

**AMENDMENTS TO THE AGREED MINUTES OF JULY 9, 1966 TO THE
AGREEMENT UNDER ARTICLE IV OF THE MUTUAL DEFENSE TREATY
BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF
KOREA, REGARDING FACILITIES AND AREAS AND THE STATUS OF UNITED
STATES ARMED FORCES IN THE REPUBLIC OF KOREA, AS AMENDED**

The United States of America and the Republic of Korea agree to amend the Agreed Minutes of July 9, 1966 to the Agreement Under Article IV of the Mutual Defense Treaty between the United States of America and the Republic of Korea, Regarding Facilities and Areas and the Status of United States Armed Forces in the Republic of Korea, with Agreed Minutes, as amended, as follows:

ARTICLE III

Add a new Agreed Minute re Paragraph 2:

The United States Government and the Republic of Korea Government recognize and acknowledge the importance of environmental protection in the context of defense activities in the Republic of Korea under the Mutual Defense Treaty of 1953. The United States Government commits itself to implementing this Agreement in a manner consistent with the protection of the natural environment and human health, and confirms its policy to respect relevant Republic of Korea Government environmental laws, regulations, and standards. The Republic of Korea Government confirms its policy to implement its environmental laws, regulations, and standards with due regard for the health and safety of United States personnel.

ARTICLE XVII

Amend Paragraph 2 to read as follows:

The undertaking of the Government of the United States to conform to the provisions of the labor legislation of the Republic of Korea does not imply any waiver by the Government of the United States of its immunities under international law. The Government of the United States shall not terminate employment unless there is just cause or unless such employment is inconsistent with the military requirements of the United States armed forces. When military requirements make reductions necessary, the Government of the United States shall endeavor to minimize employee terminations to the extent possible.

ARTICLE XXII

Add a new Agreed Minute re Paragraph 5(c):

1. In the event the Republic of Korea authorities have arrested an accused who is a member of the United States armed forces or the civilian component, or a dependent, with respect to a case over which the Republic of Korea has the primary right to exercise jurisdiction, the Korean authorities will, on request, hand him over to the custody of the United States military authorities, provided that he shall, on request, be made available to the Republic of Korea authorities, for the purposes of investigation and trial.

2. In cases where the Republic of Korea authorities have arrested an accused who is a member of the United States armed forces or the civilian component, or a dependent at the scene of the crime, in immediate flight therefrom or prior to the accused's return to U.S. control and there is adequate cause to believe that he has committed a heinous crime of murder or an egregious rape, and there is necessity to retain him for the reason that he may destroy evidence;

he may escape; or he may cause harm to the life, person or property of a victim or a potential witness, the United States military authorities agree not to request transfer of custody unless there is legitimate cause to believe that a failure to request custody would result in prejudice to an accused's right to a fair trial.

3. The military authorities of the United States shall transfer custody to the Republic of Korea authorities if the offense over which the Republic of Korea has the primary right of jurisdiction and for which the Republic of Korea has requested the transfer of custody at the time of indictment or thereafter falls within the following categories of cases of sufficient gravity to warrant custody and adequate cause and necessity exists for such custody:

- (a) murder;
- (b) rape (including quasi-rape and sexual intercourse with a minor under thirteen years of age);
- (c) kidnapping for ransom;
- (d) trafficking in illegal drugs;
- (e) manufacturing illegal drugs for the purposes of distribution;
- (f) arson;
- (g) robbery with a dangerous weapon;
- (h) attempts to commit the foregoing offenses;
- (i) assault resulting in death;
- (j) driving under the influence of alcohol, resulting in death;
- (k) fleeing the crime scene after committing a traffic accident resulting in death;
- (l) offenses which include one or more of the above-referenced offenses as lesser included offenses.

4. "Adequate cause" that the accused committed the offense charged shall be a judicial determination that there exist reasonable grounds to believe that the accused committed the offense. Such judicial determination shall be made in accordance with the laws of the Republic of Korea.

5. "Necessity" for pretrial custody shall be a judicial determination that confinement of the accused is required because there is reasonable ground to suspect that the accused has destroyed or may destroy evidence; that the accused may flee; or that the accused is likely to cause harm to the life, person or property of a victim, a potential witness, or a family member of a victim or potential witness. Such judicial determination shall be made in accordance with the laws of the Republic of Korea.

6. In all situations where authorized under the law of the Republic of Korea, a preliminary hearing to examine the legality of any arrest, detention or request for either, is automatically requested by and on behalf of the accused and will be held. The accused and counsel for the accused shall be present and shall be permitted to participate. The United States representative shall also be present.

7. The right to request bail and to a review by a judge before deciding any such request shall be a continuing right that the accused, his counsel or his family may assert at any time prior to completion of all judicial proceedings.

8. The authorities of the Republic of Korea shall give sympathetic consideration to a request by the military authorities of the United States to forgo or postpone pre-trial custody in special cases where the accused is ill, injured, or pregnant.

9. When an accused is in the custody of the military authorities of the United States, the military authorities of the United States shall promptly make any such accused available to the authorities of the Republic of Korea upon their request for the purposes of investigation and trial, and shall take all appropriate measures to that end and to prevent any prejudice to the course of justice.

10. When an accused has been in the custody of the military authorities of the United States, the military authorities of the United States may transfer custody to the authorities of the Republic of Korea at any time. At any time after the custody of an accused has been transferred to the authorities of the Republic of Korea by the military authorities of the United States, the authorities of the Republic of Korea may transfer custody to the military authorities of the United States.

11. The military authorities of the United States shall give sympathetic consideration to any request for transfer of custody which may be made by the authorities of the Republic of Korea in specific cases.

Add a new Agreed Minute re Paragraph 7(b):

The authorities of the Republic of Korea will give full account to any special view expressed by the military authorities of the United States regarding the execution of the sentence in specific cases.

Amend Paragraph 9(e) to read as follows:

The right to legal representation shall exist from the moment of arrest or detention and shall include the right to have counsel present and to consult confidentially with such counsel, at all preliminary investigations, examinations, pretrial hearings, the trial itself, and subsequent proceedings at which the accused is present. The right to counsel will be respected in all investigative and judicial proceedings to the greater extent permitted by this Agreement or by the law of the Republic of Korea.

Amend Paragraph 9(g) to read as follows:

The right to communicate with a representative of the Government of the United States shall exist from the moment of arrest or detention, and no statement of the accused taken in the absence of such a representative shall be admissible as evidence in support of the guilt of the accused. Such representative shall be entitled to be present at all preliminary investigations, examinations, pretrial hearings, the trial itself and subsequent proceedings, at which the accused is present. The U.S. authorities shall, upon request, ensure the prompt presence of the representative of the Government of the United States in order to prevent unnecessary delay of the preliminary investigation or any subsequent proceedings.

Amend the fifth unnumbered paragraph re Paragraph 9 to read as follows:

The authorities of the Republic of Korea shall, upon request from the military authorities of the United States, permit them to visit and observe any areas of any confinement

facilities of the Republic of Korea in which a member of the United States armed forces or civilian component, or a dependent is confined, or in which it is proposed to confine such an individual.

Add a new Agreed Minute re Paragraphs 5(c) and 9:

1. If the authorities of the Republic of Korea or the military authorities of the United States believe an infringement of this agreement may have occurred, the appropriate branch, district or similar level prosecutor and the staff judge advocate or appropriate legal officer will seek to resolve the matter within 10 days of either party notifying the other of such infringement. If the matter is not satisfactorily resolved within these 10 days, either party may send written notice to the Joint Committee describing the circumstances and the basis of the alleged infringement.

2. If the matter is not resolved by the Joint Committee or otherwise between the parties within 21 days of receipt by the Joint Committee of the written notice, either representative to the Joint Committee may refer the matter to the respective Governments for resolution through appropriate channels in accordance with Paragraph 3 of Article XXVIII.

ARTICLE XXV

Add a new Agreed Minute:

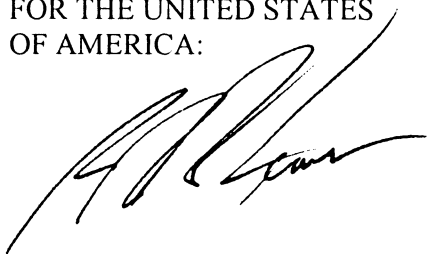
The provisions of Article XXV apply to the protection of described personnel and their property in the same manner that they apply to the installations, equipment, property, records, and official information of the United States.

These Agreed Minutes shall enter into force one month after the date of a written notification from the Government of the Republic of Korea to the Government of the United States of America that it has approved these Agreed Minutes in accordance with its legal procedures.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed these Agreed Minutes.

DONE at Seoul this *18th* day of January, 2001, in duplicate, in the English and Korean languages, both texts being equally authentic, and in the case of divergence, the English text shall prevail.

FOR THE UNITED STATES
OF AMERICA:



FOR THE REPUBLIC
OF KOREA:

