Nations, when involved in an international dispute, to seek settlement of such a dispute by peaceful means through the procedures laid down in Chapter VI of the Charter, and recalling the successful achievements of the United Nations in this regard on a number of previous occasions,

Finding that international tension exists on a dangerous scale,

Recalling its resolution 290 (IV) entitled "Essentials of peace", which states that disregard of the Principles of the Charter of the United Nations is primarily responsible for the continuance of international tension, and desiring to contribute further to the objectives of that resolution,

^a See resolution 410 (V), page 31.

Reaffirming the importance of the exercise by the Security Council of its primary responsibility for the maintenance of international peace and security, and the duty of the permanent members to seek unanimity and to exercise restraint in the use of the veto,

Reaffirming that the initiative in negotiating the agreements for armed forces provided for in Article 43 of the Charter belongs to the Security Council, and desiring to ensure that, pending the conclusion of such agreements, the United Nations has at its disposal means for maintaining international peace and security,

Conscious that failure of the Security Council to discharge its responsibilities on behalf of all the Member States, particularly those responsibilities referred to in the two preceding paragraphs, does not relieve Member States of their obligations or the United Nations of its responsibility under the Charter to maintain international peace and security,

Recognizing in particular that such failure does not deprive the General Assembly of its rights or relieve it of its responsibilities under the Charter in regard to the maintenance of international peace and security,

Recognizing that discharge by the General Assembly of its responsibilities in these respects calls for possibilities of observation which would ascertain the facts and expose aggressors: for the existence of armed forces which could be used collectively; and for the possibility of timely recommendation by the General Assembly to Members of the United Nations for collective action which, to be effective, should be prompt,

A

1. *Resolves* that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations;

2. *Adopts* for this purpose the amendments to its rules of procedure set forth in the annex to the present resolution;

B

3. *Establishes* a Peace Observation Commission which, for the calendar years 1951 and 1952, shall be composed of fourteen Members, namely: China, Colombia, Czechoslovakia, France, India, Iraq, Israel, New Zealand, Pakistan, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay, and which could observe and report on

MUTUAL DEFENSE TREATY

Between the UNITED STATES OF AMERICA
and the REPUBLIC OF KOREA

- Signed at Washington October 1, 1953
- Ratification advised by the Senate of the United States of America, with an understanding, January 26, 1954
- Ratified by the President of the United States of America, subject to the said understanding, February 5, 1954
- Ratified by the Republic of Korea January 29, 1954
- Ratifications exchanged at Washington November 17, 1954
- Proclaimed by the President of the United States of America December 1, 1954
- Entered into force November 17, 1954



The Parties to this Treaty,
Reaffirming their desire to live
in peace with all peoples and all govern-
ments, and desiring to strengthen the
fabric of peace in the Pacific area,

Desiring to declare publicly
and formally their common determina-
tion to defend themselves against ex-
ternal armed attack so that no potential
aggressor could be under the illusion
that either of them stands alone in the
Pacific area,

Desiring further to strengthen
their efforts for collective defense for
the preservation of peace and security
pending the development of a more
comprehensive and effective system
of regional security in the Pacific area,

Have agreed as follows:

ARTICLE I

The Parties undertake to settle
any international disputes in which they
may be involved by peaceful means in
such a manner that international peace

本條約의當事國은모든國民
과모든政府와平和的으로
生活하고저하는希望을再確認
하여또한太平洋地域에있어서
의平和機構을鞏固히할것은
希望하고當事國中어느一國이
太平洋地域에있어서孤立하여
있다는幻覺을어떠한潜在的
侵略者도가지지않도록外部로
부러의武力攻擊에對하여自身
은防衛하고저하는決意의決意
을公然히또한正式으로宣告
할것은希望하고또한太平洋
地域에있어서어느구包括的이고
效果的인地域的安全保障
組織이發達된때까지平和와
安全을維持하고자集團的防衛
은爲한努力을鞏固히할것은希望
하여다음과같이同意한다.

第一條

當事國之關聯된지도모르는이
떠한國際的紛爭이라도國際
的平和와安全과正義을危害할
게하지않는方法으로平和的으로

and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the Purposes of the United Nations, or obligations assumed by any Party toward the United Nations.

ARTICLE II

The Parties will consult together whenever, in the opinion of either of them, the political independence or security of either of the Parties is threatened by external armed attack. Separately and jointly, by self help and mutual aid, the Parties will maintain and develop appropriate means to deter armed attack and will take suitable measures in consultation and agreement to implement this Treaty and to further its purposes.

ARTICLE III

Each Party recognizes that an armed attack in the Pacific area on either of the Parties in territories now under their respective administrative

段에 의하여解決하고 또한國際關係에 있어서國際聯合의目的이나當事國이國際聯合에對하여負擔한義務에背馳되지 않는方法으로武力의威脅이나武力의行使는 삼갈것은約束한다.

第 二 條

當事國中 어느 한國의政治의獨立 또는安全이外部로부터武力攻擊에 의하여威脅을 받고있다고 어느當事國이 인정할때에는 언제든지當事國은 서로協議한다. 當事國은單獨의으로나共同으로나自助와相互援助에 의하여武力攻擊을阻止하기爲한適切한手段을持續하여強化시킬것이며本條約을實行하고 그目的을推進한適切한措置는協議와合意下에取할것이다.

第 三 條

各當事國은他當事國의行政支配下에 있는領土와各當事國이他當事國의行政支配下에合法的으로되어있고 인정된것은今後의

本條約의當事國은모든國民은政府外平和的으로하고저하는希望은再確認 또한太平洋地域에있어서和機構을鞏固시킬것은하고當事國中 어느 한國이洋地域에있어서孤立하여는幻覺은 어떠한潜在的者도가지지않도록外部로부터武力攻擊에對하여自身對하고저하는失通의決意를然히또한正式으로宣言하고또한太平洋에있어서나구包括的이고的인地域의安全保障이發達된때까지平和外을維持하고저集團的防衛한努力을鞏固시킬것은希望을各과같이同意한다.

第 一 條

本條約의關係된지모르는이國際的紛爭이라도國際和平安全과正義를危險을引발하는方法으로平和的으로

control, or hereafter recognized by one of the Parties as lawfully brought under the administrative control of the other, would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

ARTICLE IV

The Republic of Korea grants, and the United States of America accepts, the right to dispose United States land, air and sea forces in and about the territory of the Republic of Korea as determined by mutual agreement.

ARTICLE V

This Treaty shall be ratified by the United States of America and the Republic of Korea in accordance with their respective constitutional processes and will come into force when instruments of ratification thereof have been exchanged by them at Washington.

領土에 있어서 他當事國에 對한 太平洋地域에 있어서의 武力攻擊은 自國의 平和와 安全을 危殆롭게 하는 것이라고 認定하고 共通한 危險에 對處하기 爲하여 各者의 憲法上의 手續에 依하여 行動할 것을 宣告한다.

第四條

相互의 合意에 依하여 美合衆國의 陸軍, 海軍과 空軍은 大韓民國의 領土内外 그附近에 配備하는 權利를 大韓民國은 이를 許與하고 美合衆國은 이를 受諾한다.

第五條

本條約은 美合衆國과 大韓民國에 依하여 各者의 憲法上의 手續에 依하여 批准되어야 하며 그 批准書가 兩國에 依하여 外信통에 依하여 交換되었을 때에 効力を 發生한다.

ARTICLE VI

This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate at

Washington, in the English and Korean languages, this first day of October 1953.

第六條

本條約之無期限ニ有効ナル。
 一、當事國ハ他當事國ニ
 通告ハ後一年後ニ本條約ニ
 終止シ得ル。

以上之證據로서下記全權委員
 之本條約ニ署名한다。

本條約一九五三年十月一日
 '와싱톤, 에서英文 및 韓國文으로
 두번로作成됨。

FOR THE UNITED STATES OF AMERICA:

美合衆國是為해서

*Dean Rusk*¹⁾

FOR THE REPUBLIC OF KOREA:

大韓民國是為해서

*Y. T. Pyun*¹⁾

JOHN FOSTER DULLES
 Y. T. PYUN

頁上에 있어서 他當事國에 對한
 平洋地域에 있어서의 武力攻
 擊은 自國의 平和와 安全을 危
 脅케 하는 것이라 고 認定하고
 通達危險에 對處하기 爲하
 各者의 憲法上의 手續에 따라
 行動할 것을 宣言한다.

第四條

自互의 合意에 依하여 美合衆國
 陸軍, 海軍, 空軍은 大韓民國
 領土内外, 工附近에 配備하는 權
 을 大韓民國은 이를 許與하고
 合衆國은 이를 受諾한다.

第五條

條約은 美合衆國과 大韓民國
 依하여 各者의 憲法上의 手續에
 批准되어서 互相에 批准
 後兩國에 依하여 '와싱톤, 에서
 交換되었을 때에 効力發生
 한다.

WHEREAS the Senate of the United States of America by their resolution of January 26, 1954, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said Treaty with the following understanding:

"It is the understanding of the United States that neither party is obligated, under Article III of the above Treaty, to come to the aid of the other except in case of an external armed attack against such party; nor shall anything in the present Treaty be construed as requiring the United States to give assistance to Korea except in the event of an armed attack against territory which has been recognized by the United States as lawfully brought under the administrative control of the Republic of Korea."

WHEREAS the text of the aforesaid understanding was communicated by the Government of the United States of America to the Government of the Republic of Korea by a note dated January 28, 1954 [¹] and was acknowledged by the Government of the Republic of Korea by a note dated February 1, 1954; [¹]

WHEREAS the said Treaty was duly ratified by the President of the United States of America on February 5, 1954, in pursuance of the aforesaid advice and consent of the Senate and subject to the aforesaid understanding, and was duly ratified also on the part of the Republic of Korea on January 29, 1954;

WHEREAS the respective instruments of ratification of the said Treaty were exchanged at Washington on November 17, 1954, and a protocol of exchange, in the English and Korean languages, was signed at that place and on that date by the respective Plenipotentiaries of the United States of America and the Republic of Korea, the said protocol of exchange recording the aforesaid understanding;

AND WHEREAS it is provided in Article V of the said Treaty that the Treaty will come into force when instruments of ratification thereof have been exchanged at Washington;

NOW, THEREFORE, be it known that I, Dwight D. Eisenhower, President of the United States of America, do hereby proclaim and make public the said Mutual Defense Treaty between the United States of America and the Republic of Korea to the end that the same and every article and clause thereof, subject to the understanding hereinbefore recited, shall be observed and fulfilled with good faith, on and after November 17, 1954, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

¹ Not printed.

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of America by their resolutions present concurring in the ratification of the said Treaty

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this first day of December in the year of our Lord one thousand nine hundred fifty-four
[SEAL] and of the Independence of the United States of America the one hundred seventy-ninth.

By the President:

DWIGHT D EISENHOWER

JOHN FOSTER DULLES
Secretary of State

States that neither party is bound by the said Treaty, to come to the aid of the Republic of Korea in the event of an armed attack against such Republic. The said Treaty be construed as recognizing the Republic of Korea as the only lawful government of Korea except in the event of an armed attack against which has been recognized by the United States of America under the administrative

standing was communicated to the Government of America to the Government of the Republic of Korea dated January 28, 1954 [1]

by the President of the United States of America, in pursuance of the said Treaty, and subject to the aforesaid understanding, on the part of the Republic

of ratification of the said Treaty, on November 17, 1954, and a Korean language, was signed by the respective Plenipotentiaries of the United States of America and the Republic of Korea, the said Plenipotentiaries, in the said understanding; of the said Treaty that the ratifications of the said Treaty are deposited at the Department of State of the United States of America and by the plenipotentiaries of the Republic of Korea and all other persons sub-

Dwight D. Eisenhower, President of the United States of America, hereby proclaim and make known that the same and the understanding hereby proclaimed are filled with good faith, on the part of the United States of America and by the plenipotentiaries of the Republic of Korea and all other persons sub-

MUTUAL DEFENSE TREATY WITH KOREA

HEARINGS
BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
EIGHTY-THIRD CONGRESS
SECOND SESSION
ON

Executive A, 83d Congress, 2d Session

A MUTUAL DEFENSE TREATY BETWEEN THE UNITED
STATES OF AMERICA AND THE REPUBLIC OF KOREA,
SIGNED AT WASHINGTON ON OCTOBER 1, 1953

JANUARY 13 AND 14, 1954

Printed for the use of the Committee on Foreign Relations



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1954

In the case of the Japanese Treaty, we have the right to station forces in Japan, and Japan has no right to exclude us from doing so, if we choose to do it. In other words, it is a unilateral right.

In the case of the Korean Treaty, it is a bilateral arrangement, and we cannot station troops there against the opposition of the Republic of Korea.

The paragraph is one which had to be worked out by mutual agreement.

Senator FULBRIGHT. There is no similar provision in the treaty with Australia and New Zealand, is there?

Secretary DULLES. No, sir.

Senator SPARKMAN. That is all.

The CHAIRMAN. Senator Gillette.

RELATION BETWEEN KOREAN TREATY AND UNITED NATIONS CHARTER

Senator GILLETTE. Mr. Chairman—Mr. Secretary:

I think you are to be commended, you and the Department, for the foresightedness in initiating these conversations and developing this agreement.

I want to ask you a question with reference to some confusion that is in my mind, and I am quite sure will be in the minds of many of our people.

Is this treaty, this bilateral treaty, independent of and apart from the regional arrangement concept of the United Nations Charter?

Secretary DULLES. The United Nations Charter has two articles which are relevant to this matter.

One is article 51, which is not expressed in regional terms, which merely says that it is permissible for members of the United Nations to enter into collective arrangements for security.

That, as I point out, has no regional limitation.

Then there are succeeding articles, I think article 53 is a relevant one which permits of a regional pact.

Now, in the main, the arrangement that we have made has been under article 51, which is one of broad and not necessarily regional scope, because the article which deals with regional associations, as such, has a provision that no forcible action shall be taken under those regional agreements except with the consent of the Security Council, and in view of the Soviet veto power in the Security Council, it would result, if you operated directly under that regional pact clause, you would not have the right to resort to force or use force except with the consent of the Soviet Union.

So as to avoid that unhappy result, all of the security treaties which we have made have been conceived of as falling under article 51, rather than the regional security article.

POSSIBILITY OF UNITED STATES ACTION INDEPENDENT OF THE U. N.

Senator GILLETTE. That goes a long way toward answering my question.

Article III of this present treaty, of course, states that when there is an armed attack in the opinion of the signatories, after consultation, that they would act in accordance with their constitutional processes.

Article 51 of the charter, to which you refer, says that measures taken by members in the exercise of this right of self-defense shall be immediately reported to the Security Council and not in any way affect the authority to, and responsibility of, the Security Council under the charter.

Now, article 53, to which you referred, provides that no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council.

Now, is it your concept that under this treaty, if ratified, that there is no necessity of waiting for action by the Security Council, but that we, as a signatory, can proceed independently of the Security Council, and independently of the United Nations, without the obligation of reporting to them and securing their approval?

Secretary DULLES. Well, in my opinion we could act under this treaty without the prior consent of the Security Council. The treaty would not have much value if we had to get the prior consent of the Security Council, carrying with it a Soviet assent, which would not presumably be obtainable; but we would be obligated to report to the Security Council what we were doing under the provisions of article 51.

I should perhaps remind you all that the Republic of Korea is not itself a member of the United Nations. It has been excluded from the United Nations by Soviet veto, so that the Republic of Korea is not obligated by the reporting provisions of article 51, but the United States, as a member of the United Nations, would be obligated to report under article 51, but we wouldn't be obligated to get prior approval, as would be the case if we were functioning under article 53.))

"UNITING FOR PEACE RESOLUTION"

Senator GILLETTE. Just one other question, in further amplification: We would, as members of the United Nations, as you just stated, be obligated to, or we are bound by these provisions for reporting; but if this treaty is ratified and a situation develops there which we profoundly hope does not develop, which would bring into effect the provisions of this treaty, would we proceed, or could we proceed without, as we did in Korea, proceeding under the so-called aegis of the United Nations? It would be an entirely independent procedure, so far as the United Nations was concerned; is that your understanding of this treaty?

Secretary DULLES. It is my opinion, Senator Gillette, that when we make a treaty under article 51, that we are then using a right which the charter gives us to act for collective security without necessarily getting the prior assent of the Security Council, although we are obligated to report to it.

Now, as a practical matter, I would certainly expect that if there were a new act of aggression in Korea, such as is contemplated by this treaty, that we would bring the matter at once to the attention of the United Nations, the Security Council, and if there was a veto there, then we would bring it to the attention of the Assembly.

There is now in existence a resolution which I had the responsibility of piloting through the United Nations Assembly, as a member of the United States delegation, in 1950, which was called "Uniting for peace resolution," which is designed to give the Assembly a power to recommend action in the event of emergencies of the kind you mention, if

the Security Council, by reason of veto, is unable to act; and I would hope very much that we would resort to that "Uniting for peace resolution" and the action which it authorizes, and that we would not allow ourselves to be isolated in any action.

Nevertheless, since the vital interests of the United States are involved, I believe that we must reserve to ourselves the right under this treaty, and other comparable treaties, to act for the protection of the interests of the United States, even though we do not anticipate, but even though we were unable to secure the necessary approval of the United Nations.

Senator GILLETTE. Then, taking just one more step, if that situation developed, we would act for the protection of our interests under article 51, and should the Security Council, acting for the United Nations, determine on an action different or other than that which we had taken, which would govern, our own independent action, or the action of the Security Council, in determining what steps were to be taken?

Secretary DULLES. If the Security Council took, itself, adequate steps to restore peace and security, then I believe that that would have priority over our independent action.

Senator GILLETTE. Thank you.

That is all, Mr. Chairman.

The CHAIRMAN. Are there any further questions?

Senator SPARKMAN. May I just follow that?

The CHAIRMAN. Yes.

Senator SPARKMAN. The determination as to that adequacy, though, would be ours to make, would it not?

Secretary DULLES. Yes, sir.

The CHAIRMAN. Are there any further questions?

DISTINCTION BETWEEN "NATO FORMULA" AND "MONROE DOCTRINE FORMULA"

Senator SMITH of New Jersey. Just one thought occurs to me, Mr. Secretary: There has been a good deal of talk about the NATO setup in Western Europe, and our Monroe Doctrine, in the policy in the Far East.

I think it could be just summed up again in a word, as to the distinction, and a lot of people's minds would be set at rest.

As I understand, NATO, of course an attack on one is an attack on all, and that is now our policy.

Of course, in these far eastern treaties, we have a so-called Monroe Doctrine approach which is different from the NATO proposition, or the NATO approach.

Could you give us just a quick summary of that distinction, as I am being asked that question all the time, and I would like to have it authoritatively from you.

Secretary DULLES. The NATO article has given rise, as you, Senator, well know, to a very considerable argument as to whether or not it alters the constitutional balance of power between the President and the Congress. The President has certain inherent powers. If the United States itself is attacked, no one would expect the President of the United States to sit idly by, as Commander in Chief of the United States Forces, if there is an armed attack against

83D CONGRESS }
2d Session }

SENATE

{ EXECUTIVE
REPORT NO. 1

MUTUAL DEFENSE TREATY WITH KOREA

REPORT

OF THE

COMMITTEE ON FOREIGN RELATIONS

ON

EXECUTIVE A

EIGHTY-THIRD CONGRESS

SECOND SESSION



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1954

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By making that clear * * * it is possible for us to protect our vital interests without an overextension.

The committee wishes to call attention to these assurances from responsible administration officials that the defensive posture of the United States has not been impaired but rather strengthened by the proposed withdrawal of the two Army divisions from Korea, and that the United States has the military capacity to fulfill its commitment to Korea in the event of renewed Communist aggression.

9. RELATIONSHIP OF THE TREATY TO THE UNITED NATIONS CHARTER

The United Nations Charter is referred to in article I of the treaty, where the parties agree to—

refrain in their international relations from the threat or use of force in any manner inconsistent with the Purposes of the United Nations, or obligations assumed by any Party toward the United Nations.

This reference to the charter compares with similar references in the Philippine and the Australia and New Zealand Treaties.

The Korean Treaty, like the two latter treaties, according to Secretary Dulles' testimony, falls under article 51 of the charter which provides:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

The Secretary of State testified that it would not be necessary to secure the previous consent of the Security Council to take defensive action under the Korean Treaty. Our only obligation would be to report the action taken to the United Nations. He stressed that chapter VIII, relating to regional arrangements, and in particular article 53 in that chapter, requiring the previous authorization of the Security Council for regional enforcement action, did not apply to this treaty any more than it does to our other security pacts in the Pacific.

In my opinion we could act under this treaty without the prior consent of the Security Council. The treaty would not have much value if we had to get the prior consent of the Security Council, carrying with it a Soviet assent, which would not presumably be obtainable; but we would be obligated to report to the Security Council what we were doing under the provisions of article 51.

The Secretary of State, however, added that as a practical matter the United States would probably bring any recurrence of Communist aggression immediately to the attention of the United Nations Security Council and, if a Soviet veto obstructed action there, to the General Assembly which, under the "Uniting for peace" resolution, has the power to recommend action.

I would hope very much that we would resort to that "Uniting for peace" resolution and the action which it authorizes, and that we would not allow ourselves to be isolated in any action.

The committee noted that the specific language of the Philippine, and Australian and New Zealand Treaties, relating to the submission of reports to the Security Council, had been omitted from the Korean

Treaty. (See p. 14 of the hearings.) Some concern was voiced lest this omission be interpreted as a deliberate disregard for the United Nations and our obligations under the Charter.

The executive branch has assured the committee that such is not the case. The sole reason for the omission of the language is the fact that article 51 refers specifically to members of the United Nations and the Republic of Korea is not a United Nations member. During the negotiations, therefore, it was considered preferable to omit the reference to the Security Council. This in no way reflects any change in the strong support of the present administration for the United Nations.

10. DETERRENT NATURE OF TREATY

The primary value of the treaty, in the words of Secretary of State Dulles, consists in giving to the Communists notice, beyond any possibility of misinterpretation, that the United States would not remain indifferent to any new Communist aggression in Korea. Together with the other measures taken until now in the Far East, the treaty, by relieving the Communists of any illusions concerning the consequences of any new aggression in Korea, should serve as a powerful deterrent to any reckless course of action which might plunge the Pacific area into a wide-scale war. At the same time, the prospect of stability in the Korean area is further increased by the express limitation on the territorial scope of the treaty contained in article III.

11. A PACIFIC PACT

Reference has already been made in this report to the security and mutual defense treaties between the United States and Australia and New Zealand, the Philippines, and Japan. The treaty with Korea makes the fourth such arrangement which the United States has negotiated in the Pacific area. The committee has noted the difference in the approach of the United States to security problems in the Atlantic and Pacific regions. The North Atlantic Treaty embraces 14 nations of the North Atlantic Community together in 1 multi-partite agreement for their collective self-defense. In the Pacific, on the other hand, the United States has entered into bipartite, or in the case of Australia and New Zealand, tripartite treaties with particular nations in that area. The committee, therefore, raised the question of a Pacific pact or Pacific NATO with the Secretary of State. Although he felt that such a development would have certain advantages, the Secretary pointed out that the Pacific countries have cultural and political differences in addition to physical separation, which distinguished that area from Europe.

I think it would be very fortunate if [a Pacific security system could be developed] and it certainly is a possibility which we have very much in mind, but it does not seem as though that could be achieved at any early predictable date.

The committee, while concurring in the Secretary's evaluation of the prospects for a Pacific Pact, wishes nonetheless to express its belief that such a pact is a desirable ultimate objective of United States policy in the Pacific and hopes that the Department of State will continue to encourage such a development. The security of the Pacific area would be measurably enhanced if the nations of that region would join and work together for their regional and collective self-defense.

12. NEED FOR RATIFICATION NOW

The terms of the Korean armistice agreement state that after January 22, 1954, all prisoners in the custody of the Neutral Nations Repatriation Commission shall be released. At the same time, the prospects for a political conference on Korea are not encouraging, preliminary negotiations having been broken off in December. These two facts combine to make the Korean situation uncertain.

The committee, in view of this circumstance, explored with administration witnesses the timing of the United States ratification of this treaty. It was their consensus that prompt action by the Senate would be helpful. Secretary Dulles testified:

It is my judgment that it is wise to act now, and promptly, because this treaty will be, itself, one of the stabilizing factors. * * *

A postponement of action on the treaty could not but raise doubt in the minds of enemies of the Republic of Korea as to what our intentions were.

And General Ridgway added:

I would think the sooner the treaty were in effect, the better, in our interests.

The committee concurs in these opinions, in the conviction that the entry into effect of this treaty, which the Republic of Korea has already ratified, will be a stabilizing factor in the Korean situation.

13. CONCLUSIONS

The committee believes that the objectives of this treaty are important to the security of the United States in the Far East. The treaty constitutes an essential link in the system of collective security thus far developed. Because it gives clear and formal notice to would-be aggressors that we will react with prompt measures to defend the peace in the event of an attack upon an area vital to our safety, it eliminates a factor which may have played a major role in the outbreak of the major wars of this century—that of miscalculation by the enemy as to what our conduct would be.

While there are risks in any course of action of this kind in the Pacific, there are greater risks in not advising a potential enemy just what he can expect us to do, and in not recognizing the advantages to the United States in having a powerful and loyal ally whose subjects fought valiantly at our side during a 3-year campaign in the interests of peace and justice.

For these reasons the Committee on Foreign Relations urges the Senate to give its advice and consent to the ratification of this treaty, subject to the understanding noted above.

JAPAN

Treaty of Mutual Cooperation and Security [1]

*Signed at Washington January 19, 1960;
 Ratification advised by the Senate of the United States of America June 22, 1960;
 Ratified by the President of the United States of America June 22, 1960;
 Ratified by Japan June 21, 1960;
 Ratifications exchanged at Tokyo June 23, 1960;
 Proclaimed by the President of the United States of America June 27, 1960;
 Entered into force June 23, 1960.
 With Agreed Minute and Exchanges of Notes.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a treaty of mutual cooperation and security between the United States of America and Japan was signed at Washington on January 19, 1960, the original of which treaty, in the English and Japanese languages, is word for word as follows:

¹ Also TIAS 4510, 4580; post, pp. 1652, 2160.

TREATY OF MUTUAL COOPERATION AND SECURITY BETWEEN THE UNITED STATES OF AMERICA AND JAPAN

The United States of America and Japan,

Desiring to strengthen the bonds of peace and friendship traditionally existing between them, and to uphold the principles of democracy, individual liberty, and the rule of law,

Desiring further to encourage closer economic cooperation between them and to promote conditions of economic stability and well-being in their countries,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations, [1] and their desire to live in peace with all peoples and all governments,

Recognizing that they have the inherent right of individual or collective self-defense as affirmed in the Charter of the United Nations,

Considering that they have a common concern in the maintenance of international peace and security in the Far East,

Having resolved to conclude a treaty of mutual cooperation and security,

Therefore agree as follows:

ARTICLE I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

The Parties will endeavor in concert with other peace-loving countries to strengthen the United Nations so that its mission of maintaining international peace and security may be discharged more effectively.

ARTICLE II

The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to

¹ TS 908; 59 Stat. 1081.

eliminate conflict in their international economic policies and will encourage economic collaboration between them.

ARTICLE III

The Parties, individually and in cooperation with each other, by means of continuous and effective self-help and mutual aid will maintain and develop, subject to their constitutional provisions, their capacities to resist armed attack.

ARTICLE IV [1]

The Parties will consult together from time to time regarding the implementation of this Treaty, and, at the request of either Party, whenever the security of Japan or international peace and security in the Far East is threatened.

ARTICLE V

Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE VI [1]

For the purpose of contributing to the security of Japan and the maintenance of international peace and security in the Far East, the United States of America is granted the use by its land, air and naval forces of facilities and areas in Japan.

The use of these facilities and areas as well as the status of United States armed forces in Japan shall be governed by a separate agreement, [2] replacing the Administrative Agreement [3] under Article III of the Security Treaty [4] between the United States of America and Japan, signed at Tokyo on February 28, 1952, [5] as amended, and by such other arrangements as may be agreed upon.

ARTICLE VII

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the

¹ See *post*, pp. 1646, 1650.

² TIAS 4510: *post*, p. 1652.

³ TIAS 2492: 3 UST, pt. 3, p. 3341.

⁴ TIAS 2491: 3 UST, pt. 3, p. 3332.

Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE VIII

This Treaty shall be ratified by the United States of America and Japan in accordance with their respective constitutional processes and will enter into force on the date on which the instruments of ratification thereof have been exchanged by them in Tokyo.

ARTICLE IX

The Security Treaty between the United States of America and Japan signed at the city of San Francisco on September 8, 1951 shall expire upon the entering into force of this Treaty.

ARTICLE X

This Treaty shall remain in force until in the opinion of the Governments of the United States of America and Japan there shall have come into force such United Nations arrangements as will satisfactorily provide for the maintenance of international peace and security in the Japan area.

However, after the Treaty has been in force for ten years, either Party may give notice to the other Party of its intention to terminate the Treaty, in which case the Treaty shall terminate one year after such notice has been given.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate at Washington in the English and Japanese languages, both equally authentic, this 19th day of January, 1960.

FOR THE UNITED STATES OF AMERICA:

CHRISTIAN A. HERTER

DOUGLAS MACARTHUR 2nd

J GRAHAM PARSONS

FOR JAPAN:

NOBUSUKE KISHI

AIICHIRO FUJIIYAMA

MITSUJIRO ISHII

TADASHI ADACHI

KOICHIRO ASAKAI

these islands since Japan possesses residual sovereignty over these islands. If an armed attack occurs or is threatened against these islands, the two countries will of course consult together closely under Article IV of the Treaty of Mutual Cooperation and Security. In the event of an armed attack, it is the intention of the Government of Japan to explore with the United States measures which it might be able to take for the welfare of the islanders.

United States Plenipotentiary:

In the event of an armed attack against these islands, the United States Government will consult at once with the Government of Japan and intends to take the necessary measures for the defense of these islands, and to do its utmost to secure the welfare of the islanders.

C. A. H.

N. K.

WASHINGTON, January 19, 1960.

EXCHANGES OF NOTES

WASHINGTON, January 19, 1960.

EXCELLENCY:

I have the honour to refer to the Treaty of Mutual Cooperation and Security between Japan and the United States of America signed today, and to inform Your Excellency that the following is the understanding of the Government of Japan concerning the implementation of Article VI [1] thereof:

Major changes in the deployment into Japan of United States armed forces, major changes in their equipment, and the use of facilities and areas in Japan as bases for military combat operations to be undertaken from Japan other than those conducted under Article V of the said Treaty, shall be the subjects of prior consultation with the Government of Japan.

I should be appreciative if Your Excellency would confirm on behalf of your Government that this is also the understanding of the Government of the United States of America.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

NOBUSUKA KISHI

His Excellency

CHRISTIAN A. HERTZ,

Secretary of State

of the United States of America.

¹ See post, p. 1650.

DEPARTMENT OF STATE
WASHINGTON
January 19, 1960

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

"I have the honour to refer to the Treaty of Mutual Cooperation and Security between Japan and the United States of America signed today, and to inform Your Excellency that the following is the understanding of the Government of Japan concerning the implementation of Article VI thereof:

Major changes in the deployment into Japan of United States armed forces, major changes in their equipment, and the use of facilities and areas in Japan as bases for military combat operations to be undertaken from Japan other than those conducted under Article V of the said Treaty, shall be the subjects of prior consultation with the Government of Japan.

"I should be appreciative if Your Excellency would confirm on behalf of your Government that this is also the understanding of the Government of the United States of America.

"I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration."

I have the honor to confirm on behalf of my Government that the foregoing is also the understanding of the Government of the United States of America.

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

CHRISTIAN A. HERTZ
Secretary of State of the
United States of America

NOBUSUKA KISHI,
Prime Minister of Japan.

DEPARTMENT OF STATE
WASHINGTON
January 19, 1960

EXCELLENCY:

I have the honor to refer to the Security Treaty between the United States of America and Japan signed at the city of San Francisco on September 8, 1951, [1] the exchange of notes effected on the same date [2] between Mr. Shigeru Yoshida, Prime Minister of Japan, and

¹ TIAS 2461; 8 UST, pt. 2, p. 2222.

² TIAS 2460; 8 UST, pt. 2, p. 2221.

Mr. Dean Acheson, Secretary of State of the United States of America, and the Agreement Regarding the Status of the United Nations Forces in Japan signed at Tokyo on February 19, 1954, [1] as well as the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed today. It is the understanding of my Government that:

1. The above-mentioned exchange of notes will continue to be in force so long as the Agreement Regarding the Status of the United Nations Forces in Japan remains in force.

2. The expression "those facilities and areas the use of which is provided to the United States of America under the Security Treaty between Japan and the United States of America" in Article V, paragraph 2 of the above-mentioned Agreement is understood to mean the facilities and areas the use of which is granted to the United States of America under the Treaty of Mutual Cooperation and Security.

3. The use of the facilities and areas by the United States armed forces under the Unified Command of the United Nations established pursuant to the Security Council Resolution of July 7, 1950, [2] and their status in Japan are governed by arrangements made pursuant to the Treaty of Mutual Cooperation and Security.

I should be grateful if Your Excellency could confirm on behalf of your Government that the understanding of my Government stated in the foregoing numbered paragraphs is also the understanding of your Government and that this understanding shall enter into operation on the date of the entry into force of the Treaty of Mutual Cooperation and Security signed at Washington on January 19, 1960.

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

CHRISTIAN A. HERTER
Secretary of State of the
United States of America

His Excellency
NOBUSUKE KISHI,
Prime Minister of Japan.

WASHINGTON, January 19, 1960.

EXCELLENCY:

I have the honour to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

"I have the honor to refer to the Security Treaty between the United States of America and Japan signed at the city of San

[1] TIAS 2995; 5 UST, pt. 2, p. 1123.

[2] U.N. Doc. S/1588.

Francisco on September 8, 1951, the exchange of notes effected on the same date between Mr. Shigeru Yoshida, Prime Minister of Japan, and Mr. Dean Acheson, Secretary of State of the United States of America and the Agreement Regarding the Status of the United Nations Forces in Japan signed at Tokyo on February 19, 1954, as well as the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed today. It is the understanding of my Government that:

1. The above-mentioned exchange of notes will continue to be in force so long as the Agreement Regarding the Status of the United Nations Forces in Japan remains in force.

2. The expression "those facilities and areas the use of which is provided to the United States of America under the Security Treaty between Japan and the United States of America" in Article V, paragraph 2 of the above-mentioned Agreement is understood to mean the facilities and areas the use of which is granted to the United States of America under the Treaty of Mutual Cooperation and Security.

3. The use of the facilities and areas by the United States armed forces under the Unified Command of the United Nations established pursuant to the Security Council Resolution of July 7, 1950, and their status in Japan are governed by arrangements made pursuant to the Treaty of Mutual Cooperation and Security.

I should be grateful if Your Excellency could confirm on behalf of your Government that the understanding of my Government stated in the foregoing numbered paragraphs is also the understanding of your Government and that this understanding shall enter into operation on the date of the entry into force of the Treaty of Mutual Cooperation and Security signed at Washington on January 19, 1960.

I have the honour to confirm on behalf of my Government that the understanding of my Government stated in the foregoing numbered paragraphs is also the understanding of the Government of Japan. I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

NOBUSUKE KISHI

His Excellency
CHRISTIAN A. HERTER,
Secretary of State
of the United States of America

WASHINGTON, January 19, 1960.

DEAR SECRETARY HERTER:

I wish to refer to the Treaty of Mutual Cooperation and Security between Japan and the United States of America signed today. Under Article IV of the Treaty, the two Governments will consult together from time to time regarding the implementation of the Treaty, and, at the request of either Government, whenever the security of Japan or international peace and security in the Far East is threatened. The exchange of notes under Article VI of the Treaty specifies certain matters as the subjects of prior consultation with the Government of Japan.

Such consultations will be carried on between the two Governments through appropriate channels. At the same time, however, I feel that the establishment of a special committee which could as appropriate be used for these consultations between the Governments would prove very useful. This committee, which would meet whenever requested by either side, could also consider any matters underlying and related to security affairs which would serve to promote understanding between the two Governments and contribute to the strengthening of cooperative relations between the two countries in the field of security.

Under this proposal the present "Japanese-American Committee on Security" established by the Governments of the United States and Japan on August 6, 1957, would be replaced by this new committee which might be called "The Security Consultative Committee". I would also recommend that the membership of this new committee be the same as the membership of the "Japanese-American Committee on Security", namely on the Japanese side, the Minister for Foreign Affairs, who will preside on the Japanese side, and the Director General of the Defense Agency, and on the United States side, the United States Ambassador to Japan, who will serve as Chairman on the United States side, and the Commander-in-Chief, Pacific, who will be the Ambassador's principal advisor on military and defense matters. The Commander, United States Forces, Japan, will serve as alternate for the Commander-in-Chief, Pacific.

I would appreciate very much your views on this matter.

Most sincerely,

NOSUSUKE KISHI

His Excellency

CHRISTIAN A. HERTER,

Secretary of State
of the United States of America.

DEPARTMENT OF STATE

WASHINGTON

January 19, 1960

DEAR MR. PRIME MINISTER:

The receipt is acknowledged of your Note of today's date suggesting the establishment of "The Security Consultative Committee". I fully agree to your proposal and share your view that such a committee can contribute to strengthening the cooperative relations between the two countries in the field of security. I also agree to your proposal regarding the membership of this committee.

Most sincerely,

CHRISTIAN A. HERTER

His Excellency

NOSUSUKE KISHI,

Prime Minister of Japan.

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002b. memcon	re record of discussion re treaty with Japan (1 page)	01/19/1960	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Mary Derosa (Legal Advisor)
OA/Box Number: 2959

FOLDER TITLE:

Korea [3]

2009-0528-F
kc1439

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002c. paper	re minute, statements by Ambassador Douglas MacArthur and Foreign Minister Aiichiro Fujiyama (2 pages)	06/23/1960	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Mary Derosa (Legal Advisor)
OA/Box Number: 2959

FOLDER TITLE:

Korea [3]

2009-0528-F
kc1439

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Sato Unilateral Statement

... "And it would be in accord with our national interest for us to determine our response to prior consultation regarding the use of these facilities and areas in the light of the need to maintain the security of the Far East, including Japan.

In particular, if an armed attack against the Republic of Korea were to occur, the security of Japan would be seriously affected. Therefore, should an occasion arise for United States forces in such an eventuality to use facilities and areas within Japan as bases for military combat operations to meet the armed attack, the policy of the Government of Japan towards prior consultation would be to decide its position positively and promptly on the basis of the foregoing recognition." . . .

November 21, 1969

The Secretary of State to the Japanese Prime Minister

UNITED STATES DELEGATION
SAN FRANCISCO

September 8, 1951

EXCELLENCY:

Upon the coming into force of the Treaty of Peace signed today, Japan will assume obligations expressed in Article 2 of the Charter of the United Nations which requires the giving to the United Nations of "every assistance in any action it takes in accordance with the present Charter".

As we know, armed aggression has occurred in Korea, against which the United Nations and its members are taking action. There has been established a unified command of the United Nations under the United States pursuant to Security Council Resolution of July 7, 1950,^[1] and the General Assembly, by Resolution of February 1, 1951,^[2] has called upon all states and authorities to lend every assistance to the United Nations action and to refrain from giving any assistance to the aggressor. With the approval of SCAP,^[3] Japan has been and now is rendering important assistance to the United Nations action in the form of facilities and services made available to the members of the United Nations, the Armed Forces of which are participating in the United Nations action.

Since the future is unsettled and it may unhappily be that the occasion for facilities and services in Japan in support of United Nations action will continue or recur, I would appreciate confirmation, on behalf of your Government, that if and when the forces of a member or members of the United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by the member or members, of the forces engaged in such United Nations action; the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations member concerned. In so far as the United States is concerned the use of facilities and

¹ U. N. doc. S/1548.

² Resolution 498(V).

³ Supreme Commander for the Allied Powers.

services, over and above those provided to the United States pursuant to the Administrative Agreement which will implement the Security Treaty between the United States and Japan, would be at United States expense, as at present.

Post, pp. 3341, 3329.

Accept, Excellency, the assurances of my most distinguished consideration.

DEAN ACHESON

His Excellency

SHIGERU YOSHIDA,

Prime Minister of Japan.

The Japanese Prime Minister to the Secretary of State

JAPANESE DELEGATION
SAN FRANCISCO

September 8, 1951

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date in which Your Excellency has informed me as follows:

Upon the coming into force of the Treaty of Peace signed today, Japan will assume the obligations expressed in Article 2 of the Charter of the United Nations which requires the giving to the United Nations of "every assistance in any action it takes in accordance with the present Charter."

50 Stat. 1037.

As we know, armed aggression has occurred in Korea, against which the United Nations and its Members are taking action. There has been established a Unified Command of the United Nations under the United States pursuant to Security Council Resolution of July 7, 1950, and the General Assembly, by Resolution of February 1, 1951, has called upon all states and authorities to lend every assistance to the United Nations action and to refrain from giving any assistance to the aggressor. With the approval of SCAP, Japan has been and now is rendering important assistance to the United Nations action in the form of facilities and services made available to the Members of the United Nations, the armed forces of which are participating in the United Nations action.

Since the future is unsettled and it may unhappily be that the occasion for facilities and services in Japan in support of United Nations action will continue or recur, I would appreciate confirmation, on behalf of your Government, that if and when the forces of a Member or Members of the United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by the Member or Members, of the forces engaged in such United Nations actions; the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations Member concerned. In so far as the United States is concerned the use of facilities and services, over and above those provided to the United States pursuant to the Administrative Agreement which will implement the Security Treaty between the United States and Japan, would be at United States expense, as at present.

With full cognizance of the contents of Your Excellency's Note, I have the honor, on behalf of my Government, to confirm that if and when the forces of a Member or Members of the United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by the Member or Members of the forces engaged in such United Nations action, the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations Member concerned. In so far as the United States is concerned the use of facilities and services, over and above those provided to the United States pursuant to the Administrative Agreement which will implement the Security Agreement between Japan and the United States would be at United States expense, as at present.

Accept, Excellency, the assurance of my most distinguished consideration.

SHIGERU YOSHIDA

Shigeru Yoshida
Prime Minister and
concurrently Minister for Foreign Affairs
of Japan

His Excellency
DEAN ACHESON,
Secretary of State
of the United States of America

JAPAN

SECURITY TREATY

Signed at San Francisco September 8, 1951; ratification advised by the Senate of the United States of America March 20, 1952; ratified by the President of the United States of America April 15, 1952; ratified by Japan November 19, 1951; ratifications exchanged at Washington April 28, 1952; proclaimed by the President of the United States of America April 28, 1952; entered into force April 28, 1952.

TIAS 2491
Sept. 8, 1951

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Security Treaty between the United States of America and Japan was signed at San Francisco on September 8, 1951 by their respective Plenipotentiaries, the original of which Treaty in the English and Japanese languages is word for word as follows:

STATUS OF UNITED NATIONS FORCES

IN JAPAN

and Agreed Official Minutes

at Tokyo February 19, 1954

into force June 11, 1954

Provisional Implementation

Signed at Tokyo February 19, 1954

into force February 19, 1954

TIAS 2995
Feb. 19, 1954

AGREEMENT REGARDING THE STATUS OF THE UNITED NATIONS FORCES IN JAPAN⁽¹⁾

WHEREAS it is stated in the notes exchanged by Mr. Shigeru Yoshida, Prime Minister of Japan, and Mr. Dean Acheson, Secretary of State of the United States of America, on September 8, 1951, [2] that upon the coming into force of the Treaty of Peace with Japan [3] signed at the city of San Francisco on the same day Japan will assume obligations expressed in Article 2 of the Charter of the United Nations [4] which requires the giving to the United Nations of every assistance in any action it takes in accordance with the Charter;

WHEREAS in the above-mentioned notes the Government of Japan confirmed that if and when the forces of a member or members of the United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by the member or members, of the forces engaged in such United Nations action;

WHEREAS the United Nations forces still continue to be engaged in action pursuant to the Security Council Resolutions of June 25, June 27 and July 7, 1950 and the General Assembly Resolution of February 1, 1951, which called upon all States and authorities to lend every assistance to the United Nations action; and

WHEREAS Japan has been and is rendering important assistance in the form of facilities and services to the forces which are participating in the United Nations action in Korea;

Now, THEREFORE, in order to define the status of, and treatment to be accorded to, such forces in Japan pending their withdrawal from its territory, the Parties to this Agreement have agreed as follows:

ARTICLE I

Except as otherwise provided in this Agreement, the following definitions of terms shall be adopted for the purpose of this Agreement:

(a) "United Nations Resolutions" means the United Nations Security Council Resolutions of June 25, June 27 and July 7, 1950 and

¹The text herein contained is a literal print of a copy certified as a true copy on Mar. 31, 1954, by the Chief of Archives Section, Ministry of Foreign Affairs of Japan.

²Treaties and Other International Acts Series 2400; 5 UST, pt. 3, p. 3169.

³Treaty Series 903; 50 Stat. 1087.

th United Nations General Assembly Resolution of February 1, 1951.

(b) "Parties to this Agreement" means the Government of Japan, the Government of the United States of America acting as the United Nations Command, and each Government which signs, or signs "subject to acceptance" and accepts, or accedes to, this Agreement, as the Government of a State sending forces to Korea pursuant to the United Nations Resolutions.

(c) "Sending State" means any State which has sent or may hereafter send forces to Korea pursuant to the United Nations Resolutions and whose Government is a Party to this Agreement as the Government of a State sending forces to Korea pursuant to the United Nations Resolutions.

(d) "United Nations forces" means those forces of the land, sea or air armed services of the sending States which are sent to engage in action pursuant to the United Nations Resolutions.

(e) "Members of the United Nations forces" means personnel on active duty belonging to the United Nations forces when such persons are in Japan.

(f) "Civilian component" means the civilian persons of the nationality of any sending State who are in the employ of, serving with, or accompanying the United Nations forces when such persons are in Japan, but excludes persons who are ordinarily resident in Japan.

(g) "Dependents" means the following persons, when such persons are in Japan:

(1) Spouses and children under 21, of members of the United Nations forces or of the civilian components;

(2) Spouses and children over 21, of members of the United Nations forces or of the civilian components, if dependent upon such members for more than half their support upon such members.

ARTICLE II

It is the duty of the United Nations forces as well as members of such forces and of the civilian components, and their dependents to respect the law of Japan and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in Japan. The authorities of the sending States and the Commander-in-Chief, United Nations Command, shall take appropriate measures to this end.

ARTICLE III

1. Subject to the provisions of this Article, the Government of Japan grants permission to members of the United Nations forces and of the civilian components, and their dependents to enter into and depart from Japan for the purpose of this Agreement. The United Nations Command shall appropriately notify the Government of Japan of the number of persons entering and departing, the date of entry and departure, the object of entry, and the expected duration of stay.

2. Members of the United Nations forces shall be exempt from Japanese laws and regulations on passports and visas. Members of the United Nations forces and of the civilian components, and their dependents shall be exempt from Japanese laws and regulations on registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territory of Japan.

3. Upon entry into and departure from Japan members of the United Nations forces shall be in possession of the following documents:

(a) personal identity card showing name, date of birth, rank and 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 Nations forces and to the travel ordered.

4. For purposes of their identification while in Japan, members of the United Nations forces shall be in possession of the foregoing personal identity card, which must be presented on demand of the appropriate Japanese authorities.

5. Members of the civilian components shall have their status and the organization to which they belong described in their passports. Dependents shall have their status described in their passports.

6. For purposes of their identification while in Japan, members of the civilian components and dependents shall, on demand of the appropriate Japanese authorities, present their passports within a reasonable time.

7. If the status of any person brought into Japan under this Article is altered so that he would no longer be entitled to such admission, the authorities of the sending State shall notify the Japanese authorities, and shall cause such person to leave Japan without cost to the Government of Japan as promptly as possible, unless such person be permitted to remain in Japan in accordance with the Japanese laws and regulations concerned.

8. If Japan, for good cause, has requested the removal from its territory of a member of the United Nations forces or of the civilian com-

ponents, or a dependent, the authorities of the sending State concerned shall be responsible for causing the said person to leave Japan without delay.

ARTICLE IV

1. Vessels and aircraft operated by, for or under the control of the United Nations forces for the purpose of this Agreement shall be accorded access to such ports or airports as may be agreed upon by the Joint Board provided for in Article XX, free from toll or landing charges. When cargo or passengers not accorded the exemptions of this Agreement are carried on such vessels and aircraft, notification shall be given to the appropriate Japanese authorities, and such cargo or passengers shall be entered according to the laws and regulations of Japan.

2. The vessels and aircraft mentioned in the preceding paragraph, official vehicles of the United Nations forces and of the civilian components, and members of such forces and of the civilian components, and their dependents, and vehicles of such persons shall be accorded access to and movement between facilities and areas in use by such forces in accordance with Article V and between such facilities and areas, and the ports or airports mentioned in the preceding paragraph.

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

ARTICLE V

1. The United Nations forces may use such facilities in Japan, inclusive of existing furnishings, equipment and fixtures necessary for the operation of such facilities, as may be agreed upon through the Joint Board.

2. The United Nations forces may, with the agreement of the Government of Japan through the Joint Board, use those facilities and areas the use of which is provided to the United States of America under the Security Treaty between Japan and the United States of America.⁽¹⁾

3. Within the facilities the United Nations forces shall have the rights which are necessary and appropriate for the purpose of this Agreement. All questions relating to frequencies, power and similar matters used by electric radiation apparatus employed by the United

⁽¹⁾ Treaties and Other International Acts Series 2491; 3 UST, pt. 3, p. 3329.

Nations forces shall be settled by mutual agreement through the Joint Board.

4. The facilities used by the United Nations forces under the terms of paragraph 1 shall be promptly returned to Japan whenever they are no longer needed, without any obligation to restore such facilities to their original condition and without compensation to or by either Party. The Parties to this Agreement may agree, through the Joint Board, on other arrangements with respect to construction or major alteration.

ARTICLE VI

The United Nations forces, members of such forces and of the civilian components, and their dependents may use public utilities and services belonging to, or controlled or regulated by the Government of Japan. In the use of such utilities and services the United Nations forces shall be accorded treatment no less favourable than that given from time to time to the ministries and agencies of the Government of Japan.

ARTICLE VII

1. Japan shall accept as valid, without a driving test or fee, the driving permit or license or military driving permit issued by the sending State to a member of the United Nations forces or of the civilian components, or a dependent.

2. Official vehicles of the United Nations forces and of the civilian components shall carry a distinctive nationality mark and number.

3. Privately-owned vehicles of members of the United Nations forces and of the civilian components, and their dependents shall carry Japanese number plates to be acquired under the same conditions as those applicable to Japanese nationals.

ARTICLE VIII

The United Nations forces shall have the right to establish and operate, within the facilities in use by them, military post offices for the use of members of the United Nations forces and of the civilian components, and their dependents for the transmission of mail between such military post offices in Japan and between such military post offices and other post offices established and operated outside Japan by the sending States.

ARTICLE IX

1. Non-appropriated fund organizations authorized and regulated by the United Nations forces, may be established in the facilities

in use by the United Nations forces for the use of members of such forces and of the civilian components, and their dependents. Except as otherwise provided in this Agreement, such organizations shall not be subject to Japanese regulations, license, fees, taxes or similar controls.

2. No Japanese tax shall be imposed on sales of merchandise and services by such organizations, but purchases within Japan of merchandise and supplies by such organizations shall be subject to Japanese taxes.

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

4. The obligations for the withholding and payment of income tax, local inhabitant tax and social security contributions, and, except as may otherwise be mutually agreed, the conditions of employment and work, such as those relating to wages and supplementary payments, the conditions for the protection of workers, and the rights of workers concerning labour relations shall be those laid down by the legislation of Japan.

5. The organizations provided for in paragraph 1 shall provide such information to the Japanese authorities as is required by Japanese tax legislation.

6. Such organizations may use military payment scrip in their transactions with persons who are authorized to use military payment scrip as provided for in Article XI. Such organizations may not hold deposit accounts in foreign currency with foreign exchange banks in Japan unless otherwise agreed through the Joint Board.

ARTICLE X

Members of the United Nations forces and of the civilian components, and their dependents shall be subject to the foreign exchange controls of the Government of Japan.

2. The preceding paragraph shall not be construed to preclude the transmission into or outside of Japan of foreign exchange instruments representing the official funds of the Governments of the sending States or realized as a result of service or employment in connection with this Agreement by members of the United Nations forces and of the civilian components, or realized by such persons and their dependents from sources outside Japan.

3. The authorities of the United Nations forces and the Governments of the sending States shall take suitable measures to preclude

the abuse of the privileges stipulated in the preceding paragraph or circumvention of the Japanese foreign exchange controls.

ARTICLE XI

1. Military payment scrip may be used by persons authorized by the sending States for internal transactions within facilities in use by the sending States in accordance with the regulations of the States which issued the scrip and in whose currency it is denominated. The United Nations forces shall take appropriate action to ensure that authorized persons are prohibited from engaging in transactions involving military payment scrip except as authorized by appropriate regulations of the State which issued the military payment scrip. The Government of Japan shall take necessary action to prohibit unauthorized persons from engaging in transactions involving military payment scrip and, with the aid of the United Nations forces if necessary, shall apprehend and punish any person or persons under its jurisdiction involved in the counterfeiting or uttering of counterfeit military payment scrip.

2. The United Nations forces shall apprehend and punish by due process of law members of the United Nations forces or of the civilian components, or their dependents who tender military payment scrip to unauthorized persons and no obligation shall be due to such unauthorized persons or to the Government of Japan or its agencies from the United Nations forces as a result of any unauthorized use of military payment scrip within Japan.

ARTICLE XII

1. The United Nations forces shall not be subject to taxes or similar charges on property held, used or transferred by such forces in Japan.

2. Members of the United Nations forces and of the civilian components, and their dependents shall not be liable to pay any Japanese taxes to the Government of Japan or to any other taxing agency in Japan on income received as a result of their service with or employment by such forces or by the organizations provided for in Article IX. The provisions of this Article do not exempt such persons from payment of Japanese taxes on income derived from Japanese sources, nor do they exempt citizens of the sending State who for purposes of income tax of that State claim Japanese residence from payment of Japanese taxes on income.

3. Periods during which the persons referred to in the preceding paragraph are in Japan solely by reason of being members of the United Nations forces or of the civilian components, or their dependents shall not be considered as periods of residence or domicile in Japan for the purpose of Japanese taxation.

4. Members of the United Nations forces and of the civilian components, and their dependents shall be exempt from taxation in Japan on the holding, use, transfer inter se, or transfer by death of movable property, tangible or intangible, the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided that such exemption shall not apply to property held for the purpose of investment or the conduct of business in Japan or to any intangible property registered in Japan. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

ARTICLE XIII

1. Except as otherwise provided in this Agreement, the United Nations forces, members of such forces and of the civilian components, and their dependents, as well as the organizations provided for in Article IX, shall be subject to the laws and regulations administered by the customs authorities of Japan.

2. All materials, supplies and equipment imported by the United Nations forces or by the organizations provided for in Article IX exclusively for the official use of the United Nations forces or those organizations or for the use of members of the United Nations forces and of the civilian components, and their dependents shall be permitted entry into Japan free from customs duties and other such charges.

3. When the goods mentioned in the preceding paragraph are imported, a certificate signed by a person authorized for the purpose, in the form to be determined by the Joint Board, and certifying that they are being imported for the purposes stated in the preceding paragraph shall be submitted by the United Nations forces to the customs authorities of Japan.

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

(a) Furniture and household goods for their private use imported by members of the United Nations forces or of the civilian components when they first arrive to serve in Japan or by their dependents when they first arrive for reunion with members of such forces or of the civilian components, and personal effects for private use brought by the said persons upon entrance.

(b) Motor vehicles and spare parts imported by a member of the United Nations forces or of the civilian components for the private use of himself or his dependents.

(c) Reasonable quantities of clothing and household goods which are mailed into Japan through military post offices for the private use of members of the United Nations forces and of the civilian components, and their dependents, provided that such clothing and household goods are those of a type which would ordinarily be purchased in the sending State to which such persons belong for everyday use.

5. The exemptions granted in paragraphs 2 and 4 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 purchases of goods on which such duties and excises have already been collected.

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

- (a) Units and members of the United Nations forces under orders entering or leaving Japan;
- (b) Official documents under official seal;
- (c) Military cargo shipped on a government bill of lading, and mail in military postal channels.

7. Except as authorized by the authorities of Japan and of the United Nations forces in accordance with mutually agreed conditions, goods imported into Japan free from customs duties and other such charges under this Agreement shall not be disposed of in Japan to persons not entitled to import such goods free from customs duties and other such charges under this Agreement.

8. Goods imported into Japan free from customs duties and other such charges pursuant to paragraphs 2 and 4, may be re-exported free from customs duties and other such charges.

9. The United Nations forces, in cooperation with the Japanese authorities, shall take such steps as are necessary to prevent abuse of privileges granted to the United Nations forces, members of such forces and of the civilian components, and their dependents in accordance with this Article.

10. (a) In order to prevent offences against laws and regulations administered by the Japanese customs authorities, the Japanese authorities and the United Nations forces shall assist each other in the conduct of inquiries and the collection of evidence.

(b) The United Nations forces shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the Japanese customs authorities are handed to those authorities.

(c) The United Nations 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 components, or their dependents.

(d) Any property belonging to the United Nations forces seized by the Japanese customs authorities in connection with an offence against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the forces to which such property belongs.

ARTICLE XIV

1. Materials, supplies, equipment and services which are required from local sources for the support of the United Nations forces and the procurement of which may have an adverse effect on the economy of Japan shall be procured in coordination with, and, when desirable, through or with the assistance of, the competent authorities of Japan.

2. Disputes arising out of contracts concerning the procurement of materials, supplies, equipment, services and labour by or for the United Nations forces, which are not resolved by the parties to the contract concerned, may be submitted to the Joint Board for conciliation, provided that the provisions of this paragraph shall not prejudice any right which the parties to the contract may have to file a suit.

3. Materials, supplies, equipment and services procured for official purposes in Japan by the United Nations forces, or by authorized procurement agencies of the United Nations forces upon appropriate certification by the authorities of such forces shall be exempt from the following Japanese taxes:

- (a) Commodity tax
- (b) Travelling tax
- (c) Gasoline tax
- (d) Electricity and gas tax

Materials, supplies, equipment and services procured for ultimate use by the United Nations forces shall be exempt from commodity and other taxes upon appropriate certification by the United Nations forces. With respect to any present or future Japanese 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 Nations forces, Japan and the United Nations forces will agree upon a procedure for granting such exemption or relief therefrom as is consistent with the purposes of this Article.

4. Except as such disposal may be authorized by the Japanese authorities and the United Nations forces in accordance with mutually agreed conditions, goods purchased in Japan exempt from taxes referred to in the preceding paragraph shall not be disposed of in Japan to persons not entitled to purchase such goods exempt from such taxes.

5. Neither members of the United Nations forces or of the civilian components 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 Japan chargeable under Japanese legislation.

6. Local labour requirements of the United Nations forces shall be satisfied with the assistance of the Japanese authorities.

7. The obligations for the withholding and payment of income tax, local inhabitant tax and social security contributions, and, except as may otherwise be mutually agreed, the conditions of employment and work, such as those relating to wages and supplementary payments, the conditions for the protection of workers, and the rights of workers concerning labour relations shall be those laid down by the legislation of Japan.

ARTICLE XV

The United Nations forces shall bear for the duration of this Agreement without cost to Japan all expenditures incident to the maintenance of such forces in Japan except that facilities, owned by the Government of Japan, the use of which is made available to such forces by the Government of Japan, shall be furnished by Japan free from rentals and other such charges.

ARTICLE XVI

1. Subject to the provisions of this Article,

(a) the military authorities of the sending State shall have the right to exercise within Japan all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;

(b) the authorities of Japan shall have jurisdiction over members of the United Nations forces or of the civilian components, and their dependents with respect to offences committed within the territory of Japan and punishable by the law of Japan.

2. (a) The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to its security, punishable by the law of that sending State, but not by the law of Japan.

(b) The authorities of Japan shall have the right to exercise exclusive jurisdiction over members of the United Nations forces or of the civilian components, and their dependents with respect to offences, including offences relating to the security of Japan, punishable by its law but not by the law of the sending State concerned.

(c) For the purposes of this paragraph and of paragraph 3 of this Article a security offence 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 defence 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 sending State shall have the primary right to exercise jurisdiction over a member of the United Nations forces or of the civilian component in relation to

(i) offences solely against the property or security of that State, or offences solely against the person or property of another member of the force of that State or of the civilian component, or a dependent;

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

(b) In the case of any other offence the authorities of Japan shall have the primary right to exercise jurisdiction.

(c) If the State having the primary right decides not to exercise 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 sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in Japan, unless they are members of the force of that sending State.

5. (a) The authorities of Japan and the military authorities of the sending States shall assist each other in the arrest of members of the United Nations forces or of the civilian components, or their dependents in the territory of Japan and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of Japan shall notify promptly the military authorities of the sending State of the arrest of any member of the force of that sending State or of the civilian component, or a dependent.

(c) The custody of an accused member of the force of a sending State or of the civilian component over whom Japan is to exercise jurisdiction shall, if he is in the hands of that sending State, remain with that State until he is charged by Japan.

6. (a) The authorities of Japan and the military authorities of the sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence. 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 authorities of Japan and the military authorities of the sending State 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 Japan by the military authorities of the sending State if the legislation of Japan does not provide for such punishment in a similar case.

(b) The authorities of Japan shall give sympathetic consideration to a request from the military authorities of the sending State for assistance in carrying out a sentence of imprisonment pronounced by the military authorities of the sending State under the provisions of this Article within the territory of Japan.

8. Where an accused has been tried in accordance with the provisions of this Article either by the authorities of Japan or by the military authorities of a sending State and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offence within the territory of Japan by the authorities of another State the Government of which is a Party to this Agreement. However, nothing in this paragraph shall prevent the military authorities of the sending State from trying a member of its force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the authorities of Japan.

9. Whenever a member of the United Nations forces or of the civilian components, or a dependent is prosecuted under the jurisdiction of Japan 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 favour, if they are within the jurisdiction of Japan;

(e) to have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in Japan;

(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 sending State and to have such a representative present at his trial.

10. (a) Regularly constituted military units or formations of the United Nations forces shall have the right to police any United Nations forces facilities. The military police of such forces may take all appropriate measures to ensure the maintenance of order and security within such facilities.

(b) Outside these facilities, such military police shall be employed only subject to arrangements with the authorities of Japan and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the United Nations forces.

11. If the provisions of Article XVII of the Administrative Agreement between the Government of Japan and the Government of the United States of America, signed at Tokyo on February 28, 1952, [1] as amended by the Protocol signed at Tokyo on September 29, 1953 [2] are further amended, Parties to this Agreement shall, after consultation, make similar amendments to the corresponding provisions of this Article, provided the forces of the sending State concerned are under circumstances similar to those giving rise to such further amendment.

12. The Protocol on the Exercise of Criminal Jurisdiction over United Nations Forces in Japan, signed at Tokyo on October 26, 1953, and the Annex thereto [3] shall cease to be in force between the Government of Japan and any other Party to this Agreement which has signed the said Protocol as of the date of the entry into force of this Agreement with respect to such Party.

ARTICLE XVII

The Parties to this Agreement will cooperate in taking such steps as may from time to time be necessary to ensure the security of the United Nations forces, members of such forces and of the civilian components, their dependents, and their property. The Government of Japan shall seek such legislation and take such other action as it deems necessary to ensure the adequate security and protection within the terri-

¹ Treaties and Other International Acts Series 2492; 3 UST, pt. 3, p. 3353.

² TIAS 2848; 4 UST, pt. 2, p. 1846.

³ TIAS 2887; 4 UST, pt. 2, p. 2766.

tory of Japan of installations, equipment, property, records and official information of the United Nations forces, and for the punishment of offenders under the applicable laws of Japan.

ARTICLE XVIII

1. Each Party to this Agreement waives all its claims against any other Party to this Agreement for injury or death suffered in Japan by a member of the forces of, or a civilian governmental employee of the former Party, while such member or employee was engaged in the performance of his official duties, in cases where such injury or death was caused by a member of the forces of, or a civilian governmental employee of the other Party in the performance of his official duties.

2. Each Party to this Agreement waives all its claims against any other Party to this Agreement for damage to any property in Japan owned by it, if such damage was caused by a member of the forces of, or a civilian governmental employee of the other Party in the performance of his official duties.

3. Claims, other than contractual, arising out of acts or omissions of members or employees of the United Nations forces done in the performance of their official duties, or out of any other act, omission or occurrence for which the United Nations forces are legally responsible, arising incident to non-combat activities and causing injury, death or property damage in Japan to third parties shall be dealt with by Japan in accordance with the following provisions:

(a) Claims shall be filed within one year from the date on which they arise, and shall be considered and settled or adjudicated in accordance with the laws and regulations of Japan with respect to claims arising from the activities of its own employees.

(b) Japan may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by Japan in yen.

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

(d) The cost incurred in satisfying claims pursuant to the preceding subparagraphs shall be shared by the Parties to this Agreement as follows:

- (i) Where one sending State alone is responsible, the amount agreed upon or adjudged shall be shared in the proportion of 75% chargeable to the sending State and 25% chargeable to Japan.

- (ii) Where more than one sending State is jointly responsible, the amount agreed upon or adjudged shall be shared in such proportion that the shares of the sending States concerned shall be equal among themselves and the share of Japan shall be one half of that of one of such sending States.

- (iii) Where the injury, death or property damage was caused by the United Nations forces of more than one sending State and it is not possible to attribute it specifically to any of the United Nations forces, all of the sending States concerned shall be regarded as responsible for the cause of such injury, death or property damage and the provisions of item (ii) above shall apply thereto.

(e) In accordance with procedures to be established, a statement of all claims approved or disapproved by Japan pursuant to this paragraph, the findings in each case, and a statement of the sums paid by Japan, shall be sent periodically to the sending State concerned, together with a request for reimbursement of the share to be paid by such sending State. Such reimbursement shall be made in yen within the shortest possible period of time.

4. Each Party to this Agreement shall have the primary right, in the execution of the foregoing paragraphs, to determine whether its personnel were engaged in the performance of official duty. Such determination shall be made as soon as possible after the arising of the claim concerned. When any other Party concerned disagrees with the results of such determination, that Party may bring the matter before the Joint Board for consultation.

5. Claims against members or employees of the United Nations forces arising out of tortious acts or omissions in Japan not done in the performance of their official duties shall be dealt with in the following manner:

(a) The Japanese authorities 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 authorities of the sending State concerned, 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 authorities of the sending State shall make the payment themselves and inform the Japanese authorities of their decision and of the sum paid.

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

6. (a) Members and employees of the United Nations forces, excluding those employees who have only Japanese nationality, shall not be subject to suit in Japan with respect to claims specified in paragraph 3, but shall be subject to the civil jurisdiction of Japanese courts with respect to all other types of cases.

(b) In case any private movable property, excluding that in use by the United Nations forces, which is subject to compulsory execution under Japanese law, is within the facilities in use by the United Nations forces, the authorities of the sending State concerned shall, upon the request of Japanese courts, possess and turn over such property to the Japanese authorities. In the case of a sending State the forces of which have no legal authority to take such action, the authorities of that State shall allow the appropriate Japanese authorities to take possession of such property in accordance with Japanese law.

(c) The authorities of every sending State shall cooperate with the Japanese authorities in making available witnesses and evidence for a fair hearing and disposal of claims under the provisions of this Article.

ARTICLE XIX

The Parties to this Agreement shall as promptly as possible take legislative, budgetary and other measures necessary for the implementation of this Agreement.

ARTICLE XX

1. A Joint Board shall be established in Tokyo as the means for consultation and agreement between the Government of Japan and the other Parties to this Agreement on matters relating to the interpretation and implementation of this Agreement.

2. The Joint Board shall be composed of two representatives, one representing the Government of Japan and the other representing the other Parties to this Agreement, each of whom shall have one or more deputies and a staff. The Joint Board shall determine its own procedures, and arrange for such auxiliary organs and administrative services as may be required. The Joint Board shall be so organized that it may meet at any time at the request of either representative.

3. If the Joint Board is unable to reach agreement on any matter, it shall be settled through inter-governmental negotiations.

ARTICLE XXI

1. This Agreement shall be signed by the Government of Japan and the Government of the United States of America acting as the Unified Command, and may be signed by the Government of any State which has sent or may hereafter send forces to Korea pursuant to the United Nations Resolutions. After its first signature and until its first entry into force this Agreement shall be open, subject to the consent of the Government of Japan, for signature by the Government of any other such State.

2. Ten days after the date on which the Government of Japan accepts this Agreement, it shall enter into force for the Government of Japan and for each other Government which, on or before the date of acceptance by the Government of Japan, signs, or signs "subject to acceptance" and accepts, this Agreement. [1] For each Government which signs, or accepts, or signs "subject to acceptance" and accepts, this Agreement after the date of acceptance by the Government of Japan, it shall enter into force ten days after the date on which that Government signs, or having signed "subject to acceptance" accepts, this Agreement.

3. The acceptance of this Agreement shall be made by depositing an instrument of acceptance with the Government of Japan. The Government of Japan shall notify each Government which is a Party to this Agreement, of the date of each signature and of deposit of each instrument of acceptance, if any.

4. The provisions of this Agreement, except those of Article XVI and those which are per se incapable of retroaction, shall be operative retroactively to April 28, 1952 for the Government of Japan and for each other Government which, on or within six months after the date of first signature of this Agreement, signs, or signs "subject to acceptance" and accepts, this Agreement.

ARTICLE XXII

1. After the first entry into force of this Agreement in accordance with paragraph 2 of Article XXI, the Government of any State not signatory to this Agreement which has sent or may hereafter send forces to Korea pursuant to the United Nations Resolutions, may, subject to the consent of the Government of Japan, accede to this Agreement by depositing its instrument of accession with the Government of Japan.

2. The Government of Japan shall notify each Government which is a Party to this Agreement, of the date of deposit of each instrument of accession.

¹ Japan accepted June 1, 1954; entered into force June 11, 1954.

3. This Agreement shall enter into force for each acceding Government ten days after the date of deposit of its instrument of accession.

4. The provisions of this Agreement, except those of Article XVI and those which are per se incapable of retroaction, shall be operative retroactively to April 28, 1952 for each acceding Government which deposits its instrument of accession within six months after the date of first signature of this Agreement.

ARTICLE XXIII

1. Any Party to this Agreement may at any time request a revision of any Article. Upon such request the Government of Japan and the Government of the United States of America acting as the Unified Command, in consultation with and on behalf of the sending States concerned, shall enter into negotiations.

2. If any provisions of the Administrative Agreement between the Government of Japan and the Government of the United States of America, signed at Tokyo on February 28, 1952, as amended by the Protocol signed at Tokyo on September 29, 1953 are revised, the Government of Japan and the Government of the United States of America acting as the Unified Command, in consultation with and on behalf of the sending States, shall, except as provided in paragraph 11 of Article XVI, enter into negotiations with a view to agreeing on similar revision of the corresponding provisions of this Agreement.

ARTICLE XXIV

All the United Nations forces shall be withdrawn from Japan within ninety days after the date by which all the United Nations forces shall have been withdrawn from Korea. The Parties to this Agreement may agree upon an earlier date by which all the United Nations forces shall be withdrawn from Japan.

ARTICLE XXV

This Agreement and agreed revisions thereof shall terminate on the date by which all the United Nations forces shall be withdrawn from Japan in accordance with the provisions of Article XXIV. In case all the United Nations forces have been withdrawn from Japan earlier than such date, this Agreement and agreed revisions thereof shall terminate on the date when the withdrawal has been completed.

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

DONE at Tokyo this nineteenth day of February, 1954 in the Japanese and English languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of Japan. The Government of Japan shall transmit certified copies thereof to all the signatory and acceding Governments.

For the Government of
Japan:

KATSUO OKAKAKI

Subject to acceptance [1]

GOVERNMENTS OF STATES SENDING FORCES TO KOREA PURSUANT
TO THE UNITED NATIONS RESOLUTIONS [2]

For the Government of Canada:

R. W. MAYHEW

Subject to acceptance [1]

For the Government of New Zealand:

R. M. MILLER

Subject to acceptance [1]

For the Government of the United Kingdom of Great Britain and
Northern Ireland:

ESLER DENING

For the Government of the Union of South Africa:

ESLER DENING

Subject to acceptance

For the Government of the Commonwealth of Australia:

E. RONALD WALKER

For the Government of the Republic of the Philippines:

JOSÉ F. IMPERIAL

¹ Accepted June 1, 1954.

² Signed for the Governments of France and Italy Apr. 12 and May 19, 1954, respectively.

AGREED OFFICIAL MINUTES RELATING TO THE AGREEMENT REGARDING THE STATUS OF THE UNITED NATIONS FORCES IN JAPAN

Re Article I:

1. For the purpose of this Agreement the Government of the United States of America acts only in the capacity of "the Government of the United States of America acting as the Unified Command". The status of the United States armed forces in Japan is defined by arrangements made pursuant to the Security Treaty between Japan and the United States of America, signed at the city of San Francisco on September 8, 1951.

2. Regarding the treatment of members of civilian component having dual nationality, the precedents established by practices under the Administrative Agreement between the Government of Japan and the Government of the United States of America shall be followed in the application of this Agreement.

3. The scope of persons who are to come under the definition of "civilian component" shall be determined by the Joint Board in the light of the precedents established under the Administrative Agreement between the Government of Japan and the Government of the United States of America.

4. If the number of dependents brought to Japan shows a substantial increase over the number of such dependents at the time this Agreement enters into force, the Parties to this Agreement shall consult on the question of dependents.

Re Article III:

1. Details of contents and procedures of appropriate notification as provided for in paragraph 1 shall be determined by the Joint Board.

2. If the identity card held on arrival does not contain a photograph, this omission shall not bar entry. In such case, however, an identity card with photograph shall be issued within a period to be determined by the Joint Board, except in cases of short stay. The definition of short stay shall be determined by the Joint Board. In addition to the identity card used upon entry an identity card for use in Japan shall be issued with such contents and in such form as shall be determined by the Joint Board.

3. The status of a dependent, which shall be described in the passport as provided in paragraph 5, means the relation to and the name

and status of the member of the United Nations forces or of the civilian components on whom such dependent is dependent.

4. With regard to paragraph 8, if there should be any disagreement as to whether or not "good cause" exists, the Joint Board shall decide.

5. Press representatives of non-Japanese nationality accredited to the United Nations Command will be granted Multiple Re-entry Permits in the case of their outgoing and incoming trips between Japan and Korea during the period subsequent to their first entry into and prior to their final exit from Japan, provided that they are in possession of passports duly issued by the Governments of their respective countries and certificates of their status issued by the competent authorities of the United Nations forces. A list of such press representatives who stay in Japan for a period exceeding sixty days shall be furnished monthly to the Government of Japan. The details of the list shall be determined by the Joint Board.

Re Article IV:

1. Vessels operated by, for, or under control of the United Nations forces for the purpose of this Agreement mean public vessels and chartered vessels (bare boat charter, voyage charter and time charter) of the United Nations forces. Space charter is not included. Commercial cargo and private passengers are carried by them only in exceptional cases. The term "toll" includes tonnage dues.

2. With regard to paragraph 2, the vessels and aircraft mentioned in paragraph 1, official vehicles of the United Nations forces and of the civilian components, and members of such forces and of the civilian components and their dependents, and vehicles of such persons may also have access to all the other facilities and areas provided to the United States of America under the Security Treaty between Japan and the United States of America, subject to such conditions as may be determined by mutual agreement through the Joint Board.

3. "Appropriate notification" in paragraph 3 means, under normal conditions, notification prior to entry. In cases of emergency or where security is involved, notification may be given subsequently to entry.

Re Article V:

1. Facilities to be made available by the Government of Japan for the use of the United Nations forces in Japan will be limited to the minimum required to provide adequate logistic support to the United Nations forces in Korea. In the designation of such facilities due regard will be paid to the economic and social life of Japan.

2. The term "facilities" shall include training areas when the United Nations forces require such areas.

3. The scope of "existing furnishings, equipment and fixtures" referred to in paragraph 1 shall be similar to that to be determined

under the Administrative Agreement between the Government of Japan and the Government of the United States of America.

4. Paragraph 3, which provides "within the facilities the United Nations forces shall have the rights which are necessary and appropriate for the purpose of this Agreement.", means that the United Nations forces shall have the rights to use, operate, safeguard and control the facilities in use by them.

5. The United Nations forces may place or establish lights and other aids to navigation of vessels and aircraft in the facilities in their use and, in case of urgent need, in territorial waters in the vicinity thereof in conformity with the system in use in Japan. The Japanese and the United Nations forces authorities which have established such navigation aids shall notify each other of their positions and characteristics and shall give advance notification before making any changes in them or establishing additional navigation aids.

6. In connection with the use of electric radiation apparatus employed by the United Nations forces, the United Nations forces shall as a temporary measure be entitled to use, without radiation interference from Japanese sources, electronic devices of such power, design, type of emission, and frequencies as are reserved for such forces at the time this Agreement enters into force.

7. The provisions of paragraph 4 concerning the obligation of restoration and compensation shall not prejudice in any way the terms of arrangements or contracts relating to privately-owned property.

Re Article IX:

1. The provisions of paragraph 4 shall not apply to employees who are members of the civilian components.

2. With regard to paragraph 6, in the case of such United Nations forces as are permitted to use United States Military Payment Certificates in accordance with paragraph 3 of the Agreed Official Minutes regarding Article XI and are permitted to use the facilities and areas of the United States armed forces under Article V, members of such forces and of the civilian components, and their dependents are allowed to make use of the United States armed forces organizations provided for in Article XV of the Administrative Agreement between the Government of Japan and the Government of the United States of America.

Re Article X:

1. Payment in Japan by the United Nations forces, members of such forces and of the civilian components, and their dependents to persons other than members of the United Nations forces and of the civilian components, and their dependents shall be effected in yen and

in accordance with Japanese foreign exchange control laws and regulations.

2. Procurement to be made in yen converted from foreign currency shall be effected in coordination with the Japanese regulations applicable to exports to the respective foreign currency areas, the implementation of which will be as agreed upon by the Joint Board.

3. Except as otherwise provided, the yen funds necessary for the payment mentioned in paragraph 1 above shall be acquired in accordance with the following conditions:

(a) The acquisition of the yen funds shall be made in coordination with payments agreements from time to time in force between Japan and the sending State concerned unless otherwise agreed by the Joint Board. In this case the exchange rates of United States dollar and pound sterling for yen shall be the official basic rates.

(b) In case the Government of Japan has agreed to the repurchase of the yen funds acquired by the United Nations forces by the sale of foreign currency to the Foreign Exchange Fund Special Account of the Government of Japan, the official basic rate of the foreign currency for yen shall be used.

4. The disposal in Japan of materials, supplies or equipment imported into Japan free from customs duties or other such charges, or procured in Japan free from commodity tax or other such charges, other than transfers between sending States, shall be settled in yen unless otherwise agreed by the Joint Board.

5. The yen funds acquired by the disposal referred to in paragraph 4 above shall not be converted into foreign currency, unless otherwise agreed at the time of disposal between the authorities of the Government of Japan and of the United Nations forces concerned.

6. The allowances in Japan of members of the United Nations forces and of the civilian components, and their dependents with persons other than members of the United Nations forces and of the civilian components, and their dependents shall be settled in yen.

7. The remittance by members of the United Nations forces and of the civilian components, and their dependents from foreign countries to Japan or vice versa shall be made under procedures as agreed upon through the Joint Board.

8. Nothing in this Agreement shall be construed to prevent the United Nations forces from utilizing yen lawfully acquired by them for the defrayment of expenses which are to be borne by them under this Agreement.

9. The term "the official funds of the Governments of the sending States" used in paragraph 2 shall be interpreted to include the official funds of the organizations provided for in Article IX.

Re Article XI:

1. In paragraph 1 the term "facilities" shall include facilities and areas made available for use by the United Nations forces in accordance with the provisions of paragraph 2 of Article V.

2. Military payment scrip as referred to in this Article means United States Military Payment Certificates and British Armed Forces Special Vouchers.

3. In principle the forces of the British Commonwealth (except Canadian forces), as well as members of the said forces and of the civilian components thereof, and their dependents, are authorized to use British Armed Forces Special Vouchers and all other United Nations forces including Canadian forces as well as members of the said forces and of the civilian components thereof, and their dependents are authorized to use United States Military Payment Certificates within the facilities and areas in use respectively by them. Exceptions to this principle will be authorized only to the extent necessary to the effective accomplishment of their mission. Regulations pertaining to the use of United States Military Payment Certificates and British Armed Forces Special Vouchers shall be reported to the Government of Japan through the Joint Board.

4. The monthly reports rendered by the military authorities of the United States of America to the Ministry of Finance of Japan concerning the conversion of United States Military Payment Certificates into yen shall include those conversions by the United Nations forces as well as members of such forces and of the civilian components, and their dependents.

Re Article XII:

With regard to paragraph 2, income payable in Japan as a result of service with or employment by the United Nations forces or by the organizations provided for in Article IX shall not be treated or considered as income derived from Japanese sources.

Re Article XIII:

1. The United Nations forces, members of such forces and of the civilian components, and their dependents, as well as the organizations provided for in Article IX, shall be subject to quarantine laws and regulations of Japan on persons, animals, plants, and animal and plant products. Details of implementation thereof shall be determined by the Joint Board.

2. With regard to the import of motor vehicles and spare parts under paragraph 4 (b), the precedents established by practices under the Administrative Agreement between the Government of Japan

and the Government of the United States of America shall be followed.

3. The disposal of goods referred to in paragraph 7 shall be governed by the same rules as those in practice under the Administrative Agreement between the Government of Japan and the Government of the United States of America.

Re Article XIV:

1. With regard to the procurement of materials, supplies, equipment and services, the United Nations forces authorities shall have the right to contract with any person or organization for any supplies or construction work to be furnished or undertaken in Japan for the purpose of this Agreement. Upon request and after consultation through the Joint Board, appropriate information on procurement in Japan by the United Nations forces including names of contractors and contents of contracts shall be furnished to the Government of Japan. Procurement contracts shall be made with due consideration to the prevention of difficulties which may arise out of differences in economic laws and business practices between Japan and the sending States. The Joint Board shall study this matter.

2. (a) With regard to labour procurement, it has been decided that as a matter of local practice there should, to the maximum possible extent, be substantial equality of treatment on wages, allowances and conditions of service for Japanese workers of the United States armed forces and the United Nations forces in Japan. It has also been decided that the systems of local labour procurement should be similar to those in practice with regard to Japanese workers of the United States armed forces.

(b) The details of the application of these decisions shall be determined by the Joint Board. If any change is made in the treatment of Japanese workers of either the United States armed forces or the United Nations forces after signature of, signature "subject to acceptance" and acceptance of, or accession to, this Agreement, a corresponding change in the treatment of Japanese workers of the other forces will be made only when the Government or Governments of the other State or States concerned agree to such corresponding change.

3. Members of the civilian components shall not be subject to Japanese laws and regulations with respect to the terms and conditions of employment.

Re Article XVI:

1. Re paragraph 1 (a) and paragraph 2 (a):

The scope of persons subject to the military law of the sending States shall be communicated, through the Joint Board, to

the Government of Japan by the Governments of the sending States.

2. Re paragraph 2 (c) :

The Governments of the sending States shall inform the Government of Japan and the Government of Japan shall inform the Governments of the sending States of the details of all the security offences mentioned in this subparagraph and the provisions governing such offences in the existing laws of their respective countries.

3. Re paragraph 3 (a) (ii) :

Where a member of the United Nations forces or of the civilian components is charged with an offence, a certificate issued by or on behalf of his commanding officer stating that the alleged offence, if committed by him, arose out of an act or omission done in the performance of official duty, shall, in any judicial proceedings, be sufficient evidence of the fact unless the contrary is proved.

The above statement shall not be interpreted to prejudice in any way Article 318 of the Japanese Code of Criminal Procedure.

4. Re paragraph 3 (c) :

(a) Mutual procedures relating to waivers of the primary right to exercise jurisdiction shall be determined by the Joint Board. These procedures shall be similar to those adopted by the Joint Committee under the Administrative Agreement between the Government of Japan and the Government of the United States of America.

(b) Trials of cases in which the Japanese authorities have waived the primary right to exercise jurisdiction, and trials of cases involving offences described in paragraph 3 (a) (ii) committed against the State or nationals of Japan shall be held promptly in Japan within a reasonable distance from the places where the offences are alleged to have taken place unless other arrangements are mutually agreed upon. Representatives of the Japanese authorities may be present at such trials.

5. Re paragraph 4 :

Persons with the dual nationality of Japan and a sending State who are subject to the military law of the sending State and who have been brought to Japan by the sending State shall not be considered as nationals of Japan, but shall be considered as nationals of the sending State for the purpose of this paragraph.

6. Re paragraph 5 :

(a) In case the Japanese authorities have arrested an offender who is a member of the United Nations forces or of the civilian components, or a dependent subject to the military law of the sending State with respect to a case over which Japan has the primary right to exercise jurisdiction, the Japanese authorities will, unless they deem that there is adequate cause and necessity to retain such offender, release him to the custody of the military authorities of the sending State provided that he shall, on request, be made available to the Japanese authorities, if such be the condition of his release. The authorities of the sending State shall, on request, transfer his custody to the Japanese authorities at the time he is indicted by the latter.

(b) The military authorities of the sending State shall promptly notify the Japanese authorities of the arrest of any member of the United Nations forces, or of the civilian components or a dependent in any case in which Japan has the primary right to exercise jurisdiction.

7. Re paragraph 9 :

(a) The rights enumerated in items (a) through (e) of this paragraph are guaranteed to all persons on trial in Japanese courts by the provisions of the Constitution of Japan. In addition to these rights, a member of the United Nations forces or of the civilian components, or a dependent who is prosecuted under the jurisdiction of Japan shall have such other rights as are guaranteed under the laws of Japan to all persons on trial in Japanese courts. Such additional rights include the following which are guaranteed under the Constitution of Japan :

(i) He shall not be arrested or detained without being at once informed of the charge against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel;

(ii) He shall enjoy the right to a public trial by an impartial tribunal;

(iii) He shall not be compelled to testify against himself;

(iv) He shall be permitted full opportunity to examine all witnesses;

(v) No cruel punishments shall be imposed upon him.

(b) The authorities of the sending State shall have the right upon request to have access at any time to members of the force of that State or of the civilian component, or their dependents who are confined or detained under Japanese authority.

(c) Nothing in the provisions of paragraph 9 (g) concerning the presence of a representative of the Government of the sending State at the trial of a member of the force of that State or of the civilian component, or a dependent prosecuted under the jurisdiction of Japan, shall be so construed as to prejudice the provisions of the Constitution of Japan with respect to public trials.

8. Re paragraphs 10 (a) and 10 (b):

(a) The military authorities of the United Nations forces will normally make all arrests within facilities in use by and guarded under the authority of the United Nations forces. This shall not preclude the Japanese authorities from making arrests within facilities in cases where the competent authorities of the United Nations 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 Japanese authorities and who are not subject to the jurisdiction of the United Nations forces are within facilities in use by the United Nations forces, the military authorities of the United Nations forces will undertake, upon request, to arrest such persons. All persons arrested by the military authorities of the United Nations forces, who are not subject to the jurisdiction of the United Nations forces, shall immediately be turned over to the Japanese authorities.

The military authorities of the United Nations forces may, under due process of law, arrest in the vicinity of a facility any person in the commission or attempted commission of an offence against the security of that facility. Any such person not subject to the jurisdiction of the United Nations forces shall immediately be turned over to the Japanese authorities.

(b) The Japanese authorities will normally not exercise the right of search, seizure, or inspection with respect to any persons or property within facilities in use by and guarded under the authority of the United Nations forces or with respect to property of the United Nations forces wherever situated, except in cases where the competent authorities of the United Nations forces consent to such search, seizure, or inspection by the Japanese authorities of such persons or property.

Where search, seizure, or inspection with respect to persons or property within facilities in use by the United Nations forces or with respect to property of the United Nations forces in Japan is desired by the Japanese authorities, the military authorities of the United Nations forces 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 a sending State or its instrumentalities, the authorities of the sending State concerned will turn over such property to the Japanese authorities for disposition in accordance with the judgment. In either of the cases mentioned in the two foregoing sentences, if the forces of the sending State have no legal authority to take such action, the authorities of that State shall allow the appropriate Japanese authorities to take such action in accordance with Japanese law.

9. Re application of this Article:

The provisions of this Article shall not apply to any offences committed by members of the United Nations forces or of the civilian components, or their dependents, whose Government is a Party to this Agreement, before the entry into force of this Agreement for that Party. With respect to those Parties to this Agreement which have also signed the Protocol on the Exercise of Criminal Jurisdiction over United Nations Forces in Japan, signed at Tokyo on October 26, 1953, such offences shall be dealt with in accordance with the provisions of the said Protocol and the Annex thereto as these were in force prior to the entry into force of this Agreement.

10. Re implementation of this Article:

The implementation of this Article and these Minutes shall be similar to the implementation of the Protocol and the Agreed Official Minutes of September 29, 1953 between the Government of Japan and the Government of the United States of America.

Re Article XVIII:

1. In cases where the provisions of paragraph 3 apply, by virtue of paragraph 4 of Article XXI or paragraph 4 of Article XXII, to claims which may have arisen before the entry into force of this Agreement with respect to Japan and the sending State or States concerned, such claims shall be filed within one year from the date of the entry into force of this Agreement between Japan and the said sending State or States, irrespective of the provisions of paragraph 3 (a).

2. The Joint Board shall determine the scope of the term "third parties" so as to correspond to the scope of the same term under the

Administrative Agreement between the Government of Japan and the Government of the United States of America.

Re Article XXIII:

The Government of the United States of America acting as the Unified Command shall act on behalf of a sending State only with the prior consent of such State.

Re Article XXIV:

1. If the removal of materials, supplies and equipment of the United Nations forces should not, because of unavoidable circumstances, be completed within the ninety days specified in this Article, the minimum number of such forces required for the completion thereof may stay in Japan, after consultation with the Government of Japan through the Joint Board, for a further period of time not exceeding ninety days.

2. In addition to the extension of stay referred to in paragraph 1 above, the Government of Japan would give sympathetic consideration to a request for such further extension of the period of their stay as may be necessitated by unavoidable circumstances. Such further extension shall not, in any event, exceed ninety days.

TOKYO, February 19, 1954

Minister for Foreign Affairs
of Japan:

KATSUO OKAZAKI

*Chargé d'Affaires ad interim of
the United States of America in
Japan:*

J. GRAHAM PARSONS

*Ambassador Extraordinary and
Plenipotentiary of Canada to
Japan:*

R. W. MATHEW

*Chargé d'Affaires ad interim of
New Zealand in Japan:*

R. M. MILLER

*Ambassador Extraordinary and
Plenipotentiary of the United
Kingdom of Great Britain and
Northern Ireland to Japan:*

ESLER DENING

*Representative in Japan of the In-
terests of the Government of the
Union of South Africa:*

ESLER DENING

*Ambassador Extraordinary and
Plenipotentiary of the Common-
wealth of Australia to Japan:*

E. RONALD WALKER

*Minister, Chief of the Philippine
Mission in Japan:*

JOSE F. IMPERIAL

COMMITTEE ON FOREIGN AFFAIRS*Republican Office**Telephone #: 202/225-6735*

To:

Alan Kreszko

Organization:

From:

Steve Rademaker

Date:

Subject:

North Korea

Number of Pages:

12

(Including Cover Sheet)

Message:

1A

103D CONGRESS
1ST SESSION

H. J. RES. 292

To approve and encourage the use by the President of any means necessary and appropriate, including diplomacy, economic sanctions, a blockade, and military force, to prevent the development, acquisition, or use by North Korea of a nuclear explosive device.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 1993

Mr. GILMAN (for himself, Mr. MURTHA, Mr. SOLOMON, and Mr. HYDE) introduced the following joint resolution; which was referred to the Committee on Foreign Affairs

JOINT RESOLUTION

To approve and encourage the use by the President of any means necessary and appropriate, including diplomacy, economic sanctions, a blockade, and military force, to prevent the development, acquisition, or use by North Korea of a nuclear explosive device.

- 1 *Resolved by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This joint resolution may be cited as the "Nuclear
3 Nonproliferation in Korea Resolution".

4 **SEC. 2. NORTH KOREA'S PROGRAM TO DEVELOP A NU-**
5 **CLEAR EXPLOSIVE DEVICE.**

6 The Congress finds the following:

7 (1) The Democratic People's Republic of Korea
8 (in this joint resolution referred to as "North
9 Korea") has for over a decade pursued a program
10 aimed at the development of a nuclear explosive de-
11 vice.

12 (2) Director of Central Intelligence R. James
13 Woolsey has testified before the Congress that North
14 Korea is the most urgent threat to United States
15 national security in East Asia, that there is a real
16 possibility that North Korea has produced enough
17 nuclear material to build at least 1 nuclear explosive
18 device, and that possession by North Korea of such
19 a device would threaten United States allies in all of
20 Asia as well as United States forces in the region.

21 (3) On December 12, 1985, North Korea be-
22 came a party to the Treaty on the Non-Proliferation
23 of Nuclear Weapons as a non-nuclear-weapon state.

24 (4) On December 30, 1991, North Korea and
25 the Republic of Korea reached a bilateral
26 denuclearization agreement forbidding the produc-

3

1 tion, possession, or deployment of nuclear weapons,
2 reprocessing facilities, and uranium enrichment fa-
3 cilities on the Korean Peninsula.

4 (5) Although the bilateral denuclearization
5 agreement between North Korea and the Republic of
6 Korea provided for bilateral inspections of nuclear
7 facilities, North Korea has refused to permit any in-
8 spections pursuant to that agreement.

9 (6) In belated compliance with its obligations
10 under the Treaty on the Non-Proliferation of Nu-
11 clear Weapons, North Korea concluded a Fullscope
12 Safeguards Agreement with the International Atom-
13 ic Energy Agency on January 30, 1992. This agree-
14 ment permits the International Atomic Energy
15 Agency to conduct both regular and special inspec-
16 tions of nuclear sites in North Korea in order to ver-
17 ify compliance with the Treaty on the Non-Prolifera-
18 tion of Nuclear Weapons.

19 (7) While conducting inspections pursuant to
20 the Fullscope Safeguards Agreement in 1992, the
21 International Atomic Energy Agency uncovered evi-
22 dence that North Korea has produced more weap-
23 ons-grade nuclear material than it has reported to
24 the International Atomic Energy Agency.

1 (8) As part of its investigation of this matter,
2 the International Atomic Energy Agency requested
3 special inspections of two suspected nuclear sites on
4 February 16, 1993.

5 (9) In order to avoid International Atomic En-
6 ergy Agency inspection of these sites, North Korea
7 on March 12, 1993, announced its intention to with-
8 draw from the Treaty on the Non-Proliferation of
9 Nuclear Weapons.

10 (10) The United Nations Security Council
11 adopted Resolution 825 on May 11, 1993, which
12 called upon North Korea to retract its decision to
13 withdraw from the Treaty on the Non-Proliferation
14 of Nuclear Weapons and fully honor its obligations
15 under that treaty and the Fullscope Safeguards
16 Agreement. Resolution 825 also urged all member
17 states of the United Nations to encourage North
18 Korea to respond positively to the Security Council's
19 action and to take all appropriate steps vis-a-vis the
20 North Korean government to facilitate resolution of
21 the matter.

22 (11) As urged by Resolution 825, the United
23 States has held a series of meetings with representa-
24 tives of the North Korean government.

1 (12) In the context of these meetings, North
2 Korea agreed on June 11, 1993, to suspend its an-
3 nouncement of withdrawal from the Treaty on the
4 Non-Proliferation of Nuclear Weapons, and to hold
5 "serious discussions" with the International Atomic
6 Energy Agency regarding the resumption of inspec-
7 tions pursuant to the Fullscope Safeguards Agree-
8 ment, and with the Republic of Korea regarding im-
9 plementation of the bilateral denuclearization agree-
10 ment.

11 (13) North Korea's discussions with the Inter-
12 national Atomic Energy Agency since June 11,
13 1993, have not resulted in agreement regarding the
14 resumption of inspections, and discussions with the
15 Republic of Korea have not resulted in agreement
16 regarding implementation of the bilateral
17 denuclearization agreement.

18 (14) In the absence of agreement with the
19 International Atomic Energy Agency, no inspections
20 are taking place at the two North Korean nuclear
21 facilities that were the subject of the International
22 Atomic Energy Agency's special inspections request
23 of February 16, 1993, and North Korea is, as a
24 practical matter, free to pursue the development of
25 a nuclear explosive device.

1 (15) The current leadership of North Korea
2 has, during the more than 45 years that it has been
3 in power, compiled a record of aggression and law-
4 lessness, including not only its invasion of the Re-
5 public of Korea in 1950 triggering the Korean War,
6 but also countless acts of infiltration and subversion
7 in the Republic of Korea and international terrorism
8 beyond the Korean Peninsula.

9 (16) Particularly in view of this history, the de-
10 velopment or acquisition by North Korea of a nu-
11 clear explosive device would threaten international
12 peace and security in Asia, not least by requiring
13 Japan and the Republic of Korea to consider devel-
14 oping or acquiring nuclear devices of their own.

15 (17) The United States is committed to the de-
16 fense of the Republic of Korea pursuant to the Unit-
17 ed States-Republic of Korea Mutual Defense Treaty
18 of 1954, and continues to station approximately
19 37,000 members of the United States Armed Forces
20 in the Republic of Korea.

21 (18) In view of the risks that would be associ-
22 ated with development or acquisition by North
23 Korea of a nuclear explosive device, President Clin-
24 ton on July 11, 1993, warned that any use by North

1 Korea of such a device would be met by decisive
2 United States retaliation.

3 **SEC. 3. RELEVANT INTERNATIONAL LAW.**

4 The Congress finds and declares the following:

5 (1) Self-defense is an inherent right of nations
6 under international law. This right was reaffirmed
7 by Article 51 of the Charter of the United Nations,
8 which states "Nothing in the present Charter shall
9 impair the inherent right of individual or collective
10 self-defence if an armed attack occurs against a
11 Member of the United Nations, until the Security
12 Council has taken measures necessary to maintain
13 international peace and security."

14 (2) President Kennedy's statement on October
15 22, 1962, during the Cuban Missile Crisis, succinctly
16 explains why the term "armed attack" must be con-
17 strued broadly with respect to nuclear weapons:

18 "We no longer live in a world where only the
19 actual firing of weapons represents a sufficient
20 challenge to a nation's security to constitute
21 maximum peril. Nuclear weapons are so de-
22 structive and ballistic missiles are so swift that
23 any substantially increased possibility of their
24 use or any sudden change in their deployment

1 may well be regarded as a definite threat to
2 peace.”.

3 (3) Many international legal scholars have rec-
4 ognized that when a government begins making
5 preparations to initiate nuclear warfare, particularly
6 when that government has a history of committing
7 unprovoked aggression, those preparations may con-
8 stitute an “armed attack” within the meaning of Ar-
9 ticle 51 of the Charter of the United Nations. As
10 President Kennedy suggested, in the nuclear age
11 ominous changes in the availability or disposition of
12 nuclear weapons can be as much an armed attack as
13 an army crossing a border. Such an armed attack
14 gives rise to the right of self-defense on the part of
15 those against whom the preparations to initiate nu-
16 clear warfare are directed, including the right to use
17 such force as may be necessary and proportionate to
18 eliminate the threat.

19 (4) This principle of international law was the
20 legal basis for the naval blockade of Cuba ordered
21 by President Kennedy during the Cuban Missile Cri-
22 sis in 1962. It also was the legal basis for Israel’s
23 preemptive strike against the nuclear reactor at
24 Osirak, Iraq in 1981. Both actions defused serious
25 threats to international peace and security. Both il-

1 lustrate that no state will wait until it is too late to
2 defend itself.

3 (5) In view of the record of aggression and law-
4 lessness compiled by the current leadership of North
5 Korea over the last 45 years and the determination
6 with which North Korea is pursuing the development
7 of a nuclear explosive device, the President may con-
8 clude that the threat posed by North Korea's
9 unsafeguarded nuclear program to such United
10 States allies as Japan and the Republic of Korea
11 and to United States forces in the region is so grave
12 as to warrant unilateral United States action to
13 eliminate the threat.

14 **SEC. 4. POLICY DECLARATIONS.**

15 The Congress approves and supports—

16 (1) the determination of the President to pre-
17 vent the development or acquisition by North Korea
18 of a nuclear explosive device;

19 (2) the President's efforts to induce North
20 Korea to comply fully with its obligations under the
21 Treaty on the Non-Proliferation of Nuclear Weapons
22 and the bilateral denuclearization agreement with
23 the Republic of Korea, including the obligation to
24 permit fullscope inspections of all suspected nuclear
25 weapons sites; and

1 (3) the determination of the President to re-
2 spond appropriately should North Korea obtain a
3 nuclear explosive device and use such device against
4 any ally of the United States.

5 **SEC. 5. ADDITIONAL ACTIONS BY THE UNITED STATES.**

6 The Congress approves and encourages the use by the
7 President of any means necessary and appropriate, includ-
8 ing the use of diplomacy, economic sanctions, a blockade,
9 and military force, to prevent—

10 (1) the development or acquisition by North
11 Korea of a nuclear explosive device; or

12 (2) the use by North Korea of such a device
13 against United States forces in the region or against
14 any ally of the United States.

15 **SEC. 6. REPORTS TO CONGRESS.**

16 (a) **REQUIREMENT FOR PERIODIC REPORTS.**—The
17 President shall submit to the Congress periodic reports on
18 the status of efforts to prevent the development or acquisi-
19 tion by North Korea of a nuclear explosive device. Each
20 such report shall describe the actions taken by the United
21 States pursuant to section 5.

22 (b) **WHEN REPORTS ARE TO BE SUBMITTED.**—A re-
23 port shall be submitted pursuant to subsection (a) within
24 60 days after the date of enactment of this joint resolution
25 and every 6 months thereafter until the President certifies

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- 1 to the Congress that North Korea has ceased its efforts
- 2 to develop or acquire a nuclear explosive device.

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