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Pamphlet 27-24

Legal Services

**SELECTED  
INTERNATIONAL  
AGREEMENTS  
VOLUME II**

Headquarters  
Department of the Army  
Washington, DC  
1 December 1976

**UNCLASSIFIED**

# ***SUMMARY of CHANGE***

DA PAM 27-24

SELECTED INTERNATIONAL AGREEMENTS VOLUME II

Not applicable.

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## FOREWORD

This pamphlet compiles and organizes selected international legal materials in a convenient form for reference purposes. The looseleaf format allows for updating as new international agreements are entered into force which supplement or supersede those presently included. Particular attention has been given to the selection of treaties and other agreements which will be of optimum value in the solution of the numerous and complex international problems which increasingly confront the Army. This volume includes defense treaties, status of forces agreements, and other miscellaneous agreements. Volume I, which will supersede the current DA Pamphlet 27-1, *Treaties Governing Land Warfare*, 7 December 1956, will contain materials on arms control and international law applicable in armed conflict. Pending publication of Volume I, DA PAM 27-1 is to serve as a supplement to the present volume. This pamphlet was prepared by the International Affairs Division, Office of The Judge Advocate General, United States Army. Suggestions and recommendations for changes should be sent to: Office of The Judge Advocate General, International Affairs Division, Department of the Army, Washington, DC 20310.

Legal Services

SELECTED INTERNATIONAL AGREEMENTS VOLUME II

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By Order of the Secretary of the Army:

**BERNARD W. ROGERS**  
*General, United States Army*  
*Chief of Staff*

Official:

**PAUL T. SMITH**  
*Major General, United States Army*  
*The Adjutant General*

electronic publishing purposes all footnotes were renumbered sequentially. The original footnote reference numbers were retained and placed within the footnote text.

**Summary.** This pamphlet compiles and organizes selected international legal materials in a convenient form for reference purposes.

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## Chapter 1 DEFENSE TREATIES

### 1-1. NORTH ATLANTIC TREATY BETWEEN THE UNITED STATES OF AMERICA AND OTHER GOVERNMENTS

4 April 1949

Date entered into force with respect to the United States of America:  
24 August 1949

**(63 Stat. 2241; TIAS No. 1964; 34 UNTS 243)**

The Parties to this Treaty reaffirm their faith in the purposes and principle of the Charter of the United Nations and their desire to live in peace with all peoples and all governments.

They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law.

They seek to promote stability and well-being in the North Atlantic area.

They are resolved to unite their efforts for collective defense and for the preservation of peace and security.

They therefore agree to this North Atlantic Treaty:

#### Article 2

The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them.

#### Article 3

In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack.

#### Article 4

The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.

#### Article 5

The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the

other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

#### Article 6

For the purpose of Article 5 an armed attack on one or more of the Parties is deemed to include an armed attack on the territory of any of the Parties in Europe or North America, on the Algerian departments of France, on the occupation forces of any Party in Europe, on the islands under the jurisdiction of any Party in the North Atlantic area north of the Tropic of Cancer or on the vessels or aircraft in this area of any of the Parties. (For amendment to Article 6, see Article II of the Protocol on the Accession of Greece and Turkey, p. 79.)

#### Article 7

This Treaty does not affect, and shall not be interpreted as affecting, in any way the rights and obligations under the Charter of the Parties which are members of the United Nations, or the primary responsibility of the Security Council for the maintenance of international peace and security.

#### Article 8

Each Party declares that none of the international engagements now in force between it and any other of the Parties or any third state is in conflict with the provisions of this Treaty, and undertakes not to enter into any international engagement in conflict with this Treaty.

#### Article 9

The Parties hereby establish a council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The council shall be so organized as to be able to meet promptly at any time. The council shall set up such subsidiary bodies as may be necessary; in particular it shall establish immediately a defense committee which shall recommend measures for the implementation of Articles 3 and 5.

#### Article 10

The Parties may, by unanimous agreement, invite any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty. Any state so invited may become a party to the Treaty by depositing its instrument of accession with the Government of the United States of America. The Government of the United States of America will inform each of the Parties of the deposit of each such instrument.

#### Article 11

This Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which will notify all the other signatories of each deposit. The Treaty shall enter into force between the states which have ratified it as soon as the ratifications of the majority of the



signatories, including the ratifications of Belgium, Canada, France, Luxembourg, the Netherlands, the United Kingdom and the United States, have been deposited and shall come into effect with respect to other states on the date of the deposit of their ratifications.

#### Article 12

After the Treaty has been in force for ten years, or at any time thereafter, the Parties shall, if any of them so requests, consult together for the purpose of reviewing the Treaty, having regard for the factors then affecting peace and security in the North Atlantic area, including the development of universal as well as regional arrangements under the Charter of the United Nations for the maintenance of international peace and security.

#### Article 13

After the Treaty has been in force for twenty years, any Party may cease to be a party one year after its notice of denunciation has been given to the Government of the United States of America, which will inform the Governments of the other Parties of the deposit of each notice of denunciation.

#### Article 14

This Treaty, of which the English and French texts are equally authentic, shall be deposited in the archives of the Government of the United States of America. Duly certified copies thereof will be transmitted by that Government to the Governments of the other signatories.

## **1-2. INTER-AMERICAN TREATY OF RECIPROCAL ASSISTANCE BETWEEN THE UNITED STATES OF AMERICA AND OTHER AMERICAN REPUBLICS (RIO PACT)**

**2 September 1947**

Date of entry into force with respect to the United States of America:

3 December 1948

**(62 Stat. 1681; TIAS No. 1838; 21 UNTS 77)**

In the name of their Peoples, the Governments represented at the Inter-American Conference for the Maintenance of Continental Peace and Security, desirous of consolidating and strengthening their relations of friendship and good neighborliness, and

Considering:

That Resolution VIII of the Inter-American Conference on Problems of War and Peace, which met in Mexico City, recommended the conclusion of a treaty to prevent and repel threats and acts of aggression against any of the countries of America;

That the High Contracting Parties reiterate their will to remain united in an inter-American system consistent with the purposes and principles of the United Nations, and reaffirm the existence of the agreement which they have concluded concerning those matters relating to the maintenance of international peace and security which are appropriate for regional action;

That the High Contracting Parties reaffirm their adherence to the principles of inter-American solidarity and cooperation, and especially to those set forth in the preamble and declarations of the Act of Chapultepec, all of which should be understood to be accepted as standards of their mutual relations and as the juridical basis of the Inter-American System;

That the American States propose, in order to improve the procedures for the pacific settlement of their controversies, to conclude the treaty concerning the "Inter-American Peace System" envisaged in Resolutions IX and XXXIX of the Inter-American Conference on Problems of War and Peace;<sup>1</sup>

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<sup>1</sup> 1. *Report of the Delegation of the United States of America to the Inter-American Conference on Problems of War and Peace, Mexico City, Mexico, February 21-March 8, 1945*, Department of State Publication 2497, p.107.

That the obligation of mutual assistance and common defense of the American Republics is essentially related to their democratic ideals and to their will to cooperate permanently in the fulfillment of the principles and purposes of a policy of peace;

That the American regional community affirms as a manifest truth that juridical organization is a necessary prerequisite of security and peace, and that peace is founded on justice and moral order and, consequently, on the international recognition and protection of human rights and freedoms, on the indispensable well-being of the people, and on the effectiveness of democracy for the international realization of justice and security,

Have resolved, in conformity with the objectives stated above, to conclude the following Treaty, in order to assure peace, through adequate means, to provide for effective reciprocal assistance to meet armed attacks against any American State, and in order to deal with threats of aggression against any of them:

#### Article 1. Condemnation of War.

The High Contracting Parties formally condemn war and undertake in their international relations not to resort to the threat or the use of force in any manner inconsistent with the provisions of the Charter of the United Nations or of this Treaty.

#### Article 2. Condemnation of War.

As a consequence of the principle set forth in the preceding Article, the High Contracting Parties undertake to submit every controversy which may arise between them to methods of peaceful settlement and to endeavor to settle any such controversy among themselves by means of the procedures in force in the Inter-American System before referring it to the General Assembly or the Security Council of the United Nations.

#### Article 3. Collective Self-defense.

1. The High Contracting Parties agree that an armed attack by any State against an American State shall be considered as an attack against all the American States and, consequently, each one of the said Contracting Parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations.

2. On the request of the State or States directly attacked and until the decision of the Organ of Consultation of the Inter-American System, each one of the Contracting Parties may determine the immediate measures which it may individually take in fulfillment of the obligation contained in the preceding paragraph and in accordance with the principle of continental solidarity. The Organ of Consultation shall meet without delay for the purpose of examining those measures and agreeing upon the measures of a collective character that should be taken.

3. The provisions of this Article shall be applied in case of any armed attack which takes place within the region described in Article 4 or within the territory of an American State. When the attack takes place outside of the said areas, the provisions of Article 6 shall be applied.

4. Measures of self-defense provided for under this Article may be taken until the Security Council of the United Nations has taken the measures necessary to maintain international peace and security.

#### Article 4. Regional Boundaries.

The region to which this Treaty refers is bounded as follows: beginning at the North Pole; thence due south to a point 74 degrees north latitude, 10 degrees west longitude; thence by a rhumb line to a point 47 degrees 30 minutes north latitude, 50 degrees west longitude; thence by a rhumb line to a point 35 degrees north latitude, 60 degrees west longitude; thence due south to a point in 20 degrees north latitude; thence by a rhumb line to a point 5 degrees north latitude, 24 degrees west longitude; thence due south to the South Pole; thence due north to a point 30 degrees south latitude, 90 degrees west longitude; thence by a rhumb line to a point on the Equator at 97 degrees west longitude; thence by a rhumb line to a point 15 degrees north latitude, 120 degrees west longitude; thence by a rhumb line to a point 50 degrees north latitude, 170 degrees east longitude; thence due north to a point

in 54 degrees north latitude; thence by a rhumb line to a point 65 degrees 30 minutes north latitude, 168 degrees 58 minutes 5 seconds west longitude; thence due north to the North Pole.

#### Article 5. Information Concerning Activities.

The High Contracting Parties shall immediately send to the Security Council of the United Nations, in conformity with Articles 51 and 54 of the Charter of the United Nations, complete information concerning the activities undertaken or in contemplation in the exercise of the right of self-defense or for the purpose of maintaining inter-American peace and security.

#### Article 6. Aggressions which are not Armed Attacks, etc.

If the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an aggression which is not an armed attack or by an extra-continental or intra-continental conflict, or by any other fact or situation that might endanger the peace of America, the Organ of Consultation shall meet immediately in order to agree on the measures which must be taken in case of aggression to assist the victim of the aggression or, in any case, the measures which should be taken for the common defense and for the maintenance of the peace and security of the Continent.

#### Article 7. Conflict Between American States.

In the case of a conflict between two or more American States, without prejudice to the right of self-defense in conformity with Article 51 of the Charter of the United Nations, the High Contracting Parties, meeting in consultation shall call upon the contending States to suspend hostilities and restore matters to the *statu quo ante bellum*, and shall take in addition all other necessary measures to reestablish or maintain inter-American peace and security and for the solution of the conflict by peaceful means. The rejection of the pacifying action will be considered in the determination of the aggressor and in the application of the measures which the consultative meeting may agree upon.

#### Article 8. Measures for Agreement.

For the purposes of this Treaty, the measures on which the Organ of Consultation may agree will comprise one or more of the following: recall of chiefs of diplomatic missions; breaking of diplomatic relations; breaking of consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radiotelephonic or radiotelegraphic communications; and use of armed force.

#### Article 9. Additional Acts Characterized As Aggression.

In addition to other acts which the Organ of Consultation may characterize as aggression, the following shall be considered as such:

- a. Unprovoked armed attack by a State against the territory, the people, or the land, sea or air forces of another State;
- b. Invasion, by the armed forces of a State, of the territory of an American State, through the trespassing of boundaries demarcated in accordance with a treaty, judicial decision, or arbitral award, or, in the absence of frontiers thus demarcated, invasion affecting a region which is under the effective jurisdiction of another State.

#### Article 10

None of the provisions of this Treaty shall be construed as impairing the rights and obligations of the High Contracting Parties under the Charter of the United Nations.

#### Article 11. Consultations.

The consultations to which this Treaty refers shall be carried out by means of the Meetings of Ministers of Foreign Affairs of the American Republics which have ratified the Treaty, or in the manner or by the organ which in the future may be agreed upon.

#### Article 12. Provisional Organ of Consultation.

The governing Board of the Pan American Union may act provisionally as an organ of consultation until the meeting of the Organ of Consultation referred to in the preceding Article takes place.

#### Article 13. Requests.

The consultations shall be initiated at the request addressed to the Governing Board of the Pan American Union by any of the Signatory States which has ratified the Treaty.

#### Article 14. Voting.

In the voting referred to in this Treaty only the representatives of the Signatory States which have ratified the Treaty may take part.

#### Article 15. Organ of Liaison.

The Governing Board of the Pan American Union shall act in all matters concerning this Treaty as an organ of liaison among the Signatory States which have ratified this Treaty and between these States and the United Nations.

#### Article 16. Decisions.

The decisions of the Governing Board of the Pan American Union referred to in Articles 13 and 15 above shall be taken by an absolute majority of the Members entitled to vote.

#### Article 17. Voting.

The Organ of Consultation shall take its decisions by a vote of two-thirds of the Signatory States which have ratified the Treaty.

#### Article 18. Dispute.

In the case of a situation or dispute between American States, the parties directly interested shall be excluded from the voting referred to in two preceding Articles.

#### Article 19. Quorum.

To constitute a quorum in all the meetings referred to in the previous Articles, it shall be necessary that the number of States represented shall be at least equal to the number of votes necessary for the taking of the decision.

#### Article 20. Application of Measures.

Decisions which require the application of the measures specified in Article 8 shall be binding upon all the Signatory States which have ratified this Treaty, with the sole exception that no State shall be required to use armed force without its consent.

#### Article 21. Execution of Measures.

The measures agreed upon by the Organ of Consultation shall be executed through the procedures and agencies now existing or those which may in the future be established.

#### Article 22. Effective Date.

This Treaty shall come into effect between the States which ratify it as soon as the ratifications of two-thirds of the Signatory States have been deposited.

#### Article 23. Ratification.

This Treaty is open for signature by the American States at the city of Rio de Janeiro, and shall be ratified by the Signatory States as soon as possible in accordance with their respective constitutional processes. The ratifications shall be deposited with the Pan American Union, which shall notify the Signatory States of each deposit. Such notification shall be considered as an exchange of ratifications.

#### Article 24. Registration.

The present Treaty shall be registered with the Secretariat of the United Nations through the Pan American Union, when two-thirds of the Signatory States have deposited their ratifications.

#### Article 25. Duration of Treaty.

This Treaty shall remain in force indefinitely, but may be denounced by any High Contracting Party by a notification in writing to the Pan American Union, which shall inform all the other High Contracting Parties of each notification of denunciation received. After the expiration of two years from the date of the receipt by the Pan American Union of a notification of denunciation by any High Contracting Party, the present Treaty shall cease to be in force and with respect to such State, but shall remain in full force and effect with respect to all the other High Contracting Parties.

Article 26. Incorporation in Organic Pact.

The principles and fundamental provisions of this Treaty shall be incorporated in the Organic Pact of the Inter-American System.

In witness whereof, the undersigned Plenipotentiaries, having deposited their full powers found to be in due and proper form, signed this Treaty on behalf of their respective Government, on the dates appearing opposite their signatures.

Done in the city of Rio de Janeiro, in four texts respectively in the English, French, Portuguese and Spanish languages, on the second of September, Nineteen hundred forty-seven.

**1-3. SOUTHEAST ASIA COLLECTIVE DEFENSE TREATY (SEATO)**

**8 September 1954**

Date of entry into force with respect to the United States of America:

19 February 1955

**([1955] 1 UST 81; TIAS No. 3170; 209 UNTS 28)**

The Parties to this Treaty,

Recognizing the sovereign equality of all the Parties,

Reiterating their faith in the purposes and principles set forth in the Charter of the United Nations and their desire to live in peace with all peoples and all governments,

Reaffirming that, in accordance with the Charter of the United Nations, they uphold the principle of equal rights and self-determination of peoples, and declaring that they will earnestly strive by every peaceful means to promote self-government and to secure the independence of all countries whose peoples desire it and are able to undertake its responsibilities,

Desiring to strengthen the fabric of peace and freedom and to uphold the principles of democracy, individual liberty and the rule of law, and to promote the economic well-being and development of all peoples in the treaty area,

Intending to declare publicly and formally their sense of unity, so that any potential aggressor will appreciate that the Parties stand together in the area, and

Desiring further to coordinate their efforts for collective defense for the preservation of peace and security,

Therefore agree as follows:

Article I

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

Article II

In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack and to prevent and counter subversive activities directed from without against their territorial integrity and political stability.

### Article III

The Parties undertake to strengthen their free institutions and to cooperate with one another in the further development of economic measures, including technical assistance, designed both to promote economic progress and social well-being and to further the individual and collective efforts of governments toward these ends.

### Article IV

1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

2. If, in the opinion of any of the Parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is effected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense.

3. It is understood that no action on the territory of any State designated by unanimous agreement under paragraph 1 of this Article or on any territory so designated shall be taken except at the invitation or with the consent of the government concerned.

### Article V

The Parties hereby establish a Council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The Council shall provide for consultation with regard to military and any other planning as the situation obtaining in the treaty area may from time to time require. The Council shall be so organized as to be able to meet at any time.

### Article VI

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of any of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security. Each Party declares that none of the international engagements now in force between it and any other of the Parties or any third party is in conflict with the provisions of this Treaty, and undertakes not to enter into any international engagement in conflict with this Treaty.

### Article VII

Any other State in a position to further the objectives of this Treaty and to contribute to the security of the area may, by unanimous agreement of the Parties, be invited to accede to this Treaty. Any State so invited may become a Party to the Treaty by depositing its instrument of accession with the Government of the Republic of the Philippines. The Government of the Republic of the Philippines shall inform each of the Parties of the deposit of each such instrument of accession.

### Article VIII

As used in this Treaty, the "treaty area" is the general area of Southeast Asia, including also the entire territories of the Asian Parties, and the general area of the Southwest Pacific not including the Pacific area north of 21 degrees 30 minutes north latitude. The Parties may, by unanimous agreement, amend this Article to include within the treaty area the territory of any State acceding to this Treaty in accordance with Article VII or otherwise to change the treaty area.

#### Article IX

1. This Treaty shall be deposited in the archives of the Government of the Republic of the Philippines. Duly certified copies thereof shall be transmitted by that government to the other signatories.

2. The Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of the Republic of the Philippines, which shall notify all of the other signatories of such deposit.

3. The Treaty shall enter into force between the States which have ratified it as soon as the instruments of ratification of a majority of the signatories shall have been deposited, and shall come into effect with respect to each other State on the date of the deposit of its instrument of ratification.

#### Article X

This Treaty shall remain in force indefinitely, but any Party may cease to be a Party one year after its notice of denunciation has been given to the Government of the Republic of the Philippines, which shall inform the Governments of the other Parties of the deposit of each notice of denunciation.

#### Article XI

The English text of this Treaty is binding on the Parties, but when the Parties have agreed to the French text thereof and have so notified the Government of the Republic of the Philippines, the French text shall be equally authentic and binding on the Parties.

#### UNDERSTANDING OF THE UNITED STATES OF AMERICA

The United States of America in executing the present Treaty does so with the understanding that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2.

In witness whereof, the undersigned Plenipotentiaries have signed this Treaty.

Done at Manila, this eighth day of September, 1954.

#### PROTOCOL OF THE SOUTHEAST ASIA DEFENSE TREATY

#### DESIGNATION OF STATES AND TERRITORY AS TO WHICH PROVISIONS OF ARTICLE IV AND ARTICLE III ARE TO BE APPLICABLE

The Parties to the Southeast Asia Collective Defense Treaty unanimously designate for the purposes of Article IV of the Treaty the States of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam.

The Parties further agree that the above mentioned states and territory shall be eligible in respect of the economic measures contemplated by Article III.

This Protocol shall enter into force simultaneously with the coming into force of the Treaty.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol to the Southeast Asia Collective Defense treaty.

Done at Manila, this eighth day of September, 1954.

By protocol the parties to the Southeast Asia Collective Defense Treaty designated the States of Cambodia and



Laos and the free territory under the jurisdiction of the State of Vietnam for the purpose of Article IV of the Treaty. Subsequently, Cambodia indicated disinterest in the protection of the Southeast Asia treaty. Also, in the Geneva Declaration on the Neutrality of Laos, the Royal Government of Laos declared that it will not “recognize the protection of any alliance or military coalition, including SEATO” and the United States and other nations agreed to “respect the wish of the Kingdom of Laos not to recognize the protection of any alliance or military coalition including SEATO.”

#### **1-4. TREATY OF MUTUAL COOPERATION AND SECURITY BETWEEN THE UNITED STATES OF AMERICA AND JAPAN WITH AGREED MINUTE AND EXCHANGE OF NOTES**

**19 January 1960**

Date of entry into force with respect to the United States of America:  
23 June 1960

**[(1960] 2 UST 1632; TIAS No. 4509; 373 UNTS 186)**

The United States of America and Japan,

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

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

Reaffirming their faith in the purposes and principles of the Charter of the United Nations<sup>2</sup>, and their desire to live in peace with all peoples and all governments,

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

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

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

Therefore agree as follows:

##### Article I

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

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

##### Article II

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

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<sup>2</sup> 1. TS 993; 59 STAT. 1031

### Article III

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

### Article IV<sup>3</sup>

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

### Article V

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

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

### Article VI<sup>4</sup>

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

The use of these facilities and areas as well as the status of United States armed forces in Japan shall be governed by a separate agreement<sup>5</sup>, replacing the Administrative Agreement<sup>6</sup> under Article III of the Security Treaty<sup>7</sup> between the United States of America and Japan, signed at Tokyo on February 28, 1952<sup>8</sup>, as amended, and by such other arrangements as may be agreed upon.

### Article VII

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

### Article VIII

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

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<sup>3</sup> 2. See *Post*, p.1646.

<sup>4</sup> 1. See *Post*, pp. 1646, 1650.

<sup>5</sup> 2. TIAS, 4510, *Post* p. 1652.

<sup>6</sup> 3. TIAS, 2492; 3 UST, pt. 3 p. 3341.

<sup>7</sup> 4. TIAS, 2492; 3 UST, pt. 3 p. 3332.

<sup>8</sup> 5. (No footnote text listed in the original)

## Article IX

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

## Article X

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

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

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this treaty.

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

### **Agreed Minute to the Treaty of Mutual Cooperation and Security Dated January 19, 1960**

Japanese Plenipotentiary:

While the question of the status of the islands administered by the United States under Article 3 of the Treaty of Peace with Japan<sup>9</sup> has not been made a subject of discussion in the course of treaty negotiations, I would like to emphasize the strong concern of the Government and people of Japan for the safety of the people of these islands since Japan possesses residual sovereignty over these islands. If an armed attack occurs or is threatened against these islands, the two countries will of course consult together closely under Article IV of the Treaty of Mutual Cooperation and Security. In the event of an armed attack, it is the intention of the Government of Japan to explore with the United States measures which it might be able to take for the welfare of the islanders.

United States Plenipotentiary:

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

### **Exchanges of Notes Between the United States and Japan Dated January 19, 1960**

EXCELLENCY:

I have the honour to refer to the Treaty of Mutual Cooperation and Security between Japan and the United States of America signed today, and to inform Your Excellency that the following is the understanding of the Government of Japan concerning the implementation of Article VI<sup>10</sup> thereof:

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

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

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

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<sup>9</sup> 1. TIAS, 2490, 3 UST, pt 3. 3172.

<sup>10</sup> 2. See *Post*, p. 1650

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

\*\*\*  
DEPARTMENT OF STATE  
WASHINGTON  
*January 19, 1960*

EXCELLENCY:

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

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

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

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

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

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

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

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

His Excellency  
NOBUSUKE KISHI,  
*Prime Minister of Japan.*

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DEPARTMENT OF STATE  
WASHINGTON  
*January 19, 1960*

EXCELLENCY:

I have the honor to refer to the Security Treaty between the United States of America and Japan signed at the city of San Francisco on September 8, 1951,<sup>11</sup> the exchange of notes effected on the same date<sup>12</sup> between Mr. Shigeru Yoshida, Prime Minister of Japan, and Mr. Dean Acheson, Secretary of State of the United States of America, and the Agreement Regarding the Status of the United Nations Forces in Japan signed at Tokyo in February 19, 1954,<sup>13</sup> as well as the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed today. It is the understanding of my Government that:

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

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

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<sup>11</sup> 1. TIAS, 2491, 3 UST, pt 3. 3329.

<sup>12</sup> 2. TIAS, 2490, 3 UST, pt 3. 3326.

<sup>13</sup> 3. TIAS, 2995, 3 UST, pt 2. 1123.

3. The use of the facilities and areas by the United States armed forces under the Unified Command of the United Nations established pursuant to the Security Council Resolution of July 7, 1950<sup>14</sup>, and their status in Japan are governed by arrangements made pursuant to the Treaty of Mutual Cooperation and Security. I should be grateful if Your Excellency could confirm on behalf of your Government that the understanding of my Government stated in the foregoing numbered paragraphs is also the understanding of your Government and that this understanding shall enter into operation on the date of the entry into force of the Treaty of Mutual Cooperation and Security signed at Washington on January 19, 1960.

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

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

His Excellency  
NOBUSUKE KISHI,  
*Prime Minister of Japan.*

\*\*\*  
WASHINGTON  
*January 19, 1960*

EXCELLENCY:

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

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

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

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

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

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

I have the honour to confirm on behalf of my Government that the foregoing is also the understanding of the Government of Japan.

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

NOBUSUKE KISHI

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

WASHINGTON, *January 19, 1960*

<sup>14</sup> 4. U.N. Doc. S/1588.

DEAR SECRETARY HERTER:

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

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

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

I would appreciate very much your views on this matter.

Most Sincerely,

NOBUSUKE KISHI

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

DEPARTMENT OF STATE  
WASHINGTON  
*January 19, 1960*

DEAR MR. PRIME MINISTER:

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

Most sincerely,

CHRISTIAN A. HERTER

His Excellency  
NOBUSUKE KISHI,  
*Prime Minister of Japan.*

## **1-5. MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA**

**1 OCTOBER 1953**

Entered into force 17 November 1954.

**([1954] 3 UST 2368; TIAS No. 3097; 238 UNTS 199)**

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

Desiring to declare publicly and formally their common determination to defend themselves against external armed attack so that no potential aggressor could be under the illusion that either of them stands alone in the

Pacific area,

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

Have agreed as follows:

#### Article I

The Parties undertake to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the Purposes of the United Nations, or obligations assumed by any Party toward the United Nations.

#### Article II

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

#### Article III

Each Party recognizes that an armed attack in the Pacific area on either of the Parties in territories now under their respective administrative control, or hereafter recognized by one of the Parties as lawfully brought under the administrative control of the other, would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

#### Article IV

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

#### Article V

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

#### Article VI

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

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

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

FOR THE UNITED STATES OF AMERICA:

/S/

John Forster Dulles

FOR THE REPUBLIC OF KOREA:

/S/

Y. T. Pyun

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

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

WHEREAS the text of the aforesaid understanding was communicated by the Government of the United States of America to the Government of the Republic of Korea by a note dated January 28, 1954<sup>15</sup> and was acknowledged by the Government of the Republic of Korea by a note dated February 1, 1954;<sup>16</sup>

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

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

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

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

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

DONE at the city of Washington this first day of December in the year of our Lord  
one thousand nine hundred fifty-four and of the

[SEAL] Independence of the United States of America the one hundred seventy-ninth.

DWIGHT D. EISENHOWER

By the President:  
John Foster Dulles  
Secretary of State

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<sup>15</sup> 5. Not printed.

<sup>16</sup> 1. Not printed.



## Chapter 2 STATUS OF FORCES AGREEMENTS

### 2-1. AGREEMENT BETWEEN THE PARTIES TO THE NORTH ATLANTIC TREATY REGARDING THE STATUS OF THEIR FORCES

19 June 1951

Date of entry into force with respect to the United States of America:

23 August 1953

([1953] 2 UST 1792; TIAS No. 2846; 199 UNTS 67)

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,<sup>17</sup> Considering that the forces of one Party may be sent, by arrangement, to serve in the territory of another Party; Bearing in mind that the decision to send them and the conditions under which they will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate arrangements between the Parties concerned;

Desiring, however, to define the status of such forces while in the territory of another Party;

Have agreed as follows:

#### Article I

1. In this Agreement the expression—

(a) “force” means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain individuals, units or formations shall not be regarded as constituting or included in a “force” for the purposes of the present Agreement;

(b) “civilian component” means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the State in which the force is located;

(c) “dependent” means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;

(d) “sending State” means the Contracting Party to which the force belongs;

(e) “receiving State” means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit;

(f) “military authorities of the sending State” means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components;

(g) “North Atlantic Council” means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorized to act on its behalf.

2. This Agreement shall apply to the authorities of political sub-divisions of the Contracting Parties, within their territories to which the Agreement applies or extends in accordance with Article XX, as it applies to the central authorities of those Contracting Parties, provided, however, that property owned by political sub-divisions shall not be considered to be property owned by a Contracting Party within the meaning of Article VIII.

#### Article II

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

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<sup>17</sup> 1. Treaties and Other International Acts Series 1964,; 63 Stat., pt. 2, p. 2241.

### Article III

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State. They shall also be exempt from the regulations of the receiving State on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force. They must be presented on demand:

(a) personal identity card issued by the sending State showing names, date of birth, rank and number (if any), service, and photograph;

(b) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State or of the North Atlantic Treaty Organization and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. Members of a civilian component and dependents shall be so described in their passports.

4. If a member of a force or of a civilian component leaves the employ of the sending State and is not repatriated, the authorities of the sending State shall immediately inform the authorities of the receiving State, giving such particulars as may be required. The authorities of the sending State shall similarly inform the authorities of the receiving State of any member who has absented himself for more than twenty-one days.

5. If the receiving State has requested the removal from its territory of a member of a force or civilian component or has made an expulsion order against an ex-member, of a force or of a civilian component or against a dependent of a member or ex-member, the authorities of the sending State shall be responsible for receiving the person concerned within their own territory or otherwise disposing of him outside the receiving State. This paragraph shall apply only to persons who are not nationals of the receiving State and have entered the receiving State as members of a force or civilian component or for the purpose of becoming such members, and to the dependents of such persons.

### Article IV

The receiving State shall either

(a) accept as valid, without a driving test or fee, the driving permit or license or military driving permit issued by the sending State or a subdivision thereof to a member of a force or of a civilian component; or

(b) issue its own driving permit or license to any member of a force or civilian component who holds a driving permit or license or military driving permit issued by the sending State or a subdivision thereof, provided that no driving test shall be required.

### Article V

1. Members of a force shall normally wear uniform. Subject to any arrangement to the contrary between the authorities of the sending and receiving States, the wearing of civilian dress shall be on the same conditions as for members of the forces of the receiving State. Regularly constituted units or formations of a force shall be in uniform when crossing a frontier.

2. Service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

### Article VI

Members of a force may possess and carry arms, on condition that they are authorized to do so by their orders. The authorities of the sending State shall give sympathetic consideration to requests from the receiving State concerning this matter.

## Article VII

1. Subject to the provisions of this Article,

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

(b) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.

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

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

(c) For the purposes of this paragraph and of paragraph 3 of this Article a security offence against a State shall include

(i) unreason against the State;

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

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

(a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force or of a civilian component in relation to

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

(ii) offences arising out of any act or omission done in the performance of official duty. (b) In the case of any other offence the authorities of the receiving State shall have the primary right to exercise jurisdiction.

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

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in the receiving State, unless they are members of the force of the sending State.

5.—(a) The authorities of the receiving and sending States shall assist each other in the arrest of members of a force or civilian component or their dependents in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of the receiving State shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component or a dependent. (c) The custody of an accused member of a force or civilian component over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by the receiving State.

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

(b) The authorities of the Contracting Parties shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7.—(a) A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide for such punishment in a similar case.

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

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

which constituted an offence for which he was tried by the authorities of another Contracting Party.

9. Whenever a member of a force or civilian component or a dependent is prosecuted under the jurisdiction of a receiving State he shall be entitled —

(a) to a prompt and speedy trial;

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

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

(d) to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the receiving State;

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

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

(g) to communicate with a representative of the Government of the sending State and, when the rules of the court permit, to have such a representative present at his trial.

10.—(a) Regularly constituted military units or formations of a force shall have the right to police any camps, establishments or other premises which they occupy as the result of an agreement with the receiving State. The military police of the force may take all appropriate measures to ensure the maintenance of order and security on such premises.

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

11. Each Contracting Party shall seek such legislation as it deems necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene laws enacted for that purpose.

#### Article VIII

1. Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its land, sea or air armed services, if such damage—

(i) was caused by a member or an employee of the armed services of the other Contracting Party in the execution of his duties in connexion with the operation of the North Atlantic Treaty; or

(ii) arose from the use of any vehicle, vessel or aircraft owned by the other Contracting Party and used by its armed services, provided either that the vessel or vehicle or aircraft causing the damage was being used in connexion with the operation of the North Atlantic Treaty, or that the damage was caused to property being so used.

Claims for maritime salvage by one Contracting Party against any other Contracting Party shall be waived, provided that the vessel or cargo salvaged was owned by a Contracting Party and being used by its armed services in connexion with the operation of the North Atlantic Treaty.

2. (a) In the case of damage caused or arising as stated in paragraph 1 to other property owned by a Contracting Party and located in its territory, the issue of the liability of any other Contracting Party shall be determined and the amount of damage shall be assessed, unless the Contracting Parties concerned agree otherwise, by a sole arbitrator selected in accordance with sub-paragraph (b) of this paragraph. The arbitrator shall also decide any counter-claims arising out of the same incident.

(b) The arbitrator referred to in sub-paragraph (a) above shall be selected by agreement between the Contracting Parties concerned from amongst the nationals of the receiving State who hold or have held high judicial office. If the Contracting Parties concerned are unable, within two months, to agree upon the arbitrator, either may request the Chairman of the North Atlantic Council Deputies to select a person with the aforesaid qualifications.

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

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

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

(f) Nevertheless, each Contracting Party waives its claim in any such case where the damage is less than:—

Belgium: B.fr. 70,000

Canada: \$1,460.

Denmark: Kr. 9,670.

France: F.fr. 490,000.

Iceland: Kr. 22,800.

Italy: Li. 850,000.

Luxembourg: L.fr. 70,000.

Netherlands: Fl. 5,320.

Norway: Kr. 10,000.

Portugal: Es. 40,250.

United Kingdom: £ 500

United States: \$1,400.

Any other Contracting Party whose property has been damaged in the same incident shall also waive its claim up to the above amount. In the case of considerable variation in the rates of exchange between these currencies the Contracting Parties shall agree on the appropriate adjustments of these amounts.

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

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

5. Claims (other than contractual claims and those to which paragraphs 6 or 7 of this Article apply) arising out of acts or omissions of members of a force or civilian component done in the performance of official duty, or out of any other act, omission or occurrence for which a force or civilian component is legally responsible, and causing damage in the territory of the receiving State to third parties, other than any of the Contracting Parties, shall be dealt with by the receiving State in accordance with the following provisions:—

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

(b) The receiving State may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by the receiving State in its currency.

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

(d) Every claim paid by the receiving State shall be communicated to the sending States concerned together with full particulars and a proposed distribution in conformity with sub-paragraphs (e) (i), (ii) and (iii) below. In default of a reply within two months, the proposed distribution shall be regarded as accepted.

(e) The cost incurred in satisfying claims pursuant to the preceding sub-paragraphs and paragraph 2 of this Article shall be distributed between the Contracting Parties, as follows:—

(f) Where one sending State alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 per cent. chargeable to the receiving State and 75 per cent. chargeable to the sending State.

(g) Where more than one State is responsible for the damage, the amount awarded or adjudged shall be distributed equally among them: however, if the receiving State is not one of the States responsible, its contribution shall be half that of each of the sending States.

(i) Where the damage was caused by the armed services of the Contracting Parties and it is not possible to attribute it specifically to one or more of those armed services, the amount awarded or adjudged shall be distributed equally among the Contracting Parties concerned; however, if the receiving State is not one of the States by whose armed services the damage was caused, its contribution shall be half that of each of the sending States concerned.

(ii) Every half-year, a statement of the sums paid by the receiving State in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent

to the sending States concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of the receiving State.

(iii) In cases where the application of the provisions of sub-paragraphs (b) and (e) of this paragraph would cause a Contracting Party serious hardship, it may request the North Atlantic Council to arrange a settlement of a different nature.

(iv) A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.

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

6. Claims against members of a force or civilian component arising out of tortious acts or omissions in the receiving State not done in the performance of official duty shall be dealt with in the following manner:—

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

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

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

(d) Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of a force or of a civilian component unless and until there has been payment in full satisfaction of the claim.

7. Claims arising out of the unauthorized use of any vehicle of the armed services of a sending State shall be dealt with in accordance with paragraph 6 of this Article, except in so far as the force or civilian component is legally responsible.

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

9. The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian component in respect of the civil jurisdiction of the courts of the receiving State except to the extent provided in paragraph 5 (g) of this Article.

10. The authorities of the sending State and of the receiving State shall co-operate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the Contracting Parties are concerned.

## Article IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption, and such services as they need, under the same conditions as the nationals of the receiving State.

2. Goods which are required from local sources for the subsistence of a force or civilian component shall normally be purchased through the authorities which purchase such goods for the armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of that State shall indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. Subject to agreements already in force or which may hereafter be made between the authorized representatives of the sending and receiving States, the authorities of the receiving State shall assume sole responsibility for making suitable arrangements to make available to a force or a civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements shall be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract to the contrary, the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds, facilities or services.

4. Local civilian labour requirements of a force or civilian component shall be satisfied in the same way as the comparable requirements of the receiving State and with the assistance of the authorities of the receiving State

through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and their dependents may receive medical and dental care, including hospitalization, under the same conditions as comparable personnel of the receiving State.

6. The receiving State shall give the most favorable consideration to requests for the grant to members of a force or of a civilian component of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, of this Article shall be made promptly by the authorities of the force.

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

## Article X

1. Where the legal incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State, and, except as regards his salary and emoluments and the tangible movable property referred to in paragraph 1, nothing in this Article shall prevent taxation to which, even if regarded as having his residence or domicile outside the territory of the receiving State, such a member is liable under the law of that State.

3. Nothing in this Article shall apply to "duty" as defined in paragraph 12 of Article XI.

4. For the purposes of this Article the term "member of a force" shall not include any person who is a national of the receiving State.

## Article XI

1. Save as provided expressly to the contrary in this Agreement, members of a force and of a civilian component as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

2.—(a) The temporary importation and the re-exportation of service vehicles of a force or civilian component under their own power shall be authorized free of duty on presentation of a trip-tique in the form shown in the Appendix to this Agreement.

(b) The temporary importation of such vehicles not under their own power shall be governed by paragraph 4 of this Article and the re-exportation thereof by paragraph 8.

(c) Service vehicles of a force or civilian component shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement orders issued in accordance with paragraph 2 (b) of Article III. This movement order shall show the number of dispatches carried and certify that they contain only official documents.

4. A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with such customs documents as shall be agreed, of a certificate in a form agreed between the receiving State and the sending State signed by a person authorized by the sending State for that purpose. The designation of the person authorized to sign the certificates as well as specimens of the signatures and stamps to be used, shall be sent to the customs administration of the receiving State.

5. A member of a force or civilian component may, at the time of his first arrival to take up service in the receiving State or at the time of the first arrival of any dependent to join him, import his personal effects and furniture free of duty for the term of such service.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 2 (b), 4, 5 or 6 above—

(a) may be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraphs 2 (b), 4, 5 or 6 as the case may be;

(b) shall not normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorized on conditions imposed by the authorities concerned of the receiving State (for instance, on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State shall be exported therefrom only in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1-10 of this Article—

“duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes which are no more than charges for services rendered;

“importation” includes withdrawal from customs warehouses or continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in the receiving State.

13. The provisions of this Article shall apply to the goods concerned not only when they are imported into or exported from the receiving State, but also when they are in transit through the territory of a Contracting Party, and for this purpose the expression “receiving State” in this Article shall be regarded as including any Contracting Party through whose territory the goods are passing in transit.

## Article XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.



### Article XIII

1. In order to prevent offences against customs and fiscal laws and regulations, the authorities of the receiving and of the sending States shall assist each other in the conduct of enquiries and the collection of evidence.

2. The authorities of a force shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force shall render all assistance within their power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component or their dependents.

4. Service vehicles and articles belonging to a force or to its civilian component, and not to a member of such force or civilian component, seized by the authorities of the receiving State in connexion with an offence against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

### Article XIV

1. A force, a civilian component and the members thereof, as well as their dependents, shall remain subject to the foreign exchange regulations of the sending State and shall also be subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or civilian component or the members thereof as well as their dependents.

### Article XV

1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that the provisions for settling claims in paragraphs 2 and 5 of Article VIII shall not apply to war damage, and that the provisions of the Agreement, and, in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned, who may agree to such modifications as they may consider desirable regarding the application of the Agreement between them.

2. In the event of such hostilities, each of the Contracting Parties shall have the right, by giving 60 days' notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

### Article XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

### Article XVII

Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the North Atlantic Council.

## Article XVIII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them. It shall come into force for each other signatory state thirty days after the deposit of its instrument of ratification.

3. After it has come into force, the present Agreement shall, subject to the approval of the North Atlantic Council and to such conditions as it may decide, be open to accession on behalf of any State which accedes to the North Atlantic Treaty. Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

## Article XIX

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Contracting Party to the Government of the United States of America, which shall notify all the other Contracting Parties of each such notification and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

## Article XX

1. Subject to the provisions of paragraphs 2 and 3 of this Article, the present Agreement shall apply only to the metropolitan territory of a Contracting Party.

2. Any State may, however, at the time of the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification given to the Government of the United States of America that the present Agreement shall extend (subject, if the State making the declaration considers it to be necessary, to the conclusion of a special agreement between that State and each of the sending States concerned), to all or any of the territories for whose international relations it is responsible in the North Atlantic Treaty area. The present Agreement shall then extend to the territory or territories named therein thirty days after the receipt by the Government of the United States of America of the notification, or thirty days after the conclusion of the special agreements if required, or when it has come into force under Article XVIII, whichever is the later.

3. A State which has made a declaration under paragraph 2 of this Article extending the present Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in accordance with the provisions of Article XIX.

In witness whereof the undersigned Plenipotentiaries have signed the present Agreement.

Done in London this nineteenth day of June, 1951, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

## APPENDIX

Country Ministry or Service  
TRIPTYQUE\*

Valid from To  
for temporary importation to  
of the following service vehicle:—

Type

Registration Number Engine Number

Spare tyres  
Fixed communication Equipment

Name and signature of the holder of the triptyque

Date of issue By order of

TEMPORARY EXITS AND ENTRIES

Name of Port or Customs Station Date Signature and Stamp of Customs Officer

Exit

Entry

Exit

Entry

Exit

Entry

Exit

Entry

\*This document shall be in the language of the sending State and in the English and French languages.

WHEREAS the Senate of the United States of America by their resolution of July 15, 1953, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said Agreement with the following statement:

“It is the understanding of the Senate, which understanding inheres in its advice and consent to the ratification of the Agreement, that nothing in the Agreement diminishes, abridges, or alters the right of the United States of America to safeguard its own security by excluding or removing persons whose presence in the United States is deemed prejudicial to its safety or security, and that no person whose presence in the United States is deemed prejudicial to its safety or security shall be permitted to enter or remain in the United States.

“In giving its advice and consent to ratification, it is the sense of the Senate that:

- 1. The criminal jurisdiction provisions of Article VII do not constitute a precedent for future agreements;
- 2. Where a person subject to the military jurisdiction of the United States is to be tried by the authorities of a receiving state, under the treaty the Commanding Officer of the Armed forces of the United States in such state shall examine the laws of such state with particular reference to the procedural safeguards contained in the Constitution of the United States;

3. If, in the opinion of such commanding officer, under all the circumstances of the case, there is danger that the accused will not be protected because of the absence or denial of constitutional rights he would enjoy in the United States, the commanding officer shall request the authorities of the receiving state to waive jurisdiction in accordance with the provisions of paragraph 3(c) of Article VII (which requires the receiving state to give 'sympathetic consideration' to such request) and if such authorities refuse to waive jurisdiction, the commanding officer shall request the Department of State to press such request through diplomatic channels and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives;

4. A representative of the United States to be appointed by the Chief of Diplomatic Mission with the advice of the senior United States military representative in the receiving state will attend the trial of any such person by the authorities of a receiving state under the agreement, and any failure to comply with the provisions of paragraph 9 of Article VII of the agreement shall be reported to the commanding officer of the armed forces of the United States in such state who shall then request the Department of State to take appropriate action to protect the rights of the accused, and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives."

WHEREAS the said Agreement was duly ratified by the President of the United States of America on July 24, 1953, in pursuance of the aforesaid advice and consent of the Senate and subject to the aforesaid statement;

WHEREAS it is provided in Article XVIII of the said Agreement that thirty days after four signatory States have deposited their instruments of ratification of the Agreement with the Government of the United States of America the Agreement shall come into force between them;

WHEREAS instruments of ratification of the said Agreement were deposited with the Government of the United States of America by France on September 29, 1952, by Norway on February 24, 1953, by Belgium on February 27, 1953, and by the United States of America on July 24, 1953;

WHEREAS an instrument of ratification was also deposited with the Government of the United States of America by Canada on August 28, 1953;

AND WHEREAS, pursuant to the aforesaid provisions of Article XVIII of the said Agreement, the Agreement came into force on August 23, 1953;

NOW, THEREFORE, be it known that I, Dwight D. Eisenhower, President of the United States of America, do hereby proclaim and make public the said Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces to the end that the same and every article and clause thereof, subject to the statement hereinbefore recited, shall be observed and fulfilled with good faith, on and after August 23, 1953, by the United States of America and all other persons subject to the jurisdiction thereof.

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

DONE at the city of Washington this twenty-seventh day of October in the year of our Lord one  
[SEAL] thousand nine hundred fifty-three and of the Independence of the United States of  
America the one hundred seventy-eighth.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES

*Secretary of State*

## **2-2. SUPPLEMENTARY AGREEMENT TO THE NATO STATUS OF FORCES AGREEMENT WITH RESPECT TO FORCES STATIONED IN THE FEDERAL REPUBLIC OF GERMANY**

**3 August 1959**

Date of entry into force with respect to the United States of America:

1 July 1963

**([1963] 1 UST 531; TIAS No. 5351; 481 UNTS 262)**

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53	Rights Respecting Installations	54	Health and Sanitation
56	Labor		
57	Movement		
58	Transportation		
60	Telecommunications		
63	Services Rendered Free of Charge to a Force or a Civilian Component		
68	Tax Treatment of Members of a Force, a Civilian Component and Dependents		
71	Treatment of Non-German Non-Commercial Organizations		
72	Treatment of Non-German Commercial Enterprises		

**III. Agreement to Implement Paragraph 5 of Article 45 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**

**IV. Administrative Agreement to Article 60 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**

**V. Agreement on the Abrogation of the Forces Convention, the Finance Convention and the Tax Agreement**

**2-3. 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**

**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 sub-paragraph (b) of paragraph 1 of Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany, as amended by Schedule I to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954,<sup>18</sup> 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,<sup>19</sup> 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<sup>20</sup> by the Powers signatory to

<sup>18</sup> 1. TIAS 3425; 6 UST 5601.

<sup>19</sup> 2. TIAS 2846; 4 UST 1792.

<sup>20</sup> 3. *Post*, p.686.

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<sup>21</sup> 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.

#### Article 2

1. 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 Defence (Gesetz über die Beschränkung von Grundeigentum für die militärische Verteidigung-Schutzbereichgesetz) 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 Defence (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 sub-paragraph (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 sub-paragraph (a) of this paragraph, shall be considered to be, and treated as, dependents within the meaning of sub-paragraph (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.

#### Article 3

1. In accordance with the obligations imposed by the North Atlantic Treaty<sup>22</sup> upon the contracting parties thereto to

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<sup>21</sup> 4. TIAS 3425; 6 UST 5608, 5639, 5685.

<sup>22</sup> 5. TIAS 1964; 63 Stat. 2241.



render mutual assistance, the German authorities and the authorities of the forces shall co-operate closely to ensure the implementation of the NATO Status of Forces Agreement and of the present Agreement.

2. The co-operation 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. The German authorities and the authorities of a force shall, by taking appropriate measures, ensure close and reciprocal liaison within the scope of the co-operation provided for in paragraphs 1 and 2 of this Article.

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 fulfillment of their defence 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.

7. If, in the implementation of the NATO Status of Forces Agreement and of the present Agreement, no agreement is reached either on the local or on the regional level between the German authorities and the authorities of a force, the matter shall, unless the NATO Status of Forces Agreement or the present Agreement provides a special procedure, be referred to the competent central Federal authority and the higher authority of the force. The Federal Government or the higher authority of the force shall issue any individual instructions that may be necessary to the German authorities or to the authorities of the force and the civilian component respectively.

#### Article 4

1. The exercise of rights and the fulfillment 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 fulfillment 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.

#### 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 sub-paragraph 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.

## 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.

## 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.

## Article 9

1. A licence 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.

2. A driving licence 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 licence 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. Driving licences provided with a German translation may be issued for private motor vehicles by the authorities of a force to members of the force or of the civilian component or to dependents if these authorities have determined that, in addition to fitness to operate a motor vehicle, applicants possess adequate knowledge of German traffic regulations. They shall ensure that learner drivers are instructed, and when driving on a public highway are accompanied at all times, by a person possessing the qualifications specified in the first sentence of this paragraph and holding a valid driving licence. Such person shall be responsible for the driving of the vehicle and shall carry a written authorization, issued by the authorities of the force and provided with a German translation, empowering him to instruct the learner driver.

4. A civil pilot's licence 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 licence 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) The authorities of a force may issue certificates of qualification for the operation of non-service inland watercraft of the force if they have determined that the person concerned possesses the knowledge prescribed in subparagraph (a) of this paragraph. The particular waters to be navigated shall be specified in the certificate. Regulations applicable within the scope of international agreements shall remain unaffected.

6. (a) The authorities of a force shall withdraw driving licences valid in the Federal territory in accordance with paragraphs 1 and 3 of this Article or certificates mentioned in paragraph 2, 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 licences or certificates. Driving licences 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 sub-paragraph

and of all cases where, after such withdrawal, a driving licence or certificate has been re-issued.

(b) In cases where German courts exercise jurisdiction pursuant to 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 licences referred to in paragraphs 2 and 3 of this Article. Withdrawal of permission to drive shall be recorded in the driving licence, which shall remain in the possession of the holder.

7. (a) Sub-paragraph (a) of paragraph 6 of this Article shall apply *mutatis mutandis* to pilot's licences and certificates of qualification referred to in paragraph 4 and sub-paragraph (b) of paragraph 5.

(b) The authorities of a force shall give sympathetic consideration to reports from the German authorities concerning failure to observe air traffic rules by holders of the pilot's licences valid in the Federal territory in accordance with paragraph 1 of this Article and shall take such action as may be necessary.

## Article 10

1. The authorities of a force may register and licence 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.

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-defence (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 sympathetically examine requests by the German authorities for withdrawal of such certificates and shall withdraw a firearms certificate if it is established that the holder has misused his firearm or if reasonable doubt exists as to his reliability.

#### 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 if such autopsy is admissible under the law of the sending State. A German medical officer of the court (Gerichtsarzt) or public health officer (Amtsarzt) and, in the case of an autopsy for purposes of criminal investigation, a German judge, may be present during the autopsy. In cases where a German court or authority is competent to order an autopsy, the second and third sentences of this paragraph shall apply *mutatis mutandis* if the military authorities of a sending State have an interest in the results of such 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 fulfillment of their defence responsibilities.

#### Article 17

1. Where, in order to decide upon the authority competent to exercise jurisdiction with respect to an offense, 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 offense 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 19

1. At the request of a sending State, the Federal Republic shall, within the framework of sub-paragraph (c) of paragraph 3 of Article VII of the NATO Status of Forces Agreement, waive in favour of that State the primary right granted to the German authorities under sub-paragraph (b) of paragraph 3 of that Article in cases of concurrent jurisdiction, in accordance with paragraphs 2, 3, 4 and 7 of this Article.

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.

3. Where the competent German authorities hold the view that, by reason of special circumstances in a specific case, major 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 authorities within a period of twenty-one days after receipt of the notification envisaged in paragraph 2 or any shorter period which may be provided in arrangements made under paragraph 7. 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 interest 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 sub-paragraph (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 the liaison agency referred to in Article 32 of the present Agreement.

(b) The liaison agency shall lend its assistance to the German courts and authorities to facilitate service of process in criminal matters.

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.

#### 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 1, page 597) in conjunction with Sections 99, 100, 100 c, 100 d, 100 e, 109 f, 109 g and 363, of the German Criminal Code, or under such legislation as may replace these provisions in 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 in 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 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 sub-paragraph (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.

#### 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 sub-paragraph (a) of paragraph 5 and sub-paragraph (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 sub-paragraph (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 sub-paragraph (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.

#### Article 27

Sections 212 to 212 (b) of the German Code of Criminal Procedure, relating to expedited procedure, shall not be applicable in criminal proceedings against members of a force, of a civilian component, or against dependents.

#### Article 28

1. The military police of a force shall have the right to patrol on public roads, on public transport, in restaurants (Gaststätten) 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 the exercise 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 sub-paragraph (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 defence 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 right to free judicial assistance and the exemption from the obligation to post security for costs, members of a force or of a civilian component shall enjoy the rights determined in agreements in force in these fields 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.

#### Article 32

1. (a) Service upon members of a force, of a civilian component, or on dependents of a plaintiff or other document or court order initiating noncriminal proceedings before a German court or authority shall be made through a liaison agency to be established or designated by each of the sending States. The German courts or authorities may request the liaison agency to ensure service of other documents arising in such proceedings.

(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) If, upon the expiry of a period of twenty-one days from the date of acknowledgement 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, the court or authority shall forward to the liaison agency another copy of the application for service with notice that seven days after receipt by the liaison agency service shall be deemed to have been effected. At the expiry of this seven-day period, service shall be deemed to have been effected.

(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 or seven days, as the case may be, that it has not been able to effect service. The liaison agency shall inform the German court or authority of the reasons for its inability to do so.

(iii) In the case specified in item (ii) of this sub-paragraph, 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. Where a German court or authority serves a judgment or a document in appellate proceedings (Rechtsmittelschrift), a copy thereof shall, upon special or general request of the sending State concerned, be delivered to the liaison agency of that State without delay, except where the liaison agency itself is, in accordance with the second sentence of sub-paragraph (a) of paragraph 1 of this Article, requested to effect such service.

### Article 33

Members of a force, of a civilian component or dependents shall not suffer prejudice to their interests when official duties or duly authorized absence temporarily prevents their attendance at non-criminal proceedings to which they are parties.

### 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 member of a force or of a civilian component or a dependent shall not be deprived of his personal liberty by a German court or authority whether to enforce a judgment, decision, order and settlement, to compel an oath of disclosure (Offenbarungseid) or for any other reason resulting from non-criminal proceedings.

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 only to the extent permitted by the law applicable in the territory of the sending State.

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 shall, upon request by an enforcing agency and insofar as the law of the sending State concerned permits, 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 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 does not permit the procedure prescribed 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 and settlement in question.

#### Article 36

1. Service by German courts and authorities upon members of a force, of a civilian component or on dependents shall not be effected by publication or advertisement.

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. (a) Where a member of a force or of a civilian component is summoned to appear before a German court or authority, the military authorities, unless military exigency requires otherwise, shall secure his attendance provided that such attendance is compulsory under German law. The liaison agency shall be requested to ensure execution of such summons.

(b) The provisions of sub-paragraph (a) of this paragraph shall apply *mutatis mutandis* to dependents insofar as the military authorities are able to secure their attendance; otherwise dependents will be summoned in accordance with German law.

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 or 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 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 and experts, if they are members of a force or of a civilian component or dependents, would have before a court of the 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 wilfully or by gross negligence, nor to damage to the property of the German Federal Railways or German Federal Post.

(b) The provisions of sub-paragraph (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 wilfully 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.

## Article 42

In order to safeguard the security interests of the forces the following provisions shall apply for the control of aerial photography:

(a) Upon request, the German authorities shall notify the authorities of a force of all applications for license to engage in commercial aerial photography (Gründerlaubnis) which they intend to grant. They shall take into consideration the comments of the force when making their decision in any particular case.

(b) (i) Subject to the provisions of item (iv) of this sub-paragraph, the German authorities shall forward to the authorities of a force copies of all applications for permits to photograph (Aufnahmeerlaubnisse) which they intend to grant.

(ii) Where within ten days after a copy has been received the authorities of the force raise objections on grounds of secrecy or security and where consultations between the German authorities and the authorities of the force are inconclusive, the matter shall be dealt with without delay at a higher level. The German authorities shall not permit aerial photography of installations, equipment, troop dispositions or movements of a force if the authorities of the force state that its security would be endangered thereby.

(iii) Subject to the provisions of item (iv) of this sub-paragraph, the German authorities shall, upon request, permit the authorities of a force to examine negatives of aerial photographs, and in agreement with the authorities of the force shall take, with respect to such negatives, any measures necessary to safeguard the secrecy or security of installations, equipment, troop dispositions or movements of the force.

(iv) The exercise of the rights of a force provided for in items (i) and (iii) of this sub-paragraph shall be limited to the geographical areas defined in administrative agreements to be concluded with the German authorities.

(c) Notwithstanding the provisions of item (ii) of sub-paragraph (b) of this Article, permission to photograph may be granted by the German authorities, after consultation with the authorities of the force referred to in item (iv) of sub-paragraph (b) of this Article, where aerial photography for official survey purposes is commissioned by a German authority. In such cases the German authorities shall ensure that the authorities of the force will have first access to negatives and that any measures requested by them to safeguard the secrecy or security of installations, equipment, troop dispositions or movements of a force, are carried out with respect to such negatives.

#### 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 defence 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 defence 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 co-operation 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 labour with a force or a civilian component, as well as to disputes which arise from procedures referred to in sub-paragraph (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 complaint 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 sub-paragraph (b) of paragraph 2 shall also be applied to the lodging of complaints.

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* as 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 sub-paragraph (a) of this paragraph.

#### Article 45

1. Insofar as a force is not able to carry out its training programme on the accommodation made available for its permanent use without impairing the purposes of such training, the force shall have the right to conduct manoeuvres and other training exercises outside such accommodation in such measure as is necessary to the accomplishment of its defence mission and in accordance with orders or recommendations which the Supreme Allied Commander in Europe or any other competent authority of the North Atlantic Treaty Organization may issue. The exercise of this right shall be governed by the relevant provisions of German law on the conduct of manoeuvres and other training exercises, except where otherwise provided in paragraphs 2 to 7 of this Article.

2. (a) A force shall take all necessary measures to ensure that damage during the conduct of manoeuvres and other training exercises will be prevented as far as possible and that the economic use of plots of land (Grundstücke) is not substantially impaired.

(b) The force shall not re-use a plot of land on which considerable damage has been caused by manoeuvres or other training exercises, for a period of three months, except with the consent of the German authorities.

(c) If the economic use of a plot of land has been substantially impaired by manoeuvres or other training exercises conducted by a force, the force shall refrain from conducting manoeuvres or other training exercises on such plot of land for so long as it is to be feared that manoeuvres or other training exercises might lead to further or renewed substantial impairment of the economic use of such plot of land.

(d) Should the German authorities raise objections to the utilization of a specific plot of land on the grounds that its utilization is prohibited under sub-paragraph (b) or (e) of this paragraph, they shall, on the request of the authorities of the force, enter into negotiations on the use of an alternative plot of land which satisfies the training requirements of the force, taking due account of German interests as well as of military requirements.

(e) Provisions of German law according to which the same terrain (Gelände) shall only in exceptional cases be used more than once in three months for exercises lasting several days shall not be applicable to a force.

3. To the extent that military reasons render it indispensable that a force utilize a nature preserve or a nature park or parts thereof, the Federal Government shall, unless the person entitled consents to such utilization, conclude with the Government of the sending State an agreement defining such nature preserve or nature park or parts thereof, and establishing to the extent necessary details of the utilization. In accordance with the agreement concluded, the force may utilize such nature preserve or nature park or parts thereof without the consent of the person entitled to grant it.

4. If the German authorities propose, instead of an area envisaged by the authorities of the force for the conduct of a manoeuvre or other training exercise, an alternative area which suffices for the training requirements of the force, the force shall not conduct the manoeuvre or other training exercise in the area first envisaged.

5. (a) The authorities of a force shall notify the German authorities at the earliest possible date of their programmes of manoeuvres and other training exercises.

(b) Prior to the commencement of a manoeuvre or other training exercise, the authorities of the force shall communicate to the German authorities by a given date, to be established by agreement between the Federal Government and the Governments of the sending States, a plan for the conduct of the manoeuvre or the other training exercise in question together with all necessary documentation and explanations and shall, if requested by the German

authorities, discuss such plan with them. Such plan shall in particular contain data on the type, time of commencement, duration, and place, of the exercises and shall state whether public ways are to be wholly or partly closed or to be used other than as stipulated by German law, and if so, what safety measures are to be taken. Where use is to be made of aircraft in connection with a manoeuvre or other training exercise, such plan shall contain details of such use; Article 46 of the present Agreement shall remain unaffected.

(c) Should no objections be raised by the German authorities to a plan within a fixed period of time to be established by agreement between the Federal Government and the Government of a sending State, the authorities of the force may act on the assumption that no such objections exist.

(d) Should the German authorities raise objections to a plan, endeavours shall be made without delay by way of joint discussion to reach agreement, taking due account both of German interests and of military requirements.

(e) Should the German authorities and the authorities of the force, either at local or at regional level, fail to reach agreement upon a plan within an appropriate period of time, the matter shall, at the request of the German authorities or the authorities of the force, be further discussed by the Federal Government and the Government of the sending State in order to reach agreement.

(f) Should the Federal Government and the Government of the sending State fail to reach agreement on a plan within an appropriate period of time, each Government may refer the matter to the Secretary-General of the North Atlantic Treaty Organization with a request for his expert opinion as to whether the planned manoeuvre or other training exercise is of primary importance to the accomplishment of the defence mission of the force and in conformity with the directives laid down within the framework of the North Atlantic Treaty Organization. Such expert opinion shall be given due consideration in the course of further negotiations between the Governments.

(g) The force shall conduct the manoeuvre or other training exercise in accordance with the agreement reached on the plan.

6. (a) After agreement has been reached on a plan, the authorities of the force shall inform the German authorities of their intention to conduct the manoeuvre or other training exercise in sufficient time to enable the German authorities to announce the manoeuvre or other training exercise at least two weeks prior to its commencement.

(b) If for important reasons not foreseen during the discussion of the plan the German authorities raise objections to the conduct of the manoeuvre or other training exercise in a specific area or at a specific time, especially on the grounds that the manoeuvre or other training exercise would endanger public safety and order or public health, or would as a result of weather conditions cause considerable damage, endeavours shall be made without delay by way of joint discussion to reach agreement, taking due account of these reasons.

(c) The local German authorities shall establish restrictive conditions, which under German law they may establish in individual cases (paragraph 1 of Section 66 of the Federal Requisitioning Law) only in agreement with the authorities of a force to the extent that the force is affected thereby.

7. For the purpose of effective coordination of civilian and military interests in the application of this Article, the Federal Government and the Government of a sending State may by agreement establish a Permanent Committee.

#### Article 46

1. A force shall have the right to conduct manoeuvres and other training exercises in the air in such measure as is necessary to the accomplishment of its defence mission and in accordance with orders or recommendations which the Supreme Allied Commander in Europe or any other competent authority of the North Atlantic Treaty Organization may issue. Except where otherwise provided in paragraphs 2 to 6 of this Article, the exercise of this right shall be governed by German regulations on the use of 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.

2. A force shall not, without the specific consent of the persons entitled and of the German authorities, temporarily occupy or close airfields not made available for its exclusive use. The same shall apply to installations designed to ensure air traffic safety.

3. The authorities of a force and the German authorities shall reach agreement regarding areas which may be flown over at altitudes lower than otherwise permissible.

4. Air manoeuvres and other air exercises which affect controlled air space and which cannot be cleared by normal air traffic clearance procedure, or which require the issue of a navigational warning, shall be notified to the German authorities in good time. Notification procedure shall follow the decisions of the Standing Commission for co-ordination of aviation or its successor organization.

5. Where agreement on particular measures for co-ordination is not reached between the authorities of a force and the air traffic control authorities within an appropriate period of time, the matter shall be referred to the Standing Commission for co-ordination of aviation or its successor organization.

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.

#### 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 favourable 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.

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 sub-paragraphs (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.

#### 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 programmes. Outside such programmes, 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 sub-paragraph (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 sub-paragraphs (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) Sub-paragraph (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 sub-paragraph (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 sub-paragraph 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 sub-paragraph (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 defence 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.

#### Article 49

1. The programmes of construction projects necessary to cover the requirements of a force or of a civilian component shall be agreed upon between the German authorities competent for Federal building and the authorities of the force or of the civilian component.

2. Construction works shall normally 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. The authorities of a force or of a civilian component may, after consultation with the German authorities, carry out construction works with their own personnel, or may, applying their normal procedures, place contracts direct with contractors.

(a) for minor construction projects, and

(b) exceptionally, in other cases,

in accordance with special administrative agreements which may exist at the date of entry into force of the present Agreement or which are concluded or amended thereafter, in carrying out such works, the authorities of the force or of the civilian component shall respect German building regulations and take into consideration the principles applying in the Federal Republic regarding public construction which are reflected in the regulations concerning competition, preferred tenderers and prices applicable to public contracts.

4. A force or of a civilian component shall be carried out either by the German authorities or, after consultation with those authorities by the authorities of the force or of the civilian component in the second alternative the provisions of paragraph 3 of this Article shall apply *mutatis mutandis*.

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 paragraphs 3 and 4 of this Article.

6. When the work referred to in paragraphs 2 and 4 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 tender 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.

#### 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 fulfilment of the defence 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 manoeuvres 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 fulfilment of the defence 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.

## 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 components 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 improvement.

## Article 53

1. Within accommodation made available for its exclusive use, a force or a civilian component may take all the measures necessary for the satisfactory fulfilment of its defence responsibilities. Within such accommodation, the force may apply its own regulations in the fields of public safety and order where such regulations prescribe standards equal to or higher than those prescribed in German law.

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.

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 co-operate to ensure the smooth implementation of the measures referred to in paragraphs 1, 2 and 3 of this Article. The details of such co-operation 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 defence responsibilities of the force.

6. In order to enable a force or a civilian component satisfactorily to fulfill its defence 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.

#### Article 54

1. The German regulations 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 insofar as the regulations of the force in these fields do not prescribe equal or higher standards. Within the accommodation made available for its use, a force may apply its own regulations, 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.

#### Article 55

1. (a) Defense works required to execute NATO plans for common defence within the areas for the defence 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 co-operate to ensure that defensive measures necessary to meet defence requirements are prepared and carried out adequately and in good time.

#### Article 56

1. (a) German labour law, as applicable to civilian employees working with the German Armed Forces, with the exception of decrees regulating working conditions (Dienstordnungen) and tariff regulations, shall apply to employment of civilian labour with a force or a civilian component except as otherwise provided in the present Agreement.

(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) Without prejudice to their claim to remuneration, civilian employees shall have no right to actual work.

(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) A force shall have the right to assemble non-German civilian labour to form civilian service organizations.

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

2. If a German Labour Court decides that the contract of employment has not come to an end by notice to terminate, it shall fix ex officio the compensation payable in the event that the continuation of the employment is refused. This shall apply to proceedings to obtain protection against dismissal (Kündigungsschutzverfahren) as well as to other actions for a declaratory judgment (Feststellungsklage), or for damages or specific performance (Leistungsklage) arising out of the contract for employment. The amount of compensation shall be determined according to the provisions of German labour law. The contract of employment shall be deemed to be terminated upon a refusal to continue the employment. The force or the civilian component shall inform the person concerned without delay, and, in any case, not later than two weeks after service of the decision of the Labour Court, whether it chooses to continue the employment or to pay the compensation. If no statement is made within this period of time, the force or the civilian component shall be deemed to have chosen to pay the compensation. The choice of continued employment of the person concerned shall not preclude the possibility of filing an appeal against the decision. 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 labour working with a force or a civilian component. The Federal Republic shall be the accident insurance carrier.

4. German civilian labour 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 labour, have the right of engagement, classification in accordance with sentences 2 to 6 of sub-paragraph (a) and with subparagraph (b) of paragraph 7 of this Article, and of 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 sub-paragraph (a) of paragraph 5 of this Article. The individuals to fill such jobs shall be provisionally classified by the authorities of the force or of the civilian component into the appropriate wage or salary groups. The latter classification shall be subject to the approval of the competent German authorities. Such approval shall be deemed to have been given, unless the German authorities raise an objection within two weeks of the date of receipt of notification of the provisional classification. If an objection has been raised, the appropriate classification shall be determined by consultation between the authorities of the force or of the civilian component and the German authorities. The remuneration for the period covered by the provisional classification shall be paid according to the final classification; the worker shall be so informed at the time of the provisional classification.

(b) The authorities of the force shall carry out the classification of the members of the civilian service organizations. They shall inform the appropriate German authorities of such classification and shall give due consideration to any suggestions for amendment made by the latter.

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 labour 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 labour by a force or a civilian component and of its remuneration, the costs of such administrative work shall be reimbursed by the force in the amount of a percentage of the total wages and salaries, including allowances and gratuities, administered by the German authorities. The percentage shall be based on actual costs and shall be the subject of separate agreements between the German authorities and the authorities of each sending State, in which the criteria for assessing such costs shall also be laid down.

## Article 57

1. A force, a civilian component, their members and dependents shall have the right to cross the borders of the Federal Republic or to move within and over the Federal territory in vehicles, vessels and aircraft.

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. Unless otherwise provided in the present Agreement, German traffic regulations shall apply to a force, a civilian component, their members and dependents.

4. (a) Deviations from German regulations governing conduct in road traffic shall be permitted to a force only in cases of military exigency and then only with due regard to public safety and order.

(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 permitted only in case of accidents, catastrophes, state of emergency or by agreement between those authorities.

5. Subject to due regard being paid to public safety and order, German regulations shall not apply to the construction, design and equipment of vehicles, trailers, inland water vessels or aircraft of a force and of a civilian component, if such vehicles, trailers, inland water vessels or aircraft conform to the regulations of the sending State.

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. The German military authorities shall represent the military aviation interests of the forces within the German Commission for the Co-ordination of Civil and Military Aviation when established pursuant to the Recommendations of the International Civil Aviation Organization and of the Committee for European Air Space Co-ordination of the North Atlantic Treaty Organization, and shall be responsible for the presentation in this Commission of a co-ordinated military viewpoint. Representatives of the forces shall, where appropriate, be given adequate opportunity to present their views before the Commission.

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 co-ordinated to the extent necessary to ensure air traffic safety and the common defence.

## 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 favourable than those applicable to the German Armed Forces. Such tariffs shall be fixed or 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 favourable 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.

#### 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 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 favourable 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) wire telecommunication facilities 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, manoeuvres, and in cases of emergency.

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) Telecommunication facilities, the installation of which under then existing regulations was begun but not completed prior to the entry into force of the present Agreement, may be taken into use within a period of six months after that date, provided that they are included in a list which shall be submitted to the Federal Government upon the entry into force of the present Agreement.

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.

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. Telecommunication facilities established by a force may be interconnected with the public network of the Federal Republic if they are technically and operationally compatible with such network. The points of interconnection shall be determined by mutual agreement.

8. (a) In establishing and operating telecommunication facilities, a force shall observe the provisions of the International Telecommunications Convention, Buenos Aires, of 1952,<sup>23</sup> or of such other instrument as may replace it, and of 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. (Complete control of the cables identified as FK 12 and FK 41 lying within the Federal territory, including the associated equipment, shall be exercised by the authorities of the sending State concerned.

#### 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 labour 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:

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<sup>23</sup> 1. TIAS 3266; 6 UST 1213. See also the convention signed at Geneva Dec. 21, 1959 and the Convention signed at Mantreux Nov. 12, 1965, which abrogated and replaced, as between contraction parties, the convention signed at Buenos Aires Dec. 22, 1952 (TIAS 3266); TIAS 4892; 12 UST 1761; TIAS 6267; 18 UST 575.

(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 fulfilment 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 sub-paragraph (a) or under sub-paragraph (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 sub-paragraphs (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 (Besitzinweisungsentschädigung) 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 (Schutzbereichschädigung) payable under German law to the Under, 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 sub-paragraph (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.

#### 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 fulfilment 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 Equilization 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 fulfilment 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 competent 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 sub-paragraphs (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 sub-paragraphs (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 fulfilment 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 (Ausgangsgabern) 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) to (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, provided that payment 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 its authorized agent has obtained by the conversion of such currency in the Federal Republic, or in Deutsche Mark whose use is admissible within the scope of the provisions of this paragraph in accordance with any special agreement reached between the German authorities and the authorities of the sending State. Tax exemptions and refunds shall be taken into account in calculating prices.

(ii) Deliveries and services to a force or a civilian component shall be exempt from the turnover tax. On request, suppliers shall be granted such refunds as are provided in the German Turnover Tax Law in the event of export. Deliveries to a force or a civilian component shall be deemed to be wholesale deliveries.

(iii) Transportation services rendered to a force or a civilian component by the German Federal railways or by commercial transportation enterprises shall be exempt from transportation tax. Exemption from transportation tax shall not be granted for transportation services rendered for or by a supplier or person who renders services in connection with deliveries or services to a force or a civilian component whether carried by factory-owned long-distance transport (Werkfernverkehr), by the German Federal Railways or by other commercial carriers.

(iv) Goods delivered to a force or a civilian component from the free inland trade (zollrechtlich freier Verkehr) shall be granted the exemptions, refunds or price discounts provided by customs, excise, and fiscal monopoly legislation in the event of export.

(b) Sub-paragraph (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 sub-paragraphs (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 sub-paragraph (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.

#### 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) cheques 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 co-operation 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 fulfilment 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 sub-paragraph (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 in 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 und Gewerbe). Such of these regulations as relate to safety measures shall, subject to Article 53 of the present Agreement, nevertheless apply.

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 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) Sub-paragraph (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.

## 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 fulfilment of their purposes;

(b) exemptions from German regulations governing the conduct of trade and business activities (Handel und Gewerbe);

(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) Sub-paragraph (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.

## Article 73

Technical experts whose services are required by a force and who in the Federal territory exclusively serve that force either in an advisory 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 shall 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 co-operate 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) Co-operation 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 tax 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

Defensive works, the execution of which has been agreed with the Federal Republic prior to the entry into force of the present Agreement or on which work has commenced prior to that date, shall be completed as planned.

#### Article 77

The Standing Commission provided for in paragraph 8 of Article 17 of the Forces Convention shall, in the interests of common defence and air safety, for the time being continue its functions in the field of co-ordination of civil and military aviation. When the German Commission referred to in paragraph 7 of Article 57 of the present Agreement, together with any additional organization required to ensure effective co-ordination between civil aviation and all military air forces in the Federal Republic, has been set up by the German authorities and is in a position to satisfy the requirements of the forces in this field, the Standing Commission shall be dissolved after adequate prior consultation between the German authorities and the authorities of the forces concerned.

#### 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 Labour Courts after the entry into force of the present Agreement.

#### Article 79

1. The tax relief provided in paragraph 1 and sub-paragraphs (a), (c) and (d) of paragraph 2 of Article 33 of the Forces Convention, and in Article 3 of the Agreement on the Tax Treatment of the Forces and their Members, as amended by Schedule V to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954, shall continue to be granted in respect of goods and services for which payment is made in Deutsche Mark, after the entry into force of the present Agreement, from the carry-over of occupation costs and mandatory expenditures funds or from the carry-over of support costs funds agreed upon for the period up to 5 May 1957.

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 defence 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 81

1. Subject to the provisions of paragraph 2 of this Article, the present Agreement shall remain in force while forces are stationed in the Federal Republic in accordance with the terms of the Convention on the Presence of Foreign Forces in the Federal Republic of Germany of 23 October 1954<sup>24</sup> or any arrangement which may replace it.

2. The present Agreement shall lapse

(a) if the Federal Republic denounces the NATO Status of Forces Agreement, when its denunciation takes effect pursuant to Article XIX of that Agreement;

(b) between the Federal Republic and any sending State that denounces the NATO Status of Forces Agreement when such denunciation takes effect.

## 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 ratified or approved. The 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<sup>25</sup> thirty days after the date on which the Federal Republic has deposited with the Government of the United States of America, in accordance with the conditions specified in the Resolution of the North Atlantic Council of 5 October 1955, its instrument of accession<sup>26</sup> to the NATO Status of Forces Agreement.

3. The present Agreement shall be deposited in the Archives of the Government of the United States of America, which shall transmit certified copies thereof to each signatory State.

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

DONE at Bonn, this third day of August 1959, in the German, English and French languages, all texts being equally authentic.

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<sup>24</sup> 5. TIAS 3462; 6 UST 5689.

<sup>25</sup> 6. July 1, 1963.

<sup>26</sup> 7. Accession deposited June 1, 1963.

For the Kingdom of Belgium:<sup>27</sup>

BARON DE GRUBEN

For Canada:<sup>28</sup>

ESCOTT REID

For the French Republic:<sup>29</sup>

FRANCOIS SEYDOUX

For the Federal Republic of Germany:<sup>30</sup>

A. H. VAN SCHERPENBERG

For the Kingdom of the Netherlands:<sup>31</sup>

H. VAN VREDENBURCH

For the United Kingdom of Great Britain and Northern Ireland:<sup>32</sup>

CHRISTOPHER STEEL

For the United States of America:<sup>33</sup>

DAVID BRUCE

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### Protocol of Signature to the Supplementary Agreement

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 1

#### Agreed Minutes and Declarations concerning the NATO Status of Forces Agreement

Re article I, paragraph 1, subparagraph (a)

1. In view of the definition of a "force", the Federal Republic regards the NATO Status of Forces Agreement and the Supplementary Agreement as being applicable also to such forces of a sending State as are temporarily in the Federal territory in accordance with paragraph 3 of Article 1 of the Convention on the Presence of Foreign Forces in the Federal Republic of Germany of 23 October 1954.

2. Service attachés of a sending State in the Federal Republic, the members of their staffs and any other service personnel enjoying diplomatic or other special status in the Federal Republic shall not be regarded as constituting or included in a "force" for the purpose of the NATO Status of Forces Agreement and the Supplementary Agreement.

3. Except in cases of military exigency, the Governments of the sending States will make every effort not to station in the territory of the Federal Republic as members of a force persons who are solely Germans.

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<sup>27</sup> 8. Ratification deposited May 15, 1963.

<sup>28</sup> 9. Ratification deposited Dec 11, 1961.

<sup>29</sup> 10. Ratification deposited Jan. 11, 1962.

<sup>30</sup> 11. Ratification deposited June 1, 1963.

<sup>31</sup> 12. Ratification deposited Sept. 10, 1962.

<sup>32</sup> 13. Ratification deposited July 9, 1962.

<sup>33</sup> 14. Approval deposited July 28, 1961.

4. (a) The following non-appropriated fund organizations and activities are integral parts of the United States force:
- (i) European -Exchange System (EES)
  - (ii) Air Forces Europe Exchange (AFEX)
  - (iii) USAREUR Class VI Agency
  - (iv) USAFE Class VI Agency
  - (v) European Motion Picture Service
  - (vi) USAFE Motion Picture Service
  - (vii) USAREUR Special Services Fund
  - (viii) USAREUR Special Services Reimbursable Fund
  - (ix) American Forces Network
  - (x) Dependent Education Group (including Dependent schools)
  - (xi) Armed Forces Recreation Center Fund
  - (xii) Association of American Rod and Gun Clubs in Europe
  - (xiii) Stars and Stripes
  - (xiv) Other non-appropriated fund organizations, including authorized clubs and messes

(b) The organizations referred to under item (xiv) of sub-paragraph (a) of this paragraph shall conduct tax- and duty-free procurement through officially designated procurement agencies of the force in accordance with agreed procedures.

(c) The list of organizations and special funds under sub-paragraph (a) of this paragraph is subject to amendment as organizational changes require.

5. Members of the Armed Forces of a sending State stationed in Berlin, of their civilian components and dependents shall be considered to be, and treated as, members of the force, of the civilian component or dependents while on leave in the Federal territory.

#### Re Article V, paragraph 1, second sentence

1. The authorities of a sending State may authorize the members of the force to wear civilian clothes in accordance with the regulations of the sending State.

2. Paragraph 1 of this Section shall also apply to French detachments in which individual members of the force are regrouped and officered (recruits proceeding to their assigned units in the Federal Republic or returning home after discharge), if the French regulations allow such personnel to cross the border in civilian clothes.

#### Re Article VII

1. The Federal Republic regards offences dealt with under administrative penal procedure (Verwaltungsstrafverfahren) and offences subject to a fine only (Ordnungswidrigkeiten) as offences punishable by the law of the receiving State within the meaning of Article VII and the provisions of the Supplementary Agreement directly relating thereto.

2. (a) In view of sub-paragraph (b) of paragraph 1 of Article VII, the Federal Republic does not consider it to be within its competence to decide on requests for extradition of members of a force, of a civilian component or dependents.

(b) The sending States will not act upon requests for extradition of Germans who are present in the Federal territory as members of a force or as dependents.

#### Re Article IX, paragraph 6

The Federal Republic is prepared to give the most favourable consideration to requests for the grant to dependents of travelling facilities and concessions with regard to fares. Such consideration will be exercised only within the framework of existing tariffs and where comparable circumstances exist.



Re Article XIX

The Federal Government recognizes that it would be undesirable for the status of the forces to remain unsettled. It will therefore exercise the right of denunciation to which it is entitled under Article XIX only for urgent reasons and only after consultation with the Governments of the sending States. The Federal Government is prepared in the event of denunciation to enter into negotiations with the Governments of the sending States without delay for the conclusion of adequate alternative arrangements. Pending the conclusion of such arrangements it would assure to the forces a position not prejudicial to the stability of their essential stationing conditions.

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.

Re Article 2

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

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 fulfills the obligations concerned.

Re Article 5

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

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.

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" (Stadt-, Kreisverwaltungen) 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, sub-paragraph (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, sub-paragraph (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, sub-paragraph (g):

The term "race" is deemed to have been deleted by virtue of Article II of Control Council Law No. 1 (see sub-paragraph (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, sub-paragraph (h):

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

(f) Re Section 7, paragraph 1, sub-paragraph (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 relative 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 sub-paragraphs (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:

Those 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 sub-paragraph (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.

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.

#### Re Article 12

The expression “German law on self-defence (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-defence.

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

An act in excess of necessary self-defence is not punishable if the perpetrator exceeded the bounds of defence 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, honour, 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-defence is termed defence 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-defence 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-defence.

(vi) An attack shall be deemed to be continuing and therefore 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-defence 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-defence 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 defence is determined by the severity and persistence of the attack and by the means which are available to the person attacked for his defence.

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

#### 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 whose 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 been reached with the Federal Government on the necessary transitional arrangements.

2. (a) Subject to a careful examination of each specific case and to the results of such examination, major 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 Federal High Court of Justice (Bundesgerichtshof) in first and last instance or offences which may be prosecuted by the Chief Federal Prosecutor (Generalbundesanwalt) at the Federal High Court of Justice;

(ii) offences causing the death of a human being, robbery, rape, except where these offences are directly 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 sub-paragraph (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.

#### 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.

#### Re Article 26, paragraph 1, sub-paragraph (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 purposes of training exercises or manoeuvres.

#### Re Article 31

1. Articles 17 to 24 of the Hague Convention on Civil Procedure of 17 July 1905<sup>34</sup> 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<sup>35</sup> 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:

<sup>34</sup> 1. *British and Foreign State Papers*, vol 99, p. 990.

<sup>35</sup> 2. The Hague Convention on Civil Procedure of 1954 entered into force for France June 22, 1959, and for the Federal Republic of Germany January 1, 1960, 286 UNTS 265.

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).

#### 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 Railways and of the German Federal Post, caused by manoeuvres 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 objects for cogent technical building or traffic police control reasons. In these cases and in other cases of damages referred to in (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 sub-paragraph (a) of this paragraph.

(c) In the cases referred to in sub-paragraphs (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 sub-paragraph (a) of paragraph 3 of Article 41 shall not apply to damage arising from non-fulfilment 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 sub-paragraph (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 sub-paragraph (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 wilfully 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 sub-paragraph (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.

#### Re Article 47

The following language will be included in the administrative agreements envisaged in sub-paragraph (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 sub-paragraph (c) of paragraph 5 of Article 47 of the Supplementary Agreement that the necessary budgetary funds are available.”

#### Re Article 48

1. (a) Where in implementation of the third sentence of sub-paragraph (c) or paragraph I 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 sub-paragraph (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 (Besitzinweisungsentschädigung) or any other compensation. The provisions of Article 63 shall remain unaffected.

(b) The procedure envisaged in sub-paragraph (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 sub-paragraphs (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 sub-paragraph (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 sub-paragraph (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 sub-paragraph (b) of paragraph 3 of Article 48 the date 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 sub-paragraph (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.

#### 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.

#### 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 provision 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 fulfilment of the defence 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.

#### 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.

#### Re Article 53

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

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 defence 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.

5. Co-operation between the authorities of a force and the German authorities with regard to the administration of property made or to be made available by the Federal Republic to the force for its use 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, prevention of accidents and safety measures, such as those pertaining to rifle ranges, ammunition depots, fuel depots and dangerous plants;
- (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 neighbouring property, town and country planning, protection of monuments and sanctuaries;
- (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;
- [(j)]<sup>36</sup>
- (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. Co-operation between the authorities of a force and the German authorities shall be carried out in accordance with the following procedures:

(a) The authorities of the force and the German authorities shall designate representatives for a unit or units of accommodation. The representatives of the force and the German representatives shall cooperate to ensure that due consideration is given to the interests of the force and to German interests. They shall agree on such measures as may be necessary for implementing co-operation.

(b) The military commander responsible for the accommodation or other appropriate authority of the force shall give the German representatives and the experts nominated by them all reasonable assistance necessary to safeguard the German interests, including access to accommodation, subject in all cases to considerations of military security.

(c) Notwithstanding the provisions of sub-paragraphs (a) and (b) of this paragraph, the following procedure shall apply:

(i) The property lists and inventories of property referred to in sub-paragraph (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) Co-operation in the field of safety measures in respect of rifle ranges, ammunition depots and fuel depots shall normally be effected through joint commissions. Details of such procedure 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 co-operation in the fields referred to in paragraph 5 of this Section, such provisions or regulations shall prevail.

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.

Re Article 56, paragraph 9

1. The individual administrative units and establishments (Betriebe) of a force or of a civilian component as defined by the force concerned shall be agencies within the meaning of the Personnel Representation Law (Personalvertretungsgesetz) of 5 August 1955 (Bundesgesetzblatt Teil 1, page 477), referred to in this Section as "the Law".

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<sup>36</sup> 1. No such lettered provision appears in the original.



Those headquarters which are administratively immediately subordinate to the highest authority of a force and to which other agencies are administratively subordinate shall be the intermediate authorities.

2. There shall be no joint works councils (Gesamtbetriebsräte). Works councils above the local level (Stufenvertretungen) shall only be established at the level of the intermediate authorities as district works councils; the maximum number of their members shall be eleven. In the case of duty travel performed by the members of a district works council, 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. The head of the agency shall not be required to appoint the electoral committee for the election of the local works council. Applications by the Trade Unions for the convening of staff assemblies for the purpose of electing the electoral committee shall be submitted in writing.

4. The period of employment with the agency, required to establish eligibility for election to the works council, shall be one year.

5. The period of office of works councils shall be one year.

6. The head of the agency shall not be required to submit to the members of the works council such documents as are classified for security reasons. For the same reasons, and in accordance with special directives issued by the highest authority of the force, a member of the works council may be restricted in his right of access to agencies of the force; the same shall apply to other persons who, according to the provisions of the Law, may participate in the meetings of the works council.

7. In those cases where the provisions of the Law envisage rights to co-determination, the co-operation procedure (Mitwirkungsverfahren) shall apply. Works agreements (Dienstvereinbarungen) may be concluded on the basis of a freely negotiated settlement, if they are admissible in accordance with the Law, and if the head of the agency is authorized to conclude such agreement. The provisions of the Law concerning the reasons for denying the approval of upgrading, downgrading and transfer shall not apply.

8. Insofar as it is incompatible with the fulfilment of the defence responsibilities of the force, the head of the agency shall not be required to submit to or discuss with the works council any draft of administrative instructions prior to their being issued. In the case of investigations into accidents the works council shall be called in unless regulations regarding military security or discipline exclude the presence of works council members.

9. The works council shall co-operate in all measures concerning medical and health service for the employees, except in the appointment of medical doctors.

10. Where the Law provides for court decisions, the German Labour 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.

11. 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 the penal provisions of the Law.

12. The period of office of duly elected works councils existing at the date of entry into force of the Supplementary Agreement shall terminate not later than six months after that date.

#### 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.

#### 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.

#### Re Article 60

1. If the German Federal Post intends to amend the regulations on the use of telecommunication facilities referred to in the second sentence of paragraph 1 of Article 60 or to introduce new regulations on such use, and a force will be affected thereby, the force shall be informed at the earliest possible date and in no case later than one month prior to the entry into force of the regulations in question, in order that any necessary consultations may take place. The force shall be allowed sufficient time to make any changes in telecommunication facilities or administrative procedure required thereby.

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

3. (a) Sub-paragraph (b) of paragraph 4 of Article 60 refers to telecommunication facilities whose installation is not otherwise authorized under that Article.

(b) Where the period of six months stipulated in sub-paragraph (b) of paragraph 4 of Article 60 is exceeded due to factors beyond the control of the force or the implementing agency (e.g. strikes or lack of material), a special agreement covering the extension of such period of time shall be concluded. Telecommunication facilities of the force the establishment of which the German Federal Post has contracted prior to the entry into force of the Supplementary Agreement shall not be deemed subject to such period of six months. Such facilities may be taken into use at any time subsequent to the entry into force of the Supplementary Agreement.

4. The right mentioned in sub-paragraph (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' Assignments of frequencies made prior to the entry into force of the Supplementary Agreement shall remain valid. 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 manoeuvres shall be laid down by special agreement between the German authorities and the authorities of a force. Such agreement shall be in accordance with relevant NATO procedures, directives and recommendations.

(c) Measures for the protection of frequencies through the competent NATO authority shall be initiated by the force concerned. Measures for the protection of frequencies through other international organizations, especially through the International Telecommunications 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 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, except where special agreements have been concluded with the sending State operating the radio stations concerned in the Federal territory.

(f) A force shall be bound by the provisions contained in Appendices 3 and 4 of the Radio Regulations of Atlantic City 1947<sup>37</sup> or by such provisions as may replace them only insofar as this can reasonably be expected in the fulfilment of its defence responsibilities.

6. (a) In addition to the international instruments referred to in paragraph 8 of Article 60, a force shall observe equally the provisions of the following international instruments which the Federal Republic while not a party thereto applies in its territory:

(i) European Regional Convention for the Maritime Mobile Radio Service, Copenhagen, 1948;

(ii) Frequency Allocation Plan for the Aeronautical Mobile Service and Final Act, Geneva, 1948/49;

(iii) Final Acts of the Extraordinary Administrative Radio Conference, Geneva, 1951;<sup>38</sup>

(iv) Special Arrangements Concerning Radio Beacons in the European Zone of Region I, Paris, 1952.

(b) Subject to prior agreement between a force and the German authorities the force shall also observe the

<sup>37</sup> 1. TIAS 1901; 63 Stat. 1981, 1991. For Radio Regulations signed at Geneva Dec. 21, 1959, and partially revised Nov. 3, 1967, see TIAS 4893, 6590; 12 UST 2377, 19 UST 6717.

<sup>38</sup> 2. TIAS 2753; 3 UST (pt. 4) 5520.

provisions of any other new international instruments in the field of telecommunications to which the Federal Republic is not a party, to the extent that the Federal Republic applies such provisions in its territory. Except for compelling military reasons the force shall not object to the application of the provisions of instruments of this kind.

(c) The German authorities shall give due consideration to the requirements of a force insofar as the Federal Republic applies in its own territory international instruments in the field of telecommunications to which it is not a party.

(d) Sub-paragraphs (a) to (c) of this paragraph shall, however, apply on the understanding that a force is not bound by the provisions of the instruments referred to therein to the extent that the German Armed Forces are exempt from them under domestic German regulations.

#### 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 sub-paragraphs (a) and (b) of paragraph 4 of Article 63 may be officially made available by the force or by the civilian components 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 sub-paragraphs (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 defence.

(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 defence.

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

- (i) cleaning and strewing roads, pavements, and access ways;
  - (ii) sewage and garbage disposal;
  - (iii) drainage;
  - (iv) chimney sweeping;
  - (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.

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 sub-paragraph (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 sub-paragraph (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 sub-paragraph (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.

## 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 endeavour 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 endeavour 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 Einküften 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

Kapitalverkehrsteuern, 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.

## 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) Toe 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 Roberts' Workshops.
        - 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 centres
        - (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
          - (ii) Associations d'Officiers et de sous-Officiers de reserve
            - Purpose:
              - Establishment of contracts between officers and NCOs of the reserve stationed in the Federal territory as members of the civilian component or dependents
            - (iii) 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 sub-paragraph (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.

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.

The present Protocol of Signature shall constitute an integral part of the Supplementary Agreement.

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

DONE at Bonn, this third day of August 1959, in the German, English and French languages, all texts being equally authentic.

For the Kingdom of Belgium:

BARON DE GRUBEN

For Canada:

ESCOTT REID

For the French Republic:

FRANCOIS SEYDOUX

For the Federal Republic of Germany:

A. H. VAN SCHERPENBERG

For the Kingdom of the Netherlands:

H. VAN VREDENBURCH

For the United Kingdom of Great Britain and Northern Ireland:

CHRISTOPHER STEEL

For the United States of America:

DAVID BRUCE

**Agreement To Implement Paragraph 5 of Article 45 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**

For the purpose of implementing paragraph 5 of Article 45 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, signed at Bonn on 3rd August 1959 (hereinafter referred to as the “Supplementary Agreement”)

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,

HAVE AGREED As FOLLOWS:

#### Article 1

The authorities of a force shall notify the Federal Minister of Defence of their annual programmes of manoeuvres and other training exercises in which units with the minimum strength of a brigade group or regimental combat team or equivalent formation will be taking part. The time of such notification shall be agreed upon with each individual force.

#### Article 2

Plans for the conduct of manoeuvres and other training exercises (subparagraph (b) of paragraph 5 of Article 45 of the Supplementary Agreement) shall be communicated to:

(a) the authorities of the Land and the Military District Administration (Wehrbereichsverwaltung) simultaneously in cases in which the manoeuvres or other training exercises are to be held in one Military District exclusively or, if two or more Military Districts are affected, units not exceeding battalion strength are to take part;

(b) the Federal Minister of Defence in cases in which the manoeuvres or other training exercises are to be conducted in two or more Military Districts and in which units exceeding battalion strength are to take part.

#### Article 3

1. In cases falling under sub-paragraph (a) of Article 2 of the present Agreement, the periods of time specified in the Annex to the present Agreement shall apply for the communication of plans to the German authorities and for the latter to state their final opinion.

2. In cases falling under sub-paragraph (b) of Article 2 of the present Agreement, the periods of time for the communication of plans stated in items 2 and 3 of the Annex to the present Agreement shall in each case be extended by two weeks.

3. The German authorities shall inform the authorities of a force as early as possible of any objections to the plan. The joint discussions envisaged in paragraph 5 of Article 45 of the Supplementary Agreement shall be so expedited by the German authorities and the authorities of the force as to ensure that if possible, and if necessary at a higher level, agreement is reached within the period of time specified in the Annex to the present Agreement for the final opinion of the German authorities.

#### Article 4

In particular, plans shall contain the following data:

- (a) designation (code name, nickname) and type of manoeuvre or other training exercise;
- (b) time and date of the beginning and end of the manoeuvre or other training exercise, of assembly and departure, and of the preparatory measures;
- (c) designation of the area in which the manoeuvre or other training exercise is to be conducted (to be accompanied by maps or sketch-maps on a suitable scale);
- (d) approximate information about
  - (i) the total strength of the units engaging in the exercise,
  - (ii) the total number of wheeled and tracked vehicles,
  - (iii) the number of wheeled and tracked vehicles classified in or above Class 24 in Standardization Agreement 2021 (second edition),
  - (iv) the areas and roads where vehicles are principally to be engaged,
  - (v) number, type, engagement area and flight altitude of aircraft to be engaged, if any,
  - (vi) off-base landings or parachute jumps or drops proposed, if any, and where such exercises are probably to take place;



- (e) information as to whether and if so, to what extent earthworks are envisaged and whether camouflage material will be required;
- (f) information regarding any special arrangements desired (e.g. for the closing of public ways or stretches of water);
- (g) information as to whether and if so, to what extent billets will require to be supplied.

#### Article 5

In the case of manoeuvres and other training exercises conducted by a force with other forces or with the German Armed Forces, the authorities of the force in command of the manoeuvre or other training exercise shall communicate the plans to the German authorities competent under Article 2 of the present Agreement.

#### Article 6

Notwithstanding the provisions of Articles 2 and 3 of the present Agreement, agreements may be concluded between the German authorities and the authorities of a force providing in the case of specific areas and specific categories of training exercises for a combined notification covering a specific period of time instead of individual notifications. Such agreements shall contain particulars as to how and to what extent exercises are to be conducted in such areas and the time limits within which the combined notification shall be made, as well as any other arrangements required.

#### Article 7

The present Agreement may be amended or supplemented by agreement between the Federal Government and the Government of a sending State. Such amendment or supplement shall not affect the provisions of the present Agreement as regards relations between the Federal Republic and the other sending States.

#### Article 8

The present Agreement shall be ratified or approved. The instruments of ratification or of approval shall be deposited by the signatory States with the Government of the United States of America<sup>39</sup> which shall notify each signatory State of the date on which the instruments are deposited.

#### Article 9

The present Agreement, which shall enter into force on the same date as the Supplementary Agreement,<sup>40</sup> shall be deposited in the Archives of the Government of the United States of America, which shall transmit certified copies thereof to each signatory State.

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

DONE at Bonn, this third day of August 1959, in the German, English and French languages, all texts being equally authentic.

For the Kingdom of Belgium:  
BARON DE GRUBEN

For Canada:  
ESCOTT REID

For the French Republic:  
FRANCOIS SEYDOUX

For the Federal Republic of Germany:

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<sup>39</sup> 1. See footnotes, *ante*, p. 323, which also apply to this agreement.

<sup>40</sup> 2. July 1, 1963.

A. H. VAN SCHERPENBERG  
 For the Kingdom of the Netherlands:  
 H. VAN VREDENBURCH  
 For the United Kingdom of Great Britain and Northern Ireland:  
 CHRISTOPHER STEEL  
 For the United States of America:  
 DAVID BRUCE

ANNEX  
 to Article 3

Type of Exercise	Minimum period before exercise begins	
	for communication of plans to the German authorities	for final opinion by German authorities
1. Exercise involving units up to battalion strength - - - - -	4 weeks - - - - -	2 weeks.
2. Exercises involving units in excess of battalion strength and up to brigade, regimental combat team or any formation of equivalent strength - - - - -	6 weeks - - - - -	2 weeks.
3. Exercises involving units in excess of brigade group, regimental combat team or any formation of equivalent strength - - - - -	6 weeks - - - - -	

**Administrative Agreement to Article 60 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**

For the purpose of implementing Article 60 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, signed at Bonn on 3rd August 1959 (hereinafter referred to as the Supplementary Agreement), the governments 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,  
 HAVE AGREED As FOLLOWS:

Article 1

Applications for Service

1. Applications for telecommunication services shall be made to the competent agency of the German Federal Post by the authorities of a force designated for that purpose.

2. (a) Applications shall be submitted in writing.

(b) In the event of urgent necessity applications may, in exceptional cases, be made by telephone, teleprinter, or telegraph. Such applications shall be followed by written confirmation within forty-eight hours.

3. Applications for telecommunication lines, except for local-area tie lines and local-area private branch extensions (hereinafter referred to as PBX extension lines), shall be made pursuant to NALLA procedure. Deviations from this procedure may be agreed between a force and the Federal Ministry of Posts and Telecommunications.

## Article 2

### Provision of Service

1. Insofar as it is technically possible, the German Federal Post shall fulfill applications for telephone main stations, teleprinter main stations, PBX extension stations and circuits of all kinds within seven days.

2. In the event of urgent necessity, authorities of a force, specially designated for that purpose, may apply for priority installation of the telecommunication facilities listed in paragraph 1 of this Article. The German Federal Post shall normally fulfill such applications within a period of forty-eight hours.

## Article 3

### Out-of-area Main Stations and Out-of-area PBX Extension Stations

1. In cases of compelling military reasons, applications may be made for out-of-area PBX extension stations over an airline distance in excess of twenty-five kilometers and for out-of-area main stations. Such applications shall be made only by high military headquarters of a force.

2. The execution of such services shall be governed by Article 2 of the present Agreement.

## Article 4

### Leasing of Telecommunication Lines

1. For local-area PBX extension lines leased to the United States, British, and French Forces, and the Royal Canadian Air Force, flat rates calculated on the basis of the average length of the circuits provided for each of such forces shall apply. The flat rate applicable to the British force shall apply to the Canadian brigade.

2. The charges for detour routing, if such routing be requested by a force shall be based on the airline distances between the starting point, the points of detour and the end point of the route.

3. Both between the several forces and between them and the German Armed Forces PBXs may be interconnected by local-area and out-of-area tie lines. Such interconnections shall be limited to the indispensable minimum, and shall in each specific case require an agreement between representatives of the Commanders of the forces concerned, who have been designated for that purpose, and the Federal Ministry of Posts and Telecommunications.

4. A substitute line shall be made available if possible, whenever it becomes evident that an interruption of service will last longer than six hours.

5. Where no substitute line has been made available in the case of out-of-area telephone and teleprinter tie lines and of out-of-area PBX extension lines exceeding twenty-five kilometres, paid for in accordance with the internal German tariffs, one thirtieth of the monthly charge shall be reimbursed for each calendar day during which the line is continuously interrupted for more than twelve hours. Such interruption shall be deemed to have commenced when the appropriate agency of the German Federal Post received notification thereof.

6. Wherever CCITT rates apply to the use of international lines, reimbursement for interruptions in such lines shall be calculated in accordance with CCITT recommendations.

7. Internal German leased telephone circuits may be used alternatively or simultaneously for speech, the transmission of photos or facsimiles, or the transmission of telegraphic signals by means of single channel equipment. No additional charge shall be made therefor.

8. (a) The German Federal Post shall lease to a force basic circuits for voice frequency carrier telegraphy for multi-channel operation with voice frequency carrier telegraphy equipment or with transmission equipment for mechanical reporting.

(b) The charge for such basic circuit shall be one and a half times the charge for a telephone line, irrespective of the number of channels used.

9. (a) The force shall procure and maintain the terminal equipment used for the purposes set forth in paragraphs 7 and 8 of this Article and shall undertake to eliminate any interference from such equipment.

(b) Specimens of such terminal equipment shall prior to being taken into use be made available to the German Federal Post for tests. Such terminal equipment components as are subject to military security classification shall only be subject to test for their effect upon the public network. The German Federal Post shall in any case be notified prior to the connection of such terminal equipment to leased lines except where such action is impracticable in the event of manoeuvres or other training exercises for equipment serving the purposes set forth in paragraph 7 of this Article.

(c) Terminal equipment utilised for the purpose set forth in paragraphs 7 and 8 of this Article shall not be located within German Federal Post premises. Deviations here from may be agreed to for manoeuvres and other training exercises.

## Article 5

### PBXs

1. Deviations from German regulations in the case of existing PBXs shall be permissible where they do not adversely affect the public network.

2. Existing PBXs which permit through-dialling to extension stations but which are not equipped with answering position and transfer facilities may continue to be operated in this condition. New PBXs of this type shall be installed only in exceptional cases.

3. (a) An additional monthly charge shall be payable for each incoming or alternately operated exchange line in the case of the PBXs referred to under paragraph 2 of this Article.

(b) The charge shall be payable only after the technical devices for the automatic transfer of trunk calls (automatic rerouting to the PBX switchboard operator in case of busy extensions) within PBXs which permit through-dialling have been provided within the German Federal Post local exchange area used by a force, and after all German PBXs, within this local exchange area which permit through-dialling have been made to conform to the requirements of the German Federal Post.

(b) The charge shall be uniform in all local exchange areas and shall be fixed by mutual agreement.

4. PBXs shall be technically adapted to prevent the interconnection of out-of-area tie-lines with civil exchange lines of the PBXs by automatic dialling. This requirement may be dispensed with in the case of manual PBXs if a force otherwise ensures that such interconnections are made only in urgent official cases and only with telephone subscribers in the local exchange areas in which the PBXs are located.

5. In the case of secondary PBXs of a force, outgoing and up to two incoming or alternately operated exchange lines to the civil telephone exchange in the locality of the secondary PBX in question shall be permissible. It shall be rendered technically impossible to connect such exchange lines to the main PBX.

6. Any desired number of parallel telephone sets may be connected to PBX extension stations not authorized access to exchange lines. In the case of PBX extension stations authorized access to exchange lines, the number of parallel telephone sets for any one PBX extension station should not exceed two. If, in exceptional cases, a force connects more than two parallel telephone sets to a PBX extension station authorized access to exchange lines, it shall be responsible for any interference or operational difficulties resulting therefrom.

## Article 6

### Minimum Period of Lease

1. The minimum period of lease for main stations and lines shall be three months. Notwithstanding this, main stations and lines may in the event of manoeuvres, training exercises, and other similar occasions, be leased for short periods (within the meaning of Section 16 of the Fernsprechordnung of 24 November 1939, Official Gazette of the Reichsminister of Posts and Telecommunications, page 859).

2. The German regulations governing the minimum period of lease shall not apply to existing PBXs owned by the German Federal Post.

## Article 7

### Notice of Termination

1. Leases for main stations may be terminated at the end of any month following the expiry of the minimum period of three months. Notice of such termination must be received by the German Federal Post by the twentieth day of the month concerned.

Leases on circuits may, subject to ten days notice in advance, be terminated at any time subsequent to the expiry of the minimum period of three months.

## Article 8

### Accounting Procedures

1. The following deviations from normal German accounting procedures shall apply to telecommunication services rendered to the force:

(a) Bills shall be payable within thirty days.

(b) Written notification of any arrears in payment shall be submitted on the forty-fifth calendar day subsequent to the issuance of bills. Interest shall not be charged on arrears in payment, nor shall services be suspended.

(c) Bills for particular items to which the force takes exception shall be returned immediately to the issuing office together with all pertinent documentation. If agreement concerning the disputed amounts cannot be reached immediately upon the return of the bill, a new and provisional bill excluding the disputed amounts shall be prepared. Efforts will be made to reach agreement concerning the disputed amounts within thirty days. Should the force agree to pay a disputed amount, such amount shall be included in the next regular bill, the force being notified thereof beforehand in writing.

(d) (i) All amounts still disputed at the close of the fiscal year of a force shall at the request of the force concerned be included in the bills for the final calendar month of such fiscal year. The disputed amounts shall be marked as such. Efforts to reach agreement concerning them shall continue. Other charges included in these bills shall be payable within thirty days.

(e) Disputed amounts omitted through error from the billing at the close of the fiscal year of a force shall be included in subsequent regular billing. The force shall be notified separately in writing thereof, such notification to contain all data necessary for payment in the manner of an invoice.

(f) Bills for line charges calculated at the Fernmeldetechnisches Zentralamt shall be submitted collectively after the twentieth day of each calendar month. Such bills shall include all charges recorded by the Fernmeldetechnisches Zentralamt for the current calendar month up to the date of billing. Charges recorded after the date of billing shall be billed in the subsequent calendar month. Lines installed for manoeuvres and other training exercises shall be billed separately.

2. Other deviations from accounting procedures, concerning a single force, may be agreed upon between the authorities of the force and the Federal Ministry of Posts and Telecommunications.

## Article 9

### Provisions Concerning Tariffs

1. The following deviations from German regulations governing tariffs shall apply to a force:
  - (a) The charge for the lease of a telephone out-of-area tieline (third sentence of paragraph 1 of Section 7 of the Fernsprechordnung) shall irrespective of length be 1.20 Deutsche Mark monthly per hundred metres.
  - (b) The charge for the lease of a teleprinter out-of-area tieline (Annex to the Verordnung über Gebühren für Nebentelegraphen und fu(Symbol r) den Fernschreibdienst of 12 June 1942. Official Gazette of the Reichsminister of Posts and Telecommunications, II A 4 on page 415) shall irrespective of length be 0.45 Deutsche Mark monthly per hundred metres.
2. The loss-of-call-charge (Gebühr für den Ausfall an Gesprächsgebühren) (Sections 6 and 7 of the Fernsprechordnung) shall not be levied for that portion of a circuit irrespective of length which runs in telecommunication circuits (i.e. all types of cables, open wire and radio circuits) which have been constructed from the national funds of a force or from occupation cost, mandatory expenditures or support cost funds.
3. Paragraph 2 of this Article shall apply *mutatis mutandis* to the onetime contribution to cost for extension lines (Section 6 of the Fernsprechordnung).

## Article 10

### Entry Into Force

The present Agreement shall enter into force on the date of the entry into force of the Supplementary Agreement.<sup>41</sup>  
IN WITNESS WHEREOF the undersigned Representatives duly authorized thereto by their respective Governments have signed the present Agreement.

DONE at Bonn, this third day of August 1959, in the German, English and French languages, all texts being equally authentic in a single copy which shall be deposited in the archives of the Government of the Federal Republic of Germany which shall transmit certified copies thereof to each signatory Government.

For the Kingdom of Belgium:

BARON DE GRUBEN

For Canada:

ESCOTT REID

For the French Republic:

FRANCOIS SEYDOUX

For the Federal Republic of Germany:

A. H. VAN SCHERPENBERG

### **Agreement on the Abrogation of the Forces Convention, the Finance Convention and the Tax Agreement**

THE UNITED STATE OF AMERICA,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

THE FRENCH REPUBLIC, and

THE FEDERAL REPUBLIC OF GERMANY,

CONSIDERING that the arrangements referred to in sub-paragraph (b) of paragraph 1 of Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany of 26 May 1952, as amended by the Protocol signed at Bonn on 26 July 1952 and by the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954, have been concluded this day between the States concerned; and

CONSIDERING that in view of the conclusion of these arrangements and of other agreements of a financial nature the conditions laid down in subparagraph (c) of paragraph 1 of Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany are to be considered as fulfilled,

HAVE AGREED As FOLLOWS:

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<sup>41</sup> 1. July 1, 1963.

#### Article 1

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, the Agreement on the Tax Treatment of the Forces and their Members, as amended by Schedule V to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954, and the Finance Convention, as amended by Schedule III to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954, shall cease to be effective on the date of the entry into force 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, signed at Bonn on 3rd August 1959 (hereinafter referred to as the "Supplementary Agreement"), in accordance with Article 83 of that Agreement.

#### Article 2

The present Agreement shall be ratified or approved. The instruments of ratification or of approval shall be deposited by the signatory States with the Government of the Federal Republic of Germany which shall notify each signatory State of the date on which the instruments are deposited.

#### Article 3

The present Agreement, which shall enter into force on the same date as the Supplementary Agreement,<sup>42</sup> shall be deposited in the archives of the Government of the Federal Republic of Germany, which shall transmit certified copies thereof to each signatory State.

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

DONE at Bonn, this third day of August 1959, in the German, English and French languages, all texts being equally authentic.

For the French Republic:<sup>43</sup>

FRANCOIS SEYDOUX

For the Federal Republic of Germany:<sup>44</sup>

A. H. VAN SCHERPENBERG

For the United Kingdom of Great Britain and Northern Ireland:<sup>45</sup>

CHRISTOPHER STEEL

For the United States of America:<sup>46</sup>

DAVID BRUCE

## **2-4. AGREEMENT UNDER ARTICLE VI OF THE TREATY OF MUTUAL COOPERATION AND SECURITY BETWEEN THE UNITED STATES OF AMERICA AND JAPAN, REGARDING FACILITIES AND AREAS AND THE STATUS OF UNITED STATES ARMED FORCES IN JAPAN WITH AGREED MINUTES**

**19 January 1960**

Date of entry into force with respect to the United States of America:

23 June 1960

**19 January 1960**

**[(1960) 2 UST 1652; TIAS No. 4510; 373 UNTS 248] 19 January 1960**

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<sup>42</sup> 1. July 1, 1963

<sup>43</sup> 2. Ratification deposited Jan. 24, 1962.

<sup>44</sup> 3. Ratification deposited May 21, 1963.

<sup>45</sup> 4. Ratification deposited July 5, 1962.

<sup>46</sup> 5. Approval deposited Aug. 17, 1961.

The United States of America and Japan, pursuant to Article VI of the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed at Washington on January 19, 1960, have entered into this Agreement in terms as set forth below:

## Article I

In this Agreement the expression —

(a) “members of the United States armed forces” means the personnel on active duty belonging to the land, sea or air armed services of the United States of America when in the territory of Japan.

(b) “civilian component” means the civilian persons of United States nationality who are in the employ of, serving with, or accompanying the United States armed forces in Japan, but excludes persons who are ordinarily resident in Japan or who are mentioned in paragraph 1 of Article XIV. For the purposes of this Agreement only, dual nationals, United States and Japanese, who are brought to Japan by the United States shall be considered as United States nationals.

(c) “dependents” means

(i) Spouse, and children under 21;

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

## Article II

1. (a) The United States is granted, under Article VI of the Treaty of Mutual Cooperation and Security, the use of facilities and areas in Japan. Agreements as to specific facilities and areas shall be concluded by the two Governments through the Joint Committee provided for in Article XXV of this Agreement. “Facilities and areas” include existing furnishings, equipment and fixtures necessary to the operation of such facilities and areas.

(b) The facilities and areas of which the United States has the use at the time of expiration of the Administrative Agreement under Article III of the Security Treaty between the United States of America and Japan, shall be considered as facilities and areas agreed upon between the two Governments in accordance with the subparagraph (a) above.

2. At the request of either Government, the Governments of the United States and Japan shall review such arrangements and may agree that such facilities and areas shall be returned to Japan or that additional facilities and areas may be provided.

3. The facilities and areas used by the United States armed forces shall be returned to Japan whenever they are no longer needed for purposes of this Agreement, and the United States agrees to keep the needs for facilities and areas under continual observation with a view toward such return.

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

(b) With respect to facilities and areas which are to be used by United States armed forces for limited periods of time, the Joint Committee shall specify in the agreements covering such facilities and areas the extent to which the provisions of this Agreement shall apply.

## Article III

1. Within the facilities and areas, the United States may take all the measures necessary for their establishment, operation, safeguarding and control. In order to provide access for the United States armed forces to the facilities and



areas for their support, safeguarding and control, the Government of Japan shall, at the request of the United States armed forces and upon consultation between the two Governments through the Joint Committee, take necessary measures within the scope of applicable laws and regulations over land, territorial waters and airspace adjacent to, or in the vicinities of the facilities and areas. The United States may also take necessary measures for such purpose upon consultation between the two Governments through the Joint Committee.

2. The United States agrees not to take the measures referred to in paragraph 1 in such a manner as to interfere unnecessarily with navigation, aviation, communication, or land travel to or from or within the territories of Japan. All questions relating to frequencies, power and like matters used by apparatus employed by the United States designed to emit electric radiation shall be settled by arrangements between the appropriate authorities of the two Governments. The Government of Japan shall, within the scope of applicable laws and regulations, take all reasonable measures to avoid or eliminate interference with telecommunications electronics required by the United States armed forces.

3. Operations in the facilities and areas in use by the United States armed forces shall be carried on with due regard for the public safety.

#### Agreed Minute to Article III

The measures that may be taken by the United States under paragraph 1 shall, to the extent necessary to accomplish the purposes of this Agreement, include, inter alia, the following:

1. To construct (including dredging and filling), operate, maintain, utilize, occupy, garrison and control the facilities and areas;

2. To remove buildings or structures, make alterations, attach fixtures, or erect additions thereto and to construct any additional buildings or structures together with auxiliary facilities;

3. To improve and deepen the harbors, channels, entrances and anchorages, and to construct or maintain necessary roads and bridges affording access to such facilities and areas;

4. To control (including measures to prohibit) in so far as may be required by military necessity for the efficient operation and safety of the facilities and areas, anchorages, moorings, landings, takeoffs and operation of ships and waterborne craft, aircraft and other vehicles on water, in the air or on land comprising, or in the vicinity of, the facilities and areas;

5. To construct on rights of way utilized by the United States such wire and radio communications facilities, including submarine and subterranean cables, pipe lines and spur tracks from railroads, as may be required for military purposes; and

6. To construct, install, maintain and employ in any facility or area any type of installation, weapon, substance, device, vessel or vehicle on or under the ground, in the air or on or under the water that may be requisite or appropriate, including meteorological systems, aerial and water navigation lights, radio and radar apparatus and electronic devices.

#### Agreed Minute To Article V

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

2. The Japanese ports mentioned herein will ordinarily mean "open ports".

3. The exemption from making "appropriate notification" will be applicable only to exceptional cases where such is required for security of the United States armed forces or similar reasons.

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

#### Article VI

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

2. Lights and other aids to navigation of vessels and aircraft placed or established in the facilities and areas in use by United States armed forces and in territorial waters adjacent thereto or in the vicinity thereof shall conform to the system in use in Japan. The United States and Japanese authorities which have established such navigation aids shall notify each other of their positions and characteristics and shall give advance notification before making any changes in them or establishing additional navigation aids.

#### Article VII

The United States armed forces shall have the use of all public utilities and services belonging to, or controlled or regulated by the Government of Japan, and shall enjoy priorities in such use, under conditions no less favorable than those that may be applicable from time to time to the ministries and agencies of the Government of Japan.

#### Agreed Minute to Article VII

The problem of telecommunications rates applicable to the United States armed forces will continue to be studied (by the Joint Committee) in the light of, inter alia, the statements concerning Article VII recorded in the official minutes of the Tenth (meeting of the) Joint Meeting for the Negotiation of the Administrative Agreement signed on February 28, 1952, which are hereby incorporated by reference.

#### Article IV

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

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

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

#### Article V

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

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

military vehicles shall be free from toll and other charges.

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

#### Article VIII

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

- (a) Meteorological observations from land and ocean areas including observations from weather ships.
- (b) Climatological information including periodic summaries and the historical data of the Meteorological Agency.
- (c) Telecommunications service to disseminate meteorological information required for the safe and regular operation of aircraft.
- (d) Seismographic data including forecasts of the estimated size of tidal waves resulting from earthquakes and areas that might be affected thereby.

#### Article IX

1. The United States may bring into Japan persons who are members of the United States armed forces, the civilian component, and their dependents, subject to the provisions of this Article.

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

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

- (a) personal identity card showing name, date of birth, rank and number, service, and photograph; and
- (b) individual or collective travel order certifying to the status of the individual or group as a member or members of the United States armed forces and to the travel ordered.
- (c) For purposes of their identification while in Japan, members of the United States armed forces shall be in possession of the foregoing personal identity card which must be presented on request to the appropriate Japanese authorities.

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

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

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

#### Agreed Minute to Article IX

The Government of Japan will be notified at regular intervals, in accordance with procedures to be agreed between the two Governments, of numbers and categories of persons entering and departing.

#### Article X

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

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

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

#### Article XI

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

2. All materials, supplies and equipment imported by the United States armed forces, the authorized procurement agencies of the United States armed forces, or by the organizations provided for in Article XV, for the official use of the United States armed forces or for the use of the members of the United States armed forces, the civilian component, and their dependents, and materials, supplies and equipment which are to be used exclusively by the United States armed forces or are ultimately to be incorporated into articles or facilities used by such forces, shall be permitted entry into Japan; such entry shall be free from customs duties and other such charges. Appropriate certification shall be made that such materials, supplies and equipment are being imported by the United States armed forces, the authorized procurement agencies of the United States armed forces, or by the organizations provided for in Article XV, or, in the case of materials, supplies and equipment to be used exclusively by the United States armed forces, or by the organizations provided for in Article XV, or, in the case of materials, supplies and equipment to be used exclusively by the United States armed forces or ultimately to be incorporated into articles or facilities used by such forces, that delivery thereof is to be taken by the United States armed forces for the purposes specified above.

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

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

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

(c) Reasonable quantities of clothing and household goods of a type which would ordinarily be purchased in the United States for everyday use for the private use of members of the United States armed forces, civilian component, and their dependents, which are mailed into Japan through United States military post offices.

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

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

(a) Units of the United States armed forces under orders entering or leaving Japan;

(b) Official documents under official seal and official mail in United States military postal channels;

(c) Military cargo shipped on a United States Government bill of lading.

Except as such disposal may be authorized by the United States and Japanese authorities in accordance with mutually

agreed conditions, goods imported into Japan free of duty shall not be disposed of in Japan to persons not entitled to import such goods free of duty.

Goods imported into Japan free from customs duties and other such charges pursuant to paragraphs 2 and 3, may be re-exported free from customs duties and other such charges.

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

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

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

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

(d) Vehicles and articles belonging to the United States armed forces seized by the customs authorities of the Government of Japan in connection with an offense against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

#### Agreed Minute to Article XI

1. The quantity Of goods imported under paragraph 2 by the organizations provided for in Article XV for the use of the members of the United States armed forces, the civilian component, and, their dependents shall be limited to the extent reasonably required for such use.

2. Paragraph 3(a) does not require concurrent shipments of goods with travel of owner nor does it require single loading or shipment.

3. The term "military cargo" as used in paragraph 5(c) is not confined to arms and equipment but refers to all cargo shipped to the United States armed forces on a United States Government bill of lading, the term "military cargo" being used to distinguish cargo shipped to the United States armed forces from cargo shipped to other agencies of the United States Government.

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

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

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

#### Article XII

1. The United States may contract for any supplies or construction work to be furnished or undertaken in Japan for purposes of, or authorized by, this Agreement, without restriction as to choice of supplier or person who does the construction work. Such supplies or construction work may, upon agreement between the appropriate authorities of the two Governments, also be procured through the Government of Japan.

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

3. Materials, supplies, equipment and services procured for official purposes in Japan by the United States armed

forces, or by authorized procurement agencies of the United States armed forces upon appropriate certification shall be exempt from the following Japanese taxes:

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

Materials, supplies, equipment and services procured for ultimate use by the United States armed forces shall be exempt from commodity and gasoline taxes upon appropriate certification by the United States armed forces. With respect to any present or future Japanese taxes not specifically referred to in this Article which might be found to constitute a significant and readily identifiable part of the gross purchase price of materials, supplies, equipment and services procured by the United States armed forces, or for ultimate use by such forces, the two Governments will agree upon a procedure for granting such exemption or relief therefrom as is consistent with the purposes of this Article.

4. Local labor requirements of United States armed forces and of the organizations provided for in Article XV shall be satisfied with the assistance of the Japanese authorities.

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

6. Should the United States armed forces or as appropriate an organization provided for in Article XV dismiss a worker and a decision of a court or a Labor Relations Commission of Japan to the effect that the contract of employment has not terminated become final, the following procedures shall apply:

(a) The United States armed forces or the said organization shall be informed by the Government of Japan of the decision of the court or Commission;

(b) Should the United States armed forces or the said organization not desire to return the worker to duty, they shall so notify the Government of Japan within seven days after being informed by the latter of the decision of the court or Commission, and may temporarily withhold the worker from duty;

(c) Upon such notification, the Government of Japan and the United States armed forces or the said organization shall consult together without delay with a view to finding a practical solution of the case.

(d) Should such a solution not be reached within a period of thirty days from the date of commencement of the consultations under (c) above, the worker will not be entitled to return to duty. In such case, the Government of the United States shall pay to the Government of Japan an amount equal to the cost of employment of the worker for a period of time to be agreed between the two Governments.

7. Members of the civilian component shall not be subject to Japanese laws or regulations with respect to terms and conditions of employment.

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

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

#### Agreed Minute to Article XII

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

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

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

(a) Upon appropriate certification by the United States armed forces the materials, supplies and equipment consigned to or destined for such forces, are to be used, or wholly or partially used up, under the supervision of such forces, exclusively in the execution of contracts for the construction, maintenance or operation of the facilities and areas referred to in Article II or for the support of the forces therein or are ultimately to be incorporated into articles or

facilities used by such forces, an authorized representative of such forces shall take delivery of such materials, supplies and equipment directly from manufacturers thereof. In such circumstances the collection of commodity and gasoline taxes shall be held in abeyance.

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

(c) Collection of commodity and gasoline taxes shall be held in abeyance until

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

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

(d) Material, supplies, and equipment certified under c(1) or (2) shall be exempt from commodity and gasoline taxes insofar as the price thereof is paid out of United States Government appropriations or out of funds contributed by the Japanese Government for disbursement by the United States.

4. The Government of the United States shall ensure that the Government of Japan is reimbursed for costs incurred under relevant contracts between appropriate authorities of the Government of Japan and the organizations provided for in Article XV in connection with the employment of workers to be provided for such organizations.

5. It is understood that the term "the legislation of Japan" mentioned in paragraph 5, Article XII includes decisions of the courts and the Labor Relations Commissions of Japan, subject to the provisions of paragraph 6, (and 7), Article XII.

6. It is understood that the provisions of Article XII, paragraph 6 shall apply only to discharges for security reasons including disturbing the maintenance of military discipline within the facilities and areas used by the United States armed forces.

7. It is understood that the organizations referred to in Article XV will be subject to the procedures of paragraph 6 on the basis of mutual agreement between the appropriate authorities.

### Article XIII

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

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

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

### Agreed Minute to Article XIII

With respect to Article XIII paragraph 2 and Article XIV paragraph 7, income payable in Japan as a result of service with or employment by the United States armed forces or by the organizations provided for in Article XV, or under contract made in the United States with the United States Government, shall not be treated or considered as income derived from Japanese sources.

## Article XIV

1. Persons, including corporations organized under the laws of the United States, and their employees who are ordinarily resident in the United States and whose presence in Japan is solely for the purpose of executing contracts with the United States for the benefit of the United States armed forces, and who are designated by the Government of the United States in accordance with the provisions of paragraph 2 below, shall, except as provided in the Article, be subject to the laws and regulations of Japan.

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

(a) upon completion of contracts with the United States for the United States armed forces;

(b) upon proof that such persons are engaged in business activities in Japan other than those pertaining to the United States armed forces; or

(c) when such persons are engaged in practices illegal in Japan.

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

(a) Rights of accession and movement, as provided for in Article V, paragraph 2;

(b) Entry into Japan in accordance with the provisions of Article IX;

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

(d) If authorized by the Government of the United States the right to use the services of the organizations provided for in Article XV;

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

(f) If authorized by the Government of the United States, the right to use military payment certificates, as provided for in Article XX;

(g) The use of postal facilities provided for in Article XXI;

(h) Exemption from the laws and regulations of Japan with respect to terms and conditions of employment.

4. Such persons and their employees shall be so described in their passports and their arrival, departure and their residence while in Japan shall from time to time be notified by the United States armed forces to the Japanese authorities.

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

6. Upon certification by an authorized officer of the United States armed forces, such persons and their employees shall be exempt from taxation in Japan on the holding, use, transfer by death, or transfer to persons or agencies entitled to tax exemption under this Agreement, of movable property, tangible or intangible, the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided that such exemption shall not apply to property held for the purpose of investment or the conduct of other business in Japan or to any intangible property registered in Japan. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. The persons and their employees referred to in paragraph 1 shall not be liable to pay income or corporation taxes to the Government of Japan or to any other taxing agency in Japan or any income derived under a contract made in the United States with the Government of the United States in connection with the construction, maintenance or operation of any of the facilities or areas covered by this Agreement. The provisions of this paragraph do not exempt such persons from payment of income or corporation taxes on income derived from Japanese sources, nor do they exempt such persons and their employees who, for United States income tax purposes, claim Japanese residence, from payment of Japanese taxes on income. Periods during which such persons are in Japan solely in connection with the execution of a contract with the Government of the United States shall not be considered periods of residence or domicile in Japan for the purposes of such taxation.

8. Japanese authorities shall have the primary right to exercise jurisdiction over the persons and their employees referred to in paragraph 1 of this Article in relation to offenses committed in Japan and punishable by the law of Japan. In those cases in which the Japanese authorities decide not to exercise such jurisdiction they shall notify the military authorities of the United States as soon as possible. Upon such notification the military authorities of the United States shall have the right to exercise such jurisdiction over the persons referred to as is conferred on them by the law of the



United States.

#### Article XV

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

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

2. No Japanese tax shall be imposed on sales of merchandise and services by such organizations, except as provided in paragraph 1 (b), but purchases within Japan of merchandise and supplies by such organizations shall be subject to Japanese taxes.

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

4. The organizations referred to in this Article shall provide such information to the Japanese authorities as is required by Japanese tax legislation.

#### Agreed Minute to Article XV

The facilities referred to in paragraph 1 may be used by their officers and personnel of the United States Government ordinarily accorded such privileges abroad.

#### Article XVI

It is the duty of members of the United States armed forces, the civilian component, and their dependents to respect the law of Japan and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in Japan.

#### Article XVII

1. Subject to the provisions of this Article,

(a) the military authorities of the United States shall have the right to exercise within Japan all criminal and disciplinary jurisdiction conferred on them by the law of the United States;

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

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

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

(c) For the purposes of this paragraph and of paragraph 3 of this Article a security offense against a State shall include

(i) treason against the State;

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

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

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

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

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

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

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

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

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

(b) The authorities of Japan shall notify promptly the military authorities of the United States of the arrest of any member of the United States armed forces, the civilian component, or a dependent.

(c) The custody of an accused member of the United States armed forces or the civilian component over whom Japan is to exercise jurisdiction shall, if he is in the hands of the United States, remain with the United States until he is charged by Japan.

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

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

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

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

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

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

(a) to a prompt and speedy trial;

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

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

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

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

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

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

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

(b) Outside these facilities and areas, such military police shall be employed only subject to arrangements with the

authorities of Japan and in liaison with those authorities and in so far as such employment is necessary to maintain discipline and order among the members of the United States armed forces.

11. In the event of hostilities to which the provisions of Article V of the Treaty of Mutual Cooperation and Security apply, either the Government of the United States or the Government of Japan shall have the right, by giving sixty days' notice to the other, to suspend the application of any of the provisions of this Article. If this right is exercised, the Governments of the United States and Japan shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

12. The provisions of this Article shall not apply to any offenses committed before the entry into force of this Agreement. Such cases shall be governed by the provisions of Article XVII of the Administrative Agreement under Article III of the Security Treaty between the United States of America and Japan, as it existed at the relevant time.

#### Agreed Minute to Article XVII

Re paragraph 1(a) and paragraph 2(a)

The scope of persons subject to the military laws of the United States shall be communicated, through the Joint Committee, to the Government of Japan by the Government of the United States.

Re paragraph 2(c)

Both Governments shall inform each other of the details of all the security offenses mentioned in this sub-paragraph and the provisions governing such offenses in the existing laws of their respective countries.

Re paragraph 3(a)(ii):

Where a member of the United States armed forces or the civilian component is charged with an offense, a certificate issued by or on behalf of his commanding officer stating that the alleged offense, if committed by him, arose out of an act or omission done in the performance of official duty, shall, in any judicial proceedings, be sufficient evidence of the fact unless the contrary is proved.

The above statement shall not be interpreted to prejudice in any way Article 318 of the Japanese Code of Criminal Procedure.

Re paragraph 3(c):

1. Mutual procedures relating to waivers of the primary right to exercise jurisdiction shall be determined by the Joint Committee.

2. Trial of cases in which the Japanese authorities have waived the primary right to exercise jurisdiction, and trials of cases involving offenses described in paragraph 3(a)(ii) committed against the State or nationals of Japan shall be held promptly in Japan within a reasonable distance from the places where the offenses are alleged to have taken place unless other arrangements are mutually agreed upon. Representatives of the Japanese authorities may be present at such trials.

Re paragraph 4:

Dual nationals, United States and Japanese, who are subject to the military law of the United States and are brought to Japan by the United States shall not be considered as nationals of Japan, but shall be considered as United States nationals for the purposes of this paragraph.

Re paragraph 5:

1. In case the Japanese authorities have arrested an offender who is a member of the United States armed forces, the civilian component, or a dependent subject to the military law of the United States with respect to a case over which Japan has the primary right to exercise jurisdiction, the Japanese authorities will, unless they deem that there is adequate cause and necessity to retain such offender, release him to the custody of the United States military authorities provided that he shall, on request, be made available to the Japanese authorities, if such be the condition of his release. The United States authorities shall, on request, transfer his custody to the Japanese authorities at the time he is indicted by the latter.

2. The United States military authorities shall promptly notify the Japanese authorities of the arrest of any member of the United States armed forces, the civilian component or a dependent in any case in which Japan has the primary right to exercise jurisdiction.

Re paragraph 9:

1. The rights enumerated in items (a) through (e) of this paragraph are guaranteed to all persons on trial in Japanese courts by the provisions of the Japanese Constitution. In addition to these rights, a member of the United States armed forces, the civilian component or a dependent who is prosecuted under the jurisdiction of Japan shall have such other rights as are guaranteed under the laws of Japan to all persons on trial in Japanese courts. Such additional rights include the following which are guaranteed under the Japanese Constitution:

(a) He shall not be arrested or detained without being at once informed of the charge against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel;

(b) He shall enjoy the right to a public trial by an impartial tribunal;

(c) He shall not be compelled to testify against himself;

(d) He shall be permitted full opportunity to examine all witnesses;

(e) No cruel punishments shall be imposed upon him.

2. The United States authorities shall have the right upon request to have access at any time to members of the United States armed forces, the civilian component, or their dependents who are confined or detained under Japanese authority.

3. Nothing in the provisions of paragraph 9(g) concerning the presence of a representative of the United States Government at the trial of a member of the United States armed forces, the civilian component or a dependent prosecuted under the jurisdiction of Japan, shall be so construed as to prejudice the provisions of the Japanese Constitution with respect to public trials.

Re paragraphs 10(a) and 10(b)

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

Where persons whose arrest is desired by the Japanese authorities and who are not subject to the jurisdiction of the United States armed forces are within facilities and areas in use by the United States armed forces, the United States military authorities will undertake, upon request, to arrest such persons. All persons arrested by the United States military authorities, who are not subject to the jurisdiction of the United States armed forces, shall immediately be turned over to the Japanese authorities.

The United States military authorities may, under due process of law, arrest in the vicinity of a facility or area any person in the commission or attempted commission of an offense against the security of that facility or area. Any such person not subject to the jurisdiction of the United States armed forces shall immediately be turned over to the Japanese authorities.

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

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

## Article XVIII

1. Each Party waives all its claims against the other Party for damage to any property owned by it and used by its land, sea or air defense services, if such damage –

(a) was caused by a member or an employee of the defense services of the other Party in the performance of his official duties; or

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

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

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

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

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

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

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

(f) Nevertheless, each Party waives its claim in any such case up to the amount of 1,400 United States dollars or 504,000 yen. In the case of considerable variation in the rate of exchange between these currencies the two Governments shall agree on the appropriate adjustments of these amounts.

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

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

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

(a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of Japan with respect to claims arising from the activities of its Self-Defense Forces.

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

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

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

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

(i) Where the United States alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 percent chargeable to Japan and 75 percent chargeable to the United States.

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

(iii) Every half-year, a statement of the sums paid by Japan in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the appropriate United States authorities, together with a request for reimbursement. Such reimbursement shall be made, in yen, within the shortest possible time.

(f) Members or employees of the United States armed forces, excluding those employees who have only Japanese nationality, shall not be subject to any proceedings for the enforcement of any judgment given against them in Japan in a matter arising from the performance of their official duties.

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

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

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

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

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

of the sum paid.

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

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

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

9. (a) The United States shall not claim immunity from the jurisdiction of the courts of Japan for members or employees of the United States armed forces in respect of the civil jurisdiction of the courts of Japan except to the extent provided in paragraph 5(f) of this Article.

(b) In case any private movable property, excluding that in use by the United States armed forces, which is subject to compulsory execution under Japanese law, is within the facilities and areas in use by the United States armed forces, the United States authorities shall, upon the request of Japanese courts, possess and turn over such property to the Japanese authorities.

(c) The authorities of the United States and Japan shall cooperate in the procurement of evidence for a fair hearing and disposal of claims under this Article.

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

11. The term "defense services" used in this Article is understood to mean for Japan its Self-Defense Forces and for the United States its armed forces.

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

13. The provisions of this Article shall not apply to any claims which arose before the entry into force of this Agreement. Such claims shall be dealt with by the provisions of Article XVIII of the Administrative Agreement under Article III of the Security Treaty between the United States of America and Japan.

## Article XIX

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

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

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

## Agreed Minute to Article XIX

Payment in Japan by the United States armed forces and by those organizations provided in Article XV to persons other than members of the United States armed forces, civilian component, their dependents and those persons referred to in Article XIV shall be effected in accordance with the Japanese Foreign Exchange Control Law and regulations. In these transactions the basic rate of exchange shall be used.

## Article XX

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

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

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

#### Article XXI

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

#### Agreed Minute to Article XXI

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

#### Article XXII

The United States may enroll and train eligible United States citizens residing in Japan, who apply for such enrollment, in the reserve organizations of the armed forces of the United States.

#### Article XXIII

The United States and Japan will cooperate in taking such steps as may from time to time be necessary to ensure the security of the United States armed forces, the members thereof, the civilian component, their dependents, and their property. The Government of Japan agrees to seek such legislation and to take such other action as may be necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of the United States, and for the punishment of offenders under the applicable laws of Japan.

#### Article XXIV

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

2. It is agreed that Japan will furnish for the duration of this Agreement without cost to the United States and make compensation where appropriate to the owners and suppliers thereof all facilities and areas and rights of way, including facilities and areas jointly used such as those at airfields and ports, as provided in Articles II and III.

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

#### Agreed Minute to Article XXIV

It is understood that nothing in this Agreement shall prevent the United States from utilizing, for the defrayment of expenses which are to be borne by the United States under this Agreement, dollar or yen funds lawfully acquired by the United States.

#### Article XXV

1. A Joint Committee shall be established as the means for consultation between the Government of the United States and the Government of Japan on all matters requiring mutual consultation regarding the implementation of this Agreement. In particular, the Joint Committee shall serve as the means for consultation in determining the facilities and areas in Japan which are required for the use of the United States in carrying out the purposes of the Treaty of Mutual Cooperation and Security.

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

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

#### Article XXVI

1. This Agreement shall be approved by the United States and Japan in accordance with their legal procedures, and notes indicating such approval shall be exchanged.

2. After the procedure set forth in the preceding paragraph has been followed, this Agreement will enter into force on the date of coming into force of the Treaty of Mutual Cooperation and Security, at which time the Administrative Agreement under Article III of the Security Treaty between the United States of America and Japan, signed at Tokyo on February 28, 1952, as amended, shall expire.

3. The Government of each Party to this Agreement undertakes to seek from its legislature necessary budgetary and legislative action with respect to provisions of this Agreement which require such action for their execution.

#### Article XXVII



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

#### Article XXVIII

This Agreement, and agreed revisions thereof, shall remain in force while the Treaty of Mutual Cooperation and Security remains in force unless earlier terminated by agreement between the two Governments.

In witness whereof the undersigned Plenipotentiaries have signed this Agreement.

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

### **2-5. AGREEMENT UNDER ARTICLE IV OF THE MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA, REGARDING FACILITIES AND AREAS AND THE STATUS OF UNITED STATES ARMED FORCES IN THE REPUBLIC OF KOREA**

**9 July 1966**

Date of entry into Force:

9 February 1967

**([1966] 2 UST 1677; TIAS No. 6127; 674 UNTS 163)**

Whereas the United States of America has disposed its armed forces in and about the territory of the Republic of Korea pursuant to the resolutions of the United Nations Security Council of June 25, 1950, June 27, 1950, and July 7, 1950, and pursuant to Article IV of the Mutual Defense Treaty between the United States of America and the Republic of Korea, signed on October 1, 1953;<sup>47</sup>

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

#### Article I. Definitions.

In this Agreement the expression:

(a) "members of the United States armed forces" means the personnel on active duty belonging to the land, sea, or air armed services of the United States of America when in the territory of the Republic of Korea except for personnel of the United States armed forces attached to the United States Embassy and personnel for whom status has been provided in the Military Advisory Group Agreement of January 26, 1950, as amended;<sup>48</sup>

(b) "civilian component" means the civilian persons of United States nationality who are in the employ of, serving with, or accompanying the United States armed forces in the Republic of Korea, but excludes persons who are ordinarily resident in the Republic of Korea or who are mentioned in paragraph 1 of Article XV; for the purposes of this Agreement only, dual nationals, i.e., persons having the nationality of both the United States and the Republic of Korea, who are brought into the Republic of Korea by the United States shall be considered United States nationals;

(c) "dependents" means

(i) spouse and children under 21;

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

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<sup>47</sup> 1. TIAS 3097; 5 UST (pt. 3) 2373.

<sup>48</sup> 2. TIAS 2436, 4613; 3 UST (pt. 2) 2696; 11 UST 2348.

## Article II. Facilities and Areas — Grant and Return.

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

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

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

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

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

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

## Article III. Facilities and Areas — Security Measures.

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

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

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

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

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

#### Article IV. Facilities and Areas — Return of Facilities.

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

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

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

#### Article V. Facilities and Areas -- Cost and Maintenance.

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

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

#### Article VI. Utilities and Services.

1. The United States armed forces shall have the use of all utilities and services which are owned, controlled or regulated by the Government of the Republic of Korea or local administrative subdivisions thereof. The term "utilities and services" shall include, but not be limited to, transportation and communications facilities and systems, electricity, gas, water, steam, heat, light, power, and sewage disposal. The use of utilities and services as provided herein shall not prejudice the right of the United States to operate military transportation, communication, power and such other utilities and services deemed necessary for the operations of the United States armed forces. This right shall not be exercised in a manner inconsistent with the operation by the Government of the Republic of Korea of its utilities and services.

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

#### Article VII. Respect for Local Law.

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

## Article VIII. Entry and Exit.

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

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

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

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

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

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

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

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

## Article IX. Customs and Duties.

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

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

United States armed forces.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Article X. Access of Vessels and Aircraft.

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

2. The vessels and aircraft mentioned in paragraph 1, United States Government-owned vehicles including armor, and members of the United States armed forces, the civilian component, and their dependents shall be accorded access to and movement between facilities and areas in use by the United States armed forces and between such facilities and

areas and the ports or airports of the Republic of Korea. Such access to and movement between facilities and areas by United States military vehicles shall be free from toll and other charges.

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

#### Article XI. Meteorological Services.

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

- (a) meteorological observations from land and ocean areas including observations from ships;
- (b) climatological information including periodic summaries and historical data wherever available;
- (c) telecommunications service to disseminate meteorological information;
- (d) seismographic data.

#### Article XII Air Traffic Control and Navigational Aids.

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

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

#### Article XIII. Non-appropriated Fund Organizations.

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

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

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

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

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

#### Article XIV. Taxation.

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

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

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

#### Article XV. Invited Contractors.

1. Persons, including (a) corporations organized under the laws of the United States, (b) their employees who are ordinarily resident in the United States, and (c) the dependents of the foregoing, present in the Republic of Korea solely for the purpose of executing contracts with the United States for the benefit of the United States armed forces or other armed forces in the Republic of Korea under the Unified Command receiving logistical support from the United States armed forces, who are designated by the Government of the United States in accordance with the provisions of paragraph 2 below, shall, except as provided in this Article, be subject to the regulations of the Republic of Korea.

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

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

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

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

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

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

- (b) entry into the Republic of Korea in accordance with the provisions of Article VIII;
- (c) the exemption from customs duties, and other such charges provided for in Article IX, paragraph 3, for members of the United States armed forces, the civilian component, and their dependents;
- (d) if authorized by the Government of the United States, the use of the services of the organizations provided for in Article XIII;
- (e) those provided in Article XVIII, paragraph 2, for members of the United States armed forces, the civilian component and their dependents;
- (g) if authorized by the Government of the United States, the use of military payment certificates, as provided for in Article XIX;
- (g) the use of postal facilities provided for in Article XX;
- (h) the use of utilities and services in accordance with those priorities, conditions, rates or tariffs accorded the United States armed forces by Article VI relating to utilities and services;
- (i) exemption from the laws and regulations of the Republic of Korea with respect to terms and conditions of employment, and licensing and registration of businesses and corporations.

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

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

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

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

8. The authorities of the Republic of Korea shall have the right to exercise jurisdiction over such persons for offenses committed in the Republic of Korea and punishable by the law of the Republic of Korea. In recognition of the role of such persons in the defense of the Republic of Korea, they shall be subject to the provisions of paragraphs 5, 7(b), and 9 and the related Agreed Minutes, of Article XXII.<sup>49</sup> In those cases in which the authorities of the Republic of Korea decide not to exercise jurisdiction they shall notify the military authorities of the United States as soon as possible. Upon such notification the military authorities of the United States shall have the right to exercise such jurisdiction over the persons referred to as is conferred on them by the law of the United States.

#### Article XVI. Local Procurement.

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

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

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<sup>49</sup> 1. *Post*, pp. 1696-1698, 1778, 1817



authorities of the Republic of Korea.

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

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

With respect to any present or future Korean taxes not specifically referred to in this Article which might be found to constitute a significant and readily identifiable part of the gross purchase price of materials, supplies, equipment and services procured by the United States armed forces, or for ultimate use by such forces, the two Governments will agree upon a procedure for granting such exemption or relief therefrom as is consistent with the purpose of this Article.

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

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

#### Article XVII. Labor.

1. In this Article the expression:

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

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

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

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

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

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

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

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

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

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

stipulated in subparagraph (ii), above.

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

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

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

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

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

#### Article XVIII. Foreign Exchange Controls.

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

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

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

#### Article XIX. Military Payment Certificates.

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

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

2. In order to exercise control of military payment certificates the United States may designate certain American financial institutions to maintain and operate, under United States supervision, facilities for the use of persons authorized by the United States to use military payment certificates. Institutions authorized to maintain military banking facilities will establish and maintain such facilities physically separated from their Korean commercial banking

business, with personnel whose sole duty is to maintain and operate such facilities. Such facilities shall be permitted to maintain United States currency bank accounts and to perform all financial transactions in connection therewith including receipt and remission of funds to the extent provided by Article XVIII, paragraph 2, of this Agreement.

#### Article XX. Military Post Offices.

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

#### Article XXI. Accounting Procedures.

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

#### Article XXII. Criminal Jurisdiction.

1. Subject to the provisions of this Article,

(a) the military authorities of the United States shall have the right to exercise within the Republic of Korea all criminal and disciplinary jurisdiction conferred on them by the law of the United States over members of the United States armed forces or civilian component, and their dependents;

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

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

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

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

(i) treason against the State;

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

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

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

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

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

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

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

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the United States

to exercise jurisdiction over persons who are nationals of or ordinarily resident in the Republic of Korea, unless they are members of the United States armed forces.

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

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

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

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

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

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

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

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

8. Where an accused has been tried in accordance with the provisions of this Article either by the military authorities of the United States or the authorities of the Republic of Korea and has been acquitted, or has been convicted and is serving, or has served, his sentence, or his sentence has been remitted or suspended, or he has been pardoned, he may not be tried again for the same offense within the territory of the Republic of Korea by the authorities of the other State. However, nothing in this paragraph shall prevent the military authorities of the United States from trying a member of its armed forces for any violation of rules of discipline arising from an act or omission which constituted an offense for which he was tried by the authorities of the Republic of Korea.

9. Whenever a member of the United States armed forces or civilian component or a dependent is prosecuted under

the jurisdiction of the Republic of Korea he shall be entitled:

- (a) to a prompt and speedy trial;
- (b) to be informed, in advance of trial, of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of the Republic of Korea;
- (e) to have legal representation of his own choice for his defense or to have free or assisted legal representation under the conditions prevailing for the time being in the Republic of Korea;
- (f) if he considers it necessary, to have the services of a competent interpreter; and
- (g) communicate with a representative of the Government of the United States and to have such a representative present at his trial.

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

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

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

12. The provisions of this Article shall not apply to any offenses committed before the entry into force of this Agreement. Such cases shall be governed by the provisions of the Agreement between the United States of America and the Republic of Korea effected by an exchange of notes at Taejon on July 12, 1950.<sup>50</sup>

#### Article XXIII. Claims.

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

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

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

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

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

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

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

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

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

(f) Each Party waives its claim in any such case up to the amount of 1,400 United States dollars or its equivalent in Korean currency at the rate of exchange provided for in the Agreed Minute to Article XVIII<sup>51</sup> at the time the claim is filed.

3. For the purpose of paragraphs 1 and 2 of this Article the expression “owned by a Party” in the case of a vessel

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<sup>50</sup> 1. TIAS 3012, 5 UST (pt.2) 1408.

<sup>51</sup> 1. *Post*, p. 1774.

includes a vessel on bare boat charter to that Party or requisitioned by it on bare boat terms or seized by it in prize (except to the extent that the risk of loss or liability is borne by some person other than such Party).

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

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

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

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

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

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

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

(i) Where the United States alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 percent chargeable to the Republic of Korea and 75 percent chargeable to the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Article XXIV. Vehicle and Driver's Licenses.

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

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

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

#### Article XXV. Security Measures.

The United States and the Republic of Korea will cooperate in taking such steps as may from time to time be necessary to ensure the security of the United States armed forces, the members thereof, the civilian component, the persons who are present in the Republic of Korea pursuant to Article XV, their dependents and their property. The Government of the Republic of Korea agrees to seek such legislation and to take such other action as may be necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records, and official information of the United States and, consistent with Article XXII, to ensure the punishment of offenders under the applicable laws of the Republic of Korea.

#### Article XXVI. Health and Sanitation.

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

#### Article XXVII. Enrollment and Training of Reservists.

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

#### Article XXVIII. Joint Committee.

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

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

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

#### Article XXIX. Entry into Force of Agreement.

1. This Agreement shall enter into force three months after the date of a written notification from the Government of the Republic of Korea to the Government of the United States that it has approved the Agreement in accordance with its legal procedures.<sup>52</sup>

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

3. Subject to the provisions of Article XXII, paragraph 12, this Agreement shall, upon its entry into force, supersede and replace the Agreement between the Government of the United States and the Government of the Republic of Korea on jurisdictional matters, effected by an exchange of notes at Taejon on July 12, 1950.<sup>53</sup>

4. Within the scope of this Agreement; paragraph 13 of Article III of the Agreement on Economic Coordination between the Republic of Korea and the Unified Command of May 24, 1952,<sup>54</sup> shall not apply to members of the United States armed forces, civilian component, invited contractors, or dependents thereof.

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<sup>52</sup> 1. Feb. 9, 1967.

<sup>53</sup> 2. TIAS 3012; 5 UST 1408.

<sup>54</sup> 3. TIAS 2593; 3 UST (pt. 4) 4432.



Article XXX. Revision of Agreement.

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

Article XXXI. Duration of Agreement.

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

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

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

DONE at Seoul this ninth day of July 1966.

FOR THE UNITED  
STATES  
OF AMERICA  
DEAN RUSH  
WINTHROP P. BROWN  
[SEAL]

FOR THE REPUBLIC  
OF KOREA  
TONG WON LEE  
POK KEE MIN  
[SEAL]

**2-6. NEXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF CYPRUS CONCERNING THE STATUS OF THE UNITED NATIONS PEACE KEEPING FORCE IN CYPRUS.**

31 March 1964;  
(492 UNTS 57)

Sir,

I have the honour to refer to the resolution adopted by the Security Council of the United Nations on 4 March 1964 (S/5575). In paragraph 4 of that resolution the Security Council recommended the creation, with the consent of the Government of the Republic of Cyprus, of a United Nations peace-keeping force in Cyprus. By letter of 4 March 1964, the Minister for Foreign Affairs of Cyprus informed the Secretary-General of the consent of the Government of the Republic of Cyprus to the creation of the Force. The Force was established on 27 March 1964. I have also the honour to refer to Article 105 of the Charter of the United Nations which provides that the Organization shall enjoy in the territory of its Members such privileges and immunities as are necessary for the fulfillment of its purposes, and to the Convention on the Privileges and Immunities of the United Nations to which Cyprus is a party. Having in view the provisions of the Convention on the Privileges and Immunities of the United Nations, I wish to propose that the United Nations and Cyprus should make the following ad hoc arrangements defining certain of the conditions necessary for the effective discharge of the functions of the United Nations Force while it remains in Cyprus. These arrangements are set out below under the following headings:

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## DEFINITIONS

1. The “United Nations Force in Cyprus” (hereinafter referred to as “the Force”) consists of the United Nations Commander appointed by the Secretary-General in accordance with the Security Council resolution of 4 March 1964 (S/5575) and all military personnel placed under his command. For the purpose of these arrangements, the term “member of the Force” refers to any person, belonging to the military service of a State, who is serving under the Commander of the United Nations Force and to any civilian placed under the Commander by the State to which such civilian belongs.

2. “Cypriot authorities” means all State and local, civil and military authorities of the Government of the Republic of Cyprus called upon to perform functions relating to the Force under the provisions of these arrangements, without prejudice to the ultimate responsibility of the Government of the Republic of Cyprus (hereinafter referred to as “the Government”).

3. “Participating State” means a Member of the United Nations that contributes military personnel to the Force.

4. “Area of operations” includes all areas through the territory of the Republic of Cyprus (which territory is hereinafter referred to as “Cyprus”) where the Force is deployed in the performance of its functions as defined in operative paragraph 5 of the Security Council resolution of 4 March 1964 (S/5575); military installations or other premises referred to in paragraph 19 of these arrangements; and lines of communication and supply utilized by the Force pursuant to paragraphs 32 and 33 of these arrangements.

## INTERNATIONAL STATUS OF THE FORCE AND ITS MEMBERS

5. Members of the Force shall respect the laws and regulations of Cyprus and shall refrain from any activity of a political character in Cyprus and from any action incompatible with the international nature of their duties or inconsistent with the spirit of the present arrangements. The Commander shall take all appropriate measures to ensure the observance of these obligations.

6. The Government undertakes to respect the exclusively international character of the Force as established by the Secretary-General in accordance with the Security Council resolution of 4 March 1964 (S/5575) and the international nature of its command and function.

## ENTRY AND EXIT: IDENTIFICATION

7. Members of the Force shall be exempt from passport and visa regulations and immigration inspection and restrictions on entering or departing from Cyprus. They shall also be exempt from any regulations governing the

residence of aliens in Cyprus, including registration, but shall not be considered as acquiring any right to permanent residence of domicile in Cyprus. For the purpose of such entry or departure members of the Force will be required to have only (a) an individual or collective movement order issued by the Commander or an appropriate authority of the Participating State; and (b) a personal identity card issued by the Commander under the authority of the Secretary-General, except in the case of first entry, when the personal military identity card issued by the appropriate authorities of the Participating State will be accepted in lieu of the said Force identity card.

8. Members of the Force may be required to present, but not to surrender, their identity cards upon demand of such Cypriot authorities as may be mutually agreed between the Commander and the Government. Except as provided in paragraph 7 of these arrangements, the identity card will be the only document required for a member of the Force. If, however, it does not show the full name, date of birth, rank and number (if any), service and photograph of a member of the Force, such member may be required to present likewise the personal military identity card or similar document issued by the appropriate authorities of the Participating State to which he belongs.

9. If a member of the Force leaves the service of the Participating State to which he belongs and is not repatriated, the Commander shall immediately inform the Government, giving such particulars as may be required. The Commander shall similarly inform the Government if any member of the Force has absented himself for more than twenty-one days. If an expulsion order against an ex-member of the Force has been made, the Commander shall be responsible for ensuring that the person concerned shall be received within the territory of the Participating State concerned.

#### JURISDICTION

10. The following arrangements respecting criminal and civil jurisdiction are made having regard to the special functions of the Force and to the interests of the United Nations, and not for the personal benefit of the members of the Force.

#### CRIMINAL JURISDICTION

11. Members of the Force shall be subject to the exclusive jurisdiction of their respective national States in respect of any criminal offences which may be committed by them in Cyprus.

#### CIVIL JURISDICTION

12. (a) Members of the Force shall not be subject to the civil jurisdiction of the courts of Cyprus or to other legal process in any matter relating to their official duties. In a case arising from a matter relating to the official duties of a member of the Force and which involves a member of the Force and a Cypriot citizen, and in other disputes as agreed, the procedure provided in paragraph 38(b) shall apply to the settlement.

(b) In those cases where civil jurisdiction is exercised by the courts of Cyprus with respect to members of the Force, the courts or other Cypriot authorities shall grant members of the Force sufficient opportunity to safeguard their rights. If the Commander certifies that a member of the Force is unable because of official duties or authorized absence to protect his interests in a civil proceeding in which he is a participant, the aforesaid court or authority shall at his request suspend the proceeding until the elimination of the disability, but for not more than ninety days. Property of a member of the Force which is certified by the Commander to be needed by him for the fulfillment of his official duties shall be free from seizure for the satisfaction of a judgement, decision or order, together with other property not subject thereto under the law of Cyprus. The personal liberty of a member of the Force shall not be restricted by a court or other Cypriot authority in a civil proceeding, whether to enforce a judgement, decision or order, to compel an oath of disclosure, or for any other reason.

(c) In the cases provided for in sub-paragraph (b) above, the claimant may elect to have his claim dealt with in accordance with the procedure set out in paragraph 38(b) of these arrangements. Where a claim adjudicated or an award made in favour of the claimant by a court of Cyprus or the Claims Commission under paragraph 38(b) of these arrangements has not been made satisfied, the Government may, without prejudice to the claimant's rights, seek the good offices of the Secretary-General to obtain satisfaction.

#### NOTIFICATION: CERTIFICATION

13. If any civil proceeding is instituted against a member of the Force before any court of Cyprus having jurisdiction, notification shall be given to the Commander. The Commander shall certify to the court whether or not the proceeding is related to the official duties of such member.

#### MILITARY POLICE: ARREST: TRANSFER OF CUSTODY AND MUTUAL ASSISTANCE

14. The Commander shall take all appropriate measures to ensure maintenance of discipline and good order among members of the Force. To this end military police designated by the Commander shall police the premises referred to in paragraph 19 of these arrangements, such areas where the Force is deployed in the performance of its functions, and such other areas as the Commander deems necessary to maintain discipline and order among members of the Force. For the purpose of this paragraph the military police of the Force shall have the power of arrest over members of the Force.

15. Military police of the Force may take into custody any Cypriot citizen committing an offence or causing a disturbance on the premises referred to in paragraph 19, without subjecting him to the ordinary routine of arrest, in order immediately to deliver him to the nearest appropriate Cypriot authorities for the purpose of dealing with such offence or disturbance.

16. The Cypriot authorities may take into custody a member of the Force, without subjecting him to the ordinary routine of arrest in order immediately to deliver him, together with any weapons or items seized, to the nearest appropriate authorities of the Force: (a) when so requested by the Commander, or (b) in cases in which the military police of the Force are unable to act with the necessary promptness when a member of the Force is apprehended in the commission or attempted commission of a criminal offence that results or might result in serious injury to persons or property, or serious impairment of other legally protected rights.

17. When a person is taken into custody under paragraph 15 and paragraph 16(b), the Commander or the Cypriot authorities, as the case may be, may make a preliminary interrogation but may not delay the transfer of custody. Following the transfer of custody, the person concerned shall be made available upon request for further interrogation.

18. The Commander and the Cypriot authorities shall assist each other in the carrying out of all necessary investigations into offences in respect of which either or both have an interest, in the production of witnesses, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over, of things connected with an offence. The handing over of any such things may be made subject to their return within the time specified by the authority delivering them. Each shall notify the other of the disposition of any case in the outcome of which the other may have an interest or in which there has been a transfer of custody under the provisions of paragraphs 15 and 16 of these arrangements. The Government will ensure the prosecution of persons subject to its criminal jurisdiction who are accused of acts in relation to the Force or its members which, if committed in relation to the Cypriot army or its members, would have rendered them liable to prosecution. The Secretary-General will seek assurances from Governments of Participating States that they will be prepared to exercise jurisdiction with respect to crimes or offences which may be committed against Cypriot citizens by members of their national contingents serving with the Force.

#### PREMISES OF THE FORCE

19. The Government shall provide without cost to the Force and in agreement with the Commander such areas for headquarters, camps, or other premises as may be necessary for the accommodation and the fulfilment of the functions of the Force. Without prejudice to the fact that all such premises remain the territory of Cyprus, they shall be inviolable and subject to the exclusive control and authority of the Commander, who alone may consent to the entry of officials to perform duties on such premises.

#### UNITED NATIONS FLAG

20. The Government recognizes the right of the Force to display within Cyprus the United Nations flag on its headquarters, camps, posts or other premises, vehicles, vessels and otherwise as decided by the Commander. Other flags or pennants may be displayed only in exceptional cases and in accordance with conditions prescribed by the Commander. Sympathetic consideration will be given to observations or requests of the Government concerning this last-mentioned matter.

#### UNIFORM: VEHICLE, VESSEL AND AIRCRAFT MARKINGS AND REGISTRATION: OPERATING PERMITS

21. Members of the Force shall normally wear their national uniform with such identifying United Nations insignia as the Commander may prescribe. The conditions on which the wearing of civilian dress is authorized shall be notified by the Commander to the Government and sympathetic consideration will be given to observations or requests of the Government concerning this matter. Service vehicles, vessels and aircraft shall carry a distinctive United Nations identification mark and license which shall be notified by the Commander to the Government. Such vehicles, vessels and aircraft shall not be subject to registration and licensing under the laws and regulations of Cyprus. Cypriot authorities shall accept as valid, without a test or fee, a permit or license for the operation of service vehicles, vessels and aircraft issued by the Commander.

#### ARMS

22. Members of the Force may possess and carry arms in accordance with their orders.

#### PRIVILEGES AND IMMUNITIES OF THE FORCE

23. The Force, as a subsidiary organ of the United Nations, enjoys the status, privileges and immunities of the Organization in accordance with the Convention on the Privileges and Immunities of the United Nations. The provisions of article II of the Convention on the Privileges and Immunities of the United Nations shall also apply to the property, funds and assets of Participating States used in Cyprus in connection with the national contingents serving in the Force. The Government recognizes that the right of the Force to import free of duty equipment for the Force and provisions, supplies and other goods for the exclusive use of members of the Force, members of the United Nations Secretariat detailed by the Secretary-General to serve with the Force, excluding locally recruited personnel, includes the right of the Force to establish, maintain and operate at headquarters, camps and posts, service institutes providing amenities for the persons aforesaid. The amenities that may be provided by service institutes shall be goods of a consumable nature (tobacco and tobacco products, beer, etc.), and other customary articles of small value. To the end that duty-free importation for the Force may be effected with the least possible delay, having regard to the interests of the Government, a mutually satisfactory procedure, including documentation, shall be arranged between the appropriate authorities of the Force and the Government. The Commander shall take all necessary measures to prevent any abuse of the exemption and to prevent the sale or resale of such goods to persons other than those aforesaid. Sympathetic consideration shall be given by the Commander to observations or requests of the Government concerning the operation of service institutes.

#### PRIVILEGES AND IMMUNITIES OF OFFICIALS AND MEMBERS OF THE FORCE

24. Members of the United Nations Secretariat detailed by the Secretary-General to serve with the Force remain officials of the United Nations entitled to the privileges and immunities of articles V and VII of the Convention on the Privileges and Immunities of the United Nations. With respect to the locally recruited personnel of the Force, however, who are not members of the Secretariat, the United Nations will assert its right only to the immunities concerning official acts, and exemption from taxation and national service obligations provided in sections 18(a), (b) and (c) of the Convention on the Privileges and Immunities of the United Nations.

25. The Commander shall be entitled to the privileges, immunities and facilities of sections 19 and 27 of the Convention on the Privileges and Immunities of the United Nations. Officers serving on the Commander's Headquarters Staff and such other senior field officers as he may designate are entitled to the privileges and immunities of article VI of the Convention on the Privileges and Immunities of the United Nations. Subject to the foregoing, the United Nations will claim with respect to members of the Force only those rights expressly provided in the present or supplemental arrangements.

#### MEMBERS OF THE FORCE: TAXATION, CUSTOMS AND FISCAL REGULATIONS

26. Members of the Force shall be exempt from taxation on the pay and emoluments received from their national

Governments or from the United Nations. They shall also be exempt from all other direct taxes except municipal rates for services enjoyed, and from all registration fees, and charges.

27. Members of the Force shall have the right to import free of duty their personal effects in connection with their arrival in Cyprus. They shall be subject to the laws and regulations of Cyprus governing customs and foreign exchange with respect to personal property not required by them by reason of their presence in Cyprus with the Force. Special facilities for entry or exit shall be granted by the Cypriot immigration, customs and fiscal authorities to regularly constituted units of the Force provided that the authorities concerned have been duly notified sufficiently in advance. Members of the Force on departure from Cyprus may, notwithstanding the foreign exchange regulations, take with them such funds as the appropriate pay officer of the Force certifies were received in pays and emoluments from their respective national Governments or from the United Nations and are a reasonable residue thereof. Special arrangements between the Commander and the Government shall be made for the implementation of the foregoing provisions in the mutual interests of the Government and members of the Force.

28. The Commander will co-operate with Cypriot customs and fiscal authorities in ensuring the observance of the customs and fiscal laws and regulations of Cyprus by the members of the Force in accordance with these or any relevant supplemental arrangements.

#### COMMUNICATIONS AND POSTAL SERVICES

29. The Force enjoys the facilities in respect to communications provided in article III of the Convention on the Privileges and Immunities of the United Nations. The Commander shall have authority to install and operate a radio sending and receiving station or stations to connect at appropriate points and exchange traffic with the United Nations radio network, subject to the provisions of article 47 of the International Telecommunications Convention relating to harmful interference. The frequencies on which any such station may be operated will be duly communicated by the United Nations to the Government and to the International Frequency Registration Board. The right of the Commander is likewise recognized to enjoy the priorities of government telegrams and telephone calls as provided for the United Nations in article 39 and annex 3 of the latter Convention and in article 62 of the telegraph regulations annexed thereto.

30. The Force shall also enjoy, within its area of operations, the right of unrestricted communication by radio, telephone, telegraph or any other means, and of establishing the necessary facilities for maintaining such communications within and between premises of the Force, including the laying of cables and land lines and the establishment of fixed and mobile radio sending and receiving stations. It is understood that the telegraph and telephone cables and lines herein referred to will be situated within or directly between the premises of the Force and the area of operations, and that connexion with the Cypriot system of telegraphs and telephones will be made in accordance with arrangements with the appropriate Cypriot authorities.

31. The Government recognizes the right of the Force to make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of the Force. The Government will be informed of the nature of such arrangements. No interference shall take place with, and no censorship shall be applied to, the mail of the Force by the Government. In the event that postal arrangements applying to private mail of members of the Force are extended to operations involving transfer of currency, or transport of packages or parcels from Cyprus, the conditions under which such operations shall be conducted in Cyprus will be agreed upon between the Government and the Commander.

#### FREEDOM OF MOVEMENT

32. The Force and its members together with its service vehicles, vessels, aircraft and equipment shall enjoy freedom of movement throughout Cyprus. Wherever possible the Commander will consult with the Government with respect to large movements of personnel, stores or vehicles on roads used for general traffic. The Government will supply the Force with maps and other information, including locations of dangers and impediments, which may be useful in facilitating its movements.

#### USE OF ROADS, WATERWAYS, PORT FACILITIES, AND AIRFIELDS

33. The Force shall have the right to the use of roads, bridges, canals and other waters, port facilities and airfields without the payment of dues, tolls or charges either by way of registration or otherwise, throughout Cyprus.

#### WATER, ELECTRICITY AND OTHER PUBLIC UTILITIES

34. The Force shall have the right to the use of water, electricity and other public utilities at rates not less favourable to the Force than those to comparable consumers. The Government will, upon the request of the Commander, assist the Force in obtaining water, electricity and other utilities required, and in the case of interruption or threatened interruption of service, will give the same priority to the needs of the Force as to essential Government services. The Force shall have the right where necessary to generate, within the premises of the Force either on land or water, electricity for the use of the Force, and to transmit and distribute such electricity as required by the Force.

#### CYPRIT CURRENCY

35. The Government will, if requested by the Commander, make available to the Force, against reimbursement in such other mutually acceptable currency. Cypriot currency required for the use of the Force, including the pay of the members of the national contingents, at the rate of exchange most favourable to the Force that is officially recognized by the Government.

#### PROVISIONS, SUPPLIES AND SERVICES

36. The Government will, upon the request of the Commander, assist the Force in obtaining equipment, provisions, supplies and other goods and services required from local sources for its subsistence and operation. Sympathetic consideration will be given by the Commander in purchases on the local market to requests or observations of the Government in order to avoid any adverse effect on the local economy. Members of the Force and United Nations officials may purchase locally goods necessary for their own consumption, and such services as they need, under conditions not less favourable than for Cypriot citizens. If members of the Force and United Nations officials should require medical or dental facilities beyond those available within the Force, arrangements shall be made with the Government under which such facilities may be made available. The Commander and the Government will co-operate with respect to sanitary services. The Commander and the Government shall extend to each other the fullest cooperation in matters concerning health, particularly with respect to the control of communicable diseases in accordance with international conventions; such co-operation shall extend to the exchange of relevant information and statistics.

#### LOCALLY RECRUITED PERSONNEL

37. The Force may recruit locally such personnel as required. The terms and conditions of employment for locally recruited personnel shall be prescribed by the Commander and shall generally, to the extent practicable, follow the practice prevailing in the locality.

#### SETTLEMENT OF DISPUTES OR CLAIMS

38. Disputes or claims of a private law character shall be settled in accordance with the following provisions:

(a) The United Nations shall make provisions for the appropriate modes of settlement of disputes or claims arising out of contract or other disputes or claims of a private law character to which the United Nations is a party other than those covered in sub-paragraphs (b) or (c) following.

(b) Any claim made by

(i) a Cypriot citizen in respect of any damages alleged to result from an act or omission of a member of the Force relating to his official duties;

(ii) the Government against a member of the Force; or

(iii) the Force or the Government against one another, that is not covered by paragraphs 39 or 40 of these arrangements, shall be settled by a Claims Commission established for that purpose. One member of the Commission shall be appointed by the Secretary-General, one member by the Government and a chairman jointly by the Secretary-General and the Government. If the Secretary-General and the Government fail to agree on the appointment of a chairman, the President of the International Court of Justice shall be asked by either to make the appointment. An

award made by the Claims Commission against the Force or a member thereof or against the Government shall be notified to the Commander or the Government, as the case may be, to make satisfaction thereof.<sup>55</sup>

(c) Disputes concerning the terms of employment and conditions of service of locally recruited personnel shall be settled by administrative procedure to be established by the Commander.

39. All differences between the United Nations and the Government arising out of the interpretation or application of these arrangements which involve a question of principle concerning the Convention on the Privileges and Immunities of the United Nations shall be dealt with in accordance with the procedure of section 30 of the Convention.

40. All other disputes between the United Nations and the Government concerning the interpretation or application of these arrangements which are not settled by negotiation or other agreed mode of settlement shall be referred for final settlement to a tribunal of three arbitrators, one to be named by the Secretary-General of the United Nations, one by the Government and an umpire to be chosen jointly by the Secretary-General and the Government. If the two parties fail to agree on the appointment of the umpire within one month of the proposal of arbitration by one of the parties, the President of the International Court of Justice shall be asked by either party to appoint the umpire. Should a vacancy occur for any reason, the vacancy shall be filled within thirty days by the method laid down in this paragraph for the original appointment. The Tribunal shall come into existence upon the appointment of the umpire and at least one of the other members of the tribunal. Two members of the tribunal shall constitute a quorum for the performance of its functions, and for all deliberations and decisions of the tribunal a favourable vote of two members shall be sufficient.

#### LIAISON

41. The Commander and the Government shall take appropriate measures to ensure close and reciprocal liaison in the implementation of the present agreement. Furthermore, arrangements will be made, *inter alia*, for liaison on a State and local level between the Force and the Government security forces to the extent the Commander deems this to be necessary and desirable for the performance of the functions of the Force in accordance with the Security Council resolution of 4 March 1964 (S/5575). In case of requests by the Government security forces for the assistance of the Force, the Commander, in view of the international status and function of the Force, will decide whether, within the framework of the aforesaid resolution, he may meet such requests. The Commander of the Force may make requests for assistance from the Government security forces, at the State or local level, as he may deem necessary in pursuance of the aforesaid resolution, and they will, as far as possible, meet such requests in a spirit of co-operation.

#### DECEASED MEMBERS: DISPOSITION OF PERSONAL PROPERTY

42. The Commander shall have the right to take charge of and dispose of the body of a member of the Force who dies in Cyprus and may dispose of his personal property after the debts of the deceased person incurred in Cyprus and owing to Cypriot citizens have been settled.

#### SUPPLEMENTAL ARRANGEMENTS

43. Supplemental details for the carrying out of these arrangements shall be made as required between the Commander and appropriate Cypriot authorities designated by the Government.

#### CONTACTS IN THE PERFORMANCE OF THE FUNCTION OF THE FORCE

44. It is understood that the Commander and members of the Force authorized by him may have such contacts as they deem necessary in order to secure the proper performance of the function of the Force, under the Security Council resolution of 4 March 1964 (S/5575).

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<sup>55</sup> 1. In this respect attention must be drawn to operative paragraph 6 of the Security Council resolution of 4 March 1964 (S/5575) whereby the Council, *inter alia*, recommends that all costs pertaining to the Force be: "met, in a manner to be agreed upon by them, by the Governments providing contingents and by the Government of Cyprus. The Secretary General may also accept voluntary contributions for the purpose". It is understood that the obligations of the commander to make satisfaction as provided for in paragraph 38(b) of the present arrangements are necessarily limited under the aforementioned paragraph of the Security Council resolution to the extent (a) that funds are available to him for this purpose and/or (b) alternative arrangements are arrived at with the Participating Governments and the Government of Cyprus.



## EFFECTIVE DATE AND DURATION

45. Upon acceptance of this proposal by your Government, the present letter and your United Nations and Cyprus that shall be deemed to have taken effect as from the date of the arrival of the first element of the Force in Cyprus, and shall remain in force until the departure of the Force from Cyprus. The effective date that the departure has occurred shall be defined by the Secretary-General and the Government. The provisions of paragraphs 38, 39 and 40 of these arrangements, relating to the settlement of disputes, however, shall remain in force until all claims arising prior to the date of termination of these arrangements, and submitted prior to or within three months following the date of termination, have been settled.

In conclusion I wish to affirm that the activities of the Force will be guided in good faith by the task established for the Force by the Security Council. Within this context the Force, as established by the Secretary-General and acting on the basis of his directives under the exclusive operational direction of the Commander, will use its best endeavours, in the interest of preserving international peace and security, to prevent a recurrence of fighting and, as necessary, to contribute to the maintenance and restoration of law and order and a return to normal conditions.

Accept, Sir, the assurances of my highest consideration.

U Thant  
Secretary-General

His Excellency  
Mr. Spyros A. Kyprianou  
Minister for Foreign Affairs  
c/o Permanent Mission of Cyprus to the United Nations  
165 East 72nd Street  
New York 21, N.Y.

Permanent Mission of the Republic of Cyprus  
to the United Nations  
165 East 72nd Street  
New York 21, N.Y.

31 March 1964

Sir,

I have the honour to refer to your letter of 31 March 1964, in which you have proposed that the Republic of Cyprus and the United Nations should make the *ad hoc* arrangements contained therein which define certain of the conditions necessary for the effective discharge of the functions of the United Nations Force in Cyprus while it remains in Cyprus. Recalling that by letter of 4 March 1964, I informed you of the agreement of the Government of the Republic of Cyprus to the establishment of the Force, I now have the pleasure to inform you in the name of the Government of the Republic of Cyprus of its full agreement on, and its acceptance of the terms of your letter.

The Government of the Republic of Cyprus agrees, furthermore, that subject to ratification by the Republic of Cyprus, your letter and this reply will be considered as constituting an agreement between Cyprus and the United Nations concerning the status of the United Nations Force in Cyprus. Pending such ratification the Government of the Republic of Cyprus undertakes to give provisional application to the arrangements contained in your letter and to use its best efforts to secure the earliest possible ratification of the agreement.

In conclusion, I wish to affirm that the Government of the Republic of Cyprus, recalling the Security Council resolution of 4 March 1964 (S/5575), and, in particular, paragraphs 2 and 5 thereof, will be guided in good faith, when presence and functioning of the Force, by its acceptance of the recommendation of the Security Council that a peace-keeping Force be established in Cyprus.

Accept, Sir, the assurances of my highest consideration.

Spyros A. Kyprianou  
Minister for Foreign Affairs

His Excellency  
U Thant  
Secretary-General  
United Nations  
New York, N.Y.

## **Chapter 3 MISCELLANEOUS AGREEMENTS**

### **3-1. THE CHARTER OF THE UNITED NATIONS**

**26 June 1945**

Date of entry into force with respect to the United States of America: 24 October 1945. Amendments to Articles 23, 27, and 61 of the Charter came into force on 31 August 1965. An amendment to Article 109 of the Charter entered into force on 12 June 1968. Another amendment to Article 61 entered into force on 24 September 1973.

**(59 Stat. 1931; T.S. No. 993, 3 Bevans 1153; Amendments to Articles 23, 27, and 61, adopted by the General Assembly 17 December 1963: [1965] 2 UST 1134, TIAS No. 5857; Amendment to Article 109, adopted 20 December 1965: [1968] 5 UST 5450, TIAS No. 6529; Amendment to Article 61, adopted 20 December 1971: [1973] 2 UST 2225, TIAS No. 7739)**

#### **WE THE PEOPLES OF THE UNITED NATIONS DETERMINED**

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

#### **AND FOR THESE ENDS**

to practice tolerance and live together in peace with one another as good neighbors, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

#### **HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS.**

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

## **CHAPTER I. PURPOSES AND PRINCIPLES**

### **Article 1**

The Purposes of the United Nations are:

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

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

3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

## Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

## CHAPTER II. MEMBERSHIP

### Article 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

### Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.
2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

### Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be

restored by the Security Council.

#### Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

### **CHAPTER III. ORGANS**

#### Article 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

#### Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

### **CHAPTER IV. THE GENERAL ASSEMBLY**

#### *Composition*

#### Article 9

1. The General Assembly shall consist of all the Members of the United Nations.
2. Each Member shall have not more than five representatives in the General Assembly.

#### *Functions and Powers*

#### Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

#### Article 11

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.
2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a

Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

#### Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendations with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

#### Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1(b) above are set forth in Chapters IX and X.

#### Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

#### Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

#### Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

#### Article 17

1. The General Assembly shall consider and approve the budget of the Organization.
2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.
3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

#### *Voting*

#### Article 18

1. Each member of the General Assembly shall have one vote.
2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1(c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.
3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

#### Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

#### *Procedure*

#### Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

#### Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

## Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

## CHAPTER V. THE SECURITY COUNCIL

### *Composition*

## Article 23

[1945 TEXT]

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be nonpermanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

[1963 TEXT]

1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be nonpermanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

### *Functions and Powers*

## Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

## Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

#### Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

#### *Voting*

#### Article 27

1. Each member of the Security Council shall have one vote.

#### [1945 TEXT]

2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

#### [[1963 TEXT]

2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

#### *Procedure*

#### Article 28

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.

2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.

3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

#### Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

#### Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.



#### Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

#### Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

### **CHAPTER VI. PACIFIC SETTLEMENT OF DISPUTES**

#### Article 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

#### Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

#### Article 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.
2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.
3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

#### Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.
2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.
3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the

provisions of the Statute of the Court.

#### Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

#### Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

### **CHAPTER VII ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION.**

#### Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

#### Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

#### Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

#### Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations

by air, sea, or land forces of Members of the United Nations.

#### Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

#### Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

#### Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

#### Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

#### Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

#### Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

#### Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

#### Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

#### Article 51

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

### **CHAPTER VIII. REGIONAL ARRANGEMENTS**

#### Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

#### Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

#### Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

### **CHAPTER IX. INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION**

#### Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. cultural and educational cooperation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

#### Article 56

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

#### Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

**CHAPTER IX. INTERNATIONAL ECONOMIC AND SOCIAL COUNCIL**

*Composition*

Article 61

[1945 TEXT]

1. The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.
2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate reelection.
3. At the first election, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.
4. Each member of the Economic and Social Council shall have one representative.

[1973 TEXT]

1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.
2. Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.
3. At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.
4. Each member of the Economic and Social Council shall have one representative.

Article 62. Functions and Powers.

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic,

social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

#### Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

#### Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

#### Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

#### Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

*Voting*

#### Article 67

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting,

*Procedure*

Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69

The Economic and Social Council shall invite any member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, for its representatives to participate in the deliberations of the specialized agencies.

Article 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

Article 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provisions for the convening of meetings on the request of a majority of its members.

**CHAPTER XI. DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES**

Article 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

- a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
- b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
- c. to further international peace and security;
- d. to promote constructive measures of development, to encourage research, and to cooperate with one another



and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

#### Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good - neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

### CHAPTER XII. INTERNATIONAL TRUSTEESHIP SYSTEM

#### Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed there under by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

#### Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- a. to further international peace and security;
- b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

#### Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:
  - a. territories now held under mandate;
  - b. territories which may be detached from enemy states as a result of the Second World War; and
  - c. territories voluntarily placed under the system by states responsible for their administration.
2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

#### Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

#### Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

#### Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

#### Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

#### Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

#### Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic

areas.

#### Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

#### Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

### **CHAPTER XIII. THE TRUSTEESHIP COUNCIL**

#### *Composition*

#### Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:
  - a. those Members administering trust territories;
  - b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and
  - c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.
2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

#### *Functions and Powers*

#### Article 87

- The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may;
- a. consider reports submitted by the administering authority;
  - b. accept petitions and examine them in consultation with the administering authority;
  - c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
  - d. take these and other actions in conformity with the terms of the trusteeship agreements.

#### Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

#### *Voting*

#### Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

#### *Procedure*

#### Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

#### Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

### **CHAPTER XIV. THE INTERNATIONAL COURT OF JUSTICE**

#### Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

#### Article 93

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

#### Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

#### Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

#### Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

### **CHAPTER XV. THE SECRETARIAT**

#### Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

#### Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

#### Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

#### Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

#### Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

### **CHAPTER XVI. MISCELLANEOUS PROVISIONS**

#### Article 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

#### Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

#### Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

#### Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are

necessary for the fulfillment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

## **CHAPTER XVII. TRANSITIONAL SECURITY ARRANGEMENTS**

### Article 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view of such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

### Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

## **CHAPTER XVIII. AMENDMENTS**

### Article 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

### Article 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any nine members of the Security Council.

## CHAPTER XIX. RATIFICATION AND SIGNATURE

### Article 110

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.
2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.
3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.
4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

### Article 111

1. The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.
2. IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter.
3. Done at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

## **3-2. DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS**

October 24, 1970

(G.A. Res. 2625, 25 U.N. GAOR Supp. 28, at 121, U.N. Doc. A/8028 (1970))  
THE GENERAL ASSEMBLY,

*Recalling* its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, 2103 (XX) of 20 December 1965, 2181 (XXI) of 12 December 1966, 2327 (XXII) of 18 December 1967, 2463 (XXIII) of 20 December 1968 and 2533 (XXIV) of 8 December 1969, in which it affirmed the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

*Having considered* the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, which met in Geneva from 31 March 1970 to 1 May 1970, *Emphasizing* the paramount importance of the Charter of the United Nations for the maintenance of international peace and security and for the development of friendly relations and co-operation among States,

*Deeply convinced* that the adoption of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations during the celebration of the twenty-fifth anniversary of the United Nations would contribute to the strengthening of world peace and constitute a landmark in the development of international law and of relations among States, in promoting the rule of law among nations and particularly the universal application of the principles embodied in the Charter,

*Considering* the desirability of the wide dissemination of the text of the Declaration,

1. *Approves* the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the text of which is annexed to the present



resolution;

2. *Expresses its appreciation* to the Special Committee for its work resulting in the elaboration of the Declaration;
3. *Recommends* that all efforts be made so that the Declaration becomes generally known.

## ANNEX

### **Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations**

#### **Preamble**

THE GENERAL ASSEMBLY,

*Reaffirming* in the terms of the Charter that the maintenance of international peace and security and the development of friendly relations and co-operation between nations are among the fundamental purposes of the United Nations,

*Recalling* that the peoples of the United Nations are determined to practice tolerance and live together in peace with one another as good neighbours,

*Bearing in mind* the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for fundamental human rights and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development,

*Bearing in mind also* the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations,

*Considering* that the faithful observance of the principles of international law concerning friendly relations and co-operation among States, and fulfilment in good faith of the obligations assumed by States, in accordance with the Charter, is of the greatest importance for the maintenance of international peace and security, and for the implementation of the other purposes of the United Nations,

*Noting* that the great political, economic and social changes and scientific progress which have taken place in the world since the adoption of the Charter of the United Nations give increased importance to these principles and to the need for their more effective application in the conduct of States wherever carried on,

*Recalling* the established principle that outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty by means of use or occupation or by any other means, and mindful of the fact that consideration is being given in the United Nations to the question of establishing other appropriate provisions similarly inspired,

*Convinced* that the strict observance by States of the obligation not to intervene in the affairs of any other State is an essential condition to ensure that nations live together in peace with one another since the practice of any form of intervention not only violates the spirit and letter of the Charter of the United Nations but also leads to the creation of situations which threaten international peace and security,

*Recalling* the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State,

*Considering* it essential that all States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

*Considering* it equally essential that all States shall settle their international disputes by peaceful means in accordance with the Charter,

*Reaffirming*, in accordance with the Charter, the basic importance of sovereign equality and stressing that the purposes of the United Nations can be implemented only if States enjoy sovereign equality and comply fully with the requirements of this principle in their international relations,

*Convinced* that the subjection of peoples to alien subjugation, domination and exploitation constitutes a major obstacle to the promotion of international peace and security,

*Convinced* that the principle of equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law, and that its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality,

*Convinced* in consequence that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter,

*Considering* the provisions of the Charter as a whole and taking into account the role of relevant resolutions adopted by the competent organs of the United Nations relating to the content of the principles,

*Considering* that the progressive development and conification of the following principles:

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered,

(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter,

(d) The duty of States to co-operate with one another in accordance with the Charter,

(e) The principle of equal rights and self-determination of peoples,

(f) The principle of sovereign equality of States,

(g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter, so as to secure their more effective application within the international community would promote the realization of the purposes of the United Nations.

*Having considered* the principles of international law relating to friendly relations and co-operation among States,

1. *Solemnly proclaims* the following principles:

*The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations*

Every State has the duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.

Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special régimes or as affecting their temporary character.

States have a duty to refrain from acts of reprisal involving the use of force.

Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination and freedom and independence.

Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State.

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal. Nothing in the foregoing shall be construed as affecting:

(a) Provisions of the Charter or any international agreement prior to the Charter régime and valid under international law; or

(b) The powers of the Security Council under the Charter.

All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.

All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based upon the Charter more effective.

Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

*The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered*

Every State shall settle its international disputes with other States by peaceful means, in such a manner that international peace and security, and justice, are not endangered.

States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. In seeking such a settlement, the parties shall agree upon such peaceful means as may be appropriate to the circumstances and nature of the dispute.

The parties to a dispute have the duty, in the event of failure to reach a solution by any one of the above peaceful means, to continue to seek a settlement of the dispute by other peaceful means agreed upon by them.

States parties to an international dispute, as well as other States, shall refrain from any action which may aggravate the situation so as to endanger the maintenance of international peace and security, and shall act in accordance with the purposes and principles of the United Nations.

International disputes shall be settled on the basis of the sovereign equality of States and in accordance with the principle of free choice of means. Recourse to, or acceptance of, a settlement procedure freely agreed to by States with regard to existing or future disputes to which they are parties shall not be regarded as incompatible with sovereign equality,

Nothing in the foregoing paragraphs prejudices or derogates from the applicable provisions of the Charter, in particular those relating to the pacific settlement of international disputes.

*The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter*

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

Nothing in the foregoing paragraphs shall be construed as affecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

*The duty of States to co-operate with one another in accordance with the Charter*

States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international co-operation free from discrimination based on such differences.

To this end:

(a) States shall co-operate with other States in the maintenance of international peace and security;

(b) States shall co-operate in the promotion of universal respect for and observance of human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;

(c) States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention;

(d) States Members of the United Nations have the duty to take joint and separate action in co-operation with the United Nations in accordance with the relevant provisions of the Charter.

States should co-operate in the economic, social and cultural fields as well as in the field of science and technology and for the promotion of international cultural and educational progress. States should co-operate in the promotion of economic growth throughout the world, especially that of the developing countries.

### *The principle of equal rights and self-determination of peoples*

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

Every State has the duty to promote, through joint and separate action, the realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle in order:

(a) To promote friendly relations and co-operation among States; and

(b) To bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned; and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter of the United Nations.

Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against and resistance to such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter of the United Nations.

The territory of a colony or other non-self-governing territory has, under the Charter of the United Nations, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or non-self-governing territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country.

### *The principle of sovereign equality of States*

All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

In particular, sovereign equality includes the following elements:

(a) States are juridically equal;

(b) Each State enjoys the rights inherent in full sovereignty;

(c) Each State has the duty to respect the personality of other States;

(d) The territorial integrity and political independence of the State are inviolable;

(e) Each State has the right freely to choose and develop its political, social, economic and cultural systems;

(f) Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States.

### *The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter*

Every State has the duty to fulfil in good faith the obligations assumed by it in accordance with the Charter of the United Nations.

Every State has the duty to fulfil in good faith its obligations under the generally recognized principles and rules of international law.

Every State has the duty to fulfil in good faith its obligations under international agreements valid under the generally recognized principles and rules of international law.

Where obligations arising under international agreements are in conflict with the obligations of Members of the United Nations under the Charter of the United Nations, the obligations under the Charter shall prevail.

*General part*

2. *Declares that:*

In their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles,

Nothing in this Declaration shall be construed as prejudicing in any manner the provisions of the Charter or the rights and duties of Member States under the Charter or the rights of peoples under the Charter taking into account the elaboration of these rights in this Declaration.

3. *Declares further that:*

The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of their strict observance.

### 3-3. VIENNA CONVENTION ON THE LAW OF TREATIES

23 May 1969

As of December 1975, not in force for the United States of America.  
(U.N. Doc. A/Conf. 39/27, Vol. VIII, *International Legal Materials* 679 (1969))

#### Part I

#### INTRODUCTION

##### Article 1. Scope of the Present Convention.

The present Convention applies to treaties between States.

##### Article 2. Use of Terms.

1. For the purposes of the present Convention:

(a) "treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;

(b) "ratification", "acceptance", "approval" and "accession" mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;

(c) "full powers" means a document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect to a treaty;

(d) "reservation" means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;

(e) "negotiating State" means a State which took part in the drawing up and adoption of the text of the treaty;

(f) "contracting State" means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force;

(g) "party" means a State which has consented to be bound by the treaty and for which the treaty is in force;

(h) "third State" means a State not a party to the treaty;

(i) "international organization" means an intergovernmental organization.

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

### Article 3. International Agreements Not Within the Scope of the Present Convention.

The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect:

- (a) the legal force of such agreements;
- (b) the application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention;
- (c) the application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.

### Article 4. Non-Retroactivity of the Present Convention.

Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States.

### Article 5. Treaties Constituting International Organizations and Treaties Adopted Within an International Organization.

The present Convention applies to any treaty which is the constituent instrument of an international organization and to any treaty adopted within an international organization without prejudice to any relevant rules of the organization.

## Part II

### CONCLUSION AND ENTRY INTO FORCE OF TREATIES

#### Section I. Conclusion of Treaties

#### Article 6. Capacity of States to Conclude Treaties.

Every State possesses capacity to conclude treaties.

#### Article 7. Full Powers.

1. A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:

- (a) he produces appropriate full powers; or
- (b) it appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.

2. In virtue of their functions and without having to produce full powers, the following are considered as represent-

ing their State:

- (a) Heads of State, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty;
- (b) heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the State to which they are accredited;
- (c) representatives accredited by States to an international conference or to an international organization or one of its organs, for the purpose of adopting the text of a treaty in that conference, organization or organ.

#### Article 8. Subsequent Confirmation of an Act Performed Without Authorization.

An act relating to the conclusion of a treaty performed by a person who cannot be considered under article 7 as authorized to represent a State for that purpose is without legal effect unless afterwards confirmed by that State.

#### Article 9. Adoption of the Text.

1. The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph 2.
2. The adoption of the text of a treaty at an international conference takes place by the vote of two-thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule.

#### Article 10. Authentication of the Text.

The text of a treaty is established as authentic and definitive:

- (a) by such procedure as may be provided for in the text or agreed upon by the States participating in its drawing up; or
- (b) failing such procedure, by the signature, signature ad referendum or initialling by the representatives of those States of the text of the treaty or of the Final Act of a conference incorporating the text.

#### Article 11. Means of Expressing Consent To Be Bound by a Treaty.

The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

#### Article 12. Consent To Be Bound by a Treaty Expressed by Signature.

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when:
  - (a) the treaty provides that signature shall have that effect;
  - (b) it is otherwise established that the negotiating States were agreed that signature should have that effect; or
  - (c) the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.
2. For the purposes of paragraph 1:
  - (a) the initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed;

(b) the signature ad referendum of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

Article 13. Consent To Be Bound by a Treaty Expressed by an Exchange of Instruments Constituting a Treaty.

The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when:

- (a) the instruments provide that their exchange shall have that effect; or
- (b) it is otherwise established that those States were agreed that the exchange of instruments should have that effect.

Article 14. Consent To Be Bound by a Treaty Expressed by Ratification, Acceptance or Approval.

1. The consent of a State to be bound by a treaty is expressed by ratification when:
  - (a) the treaty provides for such consent to be expressed by means of ratification;
  - (b) it is otherwise established that the negotiating States were agreed that ratification should be required;
  - (c) the representative of the State has signed the treaty subject to ratification; or
  - (d) the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.
2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

Article 15. Consent To Be Bound by a Treaty Expressed by Accession.

The consent of a State to be bound by a treaty is expressed by accession when:

- (a) the treaty provides that such consent may be expressed by that State by means of accession;
- (b) it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or
- (c) all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.

Article 16. Exchange or Deposit of Instruments of Ratification, Acceptance, Approval or Accession.

Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon:

- (a) their exchange between the contracting States;
- (b) their deposit with the depositary; or
- (c) their notification to the contracting States or to the depositary, if so agreed.

Article 17. Consent To Be Bound by Part of a Treaty and Choice of Differing Provisions.

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the



treaty so permits or the other contracting States so agree.

2. The consent of a State to be bound by a treaty which permits a choice between differing provisions is effective only if it is made clear to which of the provisions the consent relates.

#### Article 18. Obligation Not to Defeat the Object and Purpose of a Treaty Prior to its Entry into Force.

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

(a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or

(b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

### Section II: Reservations

#### Article 19. Formulation of Reservations.

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

(a) the reservation is prohibited by the treaty;

(b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or

(c) in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

#### Article 20. Acceptance of and Objection to Reservation.

1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.

2. When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.

3. When a treaty is a constituent instrument of an international organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.

4. In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:

(a) acceptance by another contracting State of a reservation constitute the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States;

(b) an objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State;

(c) an act expressing a State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.

5. For the purposes of paragraphs 2 and 4 and unless the treaty otherwise provides, a reservation is considered to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

#### Article 21. Legal Effects of Reservations and of Objections to Reservations.

1. A reservation established with regard to another party in accordance with articles 19, 20 and 23:
  - (a) modifies for the reserving State in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and
  - (b) modifies those provisions to the same extent for that other party in its relations with the reserving State.
2. The reservation does not modify the provisions of the treaty for the other parties to the treaty *inter se*.
3. When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

#### Article 22. Withdrawal of Reservations and Objections to Reservations.

1. Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.
2. Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.
3. Unless the treaty otherwise provides, or it is otherwise agreed:
  - (a) the withdrawal of a reservation becomes operative in relation to another contracting State only when notice of it has been received by that State;
  - (b) the withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the reservation.

#### Article 23. Procedure Regarding Reservations.

1. A reservation, an express acceptance of a reservation and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the treaty.
2. If formulated when signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.
3. An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.
4. The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

### **Section III: Entry into Force and Provisional Application of Treaties**

#### Article 24. Entry into Force.

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.
2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.
3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.
4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of adoption of its text.

#### Article 25. Provisional Application.

1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:
  - (a) the treaty itself so provides; or
  - (b) the negotiating States have in some other manner so agreed.
2. Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty.

### **Part III**

## **OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES**

### **Section I: Observance of Treaties**

#### Article 26. Pacta Sunt Servanda.

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

#### Article 27. Internal Law and Observance of Treaties.

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

### **Section II: Application of Treaties**

#### Article 28. Non-retroactivity of Treaties.

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of entry into force of the treaty with respect to that party.

#### Article 29. Territorial Scope of Treaties.

Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

#### Article 30. Application of Successive Treaties Relating to the Same Subject-matter.

1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.
2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.
3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.
4. When the parties to the later treaty do not include all the parties to the earlier one:
  - (a) as between States parties to both treaties the same rule applies as in paragraph 3;

(b) as between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.

5. Paragraph 4 is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any question of responsibility which may arise for a State from the conclusion or application of a treaty the provisions of which are incompatible with its obligations towards another State under another treaty.

### **Section III: Interpretation of Treaties**

#### **Article 31. General Rule of Interpretation.**

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

(a) any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;

(b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;

(b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;

(c) any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

#### **Article 32. Supplementary Means of Interpretation.**

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

(a) leaves the meaning ambiguous or obscure; or

(b) leads to a result which is manifestly absurd or unreasonable.

#### **Article 33. Interpretation of Treaties Authenticated in Two or More Languages.**

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.

3. The terms of the treaty are presumed to have the same meaning in each authentic text.

4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic texts discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

## **Section IV: Treaties and Third States**

### **Article 34. General Rule Regarding Third States.**

A treaty does not create either obligations or rights for a third State without its consent.

### **Article 35. Treaties Providing for Obligations for Third States.**

An obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the means of establishing the obligation and the third State expressly accepts that obligation in writing.

### **Article 36. Treaties Providing for Rights for Third States.**

1. A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides.

2. A State exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty.

### **Article 37. Revocation or Modification of Obligations or Rights of Third States.**

1. When an obligation has arisen for a third State in conformity with article 35, the obligation may be revoked or modified only with the consent of the parties to the treaty and of the third State, unless it is established that they had otherwise agreed.

2. When a right has arisen for a third State in conformity with article 36, the right may not be revoked or modified by the parties if it is established that the right was intended not to be revocable or subject to modification without the consent of the third State.

### **Article 38. Rules in a Treaty Becoming Binding on Third States Through International Custom.**

Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognized as such.

## **Part IV**

### **AMENDMENT AND MODIFICATION OF TREATIES**

#### **Article 39. General Rule Regarding the Amendment of Treaties.**

A treaty may be amended by agreement between the parties. The rules laid down in Part II apply to such an agreement except in so far as the treaty may otherwise provide.

#### **Article 40. Amendment of Multilateral Treaties.**

1. Unless the treaty otherwise provides, the amendment of multilateral treaties shall be governed by the following paragraphs.
2. Any proposal to amend a multilateral treaty as between all the parties must be notified to all the contracting States, each one of which shall have the right to take part in:
  - (a) the decision as to the action to be taken in regard to such proposal;
  - (b) the negotiation and conclusion of any agreement for the amendment of the treaty.
3. Every State entitled to become a party to the treaty shall also be entitled to become a party to the treaty as amended.
4. The amending agreement does not bind any State already a party to the treaty which does not become a party to the amending agreement; article 30, paragraph 4(b), applies in relation to such State.
5. Any State which becomes a party to the treaty after the entry into force of the amending agreement shall, failing an expression of a different intention by that State:
  - (a) be considered as a party to the treaty as amended; and
  - (b) be considered as a party to the unamended treaty in relation to any party to the treaty not bound by the amending agreement.

#### Article 41. Agreements to Modify Multilateral Treaties Between Certain of the Parties Only.

1. Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:
  - (a) the possibility of such a modification is provided for by the treaty; or
  - (b) the modification in question is not prohibited by the treaty and:
    - (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;
    - (ii) does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.
2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of the modification to the treaty for which it provides.

### Part V

## INVALIDITY, TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

### Section I: General Provisions

#### Article 42. Validity and Continuance in Force of Treaties.

1. The validity of a treaty or of the consent of a State to be bound by a treaty may be impeached only through the application of the present Convention.
2. The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the application of the provisions of the treaty or of the present Convention. The same rule applies to suspension of the operation of a treaty.

#### Article 43. Obligations Imposed by International Law Independently of a Treaty.

The invalidity, termination or denunciation of a treaty, the withdrawal of a party from it, or the suspension of its operation, as a result of the application of the present Convention or of the provisions of the treaty, shall not in any way impair the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law independently of the treaty.

#### Article 44. Separability of Treaty Provisions.

1. A right of a party, provided for in a treaty or arising under article 56, to denounce, withdraw from or suspend the operation of the treaty may be exercised only with respect to the whole treaty unless the treaty otherwise provides or the parties otherwise agree.

2. A ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty recognized in the present Convention may be invoked only with respect to the whole treaty except as provided in the following paragraphs or in article 60.

3. If the ground relates solely to particular clauses, it may be invoked only with respect to those clauses where:

(a) the said clauses are separable from the remainder of the treaty with regard to their application;

(b) it appears from the treaty or is otherwise established that acceptance of those clauses was not an essential basis of the consent of the other party or parties to be bound by the treaty as a whole; and

(c) continued performance of the remainder of the treaty would not be unjust.

4. In cases falling under articles 49 and 50 the State entitled to invoke the fraud or corruption may do so with respect either to the whole treaty or, subject to paragraph 3, to the particular clauses alone.

5. In cases falling under articles 51, 52 and 53, no separation of the provisions of the treaty is permitted.

#### Article 45. Loss of a Right to Invoke a Ground for Invalidating, Terminating, Withdrawing from or Suspending the Operation of a Treaty.

A State may no longer invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty under articles 46 to 50 or articles 60 and 62 if, after becoming aware of the facts:

(a) it shall have expressly agreed that the treaty is valid or remains in force or continues in operation, as the case may be; or

(b) it must by reason of its conduct be considered as having acquiesced in the validity of the treaty or in its maintenance in force or in operation, as the case may be.

### **Section II: Invalidity of Treaties**

#### Article 46. Provisions of Internal Law Regarding Competence to Conclude Treaties.

1. A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.

2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith.

#### Article 47. Specific Restrictions on Authority to Express the Consent of a State.

If the authority of a representative to express the consent of a State to be bound by a particular treaty has been made subject to a specific restriction, his omission to observe that restriction may not be invoked as invalidating the consent expressed by him unless the restriction was notified to the other negotiating States prior to his expressing such consent.

#### Article 48. Error.

1. A State may invoke an error in a treaty as invalidating its consent to be bound by the treaty if the error relates to a fact or situation which was assumed by that State to exist at the time when the treaty was concluded and formed an essential basis of its consent to be bound by the treaty.

2. Paragraph 1 shall not apply if the State in question contributed by its own conduct to the error or if the circumstances were such as to put that State on notice of a possible error.

3. An error relating only to the wording of the text of a treaty does not affect its validity; article 79 then applies.

#### Article 49. Fraud.

If a State has been induced to conclude a treaty by the fraudulent conduct of another negotiating State, the State may invoke the fraud as invalidating its consent to be bound by the treaty.

#### Article 50. Corruption of a Representative of a State.

If the expression of a State's consent to be bound by a treaty has been procured through the corruption of its representative directly or indirectly by another negotiating State, the State may invoke such corruption as invalidating its consent to be bound by the treaty.

#### Article 51. Coercion of a Representative of a State.

The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him shall be without any legal effect.

#### Article 52. Coercion of a State by the Threat or Use of Force.

A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

#### Article 53. Treaties Conflicting with a Peremptory Norm of General International Law (*jus cogens*).

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

### **Section III: Termination and Suspension of the Operation of Treaties**

Article 54. Termination of or Withdrawal from a Treaty under its Provisions or by Consent of the parties.

The termination of a treaty or the withdrawal of a party may take place:

- (a) in conformity with the provisions of the treaty; or
- (b) at any time by consent of all the parties after consultation with the other contracting States.



Article 55. Reduction of the Parties to a Multilateral Treaty Below the Number Necessary for its Entry into Force.

Unless the treaty otherwise provides, a multilateral treaty does not terminate by reason only of the fact that the number of the parties falls below the number necessary for its entry into force.

Article 56. Denunciation of or Withdrawal from a Treaty Containing no Provision Regarding Termination, Denunciation or Withdrawal.

1. A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:

- (a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or
- (b) a right of denunciation or withdrawal may be implied by the nature of the treaty.

2. A party shall give not less than twelve months' notice of its intention to denounce or withdraw from a treaty under paragraph 1.

Article 57. Suspension of the Operation of a Treaty Under its Provisions or by Consent of the parties.

The operation of a treaty in regard to all the parties or to a particular party may be suspended:

- (a) in conformity with the provisions of the treaty; or
- (b) at any time by consent of all the parties after consultation with the other contracting States.

Article 58. Suspension of the Operation of a Multilateral Treaty by Agreement Between Certain of the Parties Only.

1. Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:

- (a) the possibility of such a suspension is provided for by the treaty; or
- (b) the suspension in question is not prohibited by the treaty and:

(i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;

(ii) is not incompatible with the object and purpose of the treaty.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of those provisions of the treaty the operation of which they intend to suspend.

Article 59. Termination or Suspension of the Operation of a Treaty Implied by Conclusion of a Later Treaty.

1. A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject-matter and:

(a) it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or

(b) the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are

not capable of being applied at the same time.

2. The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

#### Article 60. Termination or Suspension of the Operation of a Treaty as a Consequence of its Breach.

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

2. A material breach of a multilateral treaty by one of the parties entitles:

(a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:

(i) in the relations between themselves and the defaulting State, or

(ii) as between all the parties;

(b) a party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;

(c) any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.

3. A material breach of a treaty, for the purposes of this article, consists in:

(a) a repudiation of the treaty not sanctioned by the present Convention; or

(b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty.

4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.

5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular in provisions prohibiting any form of reprisals against persons protected by such treaties.

#### Article 61. Supervening Impossibility of Performance.

1. A party may invoke the impossibility of performing a treaty as a ground for terminating or withdrawing from it if the impossibility results from the permanent disappearance or destruction of an object indispensable for the execution of the treaty. If the impossibility is temporary, it may be invoked only as a ground for suspending the operation of the treaty.

2. Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

#### Article 62. Fundamental Change of Circumstances.

1. A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:

(a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and

(b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.

2. A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:

(a) if the treaty establishes a boundary; or

(b) if the fundamental change is the result of a breach by the party invoking it either of an obligation under the

treaty or of any other international obligation owed to any other party to the treaty.

3. If, under the foregoing paragraphs, a party may invoke a fundamental change of circumstances as a ground for terminating or withdrawing from a treaty it may also invoke the change as a ground for suspending the operation of the treaty.

#### Article 63. Severance of Diplomatic or Consular Relations.

The severance of diplomatic or consular relations between parties to a treaty does not affect the legal relations established between them by the treaty except in so far as the existence of diplomatic or consular relations is indispensable for the application of the treaty.

#### Article 64. Emergence of a New Peremptory Norm of General International Law (*jus cogens*).

If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

### Section IV: Procedure

Article 65. Procedure To Be Followed with Respect to Invalidity, Termination, Withdrawal from or Suspension of the Operation of a Treaty.

1. A party which, under the provisions of the present Convention, invokes either a defect in its consent to be bound by a treaty or a ground for impeaching the validity of a treaty, terminating it, withdrawing from it or suspending its operation, must notify the other parties of its claim. The notification shall indicate the measure proposed to be taken with respect to the treaty and the reasons therefor.

2. If, after the expiry of a period which, except in cases of special urgency, shall not be less than three months after the receipt of the notification, no party has raised any objection, the party making the notification may carry out in the manner provided in article 67 the measure which it has proposed.

3. If, however, objection has been raised by any other party, the parties shall seek a solution through the means indicated in Article 33 of the Charter of the United Nations.

4. Nothing in the foregoing paragraphs shall affect the rights or obligations of the parties under any provisions in force binding the parties with regard to the settlement of disputes.

5. Without prejudice to article 45, the fact that a State has not previously made the notification prescribed in paragraph 1 shall not prevent it from making such notification in answer to another party claiming performance of the treaty or alleging its violation.

#### Article 66. Procedures for Judicial Settlement, Arbitration and Conciliation.

If, under paragraph 3 of article 65, no solution has been reached within a period of 12 months following the date on which the objection was raised, the following procedures shall be followed:

(a) any one of the parties to a dispute concerning the application or the interpretation of article 53 or 64 may, by a written application, submit it to the International Court of Justice for a decision unless the parties by common consent agree to submit the dispute to arbitration;

(b) any one of the parties to a dispute concerning the application or the interpretation of any of the other articles in Part V of the present Convention may set in motion the procedure specified in the Annex to the Convention by submitting a request to that effect to the Secretary-General of the United Nations.

Article 67. Instruments for Declaring Invalid, Terminating, Withdrawing from or Suspending the Operation of a Treaty.

1. The notification provided for under article 65 paragraph 1 must be made in writing.
2. Any act declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs 2 or 3 of Article 65 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

Article 68. Revocation of Notifications and Instruments Provided for in Articles 65 and 67.

A notification or instrument provided for in Articles 65 or 67 may be revoked at any time before it takes effect.

## **Section V: Consequences of the Invalidity, Termination or Suspension of the Operation of a Treaty**

Article 69. Consequences of the Invalidity of a Treaty.

1. A treaty the invalidity of which is established under the present Convention is void. The provisions of a void treaty have no legal force.
2. If acts have nevertheless been performed in reliance on such a treaty:
  - (a) each party may require any other party to establish as far as possible in their mutual relations the position that would have existed if the acts had not been performed;
  - (b) acts performed in good faith before the invalidity was invoked are not rendered unlawful by reason only of the invalidity of the treaty.
3. In cases falling under Articles 49, 50, 51 or 52, paragraph 2 does not apply with respect to the party to which the fraud, the act of corruption or the coercion is imputable.
4. In the case of the invalidity of a particular State's consent to be bound by a multilateral treaty, the foregoing rules apply in the relations between that State and the parties to the treaty.

Article 70. Consequences of the Termination of a Treaty.

1. Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:
  - (a) releases the parties from any obligation further to perform the treaty;
  - (b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.
2. If a State denounces or withdraws from a multilateral treaty, paragraph 1 applies in the relations between the State and each of the other parties to the treaty from the date when such denunciation or withdrawal takes effect.

Article 71. Consequences of the Invalidity of a Treaty Which Conflicts with a Peremptory Norm of General International Law.

1. In the case of a treaty which is void under Article 53 the parties shall:
  - (a) eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts

with the peremptory norm of general international law; and

(b) bring their mutual relations into conformity with the peremptory norm of general international law.

2. In the case of a treaty which becomes void and terminates under Article 64, the termination of the treaty:

(a) releases the parties from any obligation further to perform the treaty;

(b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination; provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

#### Article 72. Consequences of the Suspension of the Operation of a Treaty.

1. Unless the treaty otherwise provides or the parties otherwise agree, the suspension of the operation of a treaty under its provisions or in accordance with the present Convention:

(a) releases the parties between which the operation of the treaty is suspended from the obligation to perform the treaty in their mutual relations during the period of the suspension;

(b) does not otherwise affect the legal relations between the parties established by the treaty.

2. During the period of the suspension the parties shall refrain from acts tending to obstruct the resumption of the operation of the treaty.

### Part VI

#### MISCELLANEOUS PROVISIONS

##### Article 73. Cases of State Succession, State Responsibility and Outbreak of Hostilities.

The provisions of the present Convention shall not prejudice any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States.

##### Article 74. Diplomatic and Consular Relations and the Conclusion of Treaties.

The severance or absence of diplomatic or consular relations between two or more States does not prevent the conclusion of treaties between those States. The conclusion of a treaty does not in itself affect the situation in regard to diplomatic or consular relations.

##### Article 75. Case of an Aggressor State.

The provisions of the present Convention are without prejudice to any obligation in relation to a treaty which may arise for an aggressor State in consequence of measures taken in conformity with the Charter of the United Nations with reference to that State's aggression.

### Part VII

#### DEPOSITARIES, NOTIFICATIONS, CORRECTIONS AND REGISTRATION

##### Article 76. Depositaries of Treaties.

1. The designation of the depositary of a treaty may be made by the negotiating States, either in the treaty itself or in some other manner. The depositary may be one or more States, an international organization or the chief administrative Officer of the organization.

2. The functions of the depositary of a treaty are international in character and the depositary is under an obligation to act impartially in their performance. In particular, the fact that a treaty has not entered into force between certain of the parties or that a difference has appeared between a State and a depositary with regard to the performance of the latter's functions shall not affect that obligation.

#### Article 77. Functions of Depositaries.

1. The functions of a depositary, unless otherwise provided in the treaty or agreed by the contracting States, comprise in particular:

- (a) keeping custody of the original text of the treaty and of any full powers delivered to the depositary;
- (b) preparing certified copies of the original text and preparing any further text of the treaty in such additional languages as may be required by the treaty and transmitting them to the parties and to the States entitled to become parties to the treaty;
- (c) receiving any signatures to the treaty and receiving and keeping custody of any instruments, notifications and communications relating to it;
- (d) examining whether the signature or any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the State in question;
- (e) informing the parties and the States entitled to become parties to the treaty of acts, notifications and communications relating to the treaty;
- (f) informing the States entitled to become parties to the treaty when the number of signatures or of instruments of ratification, acceptance, approval or accession required for the entry into force of the treaty has been received or deposited;
- (g) registering the treaty with the Secretariat of the United Nations;
- (h) performing the functions specified in other provisions of the present Convention.

2. In the event of any difference appearing between a State and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of the signatory States and the contracting States or, where appropriate, of the competent organ of the international organization concerned.

#### Article 78. Notifications and Communications.

Except as the treaty or the present Convention otherwise provide, any notification or communication to be made by any State under the present Convention shall:

- (a) if there is no depositary, be transmitted direct to the States for which it is intended, or if there is a depositary, to the latter;
- (b) be considered as having been made by the State in question only upon its receipt by the State to which it was transmitted or, as the case may be, upon its receipt by the depositary;
- (c) if transmitted to a depositary, be considered as received by the State for which it was intended only when the latter State has been informed by the depositary in accordance with article 77, paragraph 1(e).

#### Article 79. Correction of Errors in Texts or in Certified Copies of Treaties.

1. Where, after the authentication of the text of a treaty, the signatory States and the contracting States are agreed that it contains an error, the error shall, unless they decide upon some other means of correction, be corrected:

- (a) by having the appropriate correction made in the text and causing the correction to be initialled by duly authorized representatives;
- (b) by executing or exchanging an instrument or instruments setting out the correction which it has been agreed to

make; or

(c) by executing a corrected text of the whole treaty by the same procedure as in the case of the original text.

2. Where the treaty is one for which there is a depositary, the latter shall notify the signatory States and contracting States of the error and of the proposal to correct it and shall specify an appropriate time-limit within which objection to the proposed correction may be raised. If, on the expiry of the time-limit:

(a) no objection has been raised, the depositary shall make and initial the correction in the text and shall execute a *procès-verbal* of the rectification of the text and communicate a copy of it to the parties and to the State entitled to become parties to the treaty;

(b) an objection has been raised, the depositary shall communicate the objection to the signatory States and to the contracting States.

3. The rules in paragraphs 1 and 2 apply also where the text has been authenticated in two or more languages and it appears that there is a lack of concordance which the signatory States and the contracting States agree should be corrected.

4. The corrected text replaces the defective text *ab initio*, unless the signatory States and the contracting States otherwise decide.

5. The correction of the text of a treaty that has been registered shall be notified to the Secretariat of the United Nations.

6. Where an error is discovered in a certified copy of a treaty, the depositary shall execute a *procès-verbal* specifying the rectification and communicate a copy of it to the signatory States and to the contracting States.

#### Article 80. Registration and Publication of Treaties.

1. Treaties shall, after their entry into force, be transmitted to the Secretariat of the United Nations for registration or filing and recording, as the case may be, and for publication.

2. The designation of a depositary shall constitute authorization for it to perform the acts specified in the preceding paragraph.

### Part VIII

#### FINAL PROVISIONS

##### Article 81. Signature.

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention, as follows: until 30 November 1969, at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until 30 April 1970, at United Nations Headquarters, New York.

##### Article 82. Ratification.

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

##### Article 83. Accession.

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in Article 81. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 84. Entry into Force.

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the thirty-fifth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 85. Authentic Texts.

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, this twenty-third day of May, one thousand nine hundred and sixty-nine.

#### ANNEX

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a party to the present Convention shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. When a request has been made to the Secretary-General under article 66, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:

The State or States constituting one of the parties to the dispute shall appoint:

(a) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and

(b) one conciliator not of the nationality of that State or any of those States, who shall be chosen from the list.

The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within sixty days following the date on which the Secretary-General receives the request.

The four conciliators shall, within sixty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General within sixty days following the expiry of that period. The appointment of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any party to the treaty to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.



6. The Commission shall report within twelve months of its constitution. Its report shall be deposited with the Secretary-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration, of the parties in order to facilitate an amicable settlement of the dispute.

7. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.

### 3-4. VIENNA CONVENTION ON CONSULAR RELATIONS AND OPTIONAL PROTOCOL ON DISPUTES

**24 April 1963**

Date of entry into force with respect to the United States of America:

24 December 1969

**([1970] 1 UST 77; TIAS No. 6820; 596 UNTS 487)**

WHEREAS the Vienna Convention on Consular Relations and the Optional Protocol Concerning the Compulsory Settlement of Disputes were signed at Vienna on April 24, 1963;

WHEREAS the texts of the Convention and Protocol, as certified for the Secretary-General of the United Nations, are word for word as follows:

*The States Parties to the present Convention,*

*Recalling* that consular relations have been established between peoples since ancient times,

Having in mind the Purposes and Principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations.

*Considering* that the United Nations Conference on Diplomatic Intercourse and Immunities adopted the Vienna Convention on Diplomatic Relations which was opened for signature on 18 April 1961,

*Believing* that an international convention on consular relations, privileges and immunities would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

*Realizing* that the purposes of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of functions by consular posts on behalf of their respective States,

*Affirming* that the rules of customary international law continue to govern matters not expressly regulated by the provisions of the present Convention,

Have agreed as follows:

#### Article 1. Definitions.

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

- (a) "consular post" means any consulate-general, consulate, vice-consulate or consular agency;
- (b) "consular district" means the area assigned to a consular post for the exercise of consular functions;
- (c) "head of consular post" means the person charged with the duty of acting in that capacity;
- (d) "consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;
- (e) "consular employee" means any person employed in the administrative or technical service of a consular post;
- (f) "member of the service staff" means any person employed in the domestic service of a consular post;
- (g) "member of the consular post" means consular officers, consular employees and members of the service staff;
- (h) "members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff;
- (i) "member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post;
- (j) "consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;

(k) “consular archives” includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers’ and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers; the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the present Convention.

## **CHAPTER I. CONSULAR RELATIONS IN GENERAL**

### **Section I. Establishment and Conduct of Consular Relations**

#### Article 2. Establishment of Consular Relations.

1. The establishment of consular relations between States takes place by mutual consent.
2. The consent given to the establishment of diplomatic relations between two States implies, unless otherwise stated, consent to the establishment of consular relations.
3. The severance of diplomatic relations shall not ipso facto involve the severance of consular relations.

#### Article 3. Exercise of Consular Functions.

Consular functions are exercised by consular posts. They are also exercised by diplomatic missions in accordance with the provisions of the present Convention.

#### Article 4. Establishment of a Consular Post.

1. A consular post may be established in the territory of the receiving State only with that State’s consent.
2. The seat of the consular post, its classification and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State.
3. Subsequent changes in the seat of the consular post, its classification or the consular district may be made by the sending State only with the consent of the receiving State.
4. The consent of the receiving State shall also be required if a consulate-general or a consulate desires to open a vice-consulate or a consular agency in a locality other than that in which it is itself established.
5. The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consular post elsewhere than at the seat thereof.

#### Article 5. Consular Functions.

(a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;

(b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;

(c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;

(d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;

(e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;

(f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;

(g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession mortis causa in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;

(h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;

(i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;

(j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;

(k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;

(l) extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this Article and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State;

(m) performing any other functions entrusted in a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

#### Article 6. Exercise of Consular Functions Outside the Consular District.

A consular officer may, in special circumstances, with the consent of the receiving State, exercise his functions outside his consular district.

#### Article 7. Exercise of Consular Functions in a Third State.

The sending State may, after notifying the States concerned, entrust a consular post established in a particular State with the exercise of consular functions in another State, unless there is express objection by one of the States concerned.

#### Article 8. Exercise of Consular Functions on Behalf of a Third State.

Upon appropriate notification on the receiving State, a consular post of the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State.

#### Article 9. Classes of Heads of Consular Posts.

1. Heads of consular posts are divided into four classes, namely:

- (a) consuls-general;
- (b) consuls;
- (c) vice-consuls;
- (d) consular agents.

2. Paragraph 1 of this Article in no way restricts the right of any of the Contracting Parties to fix the designation of consular officers other than the heads of consular posts.

#### Article 10. Appointment and Admission of Heads of Consular Posts.

1. Heads of consular posts are appointed by the sending State and are admitted to the exercise of their functions by the receiving State.

2. Subject to the provisions of the present Convention, the formalities for the appointment and for the admission of the head of a consular post are determined by the laws, regulations and usages of the sending State and of the receiving State respectively.

#### Article 11. The Consular Commission or Notification of Appointment.

1. The head of a consular post shall be provided by the sending State with a document, in the form of a commission or similar instrument, made out for each appointment, certifying his capacity and showing, as a general rule, his full name, his category and class, the consular district and the seat of the consular post.

2. The sending State shall transmit the commission or similar instrument through the diplomatic or other appropriate channel to the Government of the State in whose territory the head of a consular post is to exercise his functions.

3. If the receiving State agrees, the sending State may, instead of a commission or similar instrument, send to the receiving State a notification containing the particulars required by paragraph 1 of this Article.

#### Article 12. The Exequatur.

1. The head of a consular post is admitted to the exercise of his functions by an authorization from the receiving State termed an *exequatur*, whatever the form of this authorization.

2. A State which refuses to grant an *exequatur* is not obliged to give to the sending State reasons for such refusal.

3. Subject to the provisions of Article 13 and 15, the head of a consular post shall not enter upon his duties until he has received an *exequatur*.

#### Article 13. Provisional Admission of Heads of Consular Posts.

Pending delivery of the *exequatur*, the head of a consular post may be admitted on a provisional basis to the exercise of his functions. In that case, the provisions of the present Convention shall apply.

#### Article 14. Notification to the Authorities of the Consular District.

As soon as the head of a consular post is admitted even provisionally to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the consular district. It shall also ensure that the necessary measures are taken to enable the head of a consular post to carry out the duties of his office and to have the benefit of the provisions of the present Convention.

#### Article 15. Temporary Exercise of the Function of the Head of a Consular Post.

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.

4. When, in the circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

#### Article 16. Precedence as Between Heads of Consular Posts.

1. Heads of consular posts shall rank in each class according to the date of the grant of the *exequatur*.

2. If, however, the head of a consular post before obtaining the *exequatur* is admitted to the exercise of his functions provisionally, his precedence shall be determined according to the date of the provisional admission; this precedence shall be maintained after the granting of the *exequatur*.

3. The order of precedence as between two or more heads of consular posts who obtained the *exequatur* or provisional admission on the same date shall be determined according to the dates on which their commissions or similar instruments or the notifications referred to in paragraph 3 of Article 11 were presented to the receiving State.

4. Acting heads of posts shall rank after all heads of consular posts and, as between themselves, they shall rank according to the dates on which they assumed their functions as acting heads of posts as indicated in the notifications given under paragraph 2 of Article 15.

5. Honorary consular officers who are heads of consular posts shall rank in each class after career heads of consular posts, in the order and according to the rules laid down in the foregoing paragraphs.

6. Heads of consular posts shall have precedence over consular officers not having that status.

#### Article 17. Performance of Diplomatic Acts by Consular Officers.

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

Article 18. Appointment of the Same Person by Two or More States as a Consular Officer.

Two or more States may, with the consent of the receiving State, appoint the same person as a consular officer in that State.

Article 19. Appointment of Members of Consular Staff.

1. Subject to the provisions of Articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff.

2. The full name, category and class of all consular officers, other than the head of a consular post, shall be notified by the sending State to the receiving State in sufficient time for the receiving State, if it so wishes, to exercise its rights under paragraph 3 of Article 23.

3. The sending State may, if required by its laws and regulations, request the receiving State to grant an *exequatur* to a consular officer other than the head of a consular post.

4. The receiving State may, if required by its laws and regulations, grant an *exequatur* to a consular officer other than the head of a consular post.

Article 20. Size of the Consular Staff.

In the absence of an express agreement as to the size of the consular staff, the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the consular district and to the needs of the particular consular post.

Article 21. Precedence as Between Consular Officers of a Consular Post.

The order of precedence as between the consular officers of a consular post and any change thereof shall be notified by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

Article 22. Nationality of Consular Officers.

1. Consular officers should, in principle, have the nationality of the sending State.
2. Consular officers may not be appointed from among persons having the nationality of the receiving State except with the express consent of that State which may be withdrawn at any time.
3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 23. Persons Declared *Non Grata*.

1. The receiving State may at any time notify the sending State that a consular officer is *persona non grata* or that any other member of the consular staff is not acceptable. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consular post.

2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1 of this Article, the receiving State may, as the case may be, either withdraw the *exequatur* from the person concerned or cease

to consider him as a member of the consular staff.

3. A person appointed as a member of a consular post may be declared unacceptable before arriving in the territory of the receiving State or, if already in the receiving State, before entering on his duties with the consular post. In any such case, the sending State shall withdraw his appointment.

4. In the cases mentioned in paragraphs 1 and 3 of this Article, the receiving State is not obliged to give the sending State reasons for its decision.

#### Article 24. Notification to the Receiving State of Appointments, Arrivals and Departures.

1. The Ministry for Foreign Affairs of the receiving State or the authority designated by that Ministry shall be notified of:

(a) the appointment of members of a consular post, their arrival after appointment to the consular post, their final departure or the termination of their functions and any other changes affecting their status that may occur in the course of their service with the consular post;

(b) the arrival and final departure of a person belonging to the family of a member of a consular post forming part of his household and, where appropriate, the fact that a person becomes or ceases to be such a member of the family;

(c) the arrival and final departure of members of the private staff and, where appropriate, the termination of their service as such;

(d) the engagement and discharge of persons resident in the receiving State as members of a consular post or as members of the private staff entitled to privileges and immunities.

2. When possible, prior notification of arrival and final departure shall also be given.

### Section II. End Of Consular Functions

#### Article 25. Termination of Functions of a Member of a Consular Post.

The functions of a member of a consular post shall come to an end *inter alia*:

(a) on notification by the sending State to the receiving State that his functions have come to an end;

(b) on withdrawal of the *exequatur*;

(c) on notification by the receiving State to the sending State that the receiving State has ceased to consider him as a member of the consular staff.

#### Article 26. Departure From the Territory of the Receiving State.

The receiving State shall, even in case of armed conflict, grant to members of the consular post and members of the private staff, other than nationals of the receiving State, and to members of their families forming part of their households irrespective of nationality, the necessary time and facilities to enable them to prepare their departure and to leave at the earliest possible moment after the termination of the functions of the members concerned. In particular, it shall, in case of need, place at their disposal the necessary means of transport for themselves and their property other than property acquired in the receiving State the export of which is prohibited at the time of departure.

#### Article 27. Protection of Consular Premises and Archives and of the Interest of the Sending State in Exceptional Circumstances.

1. In the event of the severance of consular relations between two States:

(a) the receiving State shall, even in case of armed conflict, respect and protect the consular premises, together with the property of the consular post and the consular archives;

(b) the sending State may entrust the custody of the consular premises, together with the property contained

therein and the consular archives, to a third State acceptable to the receiving State;

(c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

2. In the event of the temporary or permanent closure of the consular post, the provisions of subparagraph (a) of paragraph 1 of this Article shall apply. In addition,

(a) if the sending State, although not represented in the receiving State by a diplomatic mission, has another consular post in the territory of that State, that consular post may be entrusted with the custody of the premises of the consular post which has been closed, together with the property contained therein and the consular archives, and, with the consent of the receiving State, with the exercise of consular functions in the district of that consular post; or

(b) if the sending State has no diplomatic mission and no other consular post in the receiving State, the provisions of sub-paragraphs (b) and (c) of paragraph 1 of this Article shall apply.

## **CHAPTER II. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST**

### Article 28. Facilities for the Work of the Consular Post.

The receiving State shall accord full facilities for the performance of the functions of the consular post.

### Article 29. Use of National Flag and Coat-of-Arms.

1. The sending State shall have the right to the use of its national flag and coat-of-arms in the receiving State in accordance with the provisions of this Article.

2. The national flag of the sending State may be flown and its coat-of-arms displayed on the building occupied by the consular post and at the entrance door thereof, on the residence of the head of the consular post and on his means of transport when used on official business.

3. In the exercise of the right accorded by this Article regard shall be had to the laws, regulations and usages of the receiving State.

### Article 30. Accommodation.

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending State of premises necessary for its consular post or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist the consular post in obtaining suitable accommodation for its members.

### Article 31. Inviolability of the Consular Premises.

1. Consular premises shall be inviolable to the extent provided in this Article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.

3. Subject to the provisions of paragraph 2 of this Article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be



immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

#### Article 32. Exemption from Taxation of Consular Premises.

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

#### Article 33. Inviolability of the Consular Archives and Documents.

The consular archives and documents shall be inviolable at all times and wherever they may be.

#### Article 34. Freedom of Movement.

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all members of the consular post.

#### Article 35. Freedom of Communication.

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State, nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers ad hoc. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an

authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

#### Article 36. Communication and Contact with Nationals of the Sending State.

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph;

(c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

#### Article 37. Information in Cases of Deaths, Guardianship or Trusteeship, Wrecks and Air Accidents.

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(a) in the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred;

(b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interest of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;

(c) if a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving States, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

#### Article 38. Communication with the Authorities of the Receiving State.

In the exercise of their functions, consular officers may address:

(a) the competent local authorities of their consular district;

(b) the competent central authorities of the receiving State if and to the extent that this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements.

Article 39. Consular Fees and Charges.

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

**Section II. Facilities, Privileges and Immunities Relating to Career Consular Officers and Other Members of a Consular Post**

Article 40. Protection of Consular Officers.

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

Article 41. Personal Inviolability of Consular Officers.

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specific in paragraph 1 of this Article, consular officer shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

3. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position, and except in the case specified in paragraph 1 of this Article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this Article, it has become necessary to detain a consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 42. Notification of Arrest, Detention or Prosecution.

In the event of the arrest or detention, pending trial, of a member of the consular staff, or of criminal proceedings being instituted against him, the receiving State shall promptly notify the head of the consular post. Should the latter be himself the object of any such measure, the receiving State shall notify the sending State through the diplomatic channel.

Article 43. Immunity from Jurisdiction.

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either:

(a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State; or

(b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

Article 44. Liability to Give Evidence.

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

#### Article 45. Waiver of Privileges and Immunities.

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counterclaim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

#### Article 46. Exemption From Registration of Aliens and Residence Permits.

1. Consular officer and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

2. The provisions of paragraph 1 of this Article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of any such employee.

#### Article 47. Exemptions From Work Permits.

1. Members of the consular post shall, with respect to services rendered for the sending State, be exempt from any obligations in regard to work permits imposed by the laws and regulations of the receiving State concerning the employment of foreign labour.

2. Members of the private staff of consular officers and of consular employees shall, if they do not carry on any other gainful occupation in the receiving State, be exempt from the obligations referred to in paragraph 1 of this Article.

#### Article 48. Social Security Exemption.

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

#### Article 49. Exemption From Taxation.

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;

(c) estate, succession or inheritance duties, and duties transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;

(d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

#### Article 50. Exemption From Customs Duties and Inspection.

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) Articles for the official use of the consular post;

(b) Articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in sub-paragraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

#### Article 51. Estate of a Member of the Consular Post or of a Member of His Family.

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State:

(a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death;

(b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

#### Article 52. Exemption From Personal Services and Contributions.

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

#### Article 53. Beginning and End of Consular Privileges and Immunities.

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

#### Article 54. Obligations of Third States.

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other Articles of the present Convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or traveling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit

through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

#### Article 55. Respect for the Laws and Regulations of the Receiving State.

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purpose of the present Convention, be considered to form part of the consular premises.

#### Article 56. Insurance Against Third Party Risks.

Members of the consular post shall comply with any requirement imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

#### Article 57. Special Provisions Concerning Private Gainful Occupation.

1. Career consular officers shall not carry on for personal profit any professional or commercial activity in the receiving State.

2. Privileges and immunities provided in this Chapter shall not be accorded:

(a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;

(b) to members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff;

(c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

### **Chapter III. REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS**

#### Article 58. General Provisions Relating to Facilities, Privileges and Immunities.

1. Articles 28, 29, 30, 34, 35, 36, 37, 38 and 39, paragraph 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of

such consular posts shall be governed by Articles 59, 60, 61 and 62.

2. Articles 42 and 43, paragraph 3 of Article 44, Articles 45 and 53 and paragraph 1 of Article 55 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles 63, 64, 65, 66 and 67.

3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

4. The exchange of consular bags between two consular posts headed by honorary consular officers in different States shall not be allowed without the consent of the two receiving States concerned.

#### Article 59. Protection of the Consular Premises.

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

#### Article 60. Exemption From Taxation of Consular Premises.

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

#### Article 61. Inviolability of Consular Archives and Documents.

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

#### Article 62. Exemption From Customs Duties.

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

#### Article 63. Criminal Proceedings.

If criminal proceedings are instituted against an honorary consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except when he is under arrest or detention, in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain an honorary consular officer, the



proceedings against him shall be instituted with the minimum of delay.

#### Article 64. Protection of Honorary Consular Officers.

The receiving State is under a duty to accord to an honorary consular officer such protection as may be required by reason of his official position.

#### Article 65. Exemption From Registration of Aliens and Residence Permits.

Honorary consular officers, with the exception of those who carry on for personal profit any professional or commercial activity in the receiving State, shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

#### Article 66. Exemption From Taxation.

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

#### Article 67. Exemption From Personal Services and Contributions.

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

#### Article 68. Optional Character of the Institution of Honorary Consular Officers.

Each State is free to decide whether it will appoint or receive honorary consular officers.

### **Chapter IV. GENERAL PROVISIONS**

#### Article 69. Consular Agents Who Are Not Heads of Consular Posts.

1. Each State is free to decide whether it will establish or admit consular agencies conducted by consular agents not designated as heads of consular post by the sending State.

2. The conditions under which the consular agencies referred to in paragraph 1 of this Article may carry on their activities and the privileges and immunities which may be enjoyed by the consular agents in charge of them shall be determined by agreement between the sending State and the receiving State.

#### Article 70. Exercise of Consular Functions by Diplomatic Missions.

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the

exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

3. In the exercise of consular functions a diplomatic mission may address:

(a) the local authorities of the consular district;

(b) the central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by relevant international agreements.

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

#### Article 71. Nationals or Permanent Residents of the Receiving State.

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44. So far as these consular officers are concerned, the receiving State shall likewise be bound by the obligation laid down in Article 42. If criminal proceedings are instituted against such a consular officer, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as not to hinder unduly the performance of the functions of the consular post.

#### Article 72. Non-discrimination.

1. In the application of the provisions of the present Convention the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place:

(a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its consular posts in the sending State;

(b) where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

#### Article 73. Relationship Between the Present Convention and Other International Agreements.

1. The provisions of the present Convention shall not affect other international agreements in force as between States parties to them.

2. Nothing in the present Convention shall preclude States from concluding international agreements confirming or supplementing or extending or amplifying the provisions thereof.

### CHAPTER V. FINAL PROVISIONS

#### Article 74. Signature.

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

#### Article 75. Ratification.

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 76. Accession.

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 74. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 77. Entry into Force.

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 78. Notifications by the Secretary-General.

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 74:

(a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 74, 75 and 76;

(b) of the date on which the present Convention will enter into force, in accordance with Article 77.

#### Article 79. Authentic Texts.

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to, any of the four categories mentioned in Article 74.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, this twenty-fourth day of April, one thousand nine hundred and sixty-three.

### 3-5. CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

**9 December 1948**

As of December 1975, not in force for the United States of America  
(78 UNTS 277)

The Contracting Parties,

Having Considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world;

Recognizing that at all periods of history genocide has inflicted great losses on humanity; and

Being Convinced that, in order to liberate mankind from such an odious scourge, international cooperation is required,

Hereby Agree as Herein After Provided:

#### Article I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

#### Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

#### Article III

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

#### Article IV

Persons committing genocide or any of the other acts enumerated in Article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

#### Article V

The Contracting Parties undertake to enact in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in Article III.

#### Article VI

Persons charged with genocide or any of the other acts enumerated in Article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

#### Article VII

Genocide and the other acts enumerated in Article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

#### Article VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III.

#### Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

#### Article X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

#### Article XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any nonmember State to which an Invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

#### Article XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a procès-verbal and transmit a copy thereof to each Member of the United Nations and to each of the nonmember States contemplated in Article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

#### Article XIV

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force. It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

#### Article XV

If, as a result of denunciations, the number of Parties to the present Convention shall become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

#### Article XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed, to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

#### Article XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in Article XI of the following:

- (a) Signatures, ratifications and accessions received in accordance with Article XI;
- (b) Notifications received in accordance with Article XII;
- (c) The date upon which the present Convention comes into force in accordance with Article XIII;
- (d) Denunciations received in accordance with Article XIV;
- (e) The abrogation of the Convention in accordance with Article XV;
- (f) Notifications received in accordance with Article XVI.

#### Article XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in Article XI.

#### Article XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

### 3-6. VIENNA CONVENTION ON DIPLOMATIC RELATIONS

**18 April 1961**

Entered into force for United States on 13 December 1972.

**([1972] 3 UST 3227; TIAS No. 7502; 50 UNTS 95)**

*The States Parties to the present Convention,*

*Recalling* that peoples of all nations from ancient times have recognized the status of diplomatic agents,

*Having in mind* the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

*Believing* that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

*Realizing* that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States,

*Affirming* that the rules of customary international law should continue to govern questions not expressly related by the provisions of the present Convention,

*Have agreed* as follows:

#### Article 1

For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

- (a) the "head of the mission" is the person charged by the sending State with the duty of acting in that capacity;
- (b) the "members of the mission" are the head of the mission and the members of the staff of the mission;
- (c) the "members of the staff of the mission" are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;
- (d) the "members of the diplomatic staff" are the members of the staff of the mission having diplomatic rank;

- (e) a “diplomatic agent” is the head of the mission or a member of the diplomatic staff of the mission;
- (f) the “members of the administrative and technical staff” are the members of the staff of the mission employed in the administrative and technical service of the mission;
- (g) The “members of the service staff” are the members of the staff of the mission in the domestic service of the mission;
- (h) a “private servant” is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;
- (i) the “premises of the mission” are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.

## Article 2

The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent.

## Article 3

1. The functions of a diplomatic mission consist *inter alia* in:
  - (a) representing the sending State in the receiving State;
  - (b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
  - (c) negotiating with the Government of the receiving State;
  - (d) ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
  - (e) promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.
2. Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

## Article 4

1. The sending State must make certain that the *agrément* of the receiving State has been given for the person it proposes to accredit as head of the mission to that State.
2. The receiving State is not obliged to give reasons to the sending State for a refusal of *agrément*.

## Article 5

1. The sending State may, after it has given due notification to the receiving States concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one State, unless there is express objection by any of the receiving States.
2. If the sending State accredits a head of mission to one or more other States it may establish a diplomatic mission headed by a *chargé d'affaires ad interim* in each State where the head of mission has not his permanent seat.
3. A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization.



#### Article 6

Two or more States may accredit the same person as head of mission to another State, unless objection is offered by the receiving State.

#### Article 7

Subject to the provisions of Articles 5, 8, 9 and 11, the sending State may freely appoint the members of the staff of the mission. In the case of military, naval or air attachés, the receiving State may require their names to be submitted beforehand, for its approval.

#### Article 8

1. Members of the diplomatic staff of the mission should in principle be of the nationality of the sending State.
2. Members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time.
3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

#### Article 9

1. The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is *persona non grata* or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared *non grata* or not acceptable before arriving in the territory of the receiving State.
2. If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this Article, the receiving State may refuse to recognize the person concerned as a member of the mission.

#### Article 10

1. The Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, shall be notified of:
  - (a) the appointment of members of the mission, their arrival and their final departure or the termination of their functions with the mission;
  - (b) the arrival and final departure of a person belonging to the family of a member of the mission and, where appropriate, the fact that a person becomes or ceases to be a member of the family of a member of the mission;
  - (c) the arrival and final departure of private servants in the employ of persons referred to in subparagraph (a) of this paragraph and, where appropriate, the fact that they are leaving the employ of such persons;
  - (d) the engagement and discharge of persons resident in the receiving State as members of the mission or private servants entitled to privileges and immunities.
2. Where possible, prior notification of arrival and final departure shall also be given.

## Article 11

1. In the absence of specific agreement as to the size of the mission, the receiving State may require that the size of a mission be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the receiving State and to the needs of the particular mission.

2. The receiving State may equally, within similar bounds and on a non-discriminatory basis, refuse to accept officials of a particular category.

## Article 12

The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.

## Article 13

1. The head of the mission is considered as having taken up his functions in the receiving State either when he has presented his credentials or when he has notified his arrival and a true copy of his credentials has been presented to the ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, in accordance with the practice prevailing in the receiving State which shall be applied in a uniform manner.

2. The order of presentation of credentials or of a true copy thereof will be determined by the date and time of the arrival of the head of the mission.

## Article 14

1. Heads of missions are divided into three classes, namely:
  - (a) that of ambassadors or nuncios accredited to Heads of State, and other heads of mission of equivalent rank;
  - (b) that of envoys, ministers and internuncios accredited to Heads of State;
  - (c) that of *chargés d'affaires* accredited to Ministers for Foreign Affairs.
2. Except as concerns precedence and etiquette, there shall be no differentiation between heads of mission by reason of their class.

## Article 15

The class to which the heads of their missions are to be assigned shall be agreed between States.

## Article 16

1. Heads of mission shall take precedence in their respective classes in the order of the date and time of taking up their functions in accordance with Article 13.

2. Alterations in the credentials of a head of mission not involving any change of class shall not affect his precedence.

3. This Article is without prejudice to any practice accepted by the receiving State regarding the precedence of the representative of the Holy See.

#### Article 17

The precedence of the members of the diplomatic staff of the mission shall be notified by the head of the mission to the Ministry for Foreign Affairs or such other ministry as may be agreed.

#### Article 18

The procedure to be observed in each State for the reception of heads of mission shall be uniform in respect of each class.

#### Article 19

1. If the post of head of the mission is vacant, or if the head of the mission is unable to perform his functions, a *chargé d'affaires ad interim* shall act provisionally as head of the mission. The name of the *chargé d'affaires ad interim* shall be notified, either by the head of the mission or, in case he is unable to do so, by the Ministry for Foreign Affairs of the sending State to the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

2. In cases where no member of the diplomatic staff of the mission is present in the receiving State, a member of the administrative and technical staff may, with the consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the mission.

#### Article 20

The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of the mission, and on his means of transport.

#### Article 21

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist missions in obtaining suitable accommodation for their members.

#### Article 22

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

## Article 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

## Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

## Article 25

The receiving State shall accord full facilities for the performance of the functions of the mission.

## Article 26

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the mission freedom of movement and travel in its territory.

## Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

3. The diplomatic bag shall not be opened or detained.

4. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.

5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State or the mission may designate diplomatic couriers ad hoc. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

## Article 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

## Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

## Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.
2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property, shall likewise enjoy inviolability.

## Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:
  - (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
  - (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
  - (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.
2. A diplomatic agent is not obliged to give evidence as a witness.
3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under subparagraphs (a), (b) and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.
4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

## Article 32

1. The immunity from jurisdiction of diplomatic agents and of person enjoying immunity under Article 37 may be waived by the sending State.
2. Waiver must always be express.
3. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.
4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

### Article 33

1. Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this Article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

### Article 34

A diplomatic agent shall be exempt from all dues and taxes, person or real, national, regional or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;

(d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

### Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

### Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) articles for the official use of the mission;

(b) articles for the personal use of a diplomatic agent or members of this family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article, articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative.

#### Article 37

1. The members of family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36, paragraph 1, in respect of article imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in Article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

#### Article 38

1. Except insofar as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

#### Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other ministry as may be agreed.

2. When functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

#### Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third-State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the diplomatic agent, or traveling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.

3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to *force majeure*.

#### Article 41

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of the State.

2. All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

3. The premises of the mission must not be used in any manner incompatible with the functions of the mission as laid down in the present Convention or by other rules of general international law or by any special agreements in force between the sending and the receiving State.

#### Article 42

A diplomatic agent shall not in the receiving State practice for personal profit any professional or commercial activity.

#### Article 43

The function of a diplomatic agent comes to an end, *inter alia*:

(a) on notification by the sending State to the receiving State that the function of the diplomatic agent has come to an end;

(b) on notification by the receiving State to the sending State that, in accordance with paragraph 2 of Article 9, it refuses to recognize the diplomatic agent as a member of the mission.

#### Article 44



The receiving State must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property.

#### Article 45

If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled:

(a) the receiving State must, even in case of armed conflict, respect and protect the premises of the mission, together with its property and archives;

(b) the sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;

(c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

#### Article 46

A sending State may with the prior consent of a receiving State, and at the request of a third State not represented in the receiving State, undertake the temporary protection of the interests of the third State and of its nationals.

#### Article 47

1. In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place:

(a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its mission in the sending State;

(b) where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

#### Article 48

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows: until 31 October 1961 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York.

#### Article 49

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

## Article 50

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 48. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

## Article 51

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

## Article 52

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 48:

(a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 48, 49 and 50;

(a) of the date on which the present Convention will enter into force, in accordance with Article 51.

## Article 53

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish text are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 48.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, the eighteenth day of April one thousand nine hundred and sixty-one.

### **3-7. CONVENTION ON INTERNATIONAL CIVIL AVIATION (CHICAGO CONVENTION)**

**7 December 1944**

Date of entry into force with respect to the United States of America:

4 April 1947

**(61 Stat. 1180; TIAS No. 1591; 15 UNTS 295)**

**PREAMBLE**

WHEREAS the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

WHEREAS it is desirable to avoid friction and to promote that cooperation between nations and peoples upon which the peace of the world depends;

THEREFORE, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services

may be established on the basis of equality of opportunity and operated soundly and economically; Have accordingly concluded this Convention to that end.

## **PART I AIR NAVIGATION**

### **CHAPTER I. GENERAL PRINCIPLES AND APPLICATION OF THE CONVENTION**

#### Article 1. Sovereignty.

The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.

#### Article 2. Territory.

For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

#### Article 3. Civil and State Aircraft.

- (a) This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft.
- (b) Aircraft used in military, customs and police services shall be deemed to be state aircraft.
- (c) No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.
- (d) The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

#### Article 4. Misuse of Civil Aviation.

Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention.

### **CHAPTER II. FLIGHT OVER TERRITORY OF CONTRACTING STATES**

#### Article 5. Right of Nonscheduled Flight.

Each contracting State agrees that all aircraft of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribed routes, or to obtain special permission for such flights.

Such aircraft, if engaged in the carriage of passengers, cargo, or mail for remuneration or hire on other than

scheduled international air services, shall also, subject to the provisions of Article 7, have the privilege of taking on or discharging passengers, cargo, or mail, subject to the right of any State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable.

#### Article 6. Scheduled Air Service.

No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

#### Article 7. Cabotage.

Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.

#### Article 8. Pilotless Aircraft.

No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of such authorization. Each contracting State undertakes to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft.

#### Article 9. Prohibited Areas.

(a) Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such prohibited areas shall be of reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization.

(b) Each contracting State reserves also the right, in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft of all other States.

(c) Each contracting State, under such regulations as it may prescribe, may require any aircraft entering the areas contemplated in subpara-graphs (a) or (b) above to effect a landing as soon as practicable thereafter at some designated airport within its territory.

#### Article 10. Landing at Customs Airport.

Except in a case where, under the terms of this Convention or a special authorization, aircraft are permitted to cross the territory of a contracting State without landing, every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of

customs and other examination. On departure from the territory of a contracting State, such aircraft shall depart from a similarly designated customs airport. Particulars of all designated customs airports shall be published by the State and transmitted to the International Civil Aviation Organization established under Part II of this Convention for communication to all other contracting States.

#### Article 11. Application of Air Regulations.

Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.

#### Article 12. Rules of the Air.

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulation in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

#### Article 13. Entry and Clearance Regulation.

The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.

#### Article 14. Preventing of Spreading of Disease.

Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague, and such other communicable diseases as the contracting States shall from time to time decide to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing international convention on this subject to which the contracting States may be parties.

#### Article 15. Airport and Similar Charges.

Every airport in a contracting State which is open to public use by its national aircraft shall likewise, subject to the provisions of Article 68, be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, including radio and meteorological services, which may be provided for public use for the safety and expedition of air navigation.

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher,

(a) As to aircraft not engaged in scheduled international air services, than those that would be paid by its national

aircraft of the same class engaged in similar operations, and

(b) As to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services.

All such charges shall be published and communicated to the International Civil Aviation Organization: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council, which shall report and make recommendations thereon for the consideration of the State or States concerned. No fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.

#### Article 16. Search of Aircraft.

The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.

### **CHAPTER III. NATIONALITY OF AIRCRAFT**

#### Article 17. Nationality of Aircraft.

Aircraft have the nationality of the State in which they are registered.

#### Article 18. Dual Registration.

An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another.

#### Article 19. National Laws Governing Registration.

The registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations.

#### Article 20. Display of Marks.

Every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks.

#### Article 21. Report of Registration.

Each contracting State undertakes to supply to any other contracting State or to the International Civil Aviation Organization, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to the International Civil Aviation Organization, under such regulations as the latter may prescribe, giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation. The data thus obtained by the International Civil Aviation Organization shall be made available by it on request to the other contracting States.

## CHAPTER IV. MEASURES TO FACILITATE AIR NAVIGATION

### Article 22. Facilitation of Formalities.

Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of contracting States, and to prevent unnecessary delays to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.

### Article 23. Customs and Immigration Procedures.

Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.

### Article 24. Customs Duty.

(a) Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.

(b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

### Article 25. Aircraft In Distress.

Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State, when undertaking search for missing aircraft, will collaborate in coordinated measures which may be recommended from time to time pursuant to this Convention.

### Article 26. Investigation of Accidents.

In the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft or air navigation facilities, the State in which the accident occurs will institute an inquiry into the circumstances of the accident, in accordance, so far as its laws permit, with the procedure which may be recommended by the International Civil Aviation Organization. The State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry and the State holding the inquiry shall communicate the report and findings in the matter to that State.

#### Article 27. Exemption from Seizure on Patent Claims.

(a) While engaged in international air navigation, any authorized entry of aircraft of a contracting State into the territory of another contracting State or authorized transit across the territory of such State with or without landings shall not entail any seizure or detention of the aircraft or any claim against the owner or operator thereof or any other interference therewith by or on behalf of such State or any person therein, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of any patent, design, or model duly granted or registered in the State whose territory is entered by the aircraft, it being agreed that no deposit of security in connection with the foregoing exemption from seizure or detention of the aircraft shall in any case be required in the State entered by such aircraft.

(b) The provisions of paragraph (a) of this Article shall also be applicable to the storage of spare parts and spare equipment for the aircraft and the right to use and install the same in the repair of an aircraft of a contracting State in the territory of any other contracting State, provided that any patented part or equipment so stored shall not be sold or distributed internally in or exported commercially from the contracting State entered by the aircraft.

(c) The benefits of this Article shall apply only to such States, parties to this Convention, as either (1) are parties to the International Convention for the Protection of Industrial Property and to any amendments thereof, or (2) have enacted patent laws which recognize and give adequate protection to inventions made by the nationals of the other States parties to this Convention.

#### Article 28. Air Navigation Facilities and, Standard Systems.

Each contracting State undertakes, so far as it may find practicable, to:

(a) Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention;

(b) Adopt and put into operation the appropriate standard systems of communications procedure, codes, markings, signals, lighting and other operational practices and rules which may be recommended or established from time to time, pursuant to this Convention;

(c) Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with standards which may be recommended or established from time to time, pursuant to this Convention.

### **CHAPTER V. CONDITIONS TO BE FULFILLED WITH RESPECT TO AIRCRAFT**

#### Article 29. Documents Carried in Aircraft.

Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:

- (a) Its certificate of registration;
- (b) Its certificate of airworthiness;
- (c) The appropriate licenses for each member of the crew;
- (d) Its journey log book;
- (e) If it is equipped with radio apparatus, the aircraft radio station license;
- (f) If it carries passengers, a list of their names and places of embarkation and destination;
- (g) If it carries cargo, a manifest and detailed declarations of the cargo.

#### Article 30. Aircraft Radio Equipment.



(a) Aircraft of each contracting State may, in or over the territory of other contracting States, carry radio transmitting apparatus only if a license to install and operate such apparatus has been issued by the appropriate authorities of the State in which the aircraft is registered. The use of radio transmitting apparatus in the territory of the contracting State whose territory is flown over shall be in accordance with the regulations prescribed by that State.

(b) Radio transmitting apparatus may be used only by members of the flight crew who are provided with a special license for the purpose, issued by the appropriate authorities of the State in which the aircraft is registered.

#### Article 31. Certificates of Air Worthiness.

Every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered.

#### Article 32. Licenses of Personnel.

(a) The pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competency and licenses issued or rendered valid by the State in which the aircraft is registered.

(b) Each contracting State reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to any of its nationals by another contracting State.

#### Article 33. Recognition of Certificates and Licenses.

Certificates of airworthiness and certificates of competency and licenses issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention.

#### Article 34. Journey Log Books.

There shall be maintained in respect of every aircraft engaged in international navigation a journey log book in which shall be entered particulars of the aircraft, its crew and of each journey, in such form as may be prescribed from time to time pursuant to this Convention.

#### Article 35. Cargo Restrictions.

(a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.

(b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph (a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or

passengers.

#### Article 36. Photographic Apparatus.

Each contracting State may prohibit or regulate the use of photographic apparatus in aircraft over its territory.

### CHAPTER VI. INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

#### Article 37. Adoption of International Standards and Procedures.

Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with:

- (a) Communications systems and air navigation aids, including ground marking;
- (b) Characteristics of airports and landing areas;
- (c) Rules of the air and air traffic control practices;
- (d) Licensing of operating and mechanical personnel;
- (e) Airworthiness of aircraft;
- (f) Registration and identification of aircraft;
- (g) Collection and exchange of meteorological information;
- (h) Log books;
- (i) Aeronautical maps and charts;
- (j) Customs and immigration procedures;
- (k) Aircraft in distress and investigation of accidents; and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

#### Article 38. Departures from International Standards and Procedures.

Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations on practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standards. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within sixty days of the adoption of the amendment to the international standard, or indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other states of the difference which exists between one or more features of an international standard and the corresponding national practice of that State.

#### Article 39. Endorsement of Certificates and Licenses.

(a) Any aircraft or part thereof with respect to which there exists an international standard of airworthiness or performance, and which failed in any respect to satisfy that standard at the time of its certification, shall have endorsed on or attached to its airworthiness certificate a complete enumeration of the details in respect of which it so failed.

(b) Any person holding a license who does not satisfy in full the conditions laid down in the international standard relating to the class of license or certificate which he holds shall have endorsed on or attached to his license a complete

enumeration of the particulars in which he does not satisfy such conditions.

Article 40. Validity of Endorsed Certificates and Certificates.

No aircraft or personnel having certificates or licenses so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered. The registration or use of any such aircraft, or of any certificated aircraft part, in any State other than that in which it was originally certificated shall be at the discretion of the State into which the aircraft or part is imported.

Article 41. Recognition of Existing Standards of Airworthiness.

The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted to the appropriate national authorities for certification prior to a date three years after the date of adoption of an international standard of airworthiness for such equipment.

Article 42. Recognition of Existing Standards of Competency of Personnel.

The provisions of this Chapter shall not apply to personnel whose licenses are originally issued prior to a date one year after initial adoption of an international standard of qualification for such personnel; but they shall in any case apply to all personnel whose licenses remain valid five years after the date of adoption of such standard.

## PART II

### THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

#### CHAPTER VII. THE ORGANIZATION

Article 43. Name and Composition.

An organization to be named the International Civil Aviation Organization is formed by the Convention. It is made up of an Assembly, a Council, and such other bodies as may be necessary.

Article 44. Objective.

The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to:

- (a) Insure the safe and orderly growth of international civil aviation throughout the world;
- (b) Encourage the arts of aircraft design and operation for peaceful purposes;
- (c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;
- (d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;
- (e) Prevent economic waste caused by unreasonable competition;
- (f) Insure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;
- (g) Avoid discrimination between contracting States;
- (h) Promote safety of flight in international air navigation;
- (i) Promote generally the development of all aspects of international civil aeronautics.

Article 45. Permanent Seat.

The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council.

Article 46. First Meeting of Assembly.

The first meeting of the Assembly shall be summoned by the Interim Council of the above mentioned Provisional Organization as soon as the Convention has come into force, to meet at a time and place to be decided by the Interim Council.

Article 47. Legal Capacity.

The Organization shall enjoy in the territory of each contracting State such legal capacity as may be necessary for the performance of its functions. Full juridical personality shall be granted wherever compatible with the constitution and laws of the State concerned.

**CHAPTER VIII. THE ASSEMBLY**

Article 48. Meetings of Assembly and Voting.

(a) The Assembly shall meet annually and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General.

(b) All contracting States shall have an equal right to be represented at the meetings of the Assembly and each contracting State shall be entitled to one vote. Delegates representing contracting States may be assisted by technical advisers who may participate in the meetings but shall have no vote.

(c) A majority of the contracting States is required to constitute a quorum for the meetings of the Assembly. Unless otherwise provided in this Convention, decisions of the Assembly shall be taken by a majority of the votes cast.

Article 49. Powers and Duties of Assembly.

The powers and duties of the Assembly shall be to:

- (a) Elect at each meeting its President and other officers;
- (b) Elect the contracting States to be represented on the Council, in accordance with the provisions of Chapter IX;
- (c) Examine and take appropriate action on the reports of the Council and decide on any matter referred to it by the Council;
- (d) Determine its own rules of procedure and establish such subsidiary commissions as it may consider to be necessary or desirable;
- (e) Vote an annual budget and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;
- (f) Review expenditures and approve the accounts of the Organization;
- (g) Refer, at its discretion, to the Council, to subsidiary commissions, or to any other body any matter within its sphere of action;
- (h) Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the

Organization and revoke or modify the delegations of authority at any time;

- (i) Carry out the appropriate provisions of Chapter XIII;
- (j) Consider proposals for the modification or amendment of the provisions of this Convention and, if it approves of the proposals, recommend them to the contracting States in accordance with the provisions of Chapter XXI;
- (k) Deal with any matter within the sphere of action of the Organization not specifically assigned to the Council.

## CHAPTER IX. THE COUNCIL

### Article 50. Composition and Election of Council.

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of twenty-one contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

(b) In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will insure that all the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

(c) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

### Article 51. President of Council.

The Council shall elect its President for a term of three years. He may be reelected. He shall have no vote. The Council shall elect from among its members one or more Vice Presidents who shall retain their right to vote when serving as acting President. The President need not be selected from among the representatives of the members of the Council but, if a representative is elected, his seat shall be deemed vacant and it shall be filled by the State which he represented. The duties of the President shall be to:

- (a) Convene meetings of the Council, the Air Transport Committee, and the Air Navigation Commission;
- (b) Serve as representative of the Council; and
- (c) Carry out on behalf of the Council the functions which the Council assigns to him.

### Article 52. Voting in Council.

Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting State.

### Article 53. Participation Without a Vote.

Any contracting State may participate, without a vote, in the consideration by the Council and by its committees and commissions of any question which especially affects its interests. No member of the Council shall vote in the consideration by the Council of a dispute to which it is a party.

#### Article 54. Mandatory Functions of Council.

The Council shall:

- (a) Submit annual reports to the Assembly;
- (b) Carry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention;
- (c) Determine its organization and rules of procedures;
- (d) Appoint and define the duties of an Air Transport Committee, which shall be chosen from among the representatives of the members of the Council, and which shall be responsible to it;
- (e) Establish an Air Navigation Commission, in accordance with the provisions of Chapter X;
- (f) Administer the finances of the Organization in accordance with the provisions of Chapters XII and XV;
- (g) Determine the emoluments of the President of the Council;
- (h) Appoint a chief executive officer who shall be called the Secretary General, and make provision for the appointment of such other personnel as may be necessary, in accordance with the provisions of Chapter XI;
- (i) Request, collect, examine and publish information relating to the advancement of air navigation and the operation of international air services, including information about the costs of operation and particulars of subsidies paid to airlines from public funds;
- (j) Report to contracting States any infraction of this Convention, as well as any failure to carry out recommendations or determinations of the Council;
- (k) Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction;
- (l) Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and recommended practices; for convenience, designate them as Annexes to this Convention; and notify all contracting States of the action taken;
- (m) Consider recommendations of the Air Navigation Commission for amendment of the Annexes and take action in accordance with the provisions of Chapter XX;
- (n) Consider any matter relating to the Convention which any contracting State refers to it.

#### Article 55. Permissive Functions of Council.

The Council may:

- (a) Where appropriate and as experience may show to be desirable, create subordinate air transport commissions on a regional or other basis and define groups of states or airlines with or through which it may deal to facilitate the carrying out of the aims of this Convention;
- (b) Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority at any time;
- (c) Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;
- (d) Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;
- (e) Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such reports as may appear to it desirable.

### **CHAPTER X. THE AIR NAVIGATION COMMISSION**

#### Article 56. Nomination and Appointment of Commission.

The Air Navigation Commission shall be composed of twelve members appointed by the Council from among

persons nominated by contracting States. These persons shall have suitable qualifications and experience in the science and practice of aeronautics. The Council shall request all contracting States to submit nominations. The President of the Air Navigation Commission shall be appointed by the Council.

#### Article 57. Duties of Commission.

The Air Navigation Commission shall:

- (a) Consider, and recommend to the Council for adoption, modifications of the Annexes to this Convention;
- (b) Establish technical subcommissions on which any contracting State may be represented, if it so desires;
- (c) Advise the Council concerning the collection and communication to the contracting States of all information which it considers necessary and useful for the advancement of air navigation.

### **CHAPTER XI. PERSONNEL**

#### Article 58. Appointment of Personnel.

Subject to any rules laid down by the Assembly and to the provisions of this Convention, the Council shall determine the method of appointment and of termination of appointment, the training, and the salaries, allowances, and conditions of service of the Secretary General and other personnel of the Organization, and may employ or make use of the services of nationals of any contracting State.

#### Article 59. International Character of Personnel.

The President of the Council, the Secretary General, and other personnel shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority external to the Organization. Each contracting State undertakes fully to respect the international character of the responsibilities of the personnel and not to seek to influence any of its nationals in the discharge of their responsibilities.

#### Article 60. Immunities and Privileges of Personnel.

Each contracting State undertakes, so far as possible under its constitutional procedure, to accord to the President of the Council, the Secretary General, and the other personnel of the Organization, the immunities and privileges which are accorded to corresponding personnel of other public international organizations. If a general international agreement on the immunities and privileges of international civil servants is arrived at, the immunities and privileges accorded to the President, the Secretary General, and the other personnel of the Organization shall be the immunities and privileges accorded under that general international agreement.

### **CHAPTER XII. FINANCE**

#### Article 61. Budget and Apportionment of Expenses.

The Council shall submit to the Assembly an annual budget, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budget with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.

#### Article 62. Suspension of Voting Power.

The Assembly may suspend the voting power in the Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.

#### Article 63. Expenses of Delegations and Other Representatives.

Each contracting State shall bear the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, and of its nominees or representatives on any subsidiary committees or commissions of the Organization.

### **CHAPTER XIII. OTHER INTERNATIONAL ARRANGEMENTS**

#### Article 64. Security Arrangements.

The Organization may, with respect to air matters within its competence, directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace.

#### Article 65. Arrangements with Other International Bodies.

The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.

#### Article 66. Functions Relating to Other Agreements.

(a) The Organization shall also carry out the functions placed upon it by the International Air Services Transit Agreement and by the International Air Transport Agreement drawn up at Chicago on December 7, 1944, in accordance with the terms and conditions therein set forth.

(b) Members of the Assembly and the Council who have not accepted the International Air Services Transit Agreement or the International Air Transport Agreement drawn up at Chicago on December 7, 1944 shall not have the right to vote on any questions referred to the Assembly or Council under the provisions of the relevant Agreement.

### **PART III INTERNATIONAL AIR TRANSPORT**

### **CHAPTER XIV. INFORMATION AND REPORTS**

#### Article 67. File Reports with Council.

Each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial statements showing among other things all receipts and the sources thereof.

### **CHAPTER XV. AIRPORTS AND OTHER AIR NAVIGATION FACILITIES**



#### Article 68. Designation of Routes and Airports.

Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

#### Article 69. Improvement of Air Navigation Facilities.

If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services, of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States affected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention if it fails to carry out these recommendations.

#### Article 70. Financing of Air Navigation Facilities.

A contracting State, in the circumstances arising under the provisions of Article 69, may conclude an arrangement with the Council for giving effect to such recommendations. The State may elect to bear all of the costs involved in any such arrangement. If the State does not so elect, the Council may agree, at the request of the State, to provide for all or a portion of the costs.

#### Article 71. Provision and Maintenance of Facilities by Council.

If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities, including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.

#### Article 72. Acquisition of Use of Land.

Where land is needed for facilities financed in whole or in part by the Council at the request of a contracting State, that State shall either provide the land itself, retaining title if it wishes, or facilitate the use of the land by the Council on just and reasonable terms and in accordance with the laws of the State concerned.

#### Article 73. Expenditure and Assessment of Funds.

Within the limit of the funds which may be made available to it by the Assembly under Chapter XII, the Council may make current expenditures for the purposes of this Chapter from the general funds of the Organization. The Council shall assess the capital funds required for the purposes of this Chapter in previously agreed proportions over a reasonable period of time to the contracting States consenting thereto whose airlines use the facilities. The Council may also assess to States that consent any working funds that are required.

#### Article 74. Technical Assistance and Utilization of Revenues.

When the Council, at the request of a contracting State, advances funds or provides airports or other facilities in whole or in part, the arrangement may provide, with the consent of that State, for technical assistance in the

supervision and operation of the airports and other facilities, and for the payment, from the revenues derived from the operation of the airports and other facilities, of the operating expenses of the airports and the other facilities and of interest and amortization charges.

#### Article 75. Taking Over of Facilities from Council.

A contracting State may at any time discharge any obligation into which it has entered under Article 70, and take over airports and other facilities which the Council has provided in its territory pursuant to the provisions of Articles 71 and 72, by paying to the Council an amount which in the opinion of the Council is reasonable in the circumstances. If the State considers that the amount fixed by the Council is unreasonable it may appeal to the Assembly against the decision of the Council and the Assembly may confirm or amend the decision of the Council.

#### Article 76. Return of Funds.

Funds obtained by the Council through reimbursement under Article 75 and from receipts of interest and amortization payments under Article 74 shall, in the case of advances originally financed by States under Article 73, be returned to the States which were originally assessed in the proportion of their assessments, as determined by the Council.

### **CHAPTER XVI. JOINT OPERATING ORGANIZATIONS AND POOLED SERVICES**

#### Article 77. Joint Operating Organizations Permitted.

Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions, but such organizations or agencies and such pooled services shall be subject to all the provisions of this Convention, including those relating to the registration of agreements with the Council. The Council shall determine in what manner the provisions of this Convention relating to nationality of aircraft shall apply to aircraft operated by international operating agencies.

#### Article 78. Function of Council.

The Council may suggest to contracting States concerned that they form joint organizations to operate air services on any routes or in any regions.

#### Article 79. Participation in Operating Organizations.

A State may participate in joint operating organizations or in pooling arrangements, either through its government or through an airline company or companies designated by its government. The companies may, at the sole discretion of the State concerned, be state-owned or partly state-owned or privately owned.

## **PART IV FINAL PROVISIONS**

### **CHAPTER XVII. OTHER AERONAUTICAL AGREEMENTS AND ARRANGEMENTS**

#### Article 80. Paris and Habana Conventions.

Each contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention relating to the Regulation of Aerial Navigation signed at Paris on October 13, 1919 or the Convention on Commercial Aviation signed at Habana on February 20, 1928, if it is a party to either. As between contracting States, this Convention supersedes the Conventions of Paris and Habana previously referred to.

#### Article 81. Registration of Existing Agreements.

All aeronautical agreements which are in existence on the coming into force of this Convention, and which are between a contracting State and any other State or between an airline of a contracting State and any other State or the airline of any other State, shall be forthwith registered with the Council.

#### Article 82. Abrogation of Inconsistent Arrangements.

The contracting States accept this Convention as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which, before becoming a member of the Organization has undertaken any obligations toward a non-contracting State or a national of a contracting State or of a non-contracting State inconsistent with the terms of this Convention, shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forthwith and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Convention.

#### Article 83. Registration of New Arrangements.

Subject to the provisions of the preceding Article, any contracting State may make arrangements not inconsistent with the provisions of this Convention. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

### **CHAPTER XVIII. DISPUTES AND DEFAULT**

#### Article 84. Settlement of Disputes.

If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an ad hoc arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.

#### Article 85. Arbitration Procedure.

If any contracting State party to a dispute in which the decision of the Council is under appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting States parties to the dispute cannot agree on the choice of the arbitral tribunal, each of the contracting States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator

within a period of three months from the date of the appeal, an arbitrator shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If, within thirty days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

#### Article 86. Appeals.

Unless the Council decides otherwise, any decision by the Council on whether an international airline is operating in conformity with the provisions of this Convention shall remain in effect unless reversed on appeal. On any other matter, decisions of the Council shall, if appealed from, be suspended until the appeal is decided. The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding.

#### Article 87. Penalty for Non-conformity of Airline.

Each contracting State undertakes not to allow the operation of an airline of a contracting State through the airspace above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

#### Article 88. Penalty for Non-conformity by State.

The Assembly shall suspend the voting power in the Assembly and in the Council of any contracting State that is found in default under the provisions of this Chapter.

### **CHAPTER XIX. WAR**

#### Article 89. War and Emergency Conditions.

In case of war, the provisions of this Convention shall not affect the freedom of action of any of the contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any contracting State which declares a state of national emergency and notifies the fact to the Council.

### **CHAPTER XX. ANNEXES**

#### Article 90. Adoption and Amendment of Annexes.

(a) The adoption by the Council of the Annexes described in Article 54, subparagraph (1), shall require the vote of two-thirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting State. Any such Annex or any amendment of an Annex shall become effective within three months after its submission to the contracting States or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting States register their disapproval with the Council.

(b) The Council shall immediately notify all contracting States of the coming into force of any Annex or amendment thereto.

## CHAPTER XXI. RATIFICATIONS, ADHERENCES, AMENDMENTS, AND DENUNCIATIONS

### Article 91. Ratification of Convention.

(a) This Convention shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited in the archives of the Government of the United States of America, which shall give notice of the date of the deposit to each of the signatory and adhering States.

(b) As soon as this Convention has been ratified or adhered to by twenty-six States it shall come into force between them on the thirtieth day after deposit of the twenty-sixth instrument. It shall come into force for each State ratifying thereafter on the thirtieth day after the deposit of its instrument of ratification.

(c) It shall be the duty of the Government of the United States of America to notify the government of each of the signatory and adhering States of the date on which this Convention comes into force.

### Article 92. Adherence to Convention.

(a) This Convention shall be open for adherence by members of the United Nations and States associated with them, and States which remained neutral during the present world conflict.

(b) Adherence shall be effected by a notification addressed to the Government of the United States of America and shall take effect from the thirtieth day from the receipt of the notification by the Government of the United States of America, which shall notify all the contracting States.

### Article 93. Admission of Other States,

States other than those provided for in Articles 91 and 92(a) may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary.

### Article 94. Amendment of Convention.

(a) Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States.

(b) If in its opinion the amendment is of such a nature as to justify this course, the Assembly in its resolution recommending adoption may provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention.

### Article 95. Denunciation of Convention.

(a) Any contracting State may give notice of denunciation of this Convention three years after its coming into effect by notification addressed to the Government of the United States of America, which shall at once inform each of the contracting States.

(b) Denunciation shall take effect one year from the date of the receipt of the notification and shall operate only as

regards the State effecting the denunciation.

## CHAPTER XXII. DEFINITIONS

### Article 96

For the purpose of this Convention the expression:

- (a) "Air service" means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.
- (b) "International air service" means an air service which passes through the air space over the territory of more than one State.
- (c) "Airline" means any air transport enterprise offering or operating an international air service.
- (d) "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

## SIGNATURE OF CONVENTION

In witness whereof, the undersigned plenipotentiaries, having been duly authorized, sign this Convention on behalf of their respective governments on the dates appearing opposite their signatures.

Done at Chicago the seventh day of December 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be open for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention.

## 3-8. CONVENTION ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE

**29 April 1958**

Date of entry into force with respect to the United States of America:

10 September 1964

**([1964] 2 UST 1606; TIAS No. 5639; 516 UNTS 205)**

WHEREAS the Convention on the Territorial Sea and the Contiguous Zone, adopted by the United Nations Conference on the Law of the Sea, Geneva, February 24 to April 27, 1958, was opened for signature from April 29 to October 31, 1958, and during that period was signed in behalf of the United States of America and forty-three other States;

WHEREAS a certified copy of the text of the said Convention, in the English, French, Chinese, Russian, and Spanish languages, is word for word as follows:

*The States Parties to this Convention have agreed as follows:*

### Part I

#### TERRITORIAL SEA

#### Section I: General

## Article 1

1. The sovereignty of a state extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.
2. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

## Article 2

The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

## Section II: Limits of the Territorial Sea

### Article 3

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

### Article 4

1. In localities where the coast line is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.
2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast and the sea areas, lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.
3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.
4. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken in determining particular baselines, of economic interest peculiar to the region concerned, the reality and the importance of which are clearly evidenced by a long usage.
5. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.
6. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

### Article 5

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.
2. Where the establishment of a straight baseline in accordance with article 4 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles 14 to 23, shall exist in those waters.

### Article 6

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

#### Article 7

1. This article relates only to bays the coasts of which belong to a single State.
2. For the purposes of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.
3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water marks of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of water areas of the indentation.
4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.
5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds twenty-four miles, a straight baseline of twenty-four miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.
6. The foregoing provisions shall not apply to so-called "historic" bays, or in any case where the straight baseline system provided for in article 4 is applied.

#### Article 8

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

#### Article 9

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate them on charts together with their boundaries, to which due publicity must be given.

#### Article 10

1. An island is a naturally-formed area of land, surrounded by water, which is above water at high-tide.
2. The territorial sea of an island is measured in accordance with the provisions of these articles.

#### Article 11

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low-tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline



for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

#### Article 12

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

2. The line of delimitation between the territorial seas of two States lying opposite to each other or adjacent to each other shall be marked on large-scale charts officially recognized by the coastal States.

#### Article 13

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

### **Section III: Right of Innocent Passage**

#### Sub-Section A. Rules Applicable to all Ships

#### Article 14

1. Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

2. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

3. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or by distress.

4. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

5. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent these vessels from fishing in the territorial sea.

6. Submarines are required to navigate on the surface and to show their flag.

#### Article 15

1. The coastal State must not hamper innocent passage through the territorial sea.

2. The coastal State is required to give appropriate publicity to any dangers to navigation, of which it has knowledge, within its territorial sea.

#### Article 16

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.
2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to those waters is subject.
3. Subject to the provisions of paragraph 4, the coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.
4. There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State.

#### Article 17

Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law and, in particular, with such laws and regulations relating to transport and navigation.

#### Sub-Section B. Rules Applicable to Merchant Ships

#### Article 18

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.
2. Charges may be levied upon a foreign ship passing through the territorial sea as payment for specific services rendered to the ship. These charges shall be levied without discrimination.

#### Article 19

1. The criminal jurisdiction of the coastal State should be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:
  - (a) If the consequences of the crime extend to the coastal State; or
  - (b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or
  - (c) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or
  - (d) If it is necessary for the suppression of illicit traffic in narcotic drugs.
2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.
3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.
4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.
5. The coastal State may not take any steps to board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

## Article 20

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea or passing through the territorial sea after leaving internal waters.

### Sub-Section C. Rules Applicable to Government Ships Other Than Warships

#### Article 21

The rules contained in sub-sections A and B shall also apply to government ships operated for commercial purposes.

#### Article 22

1. The rules contained in sub-section A and in article 18 shall apply to government ships operated for non-commercial purposes.

2. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

### Sub-Section D. Rule Applicable to Warships

#### Article 23

If any warship does not comply with the regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

## PART II

### CONTIGUOUS ZONE

#### Article 24

1. In a zone of the high seas contiguous to its territorial sea, the coastal State may exercise the control necessary to:

- (a) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

- (b) Punish infringement of the above regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is

equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.

## **FINAL ARTICLES**

### **PART III**

#### Article 25

The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States Parties to them.

#### Article 26

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

#### Article 27

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 28

This Convention shall be open for accession by all States belonging to any of the categories mentioned in article 26. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 29

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 30

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

#### Article 31

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 26:

- (a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 26, 27 and 28;
- (b) Of the date on which this Convention will come into force, in accordance with article 29;
- (c) Of requests for revision in accordance with article 30.

#### Article 32

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 26.

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

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

### 3-9. CONVENTION ON THE CONTINENTAL SHELF

**29 April 1958**

Date of entry into force with respect to the United States of America:

10 June 1964

**([1964] 1 UST 471; TIAS No. 5578; 499 UNTS 311)**

WHEREAS the Convention on the Continental Shelf, adopted by the United Nations Conference on the Law of the Sea, Geneva, February 24 to April 27, 1958, was open for signature from April 29 to October 31, 1958, and during that period was signed in behalf of the United States of America and forty-five other States;

WHEREAS a certified copy of the text of the Convention, in the English, French, Chinese, Russian, and Spanish languages, is word for word as follows:

*The States Parties to this Convention have agreed as follows:*

#### Article 1

For the purpose of these articles, the term "continental shelf" is used as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

#### Article 2

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and

exploiting its natural resources.

2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

### Article 3

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

### Article 4

Subject to its rights to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipe lines on the continental shelf.

### Article 5

1. The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.

2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.

3. The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.

4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

5. Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

6. Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

7. The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.

8. The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

## Article 6

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

## Article 7

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

## Article 8

The Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

## Article 9

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

## Article 10

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 8. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

## Article 11

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

## Article 12

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.

2. Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

## Article 13

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

## Article 14

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 8:

(a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 8, 9 and 10;

(b) Of the date on which this Convention will come into force, in accordance with article 11;

(c) Of requests for revision in accordance with article 13;

(d) Of reservations to this Convention, in accordance with article 12.

## Article 15

The original of this Convention, of which the Chinese, English, French, Russian and Spanish text are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

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

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

### **3-10. CONVENTION ON THE HIGH SEAS**

**29 April 1958**

Date of entry into force with respect to the United States of America:

30 September 1962

**([1962] 2 UST 2312; TIAS No. 5200; 450 UNTS 82)**



WHEREAS the Convention on the High Seas, adopted by the United Nations Conference on the Law of the Sea, Geneva, February 24 to April 27, 1958, was opened for signature from April 29 to October 31, 1958, and during that period was signed in behalf of the United States of America and forty-eight other States:

WHEREAS a certified copy of the text of the said Convention, in the Chinese, English, French, Russian, and Spanish languages, is word for word as follows:

*The States Parties to this Convention,*

*Desiring to codify the rules of international law relating to the high seas,*

*Recognizing that the United Nations Conference on the Law of the Sea, held at Geneva from 24 February to 27 April 1958, adopted the following provisions as generally declaratory of established principles of international law,*

*Have agreed as follows:*

#### Article 1

The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

#### Article 2

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, inter alia, both for coastal and non-coastal States:

- (1) Freedom of navigation;
- (2) Freedom of fishing;
- (3) Freedom to lay submarine cables and pipelines;
- (4) Freedom to fly over the high seas.

These freedoms, and others which are recognized by the general principles of international law, shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas.

#### Article 3

1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter and in conformity with existing international convention accord:

- (a) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory; and
- (b) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to seaports and the use of such ports.

2. States situated between the sea and a State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no seacoast, all matters relating to freedom of transit and equal treatment in ports, in case such States are not already parties to existing international conventions.

#### Article 4

Every State, whether coastal or not, has the right to sail ships under its flag on the high seas.

## Article 5

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.
2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

## Article 6

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.
2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

## Article 7

The provisions of the preceding articles do not prejudice the question of ships employed on the official service on an inter-governmental organization flying the flag of the organization.

## Article 8

1. Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.
2. For the purposes of these articles, the term "warship" means a ship belonging to the naval forces of a State and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.

## Article 9

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

## Article 10

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard inter alia to:
  - (a) The use of signals, the maintenance of communications and the prevention of collisions;
  - (b) The manning of ships and labour conditions for crews taking into account the applicable international labour instruments;
  - (c) The construction, equipment and seaworthiness of ships.

2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

#### Article 11

1. In the event of a collision or of any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

#### Article 12

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers,

(a) To render assistance to any person found at sea in danger of being lost;

(b) To proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.

2. Every coastal State shall promote the establishment and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and—where circumstances so require—by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

#### Article 13

Every State shall adopt effective measure to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag that purpose. Any slave taking refuge on board any ship, whatever its flag, shall *ipso facto* be free.

#### Article 14

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

#### Article 15

Piracy consists of any of the following acts:

(1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or

aircraft;

(b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of acts making it a pirate ship or aircraft;

(3) Any act of inciting or of intentionally facilitating an act described in sub-paragraph 1 or subparagraph 2 of this Article.

#### Article 16

The acts of piracy, as defined in Article 15, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

#### Article 17

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in Article 15. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

#### Article 18

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

#### Article 19

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

#### Article 20

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

#### Article 21

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft on government service authorized to that effect.

## Article 22

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting:

(a) That the ship is engaged in piracy; or

(b) That the ship is engaged in slave trade; or

(c) That, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in sub-paragraphs (a), (b) and (c) above, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

## Article 23

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 24 of the Convention of the Territorial Sea and the Contiguous Zone, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.

3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within the limits of the territorial sea or as the case may be within the contiguous zone. The pursuit may only be commenced after the visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.

5. Where hot pursuit is effected by an aircraft:

(a) The provisions of paragraph 1 to 3 of this article shall apply *mutatis mutandis*;

(b) The aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an enquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

7. Where a ship has been stopped or arrested on the high seas in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

## Article 24

Every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines or resulting from the exploitation and exploration of the seabed and its subsoil, taking account of

existing treaty provisions on the subject.

#### Article 25

1. Every State shall take measures to prevent pollution of the seas from the dumping of radioactive waste, taking into account any standards and regulations which may be formulated by the competent international organizations.

2. All States shall co-operate with the competent international organizations in taking measures for the prevention of pollution of the seas or air space above, resulting from any activities with radio-active materials or other harmful agents.

#### Article 26

1. States shall be entitled to lay submarine cables and pipelines on the bed of the high seas.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. When laying such cables or pipelines the State in question shall pay due regard to cables or pipelines already in position on the seabed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

#### Article 27

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done willfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

#### Article 28

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

#### Article 29

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

#### Article 30

The provisions of this Convention shall not affect conventions or other international agreements already in

force, as between States Parties to them.

#### Article 31

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

#### Article 32

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 33

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 31. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 34

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 35

1. After the expiration of a period of five years from the date on which this Convention shall enter force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of the notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

#### Article 36

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 31:

- (a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 31, 32 and 33;
- (b) Of the date on which this Convention will come into force, in accordance with article 34;
- (c) Of requests for revision in accordance with article 35.

Article 37

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 31.

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

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.



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