

NATO SOFA SUPPLEMENTARY AGREEMENT

TABLE OF CONTENTS

Agreement of 3 August 1959, as Amended by the Agreements of 21 October 1971, 18 May 1981, and 18 March 1993, to Supplement the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces with respect to Foreign Forces stationed in the Federal Republic of Germany (Revised Supplementary Agreement) (effective 29 March 1998).

NOTE: Titles are not part of the Agreement

[Article 1](#), Introductory Provision

[Article 2](#), Definitions

[Article 3](#), Co-operation and Liaison

[Article 4](#), Exercise of Rights and Fulfillment of Obligations

[Article 5](#), Identification and Visas

[Article 6](#), Registration and Aliens Control

[Article 7](#), Residence and Settlement

[Article 8](#), Expulsions and Removal

[Article 9](#), Driving Licenses

[Article 10](#), Registration and Licensing of Vehicles, Vessels, and Aircraft

[Article 11](#), Third Party Liability Insurance of Private Motor Vehicles, Trailers and Aircraft

[Article 12](#), Bearing of Arms

[Article 13](#) Social Security and Welfare

[Article 14](#), Certificates of Eligibility to Marry

[Article 15](#), Reports and Registration of Births and

[Article 16](#), Deaths and Burials

[Article 17](#), Offences Punishable under the Law of a sending State under German Law

[Article 18](#), Official Duty

[Article 18A](#), Cases Involving Capital Punishment

[Article 19](#), Waiver of Jurisdiction

[Article 20](#), Provisional Arrest

[Article 21](#), Notification of Arrest

[Article 22](#), Custody of Members of a Force or of a Civilian Component and Dependents

[Article 23](#), Rights of Access

[Article 24](#), Mutual Assistance during Pre-Trial Proceedings

[Article 25](#), Right of a National Representative to Attend Criminal Proceedings

[Article 26](#), Place of Trial

[\(Article 27\)](#), Deleted

[Article 28](#), Military Police

[Article 29](#), Protection of the Forces against Criminal Offences

[Article 30](#), Mixed Commissions

[Article 31](#), Free Judicial Assistance and Exemption from the Obligation to Post Security for Costs

[Article 32](#), Service (Liaison Agency)

[Article 33](#), Attendance at Proceedings

[Article 34](#), Enforcement of Judgments, Decision, and Orders

[Article 35](#), Attachment

[Article 36](#), Service (by German Courts and Authorities)

[Article 37](#), Appearance before Courts or Authorities

[Article 38](#), Disclosure of Information

[Article 39](#), Witnesses and Experts

[Article 40](#), Inviolability of Documents and Property

[Article 41](#), Damage Claims

[\(Article 42\)](#), Deleted

[Article 43](#), Surveys and Meteorology

[Article 44](#), Settlement of Disputes

[Article 45](#), Maneuvers and Other Training Exercises

[Article 46](#), Air Maneuvers and Other Air Exercises

[Article 47](#), Procurement of Goods and Services

[Article 48](#), Accommodation

[Article 49](#), Construction

[Article 50](#), Transfer of Fixtures within the Federal Territory

[Article 51](#), Property Procured with Occupation or Support Cost Funds

[Article 52](#), Residual Value

[Article 53](#), Rights Respecting Installations

[Article 53A](#), Special Permits and Licenses in Connection with Use of Installations

[Article 54](#), Health and Sanitation

[Article 54A](#), Environmental Protection

[Article 54B](#), Fuels, Lubricants and Additives

[Article 55](#), Defensive Works and Measures

[Article 56](#), Labor

[Article 57](#), Movement

[Article 58](#), Transportation

[Article 59](#), Forces Postal Services

[Article 60](#), Telecommunications

[Article 61](#), Prices

[Article 62](#), Requisitioning Procedures

[Article 63](#), Services Rendered Free of Charge to a Force or a Civilian Component

[Article 64](#), Services Rendered Free of Charge to Members of a Force or of a Civilian Component

[Article 65](#), Customs Treatment of a Force or of a Civilian Component

[Article 66](#), Customs Treatment of Members of a Force and of a Civilian Component and of Dependents

[Article 67](#), Tax Treatment of a Force and of a Civilian Component

[Article 68](#), Tax Treatment of Members of a Force and of a Civilian Component and of Dependents

[Article 69](#), Currency and Foreign Exchange

[Article 70](#), Banking

[Article 71](#), Treatment of Non-German Non-Commercial Organizations

[Article 72](#), Treatment of Non-German Commercial Enterprises

[Article 73](#), Treatment of Technical Experts

[Article 74](#), Prevention of Abuses

[Article 75](#), Offences Committed Prior to the Entry into Force of the Supplementary Agreement

[\(Article 76\)](#), Deleted

[\(Article 77\)](#), Deleted

[Article 78](#), Mixed Commissions under Article 44, paragraph 8 of the Forces Convention

[Article 79](#), Tax Relief in Respect of Certain Payments

[Article 80](#), Hostilities

[Article 80A](#), Resolution of Disputes

[Article 81](#), Duration of the Supplementary Agreement

[Article 82](#), Review of the Supplementary Agreement

**Revised Supplementary Agreement (RSA)
To Amend the Agreement of 3 August 1959,
as Amended by the Agreements of
21 October 1971 and 18 May 1981,
to Supplement the Agreement
between the Parties to the North Atlantic Treaty
regarding the Status of their Forces
with respect to Foreign forces
stationed in the
Federal Republic of Germany**

THE KINGDOM OF BELGIUM,
CANADA,
THE FRENCH REPUBLIC,
THE FEDERAL REPUBLIC OF GERMANY,
THE KINGDOM OF THE NETHERLANDS,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and
THE UNITED STATES OF AMERICA.

CONSIDERING that subparagraph (b) Paragraph 1 of Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany as amended by Schedule 1 to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954, provides for the negotiation of new arrangements setting forth the rights and obligations of the forces of the Three Powers and other States having forces in the territory of the Federal Republic of Germany;

CONSIDERING that, pursuant to that provision, the new arrangements shall be based on the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed at London on 19 June 1951, supplemented by such provisions as are necessary in view of the special conditions existing in regard to the forces stationed in the

Federal Republic of Germany;

CONSIDERING that the North Atlantic Council has decided to approve, in accordance with paragraph 3 of Article XVIII of the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, the accession to that Agreement of the Federal Republic of Germany, provided that such accession shall become effective only after all the States Parties to the new arrangements have ratified or approved them;

CONSIDERING that the second paragraph of the Preamble to the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces also provides for separate arrangements supplementary to that Agreement;

CONSIDERING that, pursuant to the Agreement signed at Bonn on 3rd August 1959, by the Powers signatory to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954, the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany, the Finance Convention, and the Agreement on the Tax Treatment of the Forces and their Members, as amended by that Protocol, shall cease to be effective upon the entry into force of the new arrangements;

DESIRING thereby to continue consolidating the North Atlantic Community;

HAVE AGREED AS FOLLOWS:

Article 1

The Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed at London on 19 June 1951 (hereinafter referred to as the "NATO Status of Forces Agreement"), shall, as regards the rights and obligations of the forces of the Kingdom of Belgium, Canada, the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America in the territory of the Federal Republic of Germany (hereinafter referred to as "the Federal Republic"), be supplemented by the provisions of the present Supplementary Agreement.

**Revised Protocol of Signature
to the
Supplementary Agreement
(RPOS)**

Upon the signature of the Agreement to supplement the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces with respect to Foreign Forces stationed in the Federal Republic of Germany (hereinafter referred to as the "Supplementary Agreement") the undersigned representatives of

THE KINGDOM OF BELGIUM,
CANADA,
THE FRENCH REPUBLIC,
THE FEDERAL REPUBLIC OF GERMANY,
THE KINGDOM OF THE NETHERLANDS,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and
THE UNITED STATES OF AMERICA,

acknowledge that the following Minutes and Declarations have been agreed:

PART II

Agreed Minutes and Declarations concerning the Supplementary Agreement

Re Article 1

In the event of the Supplementary Agreement entering into force before the expiry of the transitional period provided for in paragraph 2 of Article 1 and in Article 3 of the Treaty between the French Republic and the Federal Republic of Germany on the Settlement of the Saar Question, dated 27 October 1956, the provisions of the Supplementary Agreement affecting matters which pursuant to Chapter II of that Treaty are not subject to German jurisdiction shall not be applicable in the Saar before the expiry of that period.

Article 2

1. Unless otherwise specified, in the present Agreement the term

- (a) "a German" shall mean a German within the meaning of German law;
- (b) "Protocol of Signature" shall mean the Protocol of Signature to the present Agreement;
- (c) "Forces Convention" shall mean the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany, as amended by Schedule II to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954;
- (d) "Federal Requisitioning Law" shall mean the Federal Requisitioning Law (Bundesleistungsgesetz) of 19 October 1956 (Bundesgesetzblatt 1956 Teil I, page 815);
- (e) "Restricted Areas Law" shall mean the Law concerning Restrictions on Real Property for Purposes of Military Defense (Gesetz über die Beschränkung von Grundeigentum für die militärische Verteidigung - Schutzbereichsgesetz) of 7 December 1956 (Bundesgesetzblatt 1956 Teil I, page 899);
- (f) "Land Procurement Law" shall mean the Law concerning the Procurement of Land for Purposes of Defense (Gesetz über die Landbeschaffung für Aufgaben der Verteidigung -- Landbeschaffungsgesetz) of 23 February 1957 (Bundesgesetzblatt 1957 Teil I, page 134);
- (g) "Air Traffic Law" shall mean the Air Traffic Law (Luftverkehrsgesetz) in the version of the Notification (Bekanntmachung) of 10 January 1959 (Bundesgesetzblatt 1959 Teil I, page 9).

2.(a) A close relative of a member of a force or of a civilian component not falling within the definition contained in subparagraph (c) of paragraph 1 of Article I of the NATO Status of Forces Agreement who is financially or for reasons of health dependent on, and is supported by, such member, who shares the quarters occupied by such member and who is present in the Federal territory with the consent of the authorities of the force shall be considered to be, and treated as, a dependent within the meaning of that provision.

(b) Should a member of a force or of a civilian component die or leave the Federal territory on transfer, the dependents of such member, including close relatives referred to in subparagraph (a) of this paragraph, shall be considered to be, and treated as, dependents within the meaning of subparagraph (c) of paragraph 1 of Article I of the NATO Status of Forces Agreement for a period of ninety days after such death or transfer if such dependents are present in the Federal territory.

Re Article 2

The authorities of the forces shall limit as far as possible the number of close relatives, within the meaning of subparagraph (a) of paragraph 2 of Article 2, to be admitted to the Federal territory.

Article 3

1. In accordance with the obligations imposed by the North Atlantic Treaty upon the contracting parties thereto to render mutual assistance, the German authorities and the authorities of the forces shall cooperate closely to ensure the implementation of the NATO Status of Forces Agreement and of the present Agreement.

2. The cooperation provided for in paragraph 1 of this Article shall extend in particular

(a) to the furtherance and safeguarding of the security, as well as to the protection of the property, of the Federal Republic, of the sending States and of the forces, and especially to the collection, exchange and protection of all information which is of significance for these purposes;

(b) to the furtherance and safeguarding of the security, as well as to the protection of the property, of Germans, of members of the forces and members of the civilian components and dependents, as well as of nationals of the sending States who do not belong to these categories of persons.

3.(a) German authorities and the authorities of a Force shall, by taking appropriate measures, ensure close and reciprocal liaison within the scope of the cooperation provided for in paragraphs 1 and 2 of this Article. Personal data shall be passed on solely for the purposes envisaged in the NATO Status of Forces Agreement and in

the present Agreement. Restrictions in possible applications based on the legislation of the Contracting Party supplying the information shall be observed.

(b) This paragraph shall not impose an obligation on a Contracting Party to carry out measures which would contravene its laws or conflict with its predominant interests with regard to the protection of the security of the State or of public safety.

4. The German authorities and the authorities of a sending State shall take all the administrative measures necessary for the implementation of the NATO Status of Forces Agreement and of the present Agreement, and, where necessary, shall conclude administrative or other agreements to that end.

5.(a) In the implementation of provisions in the field of support contained in the NATO Status of Forces Agreement and in the present Agreement, the German authorities shall accord to a force and to a civilian component such treatment as is necessary for the satisfactory fulfilment of their defense responsibilities.

(b) In asserting the rights accorded to them under the provisions referred to in subparagraph (a) of this paragraph, the authorities of a force and of a civilian component shall, with a view to reasonable reconciliation of their requirements and those of the Federal Republic, take into due account German public and private interests.

6. The German authorities and the authorities of a force shall agree on frontier crossing points at which liaison officials of the sending State are to be stationed. These officials shall assist the German authorities in their control functions in order to ensure the speedy and unobstructed passage of the force, the civilian component, their members and dependents, and their accompanying baggage, and of consignments of goods and materials shipped by the force or on its behalf or for its account for the use of the force or of the civilian component, their members and dependents.

Article 4

1. The exercise of rights and the fulfilment of obligations which a sending State derives from the NATO Status of Forces Agreement and the present Agreement may, with the consent of the Federal Government, be effected by other sending States in accordance with administrative agreements to be concluded between the sending States concerned.

2. Until the entry into force of the administrative agreements referred to in paragraph 1 of this Article, the agreements between the sending States concerned governing the exercise of rights and the fulfilment of obligations at the time of the entry into force of the present Agreement shall remain applicable in the fields to which they relate, unless the sending State concerned notifies the other sending State concerned and the Federal Republic of its intention no longer to apply the latter agreements.

Re Article 4

In the application of Article 4 the German authorities shall deal only with the authorities of that sending State which exercises the rights and fulfils the obligations concerned.

Article 5

1. The following provisions shall apply with respect to identification within the Federal territory:

- (a) Members of a force shall not be required to have movement orders.
- (b) Uniformed members of a force moving in units under military command need not give proof of their identity. In exceptional cases where it is necessary to establish immediately the identity of a unit, the commander of the unit shall, upon request of the German authorities, produce his personal identity card.
- (c) Members of a civilian component and dependents who do not carry with them a passport or a document acknowledged as equivalent under German law shall give proof of their identity by means of an identity document issued by the authorities of the sending State, showing name, date of birth and photograph of the holder, a serial number or the name of the issuing authority and the capacity in which the holder is present in the Federal territory.
- (d) In exceptional cases where a member of a force or of a civilian component or a dependent is not in possession of the documents provided for in Article III of the NATO Status of Forces Agreement or in this Article, the German authorities shall accept temporary certification by the authorities of the force that the person concerned is a member of the force or of the civilian component or a dependent.

The authorities of the force shall, as soon as possible, replace such certification by the documents provided for in Article III of the NATO Status of Forces Agreement or in this Article and shall so inform the German authorities.

2. The following provisions shall apply with respect to frontier crossings:

(a) Individual or collective movement orders shall normally contain in German the data referred to in subparagraph (b) of paragraph 2 of Article III of the NATO Status of Forces Agreement. Movement orders which in exceptional cases do not contain such data in German shall nevertheless be recognized as valid by the German authorities. Movement orders shall be issued for a single entry or exit, or for both, or shall be valid for a limited period. The authorities of a force may extend the period of validity of a movement order. An appropriate entry on the personal identity card showing date of expiration may take the place of an individual movement order.

(b) A unit crossing the frontier under military command on a collective movement order shall be identified by its commander who shall present his personal identity card and the collective movement order. In exceptional cases where the German authorities consider it necessary to verify the identity of certain members of a unit, for special reasons which shall be given by the German frontier control officials to the commander of the unit, the latter shall present the personal identity cards of those members. Such verification shall not unduly delay the unit.

(c) Control of identity documents on entry and exit via military airfields of a force shall in principle be the same as frontier control of surface frontier crossings. However, in the case of the entry and exit via military airfields of members of a force, of a civilian component or dependents, the German authorities shall confine themselves to occasional checks, carried out after consultation with the authorities of the airfield concerned; regular identity controls over such persons shall be carried out by the authorities of the force. The control of identity documents of persons in categories other than those mentioned in the second sentence of this subparagraph who enter or leave the Federal territory via military airfields of a force shall be carried out by the German authorities, who shall be notified of the arrival of such persons by the authorities of the force. Such control shall take place on entering or leaving the airfield.

Re Article 5

The provisions of subparagraph (a) of paragraph 1 of Article 5 shall not apply to entry into, or exit from, the Federal territory.

Article 6

1. Members of a force, of a civilian component and dependents shall be exempt from German regulations in the field of registration of residence (Meldewesen) and aliens control (Ausländerpolizei), except with respect to registration in hotels and similar establishments (Beherbergungsstätten).
2. The authorities of a force shall keep up-to-date records of all members of the civilian component and of all dependents. At the request of the German authorities, the reasons for which shall be explained, the authorities of the force shall, in individual cases, supply the information required under the regulations referred to in paragraph 1 of this Article.
3. At the request of the German authorities, the authorities of the force shall inform them of the number of members of the civilian component and of dependents.

Article 7

In applying international agreements or other provisions in force in the Federal territory concerning residence (Aufenthalt) and settlement (Niederlassung), insofar as they relate to repatriation, to expulsion, to the extension of residence permits or to gainful occupation, periods of time spent in the Federal territory by any person as a member of a force or of a civilian component or as a dependent shall be disregarded.

Re Article 7

In the application of the German regulations on compulsory military service, periods of time spent in the Federal territory as a member of a force, of a civilian component or as a dependent shall be disregarded.

Article 8

1. When a competent German authority intends to take one of the measures within the competence of the receiving State and set forth in the first sentence of paragraph 5 of Article III of the NATO Status of Forces Agreement, the authority concerned shall communicate this intention to the competent authority of the sending State concerned, stating the reasons invoked in support of the intended measure, and shall afford that authority the possibility of making known its opinion or of itself taking such measures as it might deem fitting within a reasonable period of time. The German authorities shall give sympathetic consideration to any position which might be adopted by the sending State and to any measures which may have been taken by the authorities of that State.
2. Notification of intent to take one of the measures provided for in paragraph 5 of Article III of the NATO Status of Forces Agreement shall be given by the Minister of the Interior of the Land concerned, or, in the cases of Hamburg and Bremen, by the Senator for Internal Affairs.
3. Requests for removal shall be made and expulsion orders shall be issued only if the competent German authority considers that the continued presence in the Federal territory of the person in question actually endangers public order or public security at the time when the request is made or the order is issued.

Re Article 8

1. Expulsion may be carried out only in accordance with the provisions of the German legislation on police control of aliens (Ausländerpolizeirecht).
2. The extent to which provisions of the German Police Ordinance on Aliens (Ausländerpolizeiverordnung) of 22 August 1938, at present in force, have become obsolete, is indicated by the following explanations:
 - (a) The following terms shall, where they occur in the text of the Ordinance, be replaced as follows:
 - (i) "Reich territory" by "Federal territory";
 - (ii) "Reich" by "Federation";
 - (iii) "Reich frontier" by "Federal frontier";

(iv) "District Police Administration" (Kreispolizeiverwaltung) by the appropriate "City or District Administrations" (Stadtkreisverwaltungen) established by Land laws insofar as they have taken over the functions of the District Police Administration;

(v) "Reichsmark" by "Deutsche Mark";

(vi) "Reich Minister of the Interior" by "Federal Minister of the Interior."

(b) Re Section 5, paragraph 1, subparagraph (a):

The term "people's community" (Volksgemeinschaft) is deemed to have been deleted by virtue of Article II of Control Council Law No. 1, which reads as follows:

"No German enactment, however or whenever enacted, shall be applied judicially or administratively in any instance where such application would cause injustice or inequality, either

a) by favouring any person because of his connection with the National Socialist German Labour Party, its formations, affiliated associations, or supervised organizations, or

b) by discriminating against any person by reason of his race, nationality, religious beliefs, or opposition to the National Socialist German Labour Party or its doctrines."

c) Re Section 5, paragraph 1, subparagraph (c):

The legal basis for carrying out castration (Section 42a, item 5, and Section 42k of the Criminal Code) has been eliminated by Article I of Control Council Law No. 11. Moreover, castration is not permissible under the first sentence of paragraph 2 of Article 2 of the Basic Law, which reads as follows:

"Everyone has the right to life and to inviolability of his person."

(d) Re Section 5, paragraph 1, subparagraph (g):

The term "race" is deemed to have been deleted by virtue of

Article II of Control Council Law No. 1 (see subparagraph (b)) and of paragraph 3 of Article 3 of the Basic Law, which reads as follows:

"No one may be prejudiced or favoured because of his sex, his parentage, his race, his language, his homeland and origin, his faith or his religious and political opinions."

(e) Re Section 5, paragraph 1, subparagraph (h):

The term "gipsy" is deemed to have been deleted by virtue of Article II of Control Council Law No. 1 (see subparagraph (b)) and by paragraph 3 of Article 3 of the Basic Law (see subparagraph (d)).

(f) Re Section 7, paragraph 1, subparagraph (c):

Under the second sentence of paragraph 2 of Article 16 of the Basic Law, persons persecuted for political reasons shall enjoy the right of asylum. Such right is not affected by paragraph 1 of Section 7 of the Police Ordinance on Aliens. The same applies to foreign refugees within the meaning of the Agreement on the Legal Status of Refugees of 28 July 1951 (Bundesgesetzblatt 1953 Teil II, page 559).

(g) Re Section 7, paragraph 4 and paragraph 5, sentence 2:

Both German nationals and aliens may be detained only if the following provisions of paragraphs 2 and 4 of Article 104 of the Basic Law are observed:

"2. Only judges may decide on the admissibility or extension of a deprivation of liberty. Where such deprivation is not based on the order of a judge, a judicial decision must be obtained without delay. The police may hold no one on their own authority in their own custody longer than the end of the day after the arrest. Details shall be regulated by legislation.

4. A relation of the person detained or a person enjoying his confidence must be notified without delay of any judicial decision ordering or extending a deprivation of liberty."

(h) Re Section 7, paragraph 5:

The comments in subparagraphs (f) and (g) apply.

(i) Re Section 9, paragraphs 2 and 4:

Detention prior to expulsion likewise is permissible only in accordance with paragraphs 2 and 4 of Article 104 of the Basic Law (see subparagraph (g)).

(j) Re Section 11, paragraph 1, last sentence, paragraph 2, last sentence, and paragraphs 5 and 6:

These provisions are deemed to have been deleted or to have become inapplicable by virtue of paragraph 4 of Article 19 of the Basic Law, which reads as follows:

"Should any person's right be violated by public authority, recourse to the court shall be open to him. If no other court has jurisdiction, recourse shall be to the ordinary courts."

Identical provisions are contained in the administrative court laws of the Länder (e.g., for the Länder of the former British Zone of Occupation, Ordinance No. 165 of British Military Government on Jurisdiction of Administrative Courts in the British Zone -- Verordnungsblatt, British Zone, 1948, page 263).

(k) Re Section 11, paragraph 4:

The effect of this provision has been limited insofar as, pursuant to paragraph 4 of Article 19 of the Basic Law (see subparagraph (j)), recourse may be had to the administrative court against denial of the staying effect of a complaint.

(l) Re Section 14:

The provision has become obsolete by the lapse of time.

(m) Re Section 15, paragraph 1:

In connection with this provision, note should be taken of paragraph 1 of Article 116 of the Basic Law, which provides

as follows:

"Unless otherwise provided by law, a German within the meaning of this Basic Law is a person who possesses German nationality or who has been received in the territory of the German Reich, as it existed on 31 December 1937, as a refugee or expellee of German stock (Volkszugehörigkeit) or as the spouse or descendant of such person."

(n) Re Section 17, paragraph 2:

The authority to issue ordinances having the force of law or general administrative regulations has become extinct by virtue of paragraph 3 of Article 129 of the Basic Law.

3. The provisions of German law concerning expulsion, and in particular paragraph 1 of Section 5 of the Police Ordinance on Aliens shall apply only where the reasons for expulsion mentioned therein are not incompatible with the provisions of the NATO Status of Forces Agreement and of the Supplementary Agreement.

Article 9

1. A license or other permit issued to a member of a force or of a civilian component by an authority of a sending State empowering the holder to operate service vehicles, vessels or aircraft is valid for the operation of such vehicles, vessels or aircraft in the Federal territory. Driving licenses for service vehicles shall also authorize, to the extent that this is permissible under the law of the sending State, the operation of corresponding private vehicles. The authorities of the sending State or of its force shall be empowered on the basis of such driving licenses to issue driving licenses to operate corresponding private vehicles.

2. A driving license issued in a sending State empowering the holder to operate private motor vehicles in that State is valid for the operation of such vehicles in the Federal territory by the holder if the latter is a member of a force or of a civilian component or a dependent. The German regulations relating to the period of validity of such driving license in the Federal territory and to its invalidation by a German administrative authority shall not apply if the holder is in possession of a certificate issued by an authority of the force showing that he is a member of the force or of the civilian component or a dependent and that he possesses adequate knowledge of German traffic

regulations. Such certificate shall be provided with a German translation.

3.(a) A member of a force or of a civilian component, or a dependent may, with the approval of the authorities of a force, apply for a German driving license empowering the holder to operate private motor vehicles. Such licenses shall be issued by the competent German authorities in accordance with applicable German regulations.

(b) Driver instruction for persons seeking a license under this paragraph may take place in driving schools operated by the force, provided that the instructors in such schools have professional qualifications in accordance with the regulations of the sending State concerned. Instructors shall possess a certificate issued by the authorities of the force, together with a German translation, allowing them to instruct learner drivers; they shall carry this certificate with them while instructing. Persons who have not been trained as driving instructors may not be engaged in that capacity in a driving school of the force.

(c) The content of written and practical driving tests given to persons seeking a driving license under this paragraph shall be determined by the German authorities after consultation with the authorities of the force. The German authorities shall have the right, after consultation with the authorities of the force, to ensure that the tests are properly administered.

(d) Persons who, on the date the Agreement of 18 March 1993 to amend the present Agreement entered into force, had started driving instruction in accordance with paragraph 3 of Article 9 as in force immediately prior to that date, or who at the conclusion of their training had not taken a driving test, may continue to be instructed and tested in accordance with the former provisions; they may be issued driving licenses in accordance with those provisions.

4. A civil pilot's license issued to a member of a force or of a civilian component or to a dependent by the authorities of a sending State shall authorize the holder to operate private aircraft in the Federal territory if such license is based on the Standards and Recommended Practices of the International Civil Aviation Organization.

5.(a) The authorities of a force shall ensure that the persons operating the service vessels referred to in paragraph 1 of this Article, when navigating in inland waters, possess adequate knowledge of the particular waters to be navigated and of the relevant river police regulations.

(b) Only certificates of qualification issued by the competent German civilian

authority on the basis of the regulations applicable in the Federal Republic shall be valid for the operation of non-service inland watercraft of the force. Regulations applicable within the scope of international agreements shall remain unaffected.

6.(a) The authorities of a force shall withdraw driving licenses valid in the Federal territory in accordance with paragraph 1 of this Article or certificates mentioned in paragraph 2 of this Article, if there is reasonable doubt concerning the holder's reliability or fitness to operate a motor vehicle. They shall give sympathetic consideration to requests made by the German authorities for the withdrawal of such driving licenses or certificates. Driving licenses or certificates may be reissued if this is necessary for urgent military reasons or to enable the holders to leave the Federal territory. The authorities of a force shall notify the German authorities of all withdrawals made in accordance with this subparagraph and of all cases where, after such withdrawal, a driving license or certificate has been re-issued.

(b) In cases where German courts exercise jurisdiction in accordance with Article VII of the NATO Status of Forces Agreement and Articles 17, 18 and 19 of the present Agreement, provisions of German criminal law relating to the withdrawal of permission to drive remain applicable with respect to driving licenses referred to in the second sentence of paragraph 1 of this Article, to the extent that they apply to the right to operate private motor vehicles, and to the licenses referred to in the third sentence of paragraph 1 and in paragraph 2 of this Article. Withdrawal of permission to drive shall be recorded in the driving license, which shall remain in the possession of the holder.

(c) Subparagraphs (a) and (b) shall apply *mutatis mutandis* to the driving licenses issued under paragraph 3 of the version of this Article that was in force until the date the Agreement of 18 March 1993 to amend the present Agreement entered into force.

7.(a) Subparagraph (a) of paragraph 6 of this Article shall apply *mutatis mutandis* to the pilot's licenses referred to in paragraph 4.

(b) At the request of the German authorities, the authorities of the force shall take such action as may be necessary vis-à-vis holders of the pilot's licenses valid in the Federal territory in accordance with paragraph 1 of this Article who fail to observe air traffic rules.

Article 10

1. The authorities of a force may register and license motor vehicles and trailers of the force or the civilian component, of members of the force or of the civilian component, or of dependents. Subject to the regulations applicable within the scope of international agreements, the same shall apply to vessels of a force. Aircraft of a force or of a civilian component, of members of a force or of a civilian component, or of dependents shall be registered and licensed by the authorities of the sending State in accordance with the applicable international regulations.

*1bis.*In individual cases, the competent German Authorities may in addition authorize German license plates for specific vehicles. Paragraph 1 of Article 11 of the present Agreement shall remain unaffected. In the cases referred to in the first sentence of paragraph 2 of Article 11, the guarantee provided by the insurer or by the association of insurers must also extend to damage incurred in states or territories which vehicles provided with official German license plates may enter without verification of insurance cover (cases of damage within the meaning of paragraph 2 of Article 2 of Directive 72/166/EEC of 24 April 1972 as amended). A special certificate shall be issued or an entry made in the registration document concerning the right to carry the German license plate. Further details shall be agreed between the German authorities and the authorities of the force.

*1ter.*The German authorities may require that registration in accordance with paragraphs 1 and 1bis of this Article be notified by the authorities of the force to the competent German authorities for their records. Further details, in particular which registration data will be notified, shall be agreed between the German authorities and the authorities of the force.

*1quater.*Motor vehicles and trailers registered and licensed in accordance with paragraph 1 of this Article, or used by a force in the Federal territory, shall be subject at regular intervals to a technical inspection. The German authorities may require that German inspectors verify whether stations or workshops of the sending States, which carry out technical inspections of private motor vehicles and trailers, are qualified to conduct such inspections. In addition, they may inspect those vehicles there with respect to their roadworthiness. These provisions are without prejudice to the possibility of having vehicles examined or inspected in German inspection facilities in accordance with German regulations.

2. The authorities of a force shall register and license private motor vehicles and trailers only if such vehicles or trailers are insured against liability in accordance with Article 11

of the present Agreement. They shall withdraw or cancel such registration or license when this insurance is no longer operative.

3. Motor vehicles, trailers, vessels and aircraft registered and licensed in accordance with paragraph 1 of this Article or used by a force in the Federal territory shall bear a distinctive nationality mark, in addition to a registration number or other appropriate identification mark. Identification marks on private motor vehicles and trailers shall be clearly distinct from those used on service vehicles and trailers. The authorities of a force shall inform the German authorities of the identification system used for motor vehicles, trailers and vessels registered and licensed by them. At the request of the German authorities, the reasons for which shall be explained, the authorities of the force shall, in individual cases, supply the names and addresses of persons in whose names private motor vehicles, trailers or aircraft have been registered or licensed in accordance with paragraph 1 of this Article.

4. The registration certificate for a private motor vehicle or trailer shall show the registration number, the name or the trademark of the maker of the vehicle, the maker's identification or serial number, the date of first registration in the Federal territory and the full name of the holder. The certificate shall be provided with a German translation. The registration certificate for private aircraft shall be based on the Standards and Recommended Practices of the International Civil Aviation Organization. Non-service inland watercraft of a force with a displacement of fifteen tons or over shall carry on board a certificate of serviceability which may be issued by the authorities of the force.

5. The authorities of a force shall take adequate safety measures with respect to motor vehicles, trailers, vessels and aircraft registered and licensed by them or used by the force in the Federal territory.

Article 11

1. Members of a force, of a civilian component and dependents shall use or permit to be used in the Federal territory private motor vehicles, trailers and aircraft only if risks arising out of such use are covered by third-party liability insurance in accordance with German law.

2. Third-party liability insurance of a private motor vehicle, trailer or aircraft to be licensed by the authorities of a force may be effected with any insurance enterprise authorized to carry on the business activity of third-party liability insurance in a sending State, provided that in addition to such enterprise an insurer, or association of insurers,

authorized to do business in the Federal territory assumes the third-party liability insurance obligations in respect of damage incurred in the Federal territory. The requirements of German law with respect to any third person suffering injury or damage shall not be affected by the conditions of such insurance.

3. Insofar as foreign exchange regulations exist in the sending States, the latter shall ensure that all payments to be effected by insurers or associations of insurers authorized to do business in their territories can be met in the Federal territory and in the currency of the Federal Republic.

Article 12

1. The authorities of a force may authorize members of the civilian component and other persons employed in the service of the force to possess and carry arms insofar as such persons are responsible for the safeguarding of cash or property or are particularly endangered by the special nature of their official position or activities.

2. The authorities of the force shall issue regulations, which shall conform to the German law on self-defense (Notwehr), on the use of arms by the persons authorized in accordance with paragraph 1 of this Article.

3. Persons authorized in accordance with paragraph 1 of this Article may bear firearms only if in possession of a firearms certificate issued by the authorities of the force. A suitably endorsed duty identity card shall also be considered a firearms certificate.

4. The authorities of the force shall issue firearms certificates only to persons as to whose reliability there is no reasonable doubt. They shall withdraw a firearms certificate at the request of the German authorities or on their own decision if it is established that the holder has misused his firearm or if reasonable doubt arises as to his reliability.

Re Article 12

The expression "German law on self-defense (Notwehr)" in paragraph 2 of Article 12 should be construed in accordance with the following German interpretation of Section 53 of the German Criminal Code:

(a) Section 53 of the German Criminal Code reads as follows:

"No act is punishable if demanded in self-defense.

Self-defense is such defense as is necessary to avert an imminent unlawful attack upon oneself or another.

An act in excess of necessary self-defense is not punishable if the perpetrator exceeded the bounds of defense in consternation, fear or alarm."

(b) In construing Section 53 of the German Criminal Code, legal practice has long followed some well-established principles which may be summarized as follows:

(i) Attack means any act which is aimed at violating the legally protected rights or interests of another person.

(ii) The nature of the protected rights or interests which are threatened by the attack is not material. The objects of an attack include not only life and limb but all legally protected interests, such as liberty, morality, honor, property, possession, or hunting rights.

(iii) The protected interest to be defended need not belong to the person defending it; it may belong to some other person. In the latter case self-defense is termed defense in aid of a third person (Nothilfe).

(iv) An attack which the attacked person is under no obligation to suffer shall be deemed to be an unlawful attack. Thus self-defense is permissible not only against a person guilty of an unlawful act but also against an incompetent, an insane person, a child, or one acting in unavoidable error.

(v) An attack shall be deemed an "imminent" attack if it is immediately impending, or is in progress, or is continuing; an attack threatened in the future or which has been completed is not considered an imminent attack. Whether or not an attack is imminent is determined by the objective facts and not by the subjective belief of the person acting in self-defense.

(vi) An attack shall be deemed to be continuing and therefor imminent until the danger arising from it to the threatened legally protected interest either has completely passed or, conversely, until the attack has resulted in the irretrievable loss of such interest. For instance, if a thief escapes with a stolen article or a poacher with a head of game, self-defense is permissible during hot pursuit and so long as the object in question, insofar as the perpetrator is concerned, has not reached a place of safety.

(vii) The act of self-defense must be necessary to avert an attack. The necessity shall be ascertained from case to case by applying objective standards. In principle, the extent of permissible defense is determined by the severity and persistence of the attack and by the means which are available to the person attacked for his defense.

(viii) A legally protected interest of the attacker shall be deemed to have been infringed upon unnecessarily if the person threatened by the attack is able to evade the attack without abandoning his own interests.

(ix) As a rule, it is not necessary that the value of the legally protected interests of the attacked person should be balanced against the loss which the attacker might sustain (principle of proportionality). But this principle is subject to limitations. The killing of a thief is not a required (necessary) act of defense if the articles which the attacked person risks losing are only of minor value (this principle is controversial).

(x) It suffices that the act of self-defense is required in order to avert an attack against oneself or any other person. It is not necessary that the attack is aimed at a relative within the meaning of paragraph 2 of Section 52 of the German Criminal Code.

(xi) Only insofar as directed against the attacker shall an act of defense be deemed to be an act of self-defense to ward off an unlawful attack. Acts which violate legally protected interests of innocent bystanders cannot be justified on grounds of self-defense. Under certain circumstances the perpetrators of such acts may go unpunished on the ground that the acts were justified by necessity (Notstand).

Article 13

1. Except where expressly provided otherwise, international agreements or other provisions in force in the Federal territory concerning social security, including social and medical assistance, shall not apply to members of a force or of a civilian component or to dependents. However, rights and obligations of such persons in the field of social security which have arisen during previous presence in the Federal territory remain unaffected. Furthermore, the fact that a person belongs to one of the categories referred to in the preceding sentences shall not preclude the possibility of his paying contributions to

the German social security (soziale Kranken- und Rentenversicherung) for the purpose of continuing insurance on a voluntary basis (Weiterversicherung) nor the possibility of his acquiring and asserting rights deriving from existing insurance.

2. Nothing in this Article shall affect the obligations of a member of a force or of a civilian component or of a dependent in the capacity of an employer.

Article 14

Where a member of a force, of a civilian component or a dependent is granted exemption from the production of a certificate of eligibility to marry, the fee payable, to be determined in accordance with the scope and difficulties of the administrative work involved, shall not exceed the sum of fifty Deutsche Mark.

Article 15

1. The obligation under German law to report births and deaths to a German registrar shall not apply either with respect to a child born to, or with respect to the death of, a member of a force or of a civilian component or a dependent; where, however, such birth or death is reported to a German registrar, registration shall take place in accordance with the provisions of German law.

2. The obligation to report births and deaths remains unaffected in cases where the child is, or the deceased was, a German.

Article 16

1. The military authorities of a sending State shall have the right, in accordance with applicable regulations of such sending State, to take charge and dispose of the remains of members of the force or of the civilian component and of dependents in the event of their death in the Federal territory and to perform such autopsy as may be required for medical reasons or purposes of criminal investigation. Requests by German authorities that an autopsy be performed shall be granted; in the case of autopsies carried out for medical

reasons, this shall only apply insofar as such an autopsy is admissible under the law of the sending State. A German medical officer of the court (Gerichtsarzt) or a public health officer (Amtsarzt) may be present during the autopsy. In the case of an autopsy for the purposes of a German criminal investigation this right shall extend to a German judge or public prosecutor, whose advice concerning the requirements of German criminal procedure in the case of autopsies shall be taken into consideration. In cases where a German court or authority is competent to order an autopsy, the second, third, and fourth sentences of this paragraph shall apply *mutatis mutandis* if the military authorities of a sending State have an interest in the results of such an autopsy.

2. Where so authorized by the law of a sending State, the military authorities of that State shall have the right to take possession of the personal property of the deceased within the Federal territory and to apply it, in the first place, to the payment of any preferential charges which may be prescribed by the law of that sending State and, in the second place, to the settlement of any other debts incurred in the Federal territory and for which there exists a legal obligation to pay in that territory and thereafter to dispose of the remainder in accordance with the law applicable to the estate of the deceased. The provisions of this paragraph shall not apply if the deceased was a German.

3. The forces shall have the right at agreed sites to establish and maintain cemeteries as may be necessary in the fulfilment of their defense responsibilities.

Article 17

1. Where, in order to decide upon the authority competent to exercise jurisdiction with respect to an offence, it is necessary to determine whether an act is punishable by the law of a sending State, the German court or authority dealing with the case shall suspend the proceedings and shall notify the competent authority of the sending State. The appropriate authority of the sending State may, within twenty-one days after receipt of the notification, or at any time if such notification has not yet been made, submit to the German court or authority a certificate stating whether or not the act is punishable by the law of the sending State. If the certificate is affirmative on this point, it shall specify the provision or legal basis under which the act is punishable as well as the penalty prescribed.

2. The German court or authority shall make its decision in conformity with the certificate. In exceptional cases, however, such certificate may, at the request of the German court or authority, be made the subject of review through discussions between the Federal Government and the diplomatic mission in the Federal Republic of the

sending State.

3. If it is to be determined whether an offence is punishable under German law, the procedure provided in paragraphs 1 and 2 of this Article shall apply *mutatis mutandis* with respect to the offence, the certificate being then issued by the supreme competent administrative authority of the Federal Republic or of the German Land concerned.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply as between the Federal Republic and any sending State which informs the Federal Republic that it does not intend to avail itself of these provisions or to extend the benefits thereof to the Federal Republic.

Article 18

1. Whenever, in the course of criminal proceedings against a member of a force or of a civilian component, it becomes necessary to determine whether an offence has arisen out of any act or omission done in the performance of official duty, such determination shall be made in accordance with the law of the sending State concerned. The highest appropriate authority of such sending State may submit to the German court or authority dealing with the case a certificate thereon.

2. The German court or authority shall make its decision in conformity with the certificate. In exceptional cases, however, such certificate may, at the request of the German court or authority, be made the subject of review through discussions between the Federal Government and the diplomatic mission in the Federal Republic of the sending State.

Article 18A

1. The authorities of a sending State shall notify the competent German authorities without delay in the event that they decide, in exercising jurisdiction under Article VII of the NATO Status of Forces Agreement, to undertake a prosecution which may lead to the imposition of the death penalty.

2. Taking into consideration the provisions of German law, the authorities of a sending State shall not carry out a death penalty in the Federal Republic nor carry through a

prosecution which may lead to the imposition of such a sentence in the Federal Republic.

Article 18A

1. In cases arising under paragraph 1 of Article 18A, German authorities shall provide assistance if required by German statutory law or by treaty obligations accepted by the Federal Republic.
2. In extraordinary circumstances, such as in the case of the imminent threat of armed conflict, the authorities of a sending State and the competent German authorities may conclude arrangements to take account of such circumstances.

Article 19

1. At the request of a sending State, the Federal Republic shall, within the framework of subparagraph (c) of paragraph 3 of Article VII of the NATO Status of Forces Agreement, waive in favor of that State the primary right granted to the German authorities under subparagraph (b) of paragraph 3 of that Article in cases of concurrent jurisdiction, in accordance with paragraphs 2, 3, 4 and 7 of this Article. The waiver granted under this paragraph shall not extend to cases notified under paragraph 1 of Article 18A of the present Agreement.
2. Subject to any particular arrangements which may be made under paragraph 7 of this Article, the military authorities of the sending States shall notify the competent German authorities of individual cases falling under the waiver provided in paragraph 1. Without prejudice to any other notification requirements under either the NATO Status of Forces Agreement or the present Agreement, the military authorities of the sending State shall notify the competent German authorities when they intend to exercise the primary right of jurisdiction granted under subparagraph (a) of paragraph 3 of Article VII of the NATO Status of Forces Agreement with respect to individual offences referred to in subparagraph (a) of paragraph 2 of the Section of the Protocol of Signature referring to this Article.
3. Where the competent German authorities hold the view that interests of German administration of justice make imperative the exercise of German jurisdiction, they may recall the waiver granted under paragraph 1 of this Article by a statement to the competent military or civil authorities within a period of twenty-one days after receipt of

the notification envisaged in paragraph 2 of this Article or any shorter period which may be provided in arrangements made under paragraph 7 of this Article. The German authorities may also submit the statement prior to receipt of such notification.

4. If, pursuant to paragraph 3 of this Article, the competent German authorities have recalled the waiver in a specific case and in such case an understanding cannot be reached in discussions between the authorities concerned, the diplomatic mission in the Federal Republic of the sending State concerned may make representations to the Federal Government. The Federal Government, giving due consideration to the interests of German administration of justice and to the interests of the sending State, shall resolve the disagreement in the exercise of its authority in the field of foreign affairs.

5.(a) With the consent of the German authorities, the military authorities of a sending State which has requested the waiver under paragraph 1 of this Article may transfer to the German courts or authorities for investigation, trial and decision, particular criminal cases in which jurisdiction rests with that State. (b) With the consent of the military authorities of a sending State which has requested the waiver under paragraph 1 of this Article, the German authorities may transfer to the military authorities of that State for investigation, trial and decision, particular criminal cases in which jurisdiction rests with the Federal Republic.

6.(a) Where a German court or authority exercises exclusive jurisdiction under subparagraph (b) of paragraph 2 of Article VII of the NATO Status of Forces Agreement, a copy of any document served on the accused shall be delivered, upon special or general request of the sending State concerned, to a liaison agency established or designated by each of the sending States.

(b) German courts or authorities may request the liaison agency to ensure service of documents in criminal proceedings on members of a force, of a civilian component, or on dependents. The provisions of subparagraph (b) of paragraph 1 of Article 32 of the present Agreement shall apply *mutatis mutandis* to this paragraph.

7. In the implementation of the provisions of this Article and to facilitate the expeditious disposal of offences of minor importance, arrangements may be made between the military authorities of a sending State or States and the competent German authorities. These arrangements may also extend to dispensing with notification and to the period of time referred to in paragraph 3 of this Article within which the waiver may be recalled.

Re Article 19

1. The request for a waiver of the primary right of the Federal Republic to exercise criminal jurisdiction provided for in paragraph 1 of Article 19 shall be made at the time of the entry into force of the Supplementary Agreement by those of the sending States which have decided to make use of the waiver. The Federal Republic shall grant the waiver to these sending States when the Supplementary Agreement enters into force. If a sending State decides, after the entry into force of the Supplementary Agreement, to make use of the waiver, the State concerned shall not request such waiver until agreement has reached with the Federal Government on the necessary transitional arrangements.

2.(a) Interests of German administration of justice within the meaning of paragraph 3 of Article 19 may make imperative the exercise of German jurisdiction, in particular in the following cases:

(i) offences within the competence of the Higher Regional Courts (Oberlandesgericht) in first instance or offences which may be prosecuted by the Chief Federal Prosecutor (Generalbundesanwalt) at the Federal High Court of Justice (Bundesgerichtshof);

(ii) offences causing the death of a human being, robbery, rape, except where these offences are directed against a member of a force or of a civilian component or a dependent;

(iii) attempt to commit such offences or participation therein.

(b) In respect of the offences referred to in subparagraph (a) of this paragraph the authorities concerned shall proceed in particularly close cooperation from the beginning of the preliminary investigations in order to provide the mutual assistance envisaged in paragraph 6 of Article VII of the NATO Status of Forces Agreement.

Article 20

1. The military authorities of a sending State may, without a warrant of arrest, take into temporary custody any person not subject to their jurisdiction

(a) if such person is caught or pursued in *flagrante delicto* and either

- (i) the identity of the person cannot be established immediately, or
 - (ii) there is reason to believe that the person may flee from justice; or
- (b) if so requested by a German authority; or
- (c) if such person is a member of the force or of the civilian component of another sending State, or a dependent of any such member, upon request by an authority of that State.

2. If there is danger in delay and a German public prosecutor or German police officer cannot be called in time, the military authorities of a sending State may, without a warrant of arrest, take into temporary custody a person not subject to their jurisdiction if there are strong reasons to suspect (dringender Verdacht) that such person has committed or is making a punishable attempt to commit an offence within, or directed against, an installation of that State, or an offence punishable under Article 7 of the Fourth Law Amending the Criminal Law dated 11 June 1957 (Bundesgesetzblatt Teil I, page 597) in conjunction with Sections 99, 100, 100c, 100d, 100e, 109f, 109g and 363, of the German Criminal Code, or under such legislation as may replace these provisions in the future. This provision shall apply only if the person in question is a fugitive from justice or in hiding or if there are good reasons to fear that he is seeking to evade criminal proceedings consequent upon the commission of such offence or punishable attempt.

3. In cases falling within paragraph 1 or 2 of this Article the military authorities may, to such extent as may be necessary, disarm the person so taken into temporary custody and may search him and seize any items in his possession which may serve as evidence for the purposes of the investigation of the suspected or alleged offence.

4. The military authorities shall, without delay, deliver any person taken into temporary custody in accordance with this Article, together with any weapons or other items so seized, to the nearest German public prosecutor or police officer or judge or to the military authorities of the sending State to whose force or civilian component the person belongs either as a member or as a dependent of such member.

5. The provisions of this Article shall not affect the constitutional immunities of the parliaments of the Federation and the Länder.

Article 21

1. Where an investigation is initiated or an arrest made by a German authority in respect of an act punishable under Article 7 of the Fourth Law Amending the Criminal Law dated 11 June 1957 (Bundesgesetzblatt Teil I, page 597) or under such legislation as may replace that Article in the future, the German authorities conducting the investigations shall notify the military authorities of the sending State concerned without delay. The same shall apply if a German authority initiates an investigation or makes an arrest in respect of an act otherwise directed against the security of a sending State or of its force.
2. Where an investigation is initiated or an arrest made in the Federal territory by a competent authority of a sending State in respect of an act committed in the Federal territory and relating to matters affecting the security of the Federal Republic, this authority shall inform the German authorities without delay.

Article 22

1.(a) Where jurisdiction is exercised by the authorities of a sending State, custody of members of the force, of the civilian component, or dependents shall rest with the authorities of that State.

(b) Where jurisdiction is exercised by the German authorities, custody of members of a force, of a civilian component, or dependents shall rest with the authorities of the sending State in accordance with paragraphs 2 and 3 of this Article.

2.(a) Where the arrest has been made by the German authorities, the arrested person shall be handed over to the authorities of the sending State concerned if such authorities so request.

(b) Where the arrest has been made by the authorities of a sending State, or where the arrested person has been handed over to them under subparagraph (a) of this paragraph, they

(i) may transfer custody to the German authorities at any time;

(ii) shall give sympathetic consideration to any request for the transfer of custody which may be made by the German authorities in specific cases.

(c) In respect of offences directed solely against the security of the Federal Republic, custody shall rest with the German authorities in accordance with such arrangements as may be made to that effect with the authorities of the sending

State concerned.

3. Where custody rests with the authorities of a sending State in accordance with paragraph 2 of this Article, it shall remain with these authorities until release or acquittal by the German authorities or until commencement of the sentence. The authorities of the sending State shall make the arrested person available to the German authorities for investigation and criminal proceedings (Ermittlungs- und Strafverfahren) and shall take all appropriate measures to that end and to prevent any prejudice to the course of justice (Verdunkelungsgefahr). They shall take full account of any special request regarding custody made by the competent German authorities.

Re Article 22

The sending States shall retain the right to keep in custody the arrested person either in a detention institution of their own or with their force. In order to ensure smooth implementation of the obligations imposed by the second sentence of paragraph 3 of Article 22, the authorities of the sending States shall keep the arrested person, where possible, in the vicinity of the seat of the German authority dealing with the case; this, however, shall not constitute an obligation on their part to keep the arrested person outside the area of the force.

Article 23

Where a person is arrested in any case referred to in paragraph 1 of Article 21 of the present Agreement, a representative of the sending State concerned shall have access to that person. Where a person arrested in any case referred to in paragraph 2 of that Article is held in custody by the authorities of a force, a German representative shall have a corresponding right to the extent to which the sending State avails itself of the right of access afforded by the first sentence of this Article. The German authorities and the military authorities of the sending State shall conclude such arrangements as may be required for the implementation of this Article. A representative of the State which has custody may be present when the right of access is exercised.

Article 24

At the request of the Federal Republic or of a sending State, the German authorities and the authorities of that State shall conclude arrangements to facilitate the fulfillment of the obligation of mutual assistance provided for in subparagraph (a) of paragraph 5 and subparagraph (a) of paragraph 6 of Article VII of the NATO Status of Forces Agreement.

Article 25

1.(a) Where criminal jurisdiction over a member of a force or of a civilian component or a dependent is exercised by a German court or a German authority, a representative of the sending State concerned shall have the right to attend the trial. Where an offence is solely directed against the security of the Federal Republic, or against any property within the Federal Republic, or against a German or a person present in the Federal territory, and jurisdiction is exercised in the Federal Republic by a court or authority of a sending State, a German representative shall have the right to attend the trial.

(b) For the purpose of the provisions set forth in subparagraph (a) of this paragraph

(i) the expression "property within the Federal Republic" shall not include property belonging either to a force or a civilian component or to a member of a force or of a civilian component or to a dependent;

(ii) the expression "a person present in the Federal territory" shall not include a member of a force or of a civilian component or a dependent.

(c) The provisions set forth in subparagraph (a) of this paragraph shall not apply if the attendance of a national representative is incompatible with the security requirements of the State exercising jurisdiction which are not at the same time security requirements of the other State.

(d) German courts and authorities on the one hand, and the courts and authorities of the sending State on the other hand, shall give each other timely notification of place and time of the trial.

2. Under the conditions stated in paragraph 1 of this Article a representative of the sending State shall also have a right to attend interrogations and other pre-trial investigations to such extent as may be agreed between the authorities of that State and

those of the Federal Republic. If such arrangements are concluded, they shall, under the conditions stated in paragraph 1, give to a German representative a right corresponding to that of the representative of the sending State, and shall provide procedures for reciprocal notification.

Article 26

1. Where a member of a force or of a civilian component or a dependent is arraigned before a court of a sending State for an offence committed in the Federal territory against German interests, the trial shall be held in that territory

(a) except where the law of the sending State requires otherwise, or

(b) except where, in cases of military exigency or in the interests of justice, the authorities of the sending State intend to hold the trial outside the Federal territory. In this event they shall afford the German authorities timely opportunity to comment on such intention and shall give due consideration to any comments the latter may make.

2. Where the trial is held outside the Federal territory, the authorities of the sending State shall inform the German authorities of the place and date of the trial. A German representative shall be entitled to be present at the trial, except where his presence is incompatible with the rules of the court of the sending State or with the security requirements of that State, which are not at the same time security requirements of the Federal Republic. The authorities of the sending State shall inform the German authorities of the judgment and of the final outcome of the proceedings.

Re Article 26, paragraph 1, subparagraph (b)

The term "military exigency" may also apply to cases in which the offence was committed by a person temporarily present in the Federal territory for the purpose of training exercises or maneuvers.

Article 27

Deleted

Article 28

Primo. In accordance with the provisions of paragraph 4*bis* of the Section of the Protocol of Signature referring to Article 53 of the present Agreement, and without prejudice to the provisions of subparagraph (a) of paragraph 10 of Article VII of the NATO Status of Forces Agreement, German police may exercise their authority within accommodation made available to a force or a civilian component for its exclusive use to the extent that the public order and safety of the Federal Republic are jeopardized or violated. Where a criminal prosecution measure (Strafverfolgungsmassnahme) is to be carried out within such accommodation, the sending State, following consultation with the German authorities concerning the modalities, may also have the measure carried out by its own police. In this case, the measure shall be carried out without delay and, where desired by the German side, in the presence of representatives of German authorities.

1. The military police of a force shall have the right to patrol on public roads, on public transport, in restaurants (Gastätten) and in all other places to which the public has access and to take such measures with respect to the members of a force, of a civilian component or dependents as are necessary to maintain order and discipline. Insofar as it is necessary or expedient the details of this right shall be agreed upon between the German authorities and the authorities of the force who shall maintain close mutual liaison.

2. If public order and safety are endangered or disturbed by an incident in which members of a force or of a civilian component or dependents are involved, the military police of a force shall, if so requested by the German authorities, take appropriate measures with respect to such persons to maintain or restore order and discipline.

Article 29

1. The Federal Republic shall bring about such legislative measures as it deems necessary to ensure the adequate security and protection within its territory of the forces, of the

civilian components and of their members. This shall also apply to the Armed Forces of a sending State stationed in Berlin, to the civilian component thereof and to their members with regard to offences committed within the Federal territory.

2. To implement paragraph 11 of Article VII of the NATO Status of Forces Agreement and paragraph 1 of this Article the Federal Republic shall, in particular,

- (a) ensure, in accordance with the provisions of German criminal law on treason, the protection of military secrets of the sending States;
- (b) ensure, by way of criminal law, the protection of a force, a civilian component and their members to an extent not inferior to the protection which is or will be afforded to the German Armed Forces in the following fields:
 - (i) influencing the force, the civilian component or their members with intent to undermine their willingness to serve;
 - (ii) exposing the force to contempt;
 - (iii) inducement to disobedience;
 - (iv) inducement to desertion;
 - (v) facilitation of desertion;
 - (vi) sabotage;
 - (vii) collection of information concerning military matters;
 - (viii) operation of a military intelligence service;
 - (ix) reproduction or description of military equipment, military installations or facilities, or of military activities;
 - (x) taking of aerial photographs.

3. For the purposes of subparagraph (a) of paragraph 2 of this Article, the term "military secrets" shall mean such facts, objects, conclusions and discoveries, in particular writings, drawings, models, formulae, or information about them, as concern defense and are kept secret by an agency of a sending State located on Federal territory or in Berlin out of consideration for the security of that State or of its force, or its Armed Forces stationed in Berlin. The term shall not include objects in respect of which the decision about keeping them secret is a matter for the Federal Republic, or information concerning

such objects.

Article 30

To facilitate the implementation of Article VII of the NATO Status of Forces Agreement and the provisions of the present Agreement supplementary thereto, and to ensure their uniform application, Mixed Commissions composed of a German representative to be appointed by the Federal Government and a representative of the sending State concerned shall be constituted at the request of either party. The task of these Mixed Commissions shall be to discuss questions submitted to them by the Federal Government or the highest authority of the force concerned with respect to the application of the provisions referred to in this Article. The German authorities and the authorities of the sending State shall give sympathetic consideration to any joint recommendation made by a Mixed Commission.

Article 31

With respect to the exemption from the obligation to post security for costs, members of a force or of a civilian for costs, members of a force or of a component shall enjoy the rights determined in agreements in force in this field between the Federal Republic and the sending State concerned. The presence on duty of such persons in the Federal territory shall, in the application of such agreements, be deemed to be residence therein.

Re Article 31

1. Articles 17 to 24 of the Hague Convention on Civil Procedure of 17 July 1905 shall in the relations between the Federal Republic and the French Republic, be considered to be an agreement within the meaning of Article 31, until such time as the Hague Convention on Civil Procedure of 1 March 1954 enters into force.
2. With respect to liability for breach of official duties, the following shall apply between the Federal Republic and the French Republic, as well as between the Federal Republic and the Kingdom of Belgium:

The liability of the State (Federation or Land) or of a corporation existing under public law for damage suffered by a member of the Belgian force or of the French force, of their civilian components or by dependents as a result of a breach of official duties by German public servants in the Federal Republic shall be governed by the provisions applying to German nationals (Inländer).

Article 32

1.(a) The German courts or authorities may request a liaison agency established or designated by each of the sending States to ensure service of documents arising in non-criminal proceedings upon members of a force, of a civilian component, or on dependents.

(b) Receipt of an application submitted by a German court or authority for service shall be acknowledged by the liaison agency without delay. Service shall be effective when the document to be served is delivered to the addressee by his unit commander or by a representative of the liaison agency. Notification in writing that service has been effected shall be given without delay to the German court or authority.

(c) (i) Where service cannot be effected, the liaison agency shall notify the German court or authority in writing of the reasons therefor and, if possible, of the date on which service can be effected. Service shall be deemed to have been effected if, upon the expiry of a period of twenty-one days from the date of receipt by the liaison agency, the German court or authority has received neither notification in writing that service has been effected in accordance with subparagraph (b) of this paragraph nor any communication stating that it has not been possible to effect service.

(ii) Service shall not, however, be deemed to have been effected if the liaison agency notifies the German court or authority prior to the expiry of the period of twenty-one days that it has not been possible to effect service.

(*ibis*) If the person to be served has permanently left the Federal Republic, the liaison agency shall notify the German court or authority immediately of this fact and, taking into account the provisions of paragraph 3 of Article 3 of the present Agreement, shall render the German court or authority all assistance in its power.

(iii) In the case specified in item (ii) of this subparagraph, the liaison agency may also request the German court or authority to extend the period stating in such request the reasons therefor. If this request for extension is accepted by the German court or authority, items (i) and (ii) shall be applicable *mutatis mutandis* to the period so extended.

2. When a German process server (deutscher Zusteller) serves directly a plaint or other document or court order initiating non-criminal proceedings before a German court or authority, the German court or authority shall so notify the liaison agency in writing prior to or immediately upon the service of process. The contents of the written notification shall be in accordance with Section 205 of the Code of Civil Procedure (Zivilprozessordnung) and, in case of dependents, to the extent permitted by law.

3. Where a German court or authority serves a judgment or a document in appellate proceedings (Rechtsmittelschrift), the liaison agency shall, upon special or general request of the sending State concerned, be notified thereof immediately to the extent permitted by law except where the liaison agency itself is requested to effect such service, or where the addressee or another party to the proceedings objects. The German court or authority shall inform the liaison agency of any objection.

Article 33

If members of a force, of a civilian component, or dependents are temporarily prevented from attending non-criminal proceedings to which they are parties and if the competent German court or authority is so notified without undue delay, due account shall be taken thereof in order that they shall suffer no legal prejudice to their interests. Such notification may also be given by the liaison agency.

Article 34

1. The military authorities shall render all assistance in their power to secure compliance with judgments, decisions, orders and settlements (vollstreckbare Titel) in non-criminal proceedings of German courts and authorities.

2.(a) A member of a force or of a civilian component or a dependent may be

deprived of his personal liberty by a German authority or court in non-criminal proceedings only to punish contempt of court or to secure compliance with a judicial or administrative decision or order that he culpably has failed or fails to obey. Deprivation of liberty shall not be authorized in respect of an act or omission done in the performance of official duty. A certificate by the highest appropriate authority of the sending State stating that the act or omission concerned was done in the performance of official duty shall be binding on German agencies. In other cases the German agencies shall give due consideration to representations of the highest appropriate authority of the sending State that compelling interests contravene such deprivation of liberty.

(b) A deprivation of liberty pursuant to this paragraph may take place only after the military authorities have arranged, if they find it necessary, for the replacement of the individual concerned. The military authorities shall take all necessary and reasonably acceptable measures to this end without delay, and render all assistance within their power to the German authorities responsible for enforcing an order or decision in accordance with this paragraph.

(c) When a deprivation of liberty in accordance with this paragraph is to take place within accommodation made available for the exclusive use of the force or of the civilian component, the sending State, following consultation with the German court or authority concerning the modalities, may also have the measure carried out by its own police. In this case the deprivation of liberty shall take place without delay, and, to the extent desired by the German side, in the presence of representatives of the German court or authority.

3. A payment due to a member of a force or of a civilian component from his Government shall be subject to attachment, garnishment or other form of execution ordered by a German court or authority to the extent permitted by the law applicable in the territory of the sending State. Assistance under paragraph 1 of this Article shall also include providing information on possible execution against pay already disbursed.

4. Where the enforcement of a judgment, decision, order and settlement in non-criminal proceedings of a German court or authority is to take place within an installation of a force, such enforcement shall be effected by a German enforcement officer in the presence of a representative of the force.

Article 35

Where a judgment, decision, order and settlement (vollstreckbarer Titel) of a German court or authority is to be enforced against a debtor to whom a payment is due in respect of employment with a force or civilian component in accordance with the provisions of Article 56 of the present Agreement or in respect of direct deliveries or services to a force or a civilian component, the following provisions shall apply:

(a) Where such a payment is made through a German authority and that authority has been requested by an enforcing agency to make the payment to the judgment creditor instead of to the debtor, that authority shall be entitled to comply with such request within the scope of the provisions of German law.

(b) (i) Where such a payment is not made through a German authority, the authorities of the force or of the civilian component, unless prohibited by the law of the sending State, shall upon request by an enforcing agency deposit with the competent agency out of the sum admitted to be owing to the debtor the sum specified in the request. Such deposit shall operate as a discharge of the force or of the civilian component from its obligation to the debtor to the extent of the amount deposited.

(ii) Insofar as the law of the sending State concerned prohibits the payment referred to in item (i) of this subparagraph, the authorities of the force or of the civilian component shall take all appropriate measures to assist the enforcing agency in the execution of the judgment, decision, order or settlement in question.

Article 36

1. Service of documents upon members of a force or of a civilian component or on dependents by publication shall, in addition, be effected by publication of an extract from the document to be served in a journal to be named by, and in the language of, the sending State, or if the sending State so decides, by posting in the appropriate liaison office.

2. Where service of any document is to be effected by a German process server upon any person who is inside an installation of a force, the authority of the force responsible for the administration of the installation shall take all measures necessary to enable the German process server to effect such service.

Article 37

1. Where a member of a force or of a civilian component or a dependent is summoned to appear before a German court or authority, the military authorities, unless military exigency requires otherwise, shall take all measures within their authority to secure his attendance provided such attendance is compulsory under German law. If the summons is not served through the liaison agency, the latter shall be informed immediately of the summons by the German court or authority, which shall give the name of the addressee and his address, as well as the time and place of the hearing or taking of evidence; this does not apply in the case of dependents if the military authorities cannot give effective support to German authorities to secure attendance.
2. Where persons whose attendance cannot be secured by the military authorities are required as witnesses or experts by a court or a military authority of a sending State, the German courts and authorities shall, in accordance with German law, secure the attendance of such persons before the court or military authority of that State.

Article 38

1. If in the course of criminal or non-criminal proceedings or hearings before a court of authority of a force or of the Federal Republic it appears that the disclosure of an official secret of either of the States concerned, or the disclosure of any information which could prejudice the security of either of them might result, the court or the authority shall, prior to taking further action, seek the written consent of the appropriate authority to the disclosure of the official secret or information. In the event that the appropriate authority advances considerations against disclosure, the court or authority shall take all steps in its power, including those to which paragraph 2 of this Article relates, to prevent such disclosure, provided no constitutional right of any party to the proceedings is thereby impaired.
2. The provisions of Sections 172 to 175 of the German Judicature Act (Gerichtsverfassungsgesetz) on the exclusion of the public from hearings in criminal and non-criminal proceedings, and of Section 15 of the German Code of Criminal Procedure on the transfer of criminal proceedings to a court in a different district, shall be applied *mutatis mutandis* in cases before German courts and authorities where there is a threat to the security of a force or of a civilian component.

Article 39

Privileges and immunities of witnesses, injured persons and experts shall be those accorded by the law of the court or authority before which they appear. The court or authority shall, however, give appropriate consideration to the privileges and immunities which witnesses, injured persons and experts, if they are a member of a force or of a civilian component or dependents, would have before a court of a sending State or, if they do not belong to these categories of persons, would have before a German court.

Article 40

Subject to any provision to the contrary in the NATO Status of Forces Agreement or in the present Agreement, archives, documents, official mail recognizable as such and property of a force shall be immune from search, seizure or censorship by the German authorities except where immunity is waived.

Article 41

1. The settlement of claims in respect of damage caused by acts or omissions of a force, a civilian component or their members, or by other occurrences for which a force or a civilian component is legally responsible, shall be governed by the provisions of Article VIII of the NATO Status of Forces Agreement and the provisions of this Article supplementary thereto.

2. No compensation shall be payable in respect of

(a) damage to public roads, highways, bridges, navigable waterways and other public traffic facilities resulting from their use by a force or a civilian component for normal traffic purposes;

(b) loss of or damage to property which has been constructed or procured from occupation costs, mandatory expenditures or support costs funds, to the extent that

such loss or damage was caused while the property was at the disposal of a force or a civilian component for its use.

3.(a) The Federal Republic shall waive all its claims against a sending State in respect of loss of, or damage to, property owned by the Federal Republic and made available for the exclusive use of the force or of the civilian component. This shall apply equally if such property is made available for use by the forces of several sending States or is used by the force of one or more sending States jointly with the German Armed Forces. This waiver shall not apply to damage caused willfully or by gross negligence, nor to damage to the property of the German Federal Railways or German Federal Post.

(b) The provisions of subparagraph (f) of paragraph 2 of Article VIII of the NATO Status of Forces Agreement shall not apply to loss of or damage to property owned by the German Federal Railways or the German Federal Post nor to damage to Federal roads.

4. The Federal Republic shall relieve the sending States of liability for claims arising from loss of or damage to property owned by a Land, if the loss or damage was caused prior to the entry into force of the present Agreement.

5. Each sending State shall waive all its claims against the Federal Republic in respect of loss of or damage to property owned by such sending State and caused by members or employees of the German Armed Forces in the performance of official duties or by the use of vehicles, ships, or aircraft of the German Armed Forces, provided that it is property used by the force or the civilian component of that State and that it is located in the Federal territory. This waiver shall not apply to damage caused willfully or by gross negligence.

6. The provisions of paragraph 5 of Article VIII of the NATO Status of Forces Agreement and of this Article shall not apply to damage suffered by members of a force or of a civilian component and caused by acts or omissions of other members of the same force or the same civilian component, or by other occurrences for which such force or such civilian component is legally responsible.

7. The organizations referred to in paragraph 2 of Article 71 shall for the purpose of the settlement of damage claims in accordance with Article VIII of the NATO Status of Forces Agreement in conjunction with this Article be considered to be, and treated as, integral parts of the force concerned unless it is agreed that any such organization shall not enjoy in that respect exemption from German jurisdiction.

8. The liability of a force or of a civilian component shall not be affected by the fact that

such force or civilian component enjoys exemption from German regulations. Where the German Armed Forces enjoy the same exemptions, compensation shall be payable only if and to the extent that compensation is payable for damage caused by the latter.

9.(a) In cases where an occurrence causing damage to a third party and compensable under paragraph 5 of Article VIII of the NATO Status of Forces Agreement has also given rise to damage to the sending State concerned, and where the third party is liable to compensate for such damage, the claim of the sending State is to be set off against the claim of the third party.

(b) The Federal Republic shall, in accordance with administrative agreements, and at the request of a sending State, assert for that State claims against persons resident in the Federal territory and arising out of damage caused there to such State; this shall not apply to contractual claims. Such expenses which the Federal Republic incurs in asserting claims over and above the general costs of administration shall be reimbursed by the sending State.

10. In respect of claims concerning damage to accommodation or loss of, or damage to, movables, other than accommodation or movables owned by the Federation or by a Land, which were made available for exclusive use by a force or a civilian component before 5 May 1955, and which are released by the force or the civilian component after the entry into force of the present Agreement, compensation shall be borne by the Federal Republic and the sending State concerned in equal parts.

11.(a) Except in cases where after inquiry of the forces concerned it is not possible to establish to which of them the loss or damage is attributable, the force shall furnish a certificate concerning the questions dealt with in paragraph 8 of Article VIII of the NATO Status of Forces Agreement; it shall, at the request of the German authorities, review such certificate if, during investigation of a claim, a German authority or a German court considers that circumstances exist which would lead to an inference different from that contained therein.

(b) If a difference of opinion remains that cannot be resolved in further discussions between the two parties at higher level, the procedure provided in paragraph 8 of Article VIII of the NATO Status of Forces Agreement shall be followed.

(c) The German authorities or courts shall make their decisions in conformity with the certificate or the decision of the arbitrator respectively.

12.(a) The provisions of Article VIII of the NATO Status of Forces Agreement

and of this Article shall apply to those damages which are caused or which are deemed to be caused after the entry into force of the present Agreement.

(b) Damages which were caused before the entry into force of the present Agreement, or which are deemed to have been caused before that date, shall be dealt with in accordance with the regulations which were until then applicable.

13. Administrative agreements shall be concluded to regulate procedures as between the authorities of a force and the German authorities for the settlement of damage claims.

Re Article 41

1. Article 41 shall not be applicable to claims concerning damage arising under contracts or quasi-contractual relationships.

2.(a) (i) In the case of damage to public roads and of damage to property of the Federal Republic, except property of the German Federal Railways and of the German Federal Post, caused by maneuvers and other training exercises for which compensation would have been payable under Article 41, a force may, in lieu of paying such compensation, itself repair the damage.

(ii) If a force wishes itself to repair damage to public roads, it will consult the competent German authorities and will refrain from itself carrying out the repair if the German authorities object for cogent technical building or traffic police control reasons. In these cases and in other cases of damages referred to in item (i) of this subparagraph contact shall not be necessary in individual cases if previously there has been an understanding on carrying out of repairs by the force on a general basis.

(b) Nothing shall preclude a force itself making good the damage, in agreement with the person having suffered it, in cases other than those referred to in subparagraph (a) of this paragraph.

(c) In the cases referred to in subparagraphs (a) and (b) of this paragraph, nothing shall preclude the person suffering the damage asserting any possible claim to which he may be entitled if in his opinion the damage has not been repaired either fully or properly.

3. In order to permit speedy settlement of compensation proceedings, a reasonable period

of time should be provided within which to file compensation claims under Article VIII of the NATO Status of Forces Agreement in conjunction with Article 41. To this end, the Federal Republic shall enact suitable legislation.

4. The waiver given by the Federal Republic in subparagraph (a) of paragraph 3 of Article 41 shall not apply to damage arising from non-fulfillment of the accepted responsibility for repair and maintenance. To the extent that the agreements (Überlassungsvereinbarungen) do not contain provisions for the settlement of such damage claims, the procedure for settling them shall be laid down in administrative agreements.

5. Insofar as property of juristic persons whose shares are in the hands of the Federation is made available free of charge to a force or a civilian component for exclusive use, the Federal Republic shall relieve the sending State of liability in respect of damages to this property to the same extent as the Federal Republic has waived, in accordance with subparagraph (a) of paragraph 3 of Article 41, compensation for damage to property which it owns.

6.(a) If in the cases referred to in the last sentence of subparagraph (a) of paragraph 3 and the last sentence of paragraph 5 of Article 41, there is a difference of opinion between the competent German authorities and the authorities of a force as to whether or not damage was caused willfully or by gross negligence, the authorities on both sides shall enter into negotiations.

(b) If a difference of opinion remains that cannot be resolved in further discussions between the parties at higher level, the arbitrator referred to in subparagraph (a) of paragraph 2 of Article VIII of the NATO Status of Forces Agreement shall decide.

7. In respect of property owned by a Land and made available for use by a force (paragraph 4 of Article 41), the authorities of the force and the German authorities shall determine jointly the condition of such property as at the date of the entry into force of the Supplementary Agreement. A similar determination shall be made at the time of the release of such property. Claims for damages or loss, if any, shall be settled on the basis of the condition of the property on these dates.

8. The American Red Cross and the University of Maryland shall not be deemed to be, nor be treated as, integral parts of the force for the purpose of paragraph 7 of Article 41 and in respect of the settlement of damage claims shall not be exempt from German jurisdiction.

9. The administrative agreements referred to in paragraph 13 of Article 41 may also

contain arrangements which differ from the procedural arrangements contained in Article VIII of the NATO Status of Forces Agreement.

Article 42

Deleted

Article 43

1. In the fields of meteorology, geodesy, topography, hydrography and cartography, the authorities of a force and the German authorities shall communicate to each other information on all matters of importance for the common defense and shall exchange all data necessary for this purpose.
2. The authorities of a force may, after timely notification to the German authorities, make topographic, geodetic, hydrographic or engineering surveys or reconnaissances in the interest of the common defense if special reasons of security or secrecy necessitate this or if the German authorities are unable to carry out such projects to the extent or within the time required. Representatives of the German authorities may be present, unless prohibited by special reasons of secrecy, while any such survey is being made. The German authorities shall, when necessary, use their powers under German law in order to obtain authority for representatives of the force to enter property.

Article 44

1. In the settlement of disputes arising from contracts concluded by the German authorities for the account of the authorities of a force or of a civilian component there shall at all times be close cooperation between those authorities, whether or not court proceedings are involved. This shall apply *mutatis mutandis* to disputes arising out of work, personnel representation, or social insurance of civilian labor with a force or a civilian component, as well as to disputes which arise from procedures referred to in subparagraph (c) of paragraph 1 of Article 62 of the present Agreement. Details of such cooperation shall be laid down in administrative agreements.

2. So far as they relate to court proceedings instituted against the Federal Republic, the agreements referred to in paragraph 1 of this Article shall be based on the following principles:

(a) The authorities of the force or of the civilian component shall be notified without delay of the lodging of a plaint and shall be consulted at all material stages of the proceedings.

(b) The decision as to whether or not an appeal should be lodged shall be taken only in agreement with the authorities of the force or of the civilian component. Failing agreement, the German authorities shall lodge an appeal if an authority of the force or, where applicable, an authority of the civilian component, at highest level, confirms its essential interest in that action being taken. The authorities of the force or of the civilian component shall not object to the lodging of an appeal if a Federal authority at the highest level confirms its essential interest in that action being taken. To the extent that the reasons underlying the confirmation of the interest referred to in the second and third sentences of this paragraph have not become known to the other party in the course of negotiations on the lodging of an appeal, such reasons shall be given on request.

3. Paragraph 2 of this Article shall apply *mutatis mutandis* to court proceedings instituted by the Federal Republic, it being understood that the principles set out in subparagraph (b) of paragraph 2 shall also be applied to the lodging of plaints.

4. Whether or not court proceedings are involved in the disputes referred to in paragraph 1 of this Article, the German authorities shall terminate such disputes only in agreement with the authorities of the force or of the civilian component.

5.(a) The sending State concerned shall meet all the obligations laid upon, and shall enjoy any benefits accruing to the Federal Republic as a result of judgments, decisions, orders and settlements (*vollstreckbare Titel*) in the court proceedings arising from disputes referred to in paragraph 1 of this Article.

(b) Where, solely as a result of a Federal authority at the highest level having confirmed its essential interest in the lodging of a plaint or an appeal, the force or the civilian component has raised no objection to that action being taken, and if the plaint or appeal gives rise to additional costs in the court proceedings, agreement shall be reached on a case to case basis as to whether and to what extent the obligations arising from such court proceedings are chargeable to the sending State or to the Federal Republic.

(c) Costs arising in connection with court proceedings which are not included in the costs awarded by the court shall be paid by the sending State if the force or the civilian component has given its agreement before the costs were incurred.

6.(a) Disputes arising from direct procurement by the authorities of a force or of a civilian component of goods and services in the Federal territory shall be settled by German courts or by an independent arbitration tribunal. Where the German courts are to decide the dispute, the plaint shall be lodged against the Federal Republic, which shall conduct the case in its own name in the interest of the sending State. Paragraphs 2, 4 and 5 of this Article shall apply *mutatis mutandis* regards relations between the Federal Republic and the sending State.

(b) Agreements between the Federal Republic and a sending State shall, however, take precedence over the provisions of subparagraph (a) of this paragraph.

Article 45

1. Insofar as a force is not able to carry out its training program on the accommodation made available for its exclusive use without impairing the purposes of such training, it shall on the basis of this Article, subject to the approval of the Federal Minister of Defense, have the right to conduct maneuvers and other training exercises outside such accommodation in such measure as is necessary to the accomplishment of its defense mission. The decision of the Federal Minister of Defense shall be made after giving due consideration to all aspects arising from multilateral or bilateral agreements to which the Federal Republic and one or more of the sending States are party, including training requirements laid down by the Supreme Allied Commander in Europe, other North Atlantic Treaty Organization authorities, or by competent European authorities. The conduct of or participation in maneuvers and other training exercises in accordance with this Article by elements of the force which come to the Federal Republic for this purpose shall require the approval of the competent German authorities. The procedures for notification, coordination and authorization of maneuvers and other training exercises shall be regulated in a separate agreement.

2. The conduct of maneuvers and other training exercises, in accordance with paragraph 1 of this Article, shall be governed by the relevant provisions of German law, in particular the Federal Requisitioning Law of September 27, 1961, as amended. The German military authorities, upon the request of the authorities of a force, shall provide or arrange to provide information about these provisions. The competent German authorities shall

discuss with the authorities of the sending States in good time prospective fundamental amendments to provisions of German law that may substantially impair the conduct of maneuvers and other training exercises.

Article 46

1. A force shall have, on the basis of this Article, subject to the approval of the competent German authorities, the right to conduct maneuvers and other training exercises in the air space of the Federal Republic in such measure as is necessary to the accomplishment of its defense mission. The decision of the competent German authorities shall be made after giving due consideration to all aspects arising from multilateral or bilateral agreements to which the Federal Republic and one or more of the sending States are party, including training requirements laid down by the Supreme Allied Commander in Europe, or other North Atlantic Treaty Organization authorities or by competent European authorities.

2. The conduct of maneuvers and other training exercises, in accordance with paragraph 1 of this Article, shall be governed by German regulations on the entry into and use of German air space and the utilization of aviation installations and facilities which fall within the scope of the Standards and Recommended Practices of the International Civil Aviation Organization, as well as applicable notification, approval and coordination procedures contained in relevant laws, regulations and publications. The competent German authorities shall discuss with the authorities of the sending States in good time prospective amendments to German regulations or administrative provisions concerning the entry into and use of German air space and the utilization of aviation installations and facilities. The Contracting Parties shall make use of competent organizations in this field to discuss such amendments.

3. Deleted

4. Deleted

5. Deleted

6. The provisions of Article 45 of the present Agreement shall be applicable to off-base landings as well as to parachute jumps or drops on to accommodation not made available to a force for its permanent use.

Re Article 46

1. German regulations on the entry into and use of German air space and the utilization of aviation installations and facilities as well as applicable notification, approval, and coordination procedures contained in relevant laws, regulations and publications include the Air Traffic Law (Luftverkehrsgesetz) in its then-current version and regulations, civilian and military administrative rules and procedures issued thereunder, as well as pertinent procedures and national regulations published in the AFCENT LOW FLYING HANDBOOK or any successor publication. Beside the provisions of Article 46, agreements, and any future amendments thereto, governing the conduct of maneuvers and other training exercises in German air space which the Federal Republic and one or more sending States have concluded, or will conclude, shall apply until replaced or terminated.
2. The competent organizations referred to in paragraph 2 of Article 46 include the AFCENT Low Flying Working Group or any successor organization.

Article 47

1. The Federal Republic shall accord to a force or a civilian component treatment in the matter of procurement of goods and services not less favorable than is accorded to the German Armed Forces.
2. Having regard to any measures which may become necessary under the second sentence of paragraph 2 of Article IX of the NATO Status of Forces Agreement, the authorities of a force or of a civilian component shall, on request, inform the German authorities of their requirements for defined categories of supplies.
3. A force or a civilian component may procure goods and services which they need either direct, or, after prior agreement, through the appropriate German authorities. The execution of transport services shall be governed by Article 57 of the present Agreement.
4. Where the authorities of a force or of a civilian component procure goods and services direct,
 - (a) they may apply their normal procedure, provided, however, that they respect the principles applying in the Federal Republic regarding public procurement which are reflected in the regulations concerning competition, preferred tenderers, and prices applicable to public contracts;

(b) they shall inform the German authorities of the subject and size of the order, the name of the supplier and the agreed price, except in the case of minor orders.

5. Where the authorities of a force or of a civilian component procure goods and services through the German authorities,

(a) the authorities of the force or of the civilian component shall inform the German authorities in good time of their requirements in detail, giving, in particular, technical specifications and special conditions of delivery and payment;

(b) contracts in respect of goods and services shall be concluded between the German authorities and the suppliers; the German legal and administrative provisions governing public contracts shall apply thereto;

(c) the German authorities, without prejudice to their exclusive competence vis-à-vis the supplier, shall allow the authorities of the force or of the civilian component to participate in the placing and carrying out of contracts to the extent necessary for taking their interests duly into account; in particular, no contract will be placed or modified without the written consent of the authorities of the force or of the civilian component; unless otherwise agreed, acceptance of goods and services shall be made jointly;

(d) the sending State shall reimburse the Federal Republic in respect of:

(i) any expenditure incumbent upon the Federal Republic under German law relating to public contracts, provided that expenditure arising from settlements out of court shall be reimbursed only if the force has consented to the settlement;

(ii) *ex gratia* payments made with the consent of the

force; (iii) expenditure, which cannot be charged to the contractor, arising from measures taken by the German authorities in cases of emergency in order to safeguard the interests of the force or of the civilian component;

(e) the necessary funds shall be made available by the authorities of the force and of the civilian component in time to permit payment to be made on due dates;

(f) the authorities of the force or of the civilian component shall be entitled, in a manner to be agreed, to audit documents relative to payments made by the competent German payment agencies;

(g) details of the procedures under subparagraphs (a), (c), (d), (e) and (f) of this paragraph shall be established in administrative agreements between the German authorities and the authorities of the force or of the civilian component, with the particular object of ensuring the carrying out of the procurement procedure within the time limits laid down.

Re Article 47

The following language will be included in the administrative agreements envisaged in subparagraph (g) of paragraph 5 of Article 47:

"In order to permit the German authorities to comply with the provisions of German budgetary law, it shall be certified in the written consent referred to in subparagraph (c) of paragraph 5 of Article 47 of the Supplementary Agreement that the necessary budgetary funds are available."

Article 48

1.(a) The accommodation requirements of a force or of a civilian component shall be satisfied only in accordance with the NATO Status of Forces Agreement and the provisions of the present Agreement.

(b) The accommodation requirements of a force or of a civilian component shall be notified to the Federal authorities in the form of periodic programs. Outside such programs, the authorities of a force shall notify accommodation requirements only in cases of urgency. Such notifications shall contain detailed specifications drawn up by the force, including in particular the general area, size, proposed utilization, foreseeable duration of the requirement and the dates by which the accommodation shall be made available.

(c) Agreements shall be concluded between the authorities of a force or of a civilian component and the German authorities on the satisfaction of accommodation requirements. Such agreements shall also cover access to accommodation (roads, railways, or waterways) and, where appropriate, the costs referred to in subparagraph (b) of paragraph 5 of Article 63. The measures to be taken in accordance with such agreements shall be carried out by the German authorities.

(d) The German authorities shall, when requested, name the enterprises which are responsible for supplying a force or a civilian component with water, gas, electricity, or for sewage disposal, and with whom contracts could be concluded. Insofar as the requirements of the force or of the civilian component cannot be satisfied by contracts between the authorities of the force or of the civilian component and the enterprises concerned, an agreement on the satisfaction of these requirements shall be concluded between the German authorities and the authorities of the force or of the civilian component, should the latter so request. The German authorities shall take appropriate measures to ensure the implementation of this agreement, if necessary by the conclusion of contracts.

2. The Federal Republic shall ensure that accommodation made available to a force or a civilian component within the framework of the provisions of the Forces Convention for its use and which is still in its possession upon the entry into force of the present Agreement shall remain available to the force or the civilian component until such time as it is to be released under subparagraphs (a) and (b) of paragraph 5 of this Article. This shall not apply to accommodation allocated for public transport or its supply facilities or for postal services or telecommunications; such accommodation shall be released insofar as it has not been otherwise agreed between the German authorities and the authorities of the force.

3.(a) Agreements (Überlassungsvereinbarungen) shall be concluded in writing in respect of the accommodation to be made available to a force or a civilian component pursuant to paragraph 1 of this Article; such agreements shall contain data concerning size, type, location, condition and equipment of the accommodation, as well as details concerning its use. The accommodation shall be made available exclusively to the requiring force or civilian component for occupancy and use insofar as it is not otherwise agreed between the German authorities and the authorities of the force or of the civilian component.

(b) Subparagraph (a) of this paragraph shall apply *mutatis mutandis* to accommodation which remains available to a force or a civilian component pursuant to paragraph 2 of this Article.

4. A force or a civilian component shall be responsible for carrying out such repairs and maintenance as are required to keep the accommodation made available to it in a proper state of preservation, unless with respect to accommodation made available against payment, the agreements concluded pursuant to subparagraph (a) of paragraph 3 of this Article provide otherwise.

5. The following provisions shall apply to the release of accommodation by a force or a civilian component:

(a) (i) The authorities of a force or of a civilian component shall continually examine their requirements for accommodation, in order to ensure that the number and extent of the units of accommodation used by them are restricted to the minimum required. Furthermore, they shall at the request of the German authorities examine their requirements in specific individual cases. Without prejudice to any special agreements as to periods of use, accommodation which is no longer needed or for which alternative accommodation satisfying the needs of the force or of the civilian component is made available, shall, after prior notification to the German authorities, be released without delay.

(ii) The provisions in item (i) of this subparagraph shall apply *mutatis mutandis* where a force or a civilian component no longer requires the whole of a unit of accommodation and where partial release is possible.

(b) Without prejudice to the provisions of subparagraph (a) of this paragraph, the authorities of a force or of a civilian component shall give due consideration to requests by the German authorities for the release of a particular unit of accommodation in cases where, taking into account the common defense mission, German interest in the use of such accommodation clearly predominates.

(c) Accommodation made available after the entry into force of the present Agreement to a force or a civilian component for a limited period of time shall be released on the expiry of such period of time provided such time limit was fixed in accordance with the information given by the authorities of the force or the civilian component at the time when their requirement for accommodation was notified; the period of use may be extended insofar as the owner or other entitled person agrees, or as requisitioning is permissible under German procurement legislation (*deutsche Leistungsgesetzgebung*).

(d) Accommodation made available after the entry into force of the present Agreement to a force or a civilian component, and in respect of which an expropriation authority has issued an anticipatory possession order (*vorzeitige Besitzeinweisung*) under the Land Procurement Law, shall be released in the event of such possession order being rescinded.

(e) Articles which have been requisitioned together with accommodation and which are still within such accommodation shall be released at the same time as the accommodation, unless the owner otherwise agrees.

Re Article 48

1.(a) Where in implementation of the third sentence of subparagraph (c) of paragraph 1 of Article 48 utilization contracts (Nutzungsverträge), toleration contracts (Duldungsverträge) or similar contracts are concluded, the German authorities shall agree upon the amount of compensation payable in consultation with the authorities of the force or the civilian component, except insofar as such compensation is to be borne by the Federal Republic under the provisions of subparagraph (a) of paragraph 5 of Article 63. The same shall apply where a unit of accommodation is requisitioned under the Land Procurement Law, to agreements regarding the amount of compensation payable in respect of anticipatory possession (Besitzeinweisungsentschädigung) or any other compensation. The provisions of Article 63 shall remain unaffected.

(b) The procedure envisaged in subparagraph (a) of paragraph 1 shall be applied *mutatis mutandis* when under the Restricted Areas Law or the Air Traffic Law utilization contracts, toleration contracts or similar contracts are concluded in the interests of a force, or when agreements are concluded on the amount of compensation payable in respect of restricted areas (Schutzbereichentschädigungen).

2. With respect to paragraph 2 of Article 48 and without prejudice to the arrangements set forth in subparagraphs (a) and (b) of paragraph 5 of that Article, the authorities of a sending State shall in special cases, at the request of the Federal Government, enter into negotiations for the release or exchange of accommodation which was in the possession of a force or a civilian component at noon on 5 May 1955, in order to take into account essential German civilian interests and in particular the exigencies of town and country planning (Raumordnung und Städtebau), nature preservation, and farming and economic interests. The authorities of the sending State shall in this give sympathetic consideration to requests by the Federal Government.

3. With respect to paragraph 2 and subparagraph (c) of paragraph 5 of Article 48, the following shall apply: In order to avoid difficulties in cases in which, in respect of accommodation made available to a force or to a civilian component for use, the legal relationship with the owner or other entitled person ends, and in order to facilitate the implementation by the Federal Republic of the undertaking set forth in the first sentence of paragraph 2 of Article 48, the German authorities and the authorities of the force shall maintain constant and close contact with each other. The authorities of the force shall

inform the German authorities as early as possible if in such a case there is a continuing accommodation requirement beyond the date on which the legal relationship ends. In order that the authorities of the force will be able so to state, the German authorities shall as early as possible, and to the extent necessary, inform the authorities of the force that the legal relationship with the owner or other entitled person will lapse, and when; this shall apply especially in cases where the legal relationship ends otherwise than by expiration of a lease or rent contract.

4. The details with regard to the use of accommodation referred to in the first sentence of subparagraph (a) of paragraph 3 of Article 48 shall be taken to mean, in particular, duration of availability, utilization, responsibility for repairs, maintenance, and traffic safety measures, as well as any financial arrangements which may be necessary within the framework of the NATO Status of Forces Agreement and the Supplementary Agreement.

5.(a) In the agreements required under subparagraph (b) of paragraph 3 of Article 48 the data on the equipment of the accommodation legally owned by the Federation or a Land (rechtlich im Eigentum des Bundes oder eines Landes stehend)--except accommodation of the German Federal Railways or German Federal Post--shall cover only those objects, the removal of which under Article 50 requires the consent of, or prior notification to, the German authorities. The state of preservation of accommodation shall, at the request of the authorities of the force concerned, be expressed in general terms, such as "good", "moderate", or "bad".

(b) Further procedural and technical details shall, to the extent necessary, be governed by administrative agreement.

6. The obligation under paragraph 4 of Article 48 to carry out repair and maintenance shall not include the reconstruction of a building wholly or largely destroyed by act of God.

7. The negotiations which in application of subparagraph (a) of paragraph 5 of Article 48 take place between the authorities of a force and the German authorities concerning the question of whether alternative accommodation offered by the Federal Republic satisfies the requirements of the force or the civilian component, shall extend, as far as necessary, to financial questions arising in this connection.

Article 49

1. The programs of construction projects necessary to cover the requirements of a force or of a civilian component shall be transmitted to the German authorities competent for Federal building by the authorities of the force or of the civilian component.
2. Construction works shall be carried out by the German authorities competent for Federal building in accordance with German legal provisions and administrative regulations in force, and in accordance with special administrative agreements.
3. Notwithstanding the provisions of paragraph 2 of this Article, the authorities of a force or of a civilian component may carry out, in accordance with special administrative agreements existing on the entry into force of the present Agreement or which are concluded or amended thereafter, in consultation with the German authorities
 - (a) repairs and maintenance work,
 - (b) construction works which require special security measures,
 - (c) very minor construction works; and, in agreement with the German authorities
 - (d) minor construction works,
 - (e) exceptionally, construction works in other cases

with their own personnel or by placing contracts direct with contractors. In carrying out such works, the authorities of the force or of the civilian component shall respect German building and environmental regulations and shall ensure, in cooperation with the German authorities referred to in paragraph 2 of this Article, that the necessary permissions are obtained. Furthermore they shall take into consideration the principles applying in the Federal Republic regarding public construction.

4. Deleted

5. The authorities of the force or of the civilian component and the German authorities shall agree concerning the form and extent of the consultation envisaged in paragraph 3 of this Article.

6. When the work referred to in paragraph 2 of this Article is carried out on behalf of a force or a civilian component by the German authorities,

- (a) the authorities of the force or of the civilian component may, where they consider it necessary, participate in the drafting of the plans or may furnish plans

and specifications themselves;

(b) the method of award of the contract and, in the case of limited tender, the number and identity of the contractors to be invited, shall be agreed between the German authorities and the authorities of the force or of the civilian component.

(c) the contract shall be awarded only after the authorities of the force or of the civilian component have given their consent in writing;

(d) the authorities of the force or of the civilian component shall be permitted to participate in inspections of building work and shall have access to building plans and all relevant documents and accounts;

(e) the German authorities shall, unless it is otherwise agreed, confirm to contractors the satisfactory completion of major sections of the work only in agreement with the authorities of the force or of the civilian component; in particular, the German authorities shall obtain the written consent of the authorities of the force or of the civilian component before releasing the contractor from his contractual obligations;

(f) the sending State shall reimburse the Federal Republic in respect of

(i) any expenditure incumbent upon the Federal Republic under German law relating to public contracts, provided that expenditure arising from settlements out of court shall be reimbursed only if the force has consented to the settlement;

(ii) *ex gratia* payments made with the consent of the force;

(iii) expenditure, which cannot be charged to the contractor, arising from measures taken by the German authorities in cases of emergency in order to safeguard the interests of the force or of the civilian component;

(g) the necessary funds shall be made available by the authorities of the force and of the civilian component in time to permit payment to be made on due dates;

(h) the authorities of the force or of the civilian component shall be entitled, in a manner to be agreed, to audit documents relative to payments made by the competent German payment agencies;

(i) the sending States shall compensate the German authorities, in accordance with administrative agreements, for the special services performed by the latter in connection with the implementation of

construction works (construction planning, supervision and inspection).

Article 50

Fixtures, fittings and furnishings which are owned by the Federation may be transferred within the Federal Republic from one unit of accommodation used by a force or a civilian component to another, subject to the following restrictions:

- (a) Articles of this kind, including those procured from occupation costs, mandatory expenditures or support costs funds, which were included in the construction costs of accommodation used by a force or a civilian component, shall be removed from such accommodation only with the consent of the German authorities.

- (b) The consent of the German authorities shall equally be obtained before fixtures, fittings and furnishings which have been affixed to, or specially made to measure for, a specific unit of accommodation are removed. This shall not apply where such articles were procured from occupation costs, mandatory expenditures or support costs funds; however, the authorities of a force or of a civilian component shall, prior to the removal of such articles, give the German authorities timely notification of their intention so as to enable the latter, in appropriate cases, to propose an alternative solution.

Re Article 50

1. Nothing in Article 50 shall be construed to mean that the removal from one unit of accommodation to another of fixtures, fittings and furnishings which are not owned by the Federation is admissible without the owner's consent.

2. In cases where the building records are no longer available, the authorities of the force or of the civilian component and the German authorities shall jointly determine, in accordance with criteria applicable to buildings of the same type, which articles fall within the purview of subparagraph (a) of Article 50.

Article 51

1. Movable property procured from occupation costs, mandatory expenditures or support costs funds shall, when the authorities of a force or of a civilian component establish that such property is no longer required by them, be handed over to the German authorities for disposal.

2. Agreements in derogation of the provision in paragraph 1 of this Article may be reached concerning the sale or other forms of disposal of such movable property. Net receipts from such disposal shall accrue to the Federal Republic.

3. Movable property of the kind referred to in paragraph 1 of this Article may be removed from the Federal territory only if necessary to the fulfillment of the defense mission of NATO. Except as otherwise provided in paragraph 4, removal shall be governed by the following provisions:

(a) The German authorities shall be given prior, in urgent cases subsequent, notification of the removal.

(b) Notification to the German authorities shall not be required in the case of

(i) removal of articles of minor purchase value;

(ii) temporary removal of articles incidental to maneuvers or activities of a force requiring frequent and repeated crossings of the borders of the Federal Republic.

4. Any removal of property of the kind referred to in paragraph 1 of this Article in connection with the transfer of units of a force for the purpose of reduction or complete withdrawal of the force shall be the subject of special agreements.

5. Paragraphs 1 and 2 of this Article shall remain unaffected in cases involving removal from the Federal territory; they shall apply equally where movable property of the kind referred to in paragraph 1 is no longer necessary to the fulfillment of the defense mission of NATO.

6. Fixtures, fittings and furnishings belonging to accommodation and procured from occupation costs, mandatory expenditures or support costs funds shall not be removed from the Federal territory.

7. Details shall be the subject of administrative agreements.

Re Article 51

1. If it is uneconomical to return an article to the Federal territory, for instance if transportation costs exceed its value, agreement to the sale of such article abroad shall be given by the German authorities.
2. The removal from the Federal territory to Berlin (West) of movable property procured from occupation costs, mandatory expenditures or support costs funds for use by the Armed Forces of the sending State shall not be regarded as removal from the Federal territory within the meaning of Article 51. Property removed to Berlin (West) shall be subject to the provisions of paragraphs 1 and 2 thereof. Its further removal elsewhere, except its return to the Federal territory, shall be subject to the provisions of paragraphs 3 and 4 thereof.
3. Notwithstanding the special status enjoyed by the Saarland during the transitional period provided for in paragraph 2 of Article 1 and in Article 3 of the Treaty between the French Republic and the Federal Republic of Germany on the Settlement of the Saar Question, dated 27 October 1956, in the field of customs, taxes and foreign currency, the provisions of Article 51 shall apply to movable property procured from occupation costs, mandatory expenditures or support costs funds, located in the Saarland, as well as to its removal from the Saarland to places outside the Federal Republic. The provisions of Article 51 shall, until the expiry of the transitional period referred to in this paragraph, apply *mutatis mutandis* to the removal of such property from other parts of the Federal territory to the Saarland.
4. The words "necessary to the fulfillment of the defense mission of NATO" contained in paragraph 3 of Article 51 shall not be construed as calling for a specific NATO directive.
5. Registration contracts in respect of railway cars concluded under paragraph 2 of Article 57 of the Supplementary Agreement shall, unless it is otherwise agreed, remain effective even if such railway cars are removed from the Federal territory pursuant to paragraph 3 of Article 51.
6. The agreements specified in paragraph 4 of Article 51 shall be concluded in the spirit of the mutual aid envisaged by Article 3 of the North Atlantic Treaty.

Article 52

1. Where a sending State intends to release in whole or in part accommodation or other property legally owned by the Federation or a Land (rechtlich im Eigentum des Bundes oder eines Landes stehend) and made available to the force or to the civilian component for use, agreement shall be reached between the authorities of the force or of the civilian component and the German authorities concerning the residual value, if any, remaining at the time of release in improvements which were financed by the sending State out of its own funds. The sending State shall be reimbursed by the Federal Republic for such agreed residual value. The first and second sentences of this paragraph shall also apply to equipment and supplies procured by the sending State with its own funds and which by agreement are to remain on such accommodation.

2. Payment under paragraph 1 of this Article shall not be made to the extent that compensation for damage caused to accommodation or other property by the sending State is payable under Article 41 of the present Agreement or would have been payable if the claim had not been waived or the sending State had not been relieved of liability for such claims under that Article.

3. A sending State shall not be required to remove improvements, articles of equipment, or supplies from accommodation or other property legally owned by the Federal Republic or by a Land (rechtlich im Eigentum des Bundes oder eines Landes stehend). Where the accommodation or other property is legally owned by a Land, the Federal Republic shall relieve the sending State from the liability for any possible claim that may be due to the Land under German law by reason of such non-removal.

4. A sending State shall not assert any claim in respect of the residual value of improvements to property of the kind referred to in paragraph 1 of this Article or in respect of improvements to property made available to the force or to the civilian component for use free of charge and owned by juristic persons in which the Federation or a Land financially participates, if the improvements have been financed out of funds made available to the sending State by the Federation or a Land. This shall not affect the setting off of the residual value of such improvements against compensation for damage caused during the period of use of such property by the force or the civilian component or during the removal of such improvements.

Re Article 52

In reaching agreement on residual value, the German authorities shall base their position

on the military or economic use which the relinquished improvements, equipment, or supplies have for these authorities themselves, or on the net proceeds of sale, if any.

Article 53

1. Within accommodation made available for its exclusive use, a force or civilian component may take all the measures necessary for the satisfactory fulfillment of its defense responsibilities. German law shall apply to the use of such accommodation except as provided in the present Agreement and other international agreements, and as regards the organization, internal functioning and management of the force and its civilian component, the members thereof and their dependents, and other internal matters which have no foreseeable effect on the rights of third parties or on adjoining communities or the general public. The competent German authorities and the authorities of a force shall consult and cooperate to reconcile any differences that may arise.

2. The first sentence of paragraph 1 of this Article shall apply *mutatis mutandis* to measures taken in the air space above accommodation, provided that measures which might interfere with air traffic are taken only in coordination with the German authorities. The provisions of paragraph 7 of Article 57 of the present Agreement shall remain unaffected.

2bis. The use of major training areas, local training areas and local firing ranges by units brought to the Federal Republic for exercise and training purposes shall be subject to prior notification to the competent German authorities for approval. Such use shall be deemed approved unless the German authorities object within 45 days of receiving notification. However, notification alone shall suffice for units of the forces of a notifying State of up to 200 personnel which belong organically to a unit stationed in the Federal Republic, or which are intended for reinforcement of units stationed in the Federal Republic. For purposes of this Article, notice given to German authorities during scheduling conferences shall suffice. Additional agreements may be concluded.

2ter. Details of the use of major training areas, air-to-ground weapons ranges, local training areas and local firing ranges, as well as the notification and approval set out in paragraph *2bis*, shall be covered by administrative agreements to be reached at the national level.

3. In carrying out the measures referred to in paragraph 1 of this Article, the force or the

civilian component shall ensure that the German authorities are enabled to take, within the accommodation, such measures as are necessary to safeguard German interests.

4. The German authorities and the authorities of the force or of the civilian component shall cooperate to ensure the smooth implementation of the measures referred to in paragraphs 1, 2 and 3 of this Article. The details of such cooperation are set forth in paragraphs 5 to 7 of the Section of the Protocol of Signature referring to this Article.

5. Where accommodation is used jointly by a force or a civilian component and the German Armed Forces or German civilian agencies, the regulations required for such use shall be laid down in administrative agreements or in special agreements in which appropriate consideration shall be given to the position of the Federal Republic as receiving State as well as to the defense responsibilities of the force.

6. In order to enable a force or a civilian component satisfactorily to fulfil its defense responsibilities, the German authorities shall take appropriate measures, at the request of the force to

(a) establish restricted areas (Schutzbereiche);

(b) supervise or restrict construction, cultivation and movement in the vicinity of accommodation made available to the force for its use.

Re Article 53

1. Unless otherwise provided, a force shall not be entitled to exploit for economic benefit accommodation made available for its use.

1bis. Measures necessary to meet national training standards of a force shall be among the measures referred to in the first sentence of paragraph 1 of Article 53.

2. Exploitation by the person entitled thereto shall be restricted only to the extent necessary to achieve the purpose stated in the first sentence of paragraph 1 of Article 53.

3. The term "restricted area" (Schutzbereich) shall be interpreted in accordance with its meaning in German law. The term "appropriate measures" within the meaning of paragraph 6 of Article 53 shall be construed to mean only such measures as can be taken by the German authorities within their legal powers.

4. Should German legislation implementing Article 53 prove insufficient to ensure that

the defense responsibilities of a force can be satisfactorily fulfilled, the German authorities and the authorities of the force shall discuss the desirability or necessity of seeking amendment to such legislation.

4bis.(a) The authorities of a force shall give the competent German authorities at federal, Land and local level all reasonable assistance necessary to safeguard German interests, including access to accommodation after prior notification, so that they can fulfil their official duties. The German Federal authorities responsible for the accommodation shall assist the authorities of the force on request. In emergencies and where there is danger in delay, the authorities of the force shall make immediate access possible without prior notification. The authorities of the force shall decide in each case whether they will accompany the German authorities.

(b) In all cases access shall be subject to considerations of military security, in particular of the inviolability of classified areas, equipment and documents.

(c) The authorities of the force and the German authorities shall arrange access in such a way that neither the safeguarding of German interests nor military exercises which are in progress or about to start are unreasonably prejudiced.

(d) Should there be no agreement in the cases of subparagraphs (a) to (c) of this paragraph, the competent higher authorities on both sides shall be seized of the matter.

5. Cooperation between the authorities of a force and the German authorities in accordance with Article 53, and, if appropriate, in conjunction with Article 53A, shall extend in particular to the following fields:

(a) determination of land boundaries, production of site plans and survey documents of plots of land;

(b) drawing up of property lists and inventories valuation of such property;

(c) public safety and order, including fire precautions (fire protection and assistance), disaster control, industrial safety (Arbeitsschutz), prevention of accidents and safety measures, such as those pertaining to rifle ranges, ammunition depots, fuel depots and dangerous plant;

(d) health and sanitation (as provided for in Article 54);

(e) industrial inspection;

- (f) water, gas and electricity supply, drainage, and sewage disposal;
- (g) property restrictions, protection of neighboring property, town and country planning, protection of monuments and sanctuaries, and environmental protection, including any identification and evaluation of sites rendered hazardous by soil contamination.
- (h) basic preservation of land and buildings;
- (i) water, power and heating plants, where these serve not only the force but also German agencies or the civilian population;
- (k) use of land and buildings by the civilian population or German authorities for business, agricultural or residential purposes;
- (l) forestry operations, hunting, shooting and fishing;
- (m) exploitation of mineral deposits;
- (n) traffic precautions, as well as maintenance and cleaning of roads open to the public traffic;
- (o) operation and maintenance of railway connections;
- (p) telecommunications.

6. Cooperation between the authorities of a force and the Federal authorities responsible for the administration of accommodation shall be carried out in accordance with the following procedures:

- (a) The authorities of the force and the German authorities shall each designate representatives for a unit or units of accommodation. These representatives shall cooperate concerning the administration of accommodation to ensure that due consideration is given to the interests of the force and to German interests. The competencies of German technical authorities, particularly under paragraph 4*bis* of this Section, shall remain unaffected.
- (b) The military commander responsible for the accommodation or other appropriate authority of the force shall give, in accordance with paragraph 4*bis* of this Section, the German representatives all reasonable assistance.
- (c) Notwithstanding the provisions of subparagraphs (a) and (b) of this paragraph,

the following procedures shall apply:

(i) The property lists and inventories of property referred to in subparagraph (b) of paragraph 5 of this Section shall normally be set up or checked at the beginning and the end of the period for which a unit of accommodation is made available to the force for its use.

(ii) For cooperation in the field of safety measures in respect of rifle ranges, ammunition depots and fuel depots, joint commissions may be established. Details shall be laid down in administrative agreements.

7. Where provisions of the Supplementary Agreement or special NATO regulations prescribe for certain accommodation a different procedure for cooperation in the fields referred to in paragraph 5 of this section, such provisions or regulations shall prevail.

Article 53A

1. Where German law applies in connection with the use of accommodation covered by Article 53 of the present Agreement, and requires that a special permit, license or other form of official permission be obtained, the German authorities shall, in cooperation with the authorities of a force and following consultation with them, submit the necessary applications and undertake the relevant administrative and legal procedures for the force.

2. The provisions of paragraph 1 of this Article shall also apply when the decision is contested by a third party, when measures or facilities are noticeable, and in cases where the proceedings are instituted *ex officio*, in particular to safeguard public safety and order, or at the instigation of a third party. In these instances German Federal authorities acting for the force shall defend the interests of the force. If a permission applied for under paragraph 1 of this Article is denied or is subsequently modified or rendered invalid in conformity with German law, the authorities of the force and the German authorities shall consult to develop alternative means of meeting the needs of the force consistent with the requirements of German law.

3. The authorities of the force shall act in strict conformity with the terms and requirements of a legally effective decision taken in accordance with paragraphs 1 and 2 of this Article. They shall cooperate closely with German authorities to ensure that this obligation is fulfilled. Such a decision shall not be subject to enforcement.

Article 54

1. Except as otherwise provided in this paragraph, the German regulations and procedures for the prevention and control of infectious diseases of humans, animals and plants as well as for the prevention and control of plant pests shall apply to a force and a civilian component. A force may apply its own regulations and procedures in the fields referred to in the preceding sentence within accommodation made available for its use as well as to its members, members of its civilian component and dependents provided that neither public health (öffentliche Gesundheit) nor the cultivation of plants is endangered thereby.
2. The authorities of a force and the German authorities shall promptly inform each other of the outbreak, or suspected outbreak, development and elimination of an infectious disease, as well as of the measures taken.
3. If the authorities of a force deem it necessary to take health protection measures in the vicinity of accommodation made available for its use, they shall reach agreement with the German authorities regarding the execution of such measures.
4. Where German law prohibits the importation of certain articles, these articles may, with the approval of the German authorities, and provided that neither public health nor the cultivation of plants is endangered thereby, be imported by the authorities of a force. The German authorities and the authorities of the force shall agree on categories of articles the import of which is approved by the German authorities under this provision.
5. The authorities of a force may, with the approval of the German authorities, carry out the examination and control of articles imported by them. They shall ensure that neither public health nor the cultivation of plants is endangered as a result of the importation of such articles.

Re Article 54, paragraph 1

In cases where it is legally or technically impossible for a force or a civilian component to comply in detail with a German health regulation, the German authorities and the authorities of the force shall agree without delay on other means of meeting the object of the regulation.

Article 54A

1. The sending States recognize and acknowledge the importance of environmental protection in the context of all the activities of their forces within the Federal Republic.
2. Without prejudice to the respect for and application of German law pursuant to the present Agreement, the authorities of a force and of a civilian component shall examine as early as possible the environmental compatibility of all projects. In this context they shall identify, analyze and evaluate potential effects of environmentally significant projects on persons, animals, plants, soil, water, air, climate and landscape, including interactions among them, as well as on cultural and other property. The objective of the examination shall be to avoid environmental burdens and, where detrimental effects are unavoidable, to offset them by taking appropriate restorative or balancing measures. In this connection, the authorities of a force and of a civilian component may call upon the assistance of German civil and military authorities.

Article 54B

The authorities of a force and of a civilian component shall ensure that only fuels, lubricants and additives that are low-pollutant in accordance with German environmental regulations are used in the operation of aircraft, vessels and motor vehicles, insofar as such use is compatible with the technical requirements of such aircraft, vessels and motor vehicles. They shall further ensure that, with respect to passenger and utility motor vehicles, especially in the case of new vehicles, the German rules and regulations for the limitation of noise and exhaust gas emissions shall be observed to the extent this is not excessively burdensome. The competent German authorities and the authorities of the force and of the civilian component shall consult and cooperate closely in the application and supervision of these provisions.

Article 55

- 1.(a) Defensive works required to execute NATO plans for common defense within the areas for the defense of which the authorities of a force are responsible shall be planned and executed by agreement between the authorities of the force and the Federal authorities.
- (b) The work shall be carried out by the German authorities in liaison with the

authorities of the force. However, where there is a special need for secrecy or security, the force shall have the right, after appropriate consultation and at sites agreed upon with the Federal authorities, to carry out such work with its own personnel or with non-German specialists.

2. The Federal authorities and the authorities of a force shall cooperate to ensure that defensive measures necessary to meet defense requirements are prepared and carried out adequately and in good time.

Article 56

1.(a) German labor law, including industrial safety law (Arbeitsschutzrecht), as applicable to civilian employees working with the German Armed Forces, with the exception of decrees regulating working conditions (Dienstordnungen), shop agreements (Dienstvereinbarungen) and tariff regulations, shall apply to employment of civilian labor with a force or a civilian component except as otherwise provided in this Article and the Section of the Protocol of Signature referring to this Article.

(b) When seeking employment with an authority of a force or of a civilian component, the applicant shall be exclusively responsible, if so required, for furnishing proof that he has not been convicted of any offence. If the applicant cannot obtain a police certificate (Führungszeugnis), the German authorities shall, in accordance with the provisions of German law, provide him with an extract from the penal register if he presents a certificate from the force or the civilian component that he has applied for employment and if the issue of such extract does not endanger any essential German interests.

(c) Deleted.

(d) Transfers for duty reasons within the Federal Republic shall require the written consent of the civilian employee; such consent may be given at any time.

(e) Deleted.

(f) Employment of civilian labor with a force or a civilian component shall not be deemed employment with the German public service.

2.(a) The second sentence of paragraph 1 of Section 9 of the Dismissal Protection

Law (Kündigungsschutzgesetz) shall apply provided that the employer's application may also be based on the ground that the continuation of employment is precluded by military interests particularly worthy of special protection. The highest service authority may establish credibility (Glaubhaftmachung) for military interests which are particularly worthy of protection; in this case the proceedings before the court shall be held in camera. Where the disclosure of reasons might cause a danger of serious detriment to the security of the sending State or of its force, the highest service authority of the force, in concert with the Chief of the Federal Chancellery (Chef des Bundeskanzleramts), may establish credibility by means of a formal declaration.

(b) The highest service authority within the meaning of this paragraph shall be the highest agency located in the Federal Republic of Germany that is administratively responsible for the employing agency of the person under notice.

(c) This paragraph shall not apply to members of works councils (Betriebsvertretungen).

3. The provisions of German law concerning social insurance, including accident insurance, unemployment insurance and children's allowance shall apply to labor working with a force or a civilian component. The Federal Republic shall be the accident insurance carrier.

4. German civilian labor working with a force or a civilian component shall only be engaged in services of a non-combatant nature including civilian guard duties.

5. The German authorities, in agreement with the authorities of a force or of a civilian component, shall

(a) establish the terms and conditions of employment, including wages, salaries and job groupings, which shall serve as the basis for individual employment contracts, and shall conclude tariff agreements;

(b) regulate payment procedure.

6. The authorities of a force or of a civilian component shall, in respect of the employment of labor, including members of civilian service organizations, have the right of engagement, placement, training, transfer, dismissal and acceptance of resignations.

7.(a) The authorities of a force or of a civilian component shall determine the number of jobs required and classify such jobs in accordance with the job groupings established under subparagraph (a) of paragraph 5 of this Article. The

individuals to fill such jobs shall be classified by the authorities of the force or of the civilian component into the appropriate wage or salary groups.

(b) Deleted

8. Disputes arising out of employment or social insurance shall be subject to German jurisdiction. Lawsuits against the employer shall be filed against the Federal Republic. Lawsuits on behalf of the employer shall be instituted by the Federal Republic.

9. The provisions of German law concerning personnel representation as applicable to the civilian employees of the German Armed Forces shall apply to the employees' representation of civilian labor of a force or of a civilian component unless otherwise provided in the Section of the Protocol of Signature referring to this Article.

10. Where the German authorities carry out administrative work in respect of the employment of labor by a force or a civilian component and of its remuneration, the actual costs of such administrative work shall be reimbursed by the force. The procedures therefor shall be regulated by separate agreements between the German authorities and the authorities of each force. In consultation with the appropriate authorities of the force, the German authorities shall adhere to the principles of economic efficiency in carrying out the administrative work.

Re Article 56, paragraph 1

1. The application of industrial safety provisions by the force and the civilian component shall be governed by:

(a) paragraphs 3 and 4 of Article 53 as well as paragraphs 5 and 6 of the Section of the Protocol of Signature referring to Article 53, in particular in matters of cooperation;

(b) paragraph 4*bis* of the Section of the Protocol of Signature referring to Article 53, in particular in matters of support, including access to accommodation; and

(c) Article 53A, in particular in respect of administrative decisions.

2. To the extent that agencies designated by the Federal Minister of Defense perform the functions of industrial inspection agencies (Gewerbeaufsichtsämter) with regard to the German Armed Forces, those agencies, in cooperation with the authorities of the force and of the civilian component in accordance with paragraph 1 of this Section, shall also

be competent for civilian labor with a force or a civilian component.

3. Exemptions applicable for facilities of the German Armed Forces shall also be applicable for facilities of a force or of a civilian component.

4. Facilities built or installed prior to the entry into force of the Agreement of 18 March 1993 to amend the present Agreement shall remain subject to the provisions applicable hitherto as regards technical requirements. This shall not apply where facilities undergo substantial modification, or where their use is changed significantly, or where, because of the nature of their operation, avoidable risks to the life or health of third parties, especially civilian labor, are to be anticipated.

Re Article 56, paragraph 3

Accident prevention regulations under German law shall be taken into account only to the extent that a force or civilian component has not issued corresponding accident prevention directives. When promulgating accident prevention directives, and with respect to other questions regarding accident prevention, the force or civilian component shall seek the advice of the competent German authorities. Where these authorities find that accident prevention directives appear to be inadequate, consultations in accordance with the third sentence of paragraph 1 of Article 53 shall take place.

Re Article 56, paragraph 5

The competence of German authorities to regulate payment procedures shall not preclude the conclusion of agreements between these authorities and the authorities of a force or of a civilian component, whereby the calculation and payment of the remuneration of civilian labor is performed by agencies other than German authorities.

Re Article 56, paragraph 9

1. The individual administrative units and establishments (Betriebe) of a force or of a civilian component as set up in the territory of the Federal Republic of Germany and defined by the force concerned shall be agencies within the meaning of the Federal Personnel Representation Law (Bundspersonalvertretungs-gesetz) of 15 March 1974 (Bundesgesetzblatt Teil I, page 693) **** with subsequent amendments, up to and**

including the amendment of 16 January 1991 (Gesetz über die Beteiligung der Soldaten und der Zivildienstleistenden -BG- vom 16. Januar 1991, Bundesgesetzblatt 1991, Teil I, S. 47) **, referred to in this Section as "the Law." Those headquarters which are administratively immediately subordinate to the highest service authority of a force and to which other agencies are administratively subordinate shall be the intermediate authorities. The highest service authority shall be the headquarters of a force, designated by the sending State concerned, exercising final authority over matters that are subject to works council participation. Where decisions are taken at levels above the highest service authority, the force shall ensure that timely information is provided to the works council. ** Amendment concluded on 16 May 1994 at Bonn, legally not yet effective)**

2. In the case of duty travel performed by the members of a works council (Betriebsvertretung), travelling expenses shall be paid pursuant to the tariff provisions governing travelling expenses for salaried civilian employees of the force but at not less than the second highest rate.
3. In discussions with the works council, the head of the agency may be represented by a person holding a responsible position in the management of the agency and authorized to negotiate with the works council to the same extent as the head of the agency.
4. Application of those provisions of the Law which govern eligibility for works council office, and relate to length of employment with an agency, may be waived if so agreed by the majority of employees of a given agency and the head of such agency.
5. The head of the agency shall not be required to submit to the members of the works council, to the committee referred to in Section 93 of the Law and to the conciliatory committee any material which is classified for security reasons; the same shall apply to information therefrom. In order to perform its duties the works council may be granted access to secure areas to the extent necessary. Insofar as the regulations of the highest service authority of the force relating to military security preclude or restrict such access, access shall be granted under the same conditions under which the civilian labor is allowed access.
- 6.(a) (i) Insofar as in individual cases the right of co-determination provided for in the Law is incompatible with military interests particularly worthy of protection, the extent of the right of co-determination may be restricted. The highest service authority shall communicate in writing the reasons for the restriction on the right of co-determination and shall specify the extent of such restriction. Where the disclosure of reasons would cause a danger of serious detriment to the security of the sending State or its force, the highest service authority may establish this by means of a formal

declaration to be confirmed by the President of the Federal Labor Court.

(ii) In cases where accommodation is returned to the Federal Government, the application of the right of co-determination shall not prevent the return of such accommodation on the projected date notified by the force to the appropriate German authorities. In such cases, the appropriate conclude special arrangements to take over accommodation, even if it has not been completely vacated.

(iii) (aa) The right of co-determination provided for in the Law with respect to the establishment, management and dissolution of social facilities, regardless of their legal form, shall apply only to social facilities maintained exclusively for civilian labor.

(bb) The right of co-determination provided for in the Law with respect to the layout of the workplace shall not apply where members of both the force or the civilian component and civilian labor are employed in the same facility or involved in the same program, and the number of civilian labor involved does not predominate.

(iv) Insofar as the contents of personnel questionnaires for salaried employees and workers concern questions of military security, the cooperation procedures shall apply instead of co-determination provided for in the Law.

(v) The right of co-determination provided for in the Law with respect to assignments in accordance with Section 123a of the Civil Service Framework Law (Beamtenrechtsrahmengesetz) shall not apply.

(vi) To the extent that matters are regulated by law or tariff agreement, or are usually regulated by agreement in accordance with subparagraph (a) of paragraph 5 of Article 56, they are not subject to co-determination.

(vii) Co-determination shall not apply in respect to items 1 and 2 of paragraph 1 as well as item 13 of paragraph 3 of Section 75, and items 5 and 7 of paragraph 2 of Section 76 of the Law. This exclusion shall be reviewed immediately after 31 December 1994.

(b) In those cases where the rights of co-determination are not applicable by virtue of subparagraph (a) above, the cooperation procedure shall apply.

(c) The conciliatory committee envisaged in the co-determination procedure shall

consist of two members, one to be appointed by the highest service authority and one by the appropriate works council of that authority, as well as an impartial chairman to be agreed upon by both sides. If no agreement can be reached on the chairman, the appointment shall be made by the Secretary-General of the North Atlantic Treaty Organization, unless the parties jointly request the President of the Federal Administrative Court or the Secretary-General of the Western European Union to make the appointment. The highest service authority may insist upon the members of the conciliatory committee being cleared to handle classified material. At the request of the force or works council concerned, in appropriate circumstances, standing or ad hoc conciliatory committees may be established.

(d) The conciliatory committee shall decide by resolution (Beschluss). It may meet the requests of the parties concerned only in part. Resolutions shall be passed by majority vote. Conciliatory committee decisions shall be within the framework of legal provisions, including the budgetary laws and highest service regulations of the sending State, binding upon the authority of the force.

7. The head of the agency shall submit administrative instructions to the works council for its cooperation in accordance with Section 78 of the Law prior to their being issued, except in circumstances in which paragraph 6 of Section 72 applies in conjunction with the fifth sentence of Section 69 of the Law.

8. Deleted.

9. Where the Law provides for court decisions, the German Labor Courts shall decide cases in accordance with the procedure provided for in German law (Beschlussverfahren), and the Federal Republic shall act in the proceedings in the name of a force or a civilian component at their request.

10. At the request of a force or a civilian component, the agency designated by the Federal Republic shall apply for the institution of a criminal prosecution in respect of a breach of secrecy (Verletzung der Schweigepflicht) in accordance with Article 203, paragraph 2, subparagraph 3, and Article 353b, paragraph 1, subparagraph 3, of the Penal Code.

Article 57

1.(a) A force, a civilian component, their members and dependents shall, subject to the approval of the Federal Government, have the right to enter the Federal

Republic or to move within and over the Federal territory in vehicles, vessels and aircraft; transports and other movements within the scope of German legal provisions, including the present Agreement and other international agreements to which the Federal Republic and one or more of the sending States are party, as well as related technical arrangements and procedures, shall be deemed to be approved. Insofar as special permits and exceptional permits as well as exemptions from legal provisions governing the transport of hazardous material are required for military movements and transports, they shall be obtained by the competent agencies of the German Armed Forces.

(b) The competent agencies of the German Armed Forces shall coordinate the representation of the military interests of the forces in traffic matters vis-à-vis civilian authorities. They shall also coordinate the execution of military traffic movements of the sending States with each other and with civilian traffic. The manner and extent of such coordination shall be arranged between the authorities of the forces and the German Armed Forces. Where such arrangements have not been concluded, the forces shall notify military movements by road and by rail to the competent agencies of the German Armed Forces. In respect of military air traffic, normal procedures shall apply.

2. The operating rights of the German railways shall remain unaffected. The registration and movement of freight cars and passenger cars of a force as well as the admittance of locomotives of the force shall be governed by registration contracts or administrative agreements to be concluded between the authorities of the force and the German railway authorities.

3. A force, a civilian component, their members and dependents shall, unless otherwise provided in the present Agreement, observe German traffic regulations, including regulations concerning behavior at the scene of an accident, as well as regulations on the transport of hazardous material. Observance of such regulations shall be supervised by the competent authorities. In order to facilitate the control of the observance of these regulations, this supervision may be conducted jointly. The conduct of such supervision may be regulated by local arrangements. Existing arrangements shall continue to apply unless revised.

4.(a) Deviations from German regulations governing conduct in road traffic shall be permitted to a force in accordance with German law. In the event of future changes in German laws or regulations concerning road traffic, deviations required by military exigency shall take place in accordance with procedures agreed between the authorities of a force and the competent German authorities.

(b) Agreements shall be concluded between the authorities of a force and the German authorities regarding the designation and use of a road network for military traffic by vehicles and trailers, the dimensions, axle loads, total weight or number of which exceed limitations under German traffic regulations. The operation of such vehicles and trailers on roads not within the agreed network shall be carried out only with the permission of the competent German authorities. In case of accidents, catastrophes, state of emergency or by prior agreement between the authorities concerned, permission of the competent German authorities is not necessary.

5. The authorities of the sending State shall observe basic German transportation safety regulations. Within that framework, they may apply their own standards to the design, construction and equipment of vehicles, trailers, inland water vessels or aircraft. The German authorities and the authorities of the force shall consult closely on the implementation of this provision.

6. A force and a civilian component shall be allowed to use civilian airfields and other landing areas not made available for their exclusive use for landing military aircraft only in cases of emergency or in accordance with administrative agreements or other arrangements concluded with the competent German authorities.

7. Deleted.

8. All air traffic control and related communications systems developed and operated by the German authorities and by the authorities of the forces shall be coordinated to the extent necessary to ensure air traffic safety and the common defense.

Re Article 57, paragraph 3

During the thaw period any special road signs erected by the German authorities or special orders issued by the latter shall be observed except in cases of accidents, catastrophes or a state of emergency.

Article 58

1. A force, a civilian component, their members and dependents shall be entitled to use publicly and privately owned German transport facilities and services which serve the

needs of public transport in the Federal Republic. Unless otherwise agreed, the exercise of this right shall be subject to the generally applicable transportation regulations.

2.(a) Tariffs applicable to a force and a civilian component for the use of the transport facilities and services referred to in paragraph 1 of this Article shall be not less favorable than those applicable to the German Armed Forces. Such tariffs shall be fixed for approved by the competent German authorities in accordance with German transportation legislation. The authorities of the force shall have the right to participate in negotiations with the carriers concerning military tariffs. When, in respect of transportation services for a force and its civilian component, special conditions arise for which the military tariffs do not provide, the German authorities shall, after negotiations between the authorities of the force and the carriers, make suitable additions to the military tariffs within the scope of their legal powers.

(b) Military tariffs shall be computed on the basis of a simplified scheme, which shall take into account the special character of military traffic and facilitate their application by a force or a civilian component.

(c) The overall effect of the application of military tariff rates shall result in no less favorable treatment for a force or a civilian component than would have resulted from the application of public tariff rates including relevant special tariffs.

3. The Federal Republic shall give sympathetic consideration to requests by a force for construction of additional facilities or for modification of existing facilities, where the transportation requirements of the force cannot otherwise be met.

4. The German authorities shall, where necessary, take appropriate steps within their competence to ensure that requirements of a force with respect to tank cars, sleeping and dining cars will be satisfied on reasonable terms by contractual arrangements between the authorities of the force and the enterprises which provide such services on a commercial basis to other users.

Re Article 58

The limited use, by the military transport services of a force, of specialized internal telephone systems operated by German agencies may be continued, subject to the conclusion of administrative agreements, provided that

- (a) the number of existing extensions shall not be increased;
- (b) this number shall be jointly reviewed immediately after the entry into force of the Supplementary Agreement, and shall be reduced as far as possible;
- (c) by mutual agreement the number of extensions shall subsequently be progressively reduced and these extensions finally discontinued as and when the technical development of the public telephone system or of an alternative military system renders such exceptional use unnecessary.

Article 59

1.(a) A force may establish and operate post offices for the postal and telegraphic services of the force, the civilian component, their members and dependents.

(b) In particular, the forces post offices may

(i) receive from outside the Federal territory,

(ii) dispatch to destinations outside the Federal territory and to other forces post offices within the Federal territory,

(iii) carry within the Federal territory open or closed mails

open or closed mails of the force, the civilian component, their members and dependents.

(c) Postal remittance facilities shall be restricted to traffic between forces post offices and between such offices and other post offices of the sending State concerned.

2. The forces post offices may dispatch to the German Federal Post or receive from the German Federal Post open or closed mails of the force, the civilian component, their members and dependents. International agreements applicable between the Federal Republic and the sending State concerned shall apply to postal transactions between the forces post offices and the German Federal Post unless special agreements are concluded between the German authorities and the authorities of the force with regard to postal charges or particular services. Exchange offices shall be established by mutual agreement.

3. Mail posted at forces post offices may bear stamps of the sending State concerned.
4. Where a unit of a force does not operate forces post offices, such unit, its civilian component, their members and dependents may use the postal services of another force. Where such use is to be permanent or of long duration, the German Federal Post shall be informed as soon as possible.

Article 60

1. Insofar as this Article does not provide otherwise, a force, a civilian component, their members and dependents, shall use the public telecommunications systems of the Federal Republic. Subject to other arrangements provided for by administrative agreement, such use shall be governed by the German regulations in force at the time. In the application of such regulations, the treatment accorded to a force shall be no less favorable than that accorded to the German Armed Forces.
2. To the extent required for military purposes a force may set up, operate, and maintain:
 - (a) telecommunication facilities (except radio installations) within accommodation used by it;
 - (b) radio stations for fixed services, subject to prior consultation with the German authorities;
 - (c) facilities for mobile radio services and radio location services;
 - (d) other radio receiving facilities;
 - (e) temporary telecommunication facilities of any kind for training exercises, maneuvers, and in cases of emergency, in accordance with procedures agreed upon with the German authorities.
- 3.(a) With the consent of the German authorities a force may set up, operate, and maintain wire telecommunication facilities outside accommodation used by it if
 - (i) compelling reasons of military security exist, or
 - (ii) the German authorities are either not in a position to provide, or forgo the provision of, the facilities required.

(b) Expeditious procedures for obtaining the consent of the German authorities shall be ensured by administrative agreement.

4.(a) A force may continue to operate and maintain telecommunication facilities taken into use under then existing regulations prior to the entry into force of the present agreement.

(b) Deleted.

5.(a) A force shall have the right to operate its own sound and television broadcasting stations for the force, the civilian component, their members and dependents, provided that such stations do not adversely affect German broadcasting services in an unreasonable manner. Subject to this condition, existing broadcasting stations of this type may continue in operation. Additional stations may be established and operated only with the agreement of the German authorities.

(b) A force, a civilian component, their members and dependents, may set up and operate sound and television broadcast receiving apparatus free of charge and without individual licenses, provided no electromagnetic interference is caused to radio communication services.

6. Radio frequencies together with their specific data shall be governed by the provisions of paragraph 5 of the Section of the Protocol of Signature referring to this Article.

7.(a) Telecommunication facilities established by a force may be interconnected with the public telecommunication networks of the Federal Republic.

(b) Telecommunication facilities of the force for interconnection with the public telecommunication networks of the Federal Republic, as well as radio installations, shall meet the basic requirements laid down in German legal regulations. Existing special features shall be taken into consideration for a transitional period. The transitional period shall not be terminated without mutual agreement between the forces and the German authorities.

(c) Exceptions to the principle referred to in subparagraph (b) of this paragraph shall only be permissible

(i) for telecommunication facilities already in the possession of the force or being procured upon entry into force of the Agreement of 18 March 1993 to amend the present Agreement, or

(ii) on the basis of special agreements between the force and the Federal Minister of Posts and Telecommunications.

Any questions of liability arising as a result thereof shall be settled in conformity with the provisions of existing agreements.

8.(a) In establishing and operating telecommunication facilities, a force shall observe the provisions of the International Telecommunication Convention, done at Nairobi on 6 November 1982, or of such other instrument as may replace it and any other international instruments in the field of telecommunications binding on the Federal Republic.

(b) A force shall be exempt from the provisions referred to in subparagraph (a) of this paragraph to the extent that such exemption is granted to the German Armed Forces under German domestic regulations.

(c) In concluding future international agreements in the field of telecommunications, the German authorities shall, after consultation with a force, give adequate consideration to the telecommunication requirements of the force.

9.(a) A force shall take all measures which can reasonably be expected of it to avoid or eliminate interference caused to German telecommunication services by the telecommunication or other electrical facilities of the force.

(b) The German authorities shall within the scope of German regulations take all measures which can reasonably be expected of them to avoid or eliminate interference caused to the telecommunication services of a force by German telecommunication or other electrical facilities.

10. At the request of a force, the Federal Minister of Posts and Telecommunications shall, within his sphere of responsibility, advocate the interests of the force in the interpretation and application of this Article.

Re Article 60

1. Deleted.

2. Aeronautical and meteorological services fall within the category of radio services referred to in subparagraphs (b) and (c) of paragraph 2 of Article 60.

3. Deleted.

4. The right mentioned in subparagraph (a) of paragraph 5 of Article 60 to set up and operate sound and television broadcasting stations does not affect the question of copyright.

5.(a) A force shall use only the frequencies assigned to it by the German authorities. The authorities of the force shall notify the German authorities of frequencies no longer required. If, by reason of international obligations, international relations, or essential German interests, the German authorities deem it necessary to change or withdraw a frequency assignment, they shall, before doing so, consult the authorities of the force.

(b) The procedure for the assignment of frequencies, for changes or withdrawals of frequencies already assigned and for an accelerated assignment of frequencies for temporary use in maneuvers shall be laid down by special agreement between the German Federal authorities and the authorities of a force represented in the Consultative Working Group on Radio Frequencies (CWG) or its successor. Such agreement shall be in accordance with relevant North Atlantic Treaty Organization procedures, directives and recommendations.

(c) Measures for the protection of frequencies through the competent North Atlantic Treaty Organization authority shall be initiated by the force concerned in agreement with the Federal Minister of Defense. Measures for the protection of frequencies through other international organizations, especially through the International Telecommunication Union (ITU), shall be initiated by the German authorities only at the request of the authorities of the force concerned.

(d) Information on frequencies used by a force shall be transmitted by the German authorities to other agencies and organizations only with the consent of the authorities of the force.

(e) Where radio stations of a force cause harmful interference to radio stations located outside the Federal territory, or suffer harmful interference from such stations, the German authorities shall proceed in accordance with the International Telecommunication Convention in force at the time and its pertinent Radio Regulations.

(f) Deleted.

6. Deleted.

Article 61

1. Subject to the effects of the tax and customs exemptions provided in the NATO Status of Forces Agreement, in the present Agreement or in any other applicable agreement, the prices of deliveries and services to a force or a civilian component shall correspond to the current price levels in the Federal territory; they may not exceed the prices admissible in the case of deliveries and services to German authorities. Where goods are subsidized in the interest of the individual German consumer, such subsidies cannot be claimed by a force or a civilian component unless these goods are intended for the use of, or consumption by, persons falling under the category of labor within the meaning of Article 56 of the present Agreement.

2. The provisions of the present Agreement concerning wages, transportation and telecommunication tariffs shall not be affected by the provisions of paragraph 1 of this Article.

Article 62

1. Where requisitioning procedures (Anforderungsverfahren) are carried out on behalf of a force or a civilian component under German procurement legislation, the following provisions shall apply:

(a) The proceedings shall be instituted by the German authorities to be determined in consultation with the authorities of the force or of the civilian component.

(b) In accordance with administrative agreements, the competent German authorities shall undertake the exercise of the rights and the fulfillment of the obligations arising out of the position of the force or the civilian component as recipients of goods, services and facilities (Leistungsempfänger). However, the force or the civilian component shall itself fulfil such obligations as by their nature cannot be fulfilled by the German authorities. The German authorities representing the interests of the force or of the civilian component in matters concerning the amount of compensation payable shall consent to proposals in that regard made by the person liable to supply goods, services and facilities (Leistungspflichtiger) or by the assessment authority only after consultation with

the authorities of the force or of the civilian component; similarly, they shall themselves make proposals regarding the amount of compensation payable only after such consultation. The provisions of Article 63 of the present Agreement shall remain unaffected.

(c) Lawsuits on behalf of, or against, the force or the civilian component arising out of their position as recipients of goods, services and facilities shall be instituted or defended by the Federal Republic in its own name.

2. The provisions of paragraph 1 of this Article shall not apply in respect of the Restricted Areas Law and the Land Procurement Law.

Article 63

1. If and to the extent that it is provided in paragraphs 2 to 7 of this Article, no payment shall be made for property or services used by a force for its own purposes or for the purposes of a civilian component or rendered to it for such purposes.

2. Public roads, highways, and bridges may be used free of charge by a force or by a civilian component.

3. A force or a civilian component shall enjoy free of charge administrative services and assistance, including the services of the German police, public health, and fire protection, as well as meteorological, topographical, and cartographical services to at least the same extent as the German Armed Forces. The same shall apply to the use of navigable waters.

4.(a) Except to the extent that other arrangements have been or will be made, property legally owned by the Federation (rechtlich im Eigentum des Bundes stehend) or which has been or will be procured or constructed from funds of the Occupation Costs and Mandatory Expenditures or Support Costs budgets, may be used free of charge by a force or a civilian component. This shall not apply to the use of property owned or administered by the German Federal Railways or Federal Post.

(b) Except to the extent that other arrangements have been or will be made, the Federal Republic shall ensure that a sending State to which property legally owned by a Land (rechtlich im Eigentum eines Landes stehend) has been or will be made available for use is relieved from the liability for any possible claim to compensation that may be due to the Land under German law.

(c) Except to the extent that other arrangements have been or will be made, rental for the use of property not falling under the first sentence of subparagraph (a) or under subparagraph (b) of this paragraph and which has been or will be reconstructed with funds made available by the Federal Republic or with a sending State's own funds shall be reduced in the proportion which the cost of reconstruction bears to the total value of the property.

(d) Exemption from payment for the use of property as set forth in subparagraphs (a) to (c) of this paragraph shall not, however, extend to

(i) cost of repairs and maintenance;

(ii) current public charges on property to the extent that the Federation is obliged under German law to pay or reimburse such charges;

(iii) other operating costs.

5.(a) The following items of the expenditure arising in consequence of goods and services demanded or rights restricted, transferred or withdrawn under German laws at the instance of a force or of a civilian component, shall not be borne by the sending State:

(i) compensation payable under the Land Procurement Law with the exception of

(aa) compensation for anticipatory possession (Besitzinweigungsentschädigung) except in the case of Land Procurement actions (Landbeschaffungsvorhaben) initiated after the entry into force of the present Agreement;

(bb) compensation payments for the use of accommodation made available to the force or the civilian component and not legally owned by the Federation or by a Land (nicht rechtlich im Eigentum des Bundes oder eines Landes), except in the case of accommodation made available to the force or the civilian component after the entry into force of the present Agreement for the purpose of the erection of permanent structures;

(ii) compensation for restricted areas (Schutzbereichentschädigung) payable under German law to the Länder, insofar as prejudice caused to property (Vermögensnachteile) by the establishment of the restricted area arises only from the restriction of economic use or other exploitation of the

property.

(b) Where in consequence of the procurement of land for a force or a civilian component other costs arise for the Federation, negotiations on a case to case basis shall take place between the German authorities and the authorities of the force, taking into account all relevant factors, and without prejudice to the provisions of subparagraph (c) of paragraph 6 of this Article, to determine whether, and if so to what extent, the sending State for whose benefit the land is to be procured shall bear such costs, and agreements shall be concluded thereon.

(c) Where in cases in which restricted areas have been provided at the instance of a force the compensation therefor is not payable in the form of recurrent payments, the German authorities and the authorities of the force may enter into negotiations in appropriate cases, and on a case to case basis, concerning apportionment of the compensation, taking into account all relevant factors, including the period of use by the force of the accommodation for which the restricted area exists.

6.(a) Of the expenditure arising out of any kind of construction works of a force or a civilian component, or in connection with such works, the sending State shall not be liable for expenditure incurred in evacuating land (Räumung).

(b) If installations and facilities serving transportation and telecommunications, electricity, gas and water supply, or sewage disposal, which are established, modified, reinforced, or extended at the instance of the authorities of a force or of a civilian component serve also to satisfy German needs, the expenditure, including the cost of repair and maintenance, on such installations and facilities shall be apportioned in a manner which corresponds to the extent of the German interest as compared with the interest of the sending State. The amounts shall in each individual case be agreed between the German authorities and the authorities of the force. This arrangement shall also apply to the costs of repair and maintenance of installations and facilities of the kind mentioned which the German side plans to close down or dismantle, but which are to be retained at the request of a force or a civilian component.

(c) If in consequence of land procurement for a force or a civilian component, or as a result of construction works carried out by or for the benefit of a force or of a civilian component, installations and facilities serving transportation and telecommunications, electricity, gas and water supply, or sewage disposal, require re-routing or replacing either because they are no longer available for public use or it can be shown that it is no longer practicable so to use them, the sending State shall bear expenditure which arises only to the extent that the hitherto prevailing

standard is not exceeded.

7.(a) If military or other aircraft used by a force are permanently accommodated on civil airfields, including civil airports, not made available for the exclusive use of the force, payment which varies from the fees valid under German regulations may be agreed upon for the jointly used installations and facilities. Such payment may by arrangement be in services or in kind.

(b) Emergency landings made by military or other aircraft used by a force shall be exempt from fees.

Re Article 63

1. The arrangements set forth in Article 63 shall not exclude the possibility of agreements being concluded on financial matters during discussions or negotiations which are envisaged in the Supplementary Agreement or in the NATO Status of Forces Agreement and in which financial matters play a part.

2. Property and services used by or rendered to a force or to a civilian component without charge in accordance with paragraphs 2 and 3 and subparagraphs (a) and (b) of paragraph 4 of Article 63 may be officially made available by the force or by the civilian component to the dependents of the members of the force or of the civilian component in the same way as they may be officially made available to such members themselves.

3. Services rendered by the German Armed Forces in the meteorological, topographical, and cartographical fields shall be reserved to special arrangements.

4. Property legally owned by the Federation or by a Land (rechtlich im Eigentum des Bundes oder eines Landes stehend) shall not be deemed to include property owned by other juristic persons even though their shares are held by the Federation or by a Land.

5. The Federal Republic is prepared to ensure under special agreements to be concluded in individual cases that certain property owned by juristic persons whose shares are held by the Federation or by a Land shall be made available to a force or to a civilian component for use without any obligation on their part to pay rental therefor.

6. Property within the meaning of subparagraphs (a) and (b) of paragraph 4 of Article 63 may be transferred by a force or a civilian component to another force or another civilian component only with the consent of the German authorities.

7.(a) If it is so agreed between the German authorities and the authorities of a force, payment shall be made for the use of property acquired by the Federation after the entry into force of the Supplementary Agreement for purposes other than defense.

(b) If it is so agreed between the German authorities and the authorities of a force, the sending State shall not be relieved from liability for any possible claims which may be due to a Land under German law in respect of the use of property acquired by the Land after the entry into force of the Supplementary Agreement for purposes other than defense.

8. Other operating costs within the meaning of subparagraph (d) of paragraph 4 of Article 63 also include the following:

(a) the cost of

(i) cleaning and strewing roads, pavements, and access ways;

(ii) disposal of sewage and waste;

(iii) drainage;

(iv) chimney sweeping and measurements for reasons of emissions protection in conjunction with the operation of furnaces by the force;

(v) compulsory insurance against fire and other damage to property;

insofar as there is obligation under German law to meet such cost;

(b) where applicable, the cost of

(i) supply of electricity, gas, water, heat and fuel, whether made available together with the property or separately obtained direct from the appropriate public supply services;

(ii) operation of lifts;

(iii) cleaning and disinfestation;

(iv) upkeep of gardens;

(v) employment of caretaker.

8bis.(a) Other operating costs within the meaning of subparagraph (d) of paragraph 4 of Article 63 include running costs of necessary measures within accommodation to prevent physical environmental damage.

(b) A force or a civilian component shall in accordance with this paragraph bear costs arising in connection with the assessment, evaluation and remedying of hazardous substance contamination caused by it and that exceeds then-applicable legal standards. These costs shall be determined pursuant to German law as applied in accordance with paragraph 1 of Article 53 or, where applicable, in accordance with Articles 41 or 52. The authorities of the force or of the civilian component shall pay these costs as expeditiously as feasible consistent with the availability of funds and the fiscal procedures of the Government of the sending State.

(c) In the event of differences over the applicability of this paragraph to particular costs, the authorities of the force or of the civilian component shall consult with the German authorities; if necessary, they may conclude separate agreements pursuant to paragraph 1 of this Section.

9. In view of the fact that payment by a force of current public charges on property and of other operating costs may in some cases involve direct payment to the supplier of the services concerned (some of which services are separately payable under German law and are not covered, or are not fully covered, by the current public charges on property) and in other cases reimbursement to the Federal Republic, arrangements shall to the extent necessary be made to make sure that there is no duplication of payment for the same service.

10. The arrangement set forth in subparagraph (d) of paragraph 4 of Article 63 and in paragraph 8 of this Section shall not exclude negotiations between the authorities of the force and the local German authorities with a view to obtaining exemption from fees where such services are performed by the force itself instead of by the competent German agencies.

11. As far as accommodation is concerned, the expression "cost of repairs and maintenance" contained in item (i) of subparagraph (d) of paragraph 4 of Article 63 shall mean costs arising from the repair and maintenance work referred to in paragraph 4 of Article 48 and in paragraph 6 of the Section of the Protocol of Signature referring to that Article.

12. Compensation payable under the Land Procurement Law (item (i) of subparagraph (a) of paragraph 5 of Article 63) includes the payments to be made in the case of procurement by free negotiation, in particular, the purchase price and rental.

Article 64

Administrative services and assistance, including the services of the German police, public health, and fire protection services, meteorological, topographical, and cartographical services, and other public services as well as public facilities, shall be made available without charge to the members of a force or of a civilian component or to dependents, in their own right, to the same extent as such facilities and services are available without charge to other persons in the Federal territory. The same shall apply to the use of public roads, highways, and bridges, and of navigable waters.

Article 65

1.(a) The relief from customs duties referred to in paragraph 4 of Article XI of the NATO Status of Forces Agreement shall be granted not only in respect of goods which at the time of their importation are the property of a force or a civilian component, but also in respect of goods delivered to a force or a civilian component in fulfillment of contracts concluded by the force or the civilian component directly with a person or persons not domiciled in the Federal Republic or Berlin (West). Such relief shall apply irrespective of whether such goods are carried in transport of the force or the civilian component or by commercial transport.

(b) Customs duties and excise taxes, including the Turnover Equalization Tax (Umsatzausgleichsteuer), shall not be levied in respect of imported goods which are withdrawn from customs-free areas or from continuous customs control for delivery to a force or a civilian component under contracts which an official procurement agency of the force or of the civilian component has concluded with a person or persons domiciled in the Federal Republic or in Berlin (West), provided that payment therefor is made in the currency of the sending State. This proviso shall also be deemed to have been fulfilled if payment is made in Deutsche Mark, which the force or the civilian component has obtained by the conversion of such currency in the Federal Republic through agreed agencies, or in Deutsche Mark which, by special agreement between the governments concerned, may be so used for this purpose.

2. The relief referred to in paragraph 1 of this Article shall apply equally to goods imported or acquired by a force or a civilian component for disposal to their members or to dependents for their private use or consumption. Except where in specific cases it is otherwise agreed between the authorities of the force and the German authorities, disposal should be made only through specified services of the force or the civilian component or through organizations serving them, the names of which shall be notified to the Federal Government.

3. A force or a civilian component shall be permitted to dispose of goods in the Federal territory to persons other than members of the force or of the civilian component or dependents in accordance with agreements to be concluded with the German authorities. The fulfillment of the obligations under German customs legislation arising from the disposal of the goods shall be the responsibility of the person acquiring such goods. The force or the civilian component shall permit removal of the goods only on production by the person concerned of a certificate from the German customs authority concerned to the effect that he has settled all relevant matters with the German customs administration.

4. A force and the component German authorities shall take all appropriate measures to ensure the smooth and rapid clearing of imports and exports of the force and the civilian component by the German customs authorities.

5. Customs control by the German authorities in respect of imports and exports of a force or a civilian component shall be exercised in accordance with the following principles:

(a) Subject to the provisions of paragraph 3 of Article XI of the NATO Status of Forces Agreement and subject to the provisions of subparagraphs (b), (c) and (d) of this paragraph, consignments of a force or of a civilian component may be examined by the German customs authorities as to the number, type, marking and weight of the individual packages.

(b) (i) The German customs authorities may also examine the contents of consignments. Such examination, so far as packages which are sealed with an official seal of a force or of the military authorities of a sending State are concerned, shall take place only in cases of serious suspicion. So far as other consignments are concerned, examination may also take place on a spot-check basis. The goods compartments of vehicles which are sealed as described in the second sentence of this item, and closed packages, shall be examined only in the presence of representatives of the force or of the civilian component designated for that purpose, unless in any particular case the force or the civilian component does not elect to be represented.

(ii) The extent of the examinations and the methods by which they shall be

carried out shall be the subject of special agreements to be concluded between the authorities of a force and the German customs authorities. Such agreements shall take into account the different kinds of consignment, the mode of transport, the system operated by the force, and all other relevant factors. A force or a civilian component may request that the examination take place not at the frontier but at or near the place of destination of the consignments. In such cases the German customs authorities shall be entitled to take such steps as are necessary to ensure that the consignment reaches the place of examination intact.

(c) If the German customs authorities so request, consignments, which, according to the certified statements of the authorities of a force, contain military equipment to which special security regulations apply, shall be subject to examination to be carried out only by representatives of the force specially designated for that purpose. The result of the examination shall be notified to the competent German authority.

(d) The provisions of subparagraphs (a), (b) and (c) of this paragraph shall apply in principle also to consignments of a force which arrive at or are sent from military airfields. The German customs authorities shall, however, content themselves with occasional checks which shall be undertaken after arrangements have been made with the authorities of the force responsible for the airfield in question. The authorities of the force shall carry out a regular control of all such consignments. Customs control in the interior of aircraft which are military equipment to which special security regulations apply shall be carried out only by specially designated representatives of the force.

6. Export of goods acquired in the Federal territory by a force or a civilian component shall be subject to the deposit at the customs office of a certificate similar to that referred to in paragraph 4 of Article XI of the NATO Status of Forces Agreement, except insofar as within the scope of paragraph 10 of that Article such certificate will be dispensed with.

Article 66

1. The members of a force or of a civilian component and dependents may, in addition to their personal effects and furniture and their private motor vehicles, import other goods intended for their personal or domestic use or consumption free of duty or any other import tax. This privilege shall apply not only to goods which are the property of such

persons but also to goods sent to them by way of gift or delivered to them in fulfillment of contracts directly concluded with a person or persons not domiciled in the Federal Republic or Berlin (West).

2. In the case of certain goods designated by the competent German authorities which are peculiarly the subject of customs contraventions, the privilege set forth in paragraph 1 of this Article shall apply only if such goods are imported personally by members of a force, of a civilian component or dependents in their accompanying baggage and in quantities fixed by the competent German authorities in agreement with the authorities of the force.

3. In doubtful cases the German customs officials shall be entitled to require a document to be produced certifying that the imported goods are intended for the personal or domestic use or consumption of the person importing them; this, however, shall not apply to goods the importation of which is limited in accordance with paragraph 2 of this Article. Such certificates shall be issued only by a limited number of officials, who have been specially designated for this purpose by the authorities of the force and whose names and specimen signatures have been notified to the German authorities.

4. Disposal of goods imported duty-free or acquired under tax-relief shall be permitted among members of the forces, of the civilian components and dependents. Unless exceptions have been generally authorized by the German authorities, disposal to other persons shall be permitted only after notification to, and approval of, the German authorities.

5.(a) The customs control of goods sent through the postal or freight services of a force, by or to the members of the force, of the civilian component or dependents, shall be exercised by the German customs authorities at places designated by agreement between those authorities and the competent authorities of the force. The customs inspection shall take place in the presence of representatives of the authorities of the force.

(b) If, for the purpose of applying the provisions concerning exchange control contained in Article 69 of the present Agreement, it becomes necessary to carry out in post offices of a force inspection of letters and postal packets sent by or to members of the force, of the civilian component or dependents, the sender or the receiver or an authorized representative of either must be present when such letters and packets are opened. The extent of these inspections and the manner in which they shall be carried out shall be agreed between the authorities of the force and the German authorities.

6. The members of a force or of a civilian component or dependents may re-export free of exit dues (Ausgangsabgaben) goods brought by them into the Federal Republic. They

may also, without being subject to economic export prohibitions or limitations and exit dues, export, in quantities consistent with their economic standing, goods which they own and which are not intended for trade. In doubtful cases the German customs authorities shall be entitled to require a document to be produced certifying that these conditions are fulfilled. This document shall be issued in accordance with the provisions of the last sentence of paragraph 3 of this Article.

7. When a customs control of members of a force, of a civilian component or dependents takes place at a customs office at which frontier liaison officials of a force are stationed, the German customs officials shall call in such officials if contraventions are discovered or if difficulties arise in connection with the inspections.

Article 67

1. A force shall not be subject to taxation in respect of matters falling exclusively within the scope of its official activities nor in respect of property devoted to such activities. This shall, however, not apply in respect of taxes which may arise from commercial trading by the force in the German economy or in respect of property devoted to this purpose. Deliveries made and services rendered by the force to its members, members of the civilian component and dependents shall not be regarded as commercial trading in the German economy.

2. Exemption from customs duties and other import and export duties on goods imported or exported by a force or a civilian component, or acquired by them from customs-free areas or from installations under customs control, shall be determined in accordance with Article XI of the NATO Status of Forces Agreement and with Article 65 of the present Agreement.

3.(a) (i) The tax relief provided under items (ii) and (iv) of this subparagraph shall be granted when goods or services are procured by an official procurement agency of a force or a civilian component for the use of, or consumption by, the force, the civilian component, their members, or dependents. The tax relief shall be taken into account in calculating prices.

(ii) Deliveries and services to a force or a civilian component shall be exempt from turnover tax. This tax exemption shall not apply to the sale of undeveloped and developed land as well as to the construction of buildings if such transactions are for the private requirements of members of the force, or the civilian component or of dependents.

(iii) Deleted.

(iv) Goods delivered to a force or a civilian component from the free inland trade (zollrechtlich freier Verkehr) shall be granted tax relief provided by customs and excise legislation in the event of export.

(b) Subparagraph (a) of this paragraph shall apply equally when the German authorities carry out procurement or construction works for a force or a civilian component.

(c) The relief referred to in subparagraphs (a) and (b) of this paragraph shall be granted subject to furnishing proof to the appropriate German authorities that the requirements for such grant are fulfilled. The form of furnishing proof shall be established by agreement between the German authorities and the authorities of the sending State concerned.

4. The special arrangements provided in paragraph 11 of Article XI of the NATO Status of Forces Agreement for fuel, oil and lubricants shall be made in conformity with subparagraph (b) of paragraph 1 of Article 65 of the present Agreement and with paragraph 3 of this Article.

Article 68

1. Members of a force or of a civilian component and dependents shall not be deprived of any tax benefits which they enjoy by virtue of any international agreement with the Federal Republic.

2. The insurance tax (Versicherungsteuer) is to be paid in those cases where the insurance premium is paid to an inland insurer or an authorized inland representative of a foreign insurer, but not where the premium is paid directly to a foreign insurer. With respect to insurance for private motor vehicles of members of a force or of a civilian component or of dependents, payment of the insurance tax is also not required where in individual cases the insurance premium, which is payable directly to the foreign insurer, is exceptionally paid to the authorized inland representative of such foreign insurer.

3. The fact that no residence is established in the Federal territory in accordance with paragraph 1 of Article X of the NATO Status of Forces Agreement shall not mean that members of a force or of a civilian component and dependents are to be regarded as

foreign purchasers within the meaning of the turnover tax legislation.

4. Dependents shall be treated for the purposes of Article X of the NATO Status of Forces Agreement in the same manner as members of a force or of a civilian component.

Re Article 68

1.(a) If a new German tax, which is created after the entry into force of the Supplementary Agreement and which is not merely an extension of an existing German tax, is applicable to members of a force or of a civilian component or to dependents under the provisions of the NATO Status of Forces Agreement and the Supplementary Agreement and is directly payable by them in accordance with German tax legislation, the Federal Government shall, upon request, carefully examine whether and to what extent such tax is to be paid by such persons. In this, the Federal Government shall, in particular, be guided by the endeavor to avoid any burdens on members of a force or of a civilian component or on dependents that appear unjustified in the light of the purpose and the special conditions of their presence in the Federal Republic.

(b) The same procedure shall apply if any tax existing at the time of the entry into force of the Supplementary Agreement but not contained in the list set forth in paragraph 2 of this Section is applicable to members of a force or of a civilian component or to dependents under the provision of the NATO Status of Forces Agreement and the Supplementary Agreement and is directly payable by them in accordance with German tax legislation.

(c) The list set forth in paragraph 2 of this Section specifies existing Federal and Land taxes and all other taxes known to the Federal Government at the time of the entry into force of the Supplementary Agreement that are applicable to members of a force or of a civilian component or to dependents under the provisions of the NATO Status of Forces Agreement and the Supplementary Agreement and are directly payable by them in accordance with German tax legislation. In general, the list does not include the indirect taxes which might be reflected in the price of goods and services and from which members of a force or of a civilian component or dependents are not exempted. The explanations accompanying some of the taxes contained in the list summarize the circumstances under which these taxes are applicable.

(d) Tax relief for members of the German Armed Forces and their dependents does not exist under present German law and such relief is not envisaged for the

future. Should such tax relief, however, be granted, the Federal Government shall endeavor to extend its application to members of the forces and of the civilian components and to dependents.

2. List of German Taxes

(a) Taxes on Income

Einkommensteuer, Lohnsteuer, Kapitalertragsteuer, Aufsichtsratssteuer, Steuerabzug von Einkünften bei beschränkt Steuerpflichtigen.

Tax is imposed only on internal income, i.e., in general, income earned within the Federal Republic, except emoluments and income paid to members of a force or of a civilian component by the sending State in their capacity as such members.

(b) Taxes on Property or on Ownership of Property

Vermögensteuer, Grundsteuer, Rentenbankgrundschuldzinsen, Kirchensteuer.

Tax is imposed only with respect to internal property, i.e., in general, property within the Federal Republic, except movable property which is in the Federal Republic for no reason other than that the member of a force or of a civilian component or the dependent is temporarily present in the Federal Republic.

(c) Tax on Inheritance and Gifts

Erbschaftsteuer.

Tax is imposed only on internal property (within the meaning of subparagraph (b) of this paragraph), except movable property which is in the Federal Republic for no reason other than that the member of a force or of a civilian component or the dependent is temporarily present in the Federal Republic, or on the usufruct value of such property acquired by way of inheritance or gift. If the deceased at the time of his death, or the donor at the time the gift was made, had their domicile or habitual residence (within the meaning of the tax laws) in the Federal Republic, the tax will be assessed on the basis of the total value of the inheritance or gift.

(d) Transfer and Traffic Taxes

Kapitalverkehrssteuern, Wechselsteuer, Beförderungsteuer, Versicherungsteuer, Grunderwerbsteuer (und Überpreis), Wertzuwachssteuer, Kraftfahrzeugsteuer.

As regards insurance tax, those insurers and authorized representatives shall be deemed to be inland insurers and authorized inland representatives within the meaning of paragraph 2 of Article 68 who have their domicile or seat or head office in the Federal territory.

The vehicle tax for private passenger vehicles shall only be levied on motor vehicles bearing German registration numbers.

(e) Levies within the scope of "Equalization of Burdens"

Lastenausgleichsabgaben.

(f) Taxes on Hunting, Shooting and Fishing

Jagdsteuer, Fischsteuer.

(g) Business Taxes

Gewerbesteuer, Umsatzsteuer, Schankerlaubnissteuer, Getränkesteuer, and other taxes which may be applicable to enterprises.

The taxes are imposed where members of a force or of a civilian component, outside their activities as members of a force or of a civilian component, act as enterprisers within the Federal territory. The concept of "enterpriser" (Unternehmer) covers the independent exercise of commercial or professional activities, i.e., any continuous activity designed to realize proceeds (Einnahmen), even if the intention to gain profit is absent. The concept of "turnover" (Umsatz) covers internal deliveries and services rendered within the Federal territory by an enterpriser against remuneration within the framework of his enterprise.

Article 69

1. The rights of the authorities of a force or of a civilian component, of the members of a force or of a civilian component, or of dependents to import, export and possess the

currency of the Federal Republic and instruments denominated in such currency in accordance with the regulations referred to in Article XIV of the NATO Status of Forces Agreement shall remain unaffected by the provisions of paragraphs 2, 3 and 4 of this Article.

2. The authorities of a force or of a civilian component shall have the right to import, export and possess currency, other than that of the Federal Republic, instruments denominated in any such currency and military scrip denominated in the currency of any sending State.

3. The authorities of a force or of a civilian component may distribute to the members of the force and of the civilian component and to dependents

(a) currency of, and instruments denominated in the currency of,

(i) the Federal Republic,

(ii) the sending State,

(iii) any other State, to the extent required for the purpose of authorized travel, including travel on leave;

(b) military scrip denominated in the currency of any sending State;

provided, however, that a system of payment to members of the force or of the civilian component or to dependents, in the currency of the sending State, shall be adopted by the authorities of the force only in cooperation with the authorities of the Federal Republic.

4. Subject only to the regulations which shall be made by the authorities of a force and notified to the authorities of the Federal Republic, a member of the force or of the civilian component and a dependent may

(a) import currency of the sending State, instruments denominated in such currency, and military scrip denominated in the currency of any sending State;

(b) export

(i) any currency other than that of the Federal Republic, and instruments denominated in any such currency, provided that such member or dependent has either imported such currency or instruments or received such currency or instruments from the authorities of the force or their authorized agents;

(ii) checks drawn by such member or dependent on a financial institution or agency in the sending State;

(iii) military scrip denominated in the currency of any sending State.

5. The authorities of a force shall, in cooperation with the authorities of the Federal Republic, take appropriate measures in order to prevent any abuse of the rights given under paragraphs 2, 3 and 4 of this Article and to safeguard the system of foreign exchange regulations of the Federal Republic insofar as such system, subject to the provisions of paragraphs 2, 3 and 4 of this Article, relates to a force, a civilian component, their members and dependents.

Article 70

In accordance with special agreements to be concluded, a force and a civilian component shall be granted interest on Deutsche Mark funds acquired with the currency of the sending State and held on daily call in accounts with the German Federal Bank (Deutsche Bundesbank).

Article 71

1. The non-German non-commercial organizations listed in paragraph 2 of the Section in the Protocol of Signature referring to this Article shall be considered to be, and treated as, integral parts of the force.

2.(a) The non-German non-commercial organizations listed in paragraph 3 of the Section in the Protocol of Signature referring to this Article shall enjoy the benefits and exemptions accorded to the force by the NATO Status of Forces Agreement and the present Agreement to the extent necessary for the fulfillment of the purposes described in paragraph 3 of that Section. However, benefits and exemptions in respect of imports for, deliveries to, or services for these organizations shall be granted only if such imports, deliveries or services are effected through the authorities of the force or of the civilian component or through official procurement agencies designated by these authorities.

(b) The organizations referred to in subparagraph (a) of this paragraph shall not have the powers enjoyed by the authorities of a force or of a civilian component under the NATO Status of Forces Agreement and the present Agreement.

3. In respect of their activities as non-commercial organizations, the organizations listed in paragraphs 2 and 3 of the Section of the Protocol of Signature referring to this Article shall be exempt from the German regulations, if otherwise applicable, governing the conduct of trade and business activities (Handel and Gewerbe). The provisions of industrial safety law (Arbeitsschutzrecht) shall nevertheless apply subject to the Section of the Protocol of Signature referring to this Article.

4. Other non-German non-commercial organizations may, in specific cases, be accorded, by means of administrative agreements, the same treatment as the organizations listed in paragraph 2 or 3 of the Section in the Protocol of Signature referring to this Article, if they

(a) are necessary to meet the military requirements of a force and

(b) operate under the general direction and supervision of the force.

5.(a) Subject to the provisions of paragraph 6 of this Article, employees exclusively serving organizations listed in paragraph 2 or 3 of the Section in the Protocol of Signature referring to this Article shall be considered to be, and treated as members of a civilian component. They shall be exempt from taxation in the Federal territory on the salaries and emoluments paid to them by the organizations if such salaries and emoluments are either

(i) liable to assessment for taxation in the sending State or

(ii) computed on the assumption that no liability to pay tax will arise.

(b) Subparagraph (a) of this paragraph shall also apply to employees of organizations which, in accordance with paragraph 4 of this Article, are accorded the same treatment as the organizations listed in paragraph 2 or 3 of the Section in the Protocol of Signature referring to this Article.

6. The provisions of paragraph 5 of this Article shall not apply to

(a) stateless persons;

(b) nationals of any State which is not a Party to the North Atlantic Treaty;

(c) Germans;

(d) persons ordinarily resident in the Federal territory.

Re Article 71

1. Unless otherwise agreed with the German authorities, the total number of civilian employees within the meaning of Article 56 of the Supplementary Agreement who, on the entry into force of that Agreement, are permanently employed in sales agencies and clubs serving a force, may not be increased by more than 25 per cent.

2. Non-German non-commercial organizations within the meaning of paragraph 1 of Article 71:

(a) British organizations:

(i) Navy, Army and Air Force Institutes (N.A.A.F.I.)

(ii) Malcolm Clubs

(iii) Council for Voluntary Welfare Work (C.V.W.W.) represented by Young Men's Christian Association (Y.M.C.A.)

(iv) Army Kinema Corporation

(v) R.A.F. Cinema Corporation

(b) Canadian organizations:

Maple Leaf Services

3. Non-German non-commercial organizations within the meaning of paragraph 2 of Article 71:

(a) American organizations:

(i) American Red Cross

Purpose:

Welfare and other assistance services for members of the force or of the civilian component and dependents

(ii) University of Maryland

Purpose:

University courses for members of the force or of the civilian component and dependents

(b) British organizations:

(i) The organizations attached to the Council for Voluntary Welfare Work (C.V.W.W.):

(aa) Church Army

(bb) The Church of Scotland Committee on Hut and Canteen Work for H.M. Forces

(cc) Catholic Women's League

(dd) British Salvation Army

(ee) Young Men's Christian Association (Y.M.C.A.)

(ff) Young Women's Christian Association (Y.W.C.A.)

(gg) Toc H

(hh) Methodist and United Board Churches

Purpose:

Social and religious welfare services for members of the force or of the civilian component and dependents, in particular operation of canteens, book shops, libraries and reading rooms

(ii) Women's Voluntary Services (W.V.S.)

Purpose:

Social welfare services for members of the force or of the civilian

component and dependents in N.A.A.F.I. canteens

(iii) British Red Cross Society, including the Order of the Knights of St. John and the St. Andrew's Ambulance Association

Purpose:

Welfare and physiotherapy services in British Service Hospitals

(iv) Forces Help Society and Lord Robert's Workshop

Purpose:

Welfare services for members of the force, in particular in connection with personal problems of members of the force

(v) Soldiers' and Airmen's Scripture Readers Association

Purpose:

Propagation of study of the Bible among members of the force or of the civilian component and dependents

(vi) Soldiers', Sailors' and Airmen's Families Association

Purpose:

Family welfare and nursing service for members of the force and of the civilian component.

(c) French organizations:

(i) Association d'entr'aide (First Aid Association)

Purpose:

Medical and social services for members of the force or of the civilian component and dependents, and particularly, as far as the Croix Rouge Francaise (French Red Cross) is concerned, administration of sanatoria and of social assistance medical centers

(ii) Associations Sportives et Culturelles

Purpose:

Promotion of communal outdoor cultural activities and outdoor sports among members of the force or of the civilian component and dependents; establishment of closer contact between teachers and parents of pupils; organization of private classes and kindergartens

(iii) Associations d'Officiers et de sous-Officiers de reserve

Purpose:

Establishment of contacts between officers and NCOs of the reserve stationed in the Federal territory as members of the civilian component or dependents

(iv) Associations d'Anciens Combattants et Victimes de la Guerre

Purpose:

Social and material support to members of the force or of the civilian component and dependents who are ex-servicemen or war victims and maintenance of close contact amongst them.

(d) Belgian organizations:

(i) Cantine Militaire Centrale (C.M.C.)

Purpose:

Operation of canteens and sales stores for the benefit of the force, of members of the force or of the civilian component and dependents

(ii) Associations sportives, culturelles et d'entr'aide sociale

Purpose:

Promotion of sports, establishment of closer contact between teachers and parents of pupils, organization of private classes and kindergartens, organization of libraries, mutual social assistance, for the benefit of members of the force or of the civilian component and dependents.

(e) Canadian organizations:

Canadian Salvation Army

Purpose:

Social and religious welfare services for members of the force or of the civilian component and dependents, in particular operation of canteens.

4. Vehicles operated by non-German non-commercial organizations listed in paragraphs 2 and 3 of this Section shall be considered to be "service vehicles" within the meaning of subparagraph (c) of paragraph 2 and paragraph 11 of Article XI and paragraph 4 of Article XIII of the NATO Status of Forces Agreement.
5. The German regulations mentioned in paragraph 3 of Article 71 include those relating to foreign companies, trade licensing, price control and shop closing hours.
6. The application of industrial safety provisions shall be governed by:
 - (a) paragraphs 3 and 4 of Article 53 as well as paragraphs 5 and 6 of the Section of the Protocol of Signature referring to Article 53, in particular in matters of cooperation;
 - (b) paragraph 4*bis* of the Section of the Protocol of Signature referring to Article 53, in particular in matters of support, including access to accommodation; and
 - (c) Article 53A, in particular in respect of administrative decisions.

Article 72

1. The non-German commercial enterprises listed in paragraph 1 of the Section in the Protocol of Signature referring to this Article shall enjoy
 - (a) the exemptions accorded to a force by the NATO Status of Forces Agreement and the present Agreement from customs, taxes, import and re-export restrictions and foreign exchange control to the extent necessary for the fulfillment of their purposes;
 - (b) exemptions from German regulations governing the conduct of trade and business activities (Handel and Gewerbe), except industrial safety (Arbeitsschutz) regulations;

(c) such benefits as may be determined by administrative agreement.

2. Paragraph 1 of this Article shall apply only if

(a) the enterprise exclusively serves the force, the civilian component, their members or dependents; and

(b) the activities of the enterprise are restricted to business transactions which cannot be undertaken by German enterprises without prejudice to the military requirements of the force.

3. Where the activities of an enterprise include business not conforming to the conditions set forth in paragraph 2 of this Article, the granting of exemptions and benefits provided in paragraph 1 shall be conditional upon a clear legal or administrative separation between those activities which are performed exclusively for the force and those which are not.

4. By agreement with the German authorities and on the conditions set forth in paragraphs 2 and 3 of this Article, other non-German commercial enterprises may be granted all or part of the exemptions and benefits referred to in paragraph 1.

5.(a) Employees of enterprises enjoying exemptions and benefits pursuant to this Article shall, if they exclusively serve such enterprises, be granted the same exemptions and benefits as those granted to members of a civilian component unless such exemptions and benefits are restricted by the sending State.

(b) Subparagraph (a) of this paragraph shall not apply to

(i) stateless persons;

(ii) nationals of any State which is not a Party to the North Atlantic Treaty;

(iii) Germans;

(iv) persons ordinarily resident in the Federal territory.

6. If the authorities of a force withdraw all or part of the exemptions and benefits accorded to these enterprises or to their employees pursuant to this Article, they shall so notify the German authorities.

Re Article 72

1. Non-German commercial enterprises within the meaning of paragraph 1 of Article 72

(a) American Enterprises

(i) American Express Co., Inc.

(ii) Chase Manhattan Bank (Heidelberg)

(b) Canadian Enterprises

Bank of Montreal

2. The banks listed in paragraph 1 of this Section shall not conduct activities which might influence the German market; in particular they shall not participate in the German stock market.

3. Within the limits of their discretion (pflichtgemäßes Ermessen), the competent German authorities shall grant exceptions under the industrial safety provisions (in particular, under Section 3 of the Accident Prevention Regulation "General Regulations") to such enterprises located within accommodation made available for the exclusive use of the force.

Article 73

Technical experts whose services are required by a force and who in the Federal territory exclusively serve that force either in an capacity in technical matters or for the setting up, operation or maintenance of equipment shall be considered to be, and treated as, members of the civilian component. This provision, however, shall not apply to

(a) stateless persons;

(b) nationals of any State which is not a Party to the North Atlantic Treaty;

(c) Germans;

(d) persons ordinarily resident in the Federal territory.

Article 74

1. Articles XII and XIII of the NATO Status of Forces Agreement apply equally to the provisions relating to the fields of customs and taxes contained in the present Agreement.

2. The authorities of a force and of a civilian component shall take all appropriate measures to prevent abuses which might result from the granting of benefits and exemptions in the fields of customs and taxes. They shall cooperate closely with the German authorities in the prevention of customs and tax offences.

3. The detailed application of the provisions of paragraphs 1 and 2 of this Article, including the conditions to be observed pursuant to paragraph 1 of Article XII of the NATO Status of Forces Agreement, shall be regulated by administrative agreements with the German authorities. Such administrative agreements shall in particular take into account the following points:

(a) The authorities of a force and of a civilian component shall, in agreement with the German authorities, ensure that certain goods are placed at the disposal of members of the force, of the civilian component or dependents only in reasonable quantities.

(b) Cooperation between the authorities of a force or of a civilian component and the German authorities shall include the exchange of relevant information concerning the selling agencies of the force and the organizations and enterprises serving the force, and shall also include, to the extent necessary, appropriate inspections therein.

4. Except to the extent precluded by military necessity, the authorities of a force or of a civilian component shall, at the request of the German authorities, provide the latter with such information as they may be reasonably expected to furnish and which is necessary to determine the tax liability of persons or enterprises which are subject to taxation in the Federal territory. The German authorities shall request such information of the authorities of a force or of a civilian component only if the data necessary for assessment cannot be obtained otherwise, for instance, from official certificates (Abwicklungsscheine) concerning the procurement of goods and services subject to relief if such certificates have been furnished to the German financial authorities, or from information which can be supplied to those authorities by other German authorities. The German authorities shall take measures to prevent the disclosure of the information to unauthorized third

parties.

Article 75

1.(a) Except in a case where the accused is a German, neither Article 19 of the present Agreement nor paragraphs 1, 2 and 3 of Article VII of the NATO Status of Forces Agreement shall apply to an offence alleged to have been committed by a member of the forces prior to the entry into force of the present Agreement where before that date

(i) proceedings in respect of such offence have been initiated or terminated by an authority of a force exercising judicial powers, or

(ii) the prosecution of the offence became barred, under the law of the sending State concerned, by the expiry of a prescribed period of time.

(b) Where proceedings are pending at the date of entry into force of the present Agreement, the provisions of the Forces Convention concerning the exercise of jurisdiction over offences committed by such members shall continue to have effect for those proceedings, as if that Convention were still in force, until the conclusion of the proceedings, provided notification of the cases so pending shall be made to the German authorities within a period of ten days after that date.

2. In imposing a penalty in respect of an offence committed prior to the entry into force of the present Agreement, the German court or authority shall give due consideration to the penalty prescribed by the law of the sending State to which the accused was subject at the time of the commission of the offence, if it appears that such penalty is lighter than that prescribed by German law.

Article 76

Deleted

Article 77

Deleted

Article 78

1. The Mixed Commission established under paragraph 8 of Article 44 of the Forces Convention shall continue to be the competent body to determine whether a dismissal on security grounds was justified, provided that a request made under that provision was received by the Commission prior to the entry into force of the present Agreement.
2. Decisions reached by the Mixed Commission shall continue to be binding on German Labor Courts after the entry into force of the present Agreement.

Article 79

1. Deleted.
2. Paragraph 1 of this Article shall apply also to goods and services ordered before the entry into force of the present Agreement and for which payment is made in Deutsche Mark from funds made available to a force by the Federal Republic as mutual defense aid before that date.

Article 80

The provisions of Article XV of the NATO Status of Forces Agreement shall apply to the present Agreement, it being understood that references in that Article to other provisions of the NATO Status of Forces Agreement shall be deemed to be references to those provisions as supplemented by the present Agreement.

Article 80A

1. Should a difference arise relating to the interpretation or application of the present Agreement, and unless a separate procedure is provided, the Parties directly concerned shall endeavor to settle the difference by consultations at the lowest appropriate level. A difference that cannot be resolved at that level may be referred to higher competent military or civil authorities for resolution.

2.(a) If the difference is not resolved in accordance with paragraph 1 within fifteen days, any Party directly concerned thereafter may request that a consultative Commission be established to recommend possible solutions to the Parties directly concerned. The consultative Commission shall be established and hold its first meeting not later than ten days following the request. The consultative Commission shall issue its final recommendations within sixty days following its first meeting.

(b) The consultative Commission shall consist of an appropriate number of members representing the Parties directly concerned. Where the Federal Republic is a party to the difference, it shall have the right to appoint as many members as are appointed by all other parties to the difference together. The consultative Commission may invite outside conciliators to advise the Commission. At the request of any of its members, the consultative Commission shall also seek the expert opinion of appropriate persons or organizations, such as the North Atlantic Treaty Organization, the Western European Union, or the Organization for Economic Cooperation and Development, whose opinion shall be provided and kept in confidence.

3. As its first order of business, the consultative Commission shall, if appropriate, recommend the adoption of interim measures to be taken by the Parties pending resolution of the difference. These interim measures shall be without prejudice to the respective positions of the Parties or to the ultimate resolution of the difference. If interim measures cannot be agreed by the consultative Commission within the prescribed time, the question of interim measures shall be referred to appropriate channels for resolution, at the ministerial level if necessary.

4. The final resolution recommended by the consultative Commission shall be implemented by the Parties directly concerned unless one or more of them object within fifteen days. In case of objection, or if the consultative Commission is unable to agree upon final recommendations within the prescribed time, the matter shall be referred to diplomatic channels for prompt resolution.

5. Pending final resolution of the difference, no Party shall take actions that would prejudice the essential interests of any other Party directly concerned, particularly those interests which may be put forward by the host country.

Article 81

1. Any stationing Party may, after consultation with the other Contracting Parties, withdraw from the present Agreement upon two years' written notice. The Federal Republic may, after consultation with the other Contracting Parties, terminate the present Agreement in respect of one or more Contracting Parties upon two years' written notice.

2. Deleted.

Article 82

The present Agreement shall be reviewed

(a) when the Convention on the Presence of Foreign Forces in the Federal Republic of Germany of 23 October 1954 is reviewed in accordance with paragraph 2 of Article 3 of that Convention;

(b) upon the request of one of the Contracting Parties on the expiry of a period of three years subsequent to its entry into force;

(c) (i) in respect of one or more provisions when provisions of the NATO Status of Forces Agreement to which they are directly related are reviewed under Article XVII of that Agreement;

(ii) at any time at the request of one of the Contracting Parties in respect of one or more provisions if their continued application would in the view of the Party making the request be especially burdensome to that Party, or if such application could not reasonably be expected of that Party; in such case negotiations shall be opened within a period not to exceed three months after submission of the request; if, after three months of negotiations, agreement has not been reached, any Contracting Party may

apply to the Secretary-General of the North Atlantic Treaty Organization in accordance with the resolution of the North Atlantic Council of 13 December 1956, requesting him to use his good offices and to initiate one of the procedures named in that resolution; the Contracting Parties shall pay full heed to any recommendations deriving from such procedure;

(iii) at any time at the request of one of the Contracting Parties in respect of one or more provisions of a purely technical or administrative character.

Article 83

1. The present Agreement shall be subject to ratification or approval. Instruments of ratification or approval shall be deposited by the signatory States with the Government of the United States of America, which shall notify each signatory State of the date on which the instruments are deposited.
2. The present Agreement shall enter into force thirty days following the deposit of the last instrument of ratification or approval.
3. The present Agreement shall be deposited in the Archives of the Government of the United States of America, which shall transmit a certified copy thereof to each signatory State.

IN WITNESS WHEREOF the undersigned Representatives duly authorized thereto have signed the present Agreement.

DONE at Bonn, this eighteenth day of March 1993, in a single original in the German, English and French languages, all texts being equally authentic.

For the Kingdom of Belgium

For the Federal Republic of Germany

For the French Republic

For Canada

For the Kingdom of the Netherlands

For the United Kingdom of Great Britain and Northern Ireland

For the United States of America