

No. 8308

**REPUBLIC OF CHINA
and
UNITED STATES OF AMERICA**

**Agreement on the status of United States armed forces in
the Republic of China (with exchange of notes). Signed
at Taipei, on 31 August 1965**

Official texts: Chinese and English.

Registered by the Republic of China on 1 September 1966.

**RÉPUBLIQUE DE CHINE
et
ÉTATS-UNIS D'AMÉRIQUE**

**Accord concernant le statut des forces armées américaines
dans la République de Chine (avec échange de notes).
Signé à Taïpeh, le 31 août 1965**

Textes officiels chinois et anglais.

Enregistré par la République de Chine le 1^{er} septembre 1966.

No. 8308. AGREEMENT¹ BETWEEN THE REPUBLIC OF CHINA AND THE UNITED STATES OF AMERICA ON THE STATUS OF UNITED STATES ARMED FORCES IN THE REPUBLIC OF CHINA. SIGNED AT TAIPEI, ON 31 AUGUST 1965

Whereas the Republic of China and the United States of America on December 2, 1954,² signed a Mutual Defense Treaty which contains in Article VII provisions for the disposition of United States land, air land sea forces in and about Taiwan and Penghu (the Pescadores); and

Whereas, in implementing the aforementioned treaty provisions the Republic of China and the United States of America are desirous of defining the status of such United States armed forces as are now or may be, by mutual agreement, in and about Taiwan and Penghu (the Pescadores) except for the United States Military Assistance Advisory Group, for which status has otherwise been provided;

Therefore the Republic of China and the United States of America have entered into this Agreement in the terms set forth below :

Article I

1. In this Agreement, the expression

- (a) " Agreement Area " means the area in and about Taiwan and Penghu (the Pescadores);
- (b) " members of the United States armed forces " means the military personnel on active duty belonging to the land, sea or air armed services of the United States of America when in the Agreement Area, except members of the United States Military Assistance Advisory Group;
- (c) " members of the civilian component " means the civilian personnel who are in the employ of, serving with or accompanying the United States armed forces in the Agreement Area, except members of the United States Military Assistance Advisory Group and persons who are nationals of China or who are ordinarily resident in the Agreement Area or who are mentioned in paragraph 1 of Article XII of this Agreement;
- (d) " dependents " means (i) spouse, and children under 21, and (ii) children over 21 and close relatives, if dependent for over half of their support upon a member of the armed forces or civilian component.

¹ Came into force on 12 April 1966, the date of the exchange of notes of approval, in accordance with article XIX (1).

² United Nations, *Treaty Series*, Vol. 248, p. 213.

2. For the purpose of this Agreement, persons with dual Chinese-United States nationality or dual United States and third country nationality, who are brought into the Agreement Area by the United States Government shall be considered as United States nationals. The foregoing shall apply also to dependent children who are dual nationals and who are born in the Agreement Area of parents at least one of whom was brought into the Agreement Area by the United States Government.

Article II

1. The United States armed forces may conduct all activities and operations necessary for the accomplishment of their mission under the Mutual Defense Treaty of 1954 and shall act in the closest collaboration with the appropriate Chinese authorities through channels mutually agreed upon.

2. The appropriate Chinese authorities shall cooperate fully with the United States armed forces to facilitate the accomplishment of such mission.

Article III

1. The Government of the Republic of China undertakes, without prejudice to the minimum requirement of its own military activities and operations, to furnish to the United States, free of charge and without present or future liability, including claims incident to the use thereof, such areas and existing facilities, including utility connections, access roads, water rights, and, subject to mutual agreement, such other rights of use as are required by the United States armed forces for their mission under the Mutual Defense Treaty of 1954. To the extent not already accomplished, the exact location of such areas and facilities shall be determined by the appropriate Chinese and United States authorities through mutual consultation.

2. Expenses involved in the development of such areas and facilities for the exclusive use of the United States armed forces shall be borne by the United States. Where such areas or facilities are, by agreement, to be developed for joint use, the cost of such development shall be shared by the two Governments on the basis of proportionate usage, unless agreed otherwise by the appropriate authorities of the two Governments.

3. The United States armed forces may carry out, through such means as they may adopt, including the use of United States contractors and military construction units, such construction, development, maintenance and improvement as may be required within the areas and facilities made available for their use by the Government of the Republic of China. The Chinese military authorities will be consulted prior to any major alterations in existing buildings, and prior to any new construction or development which may affect military security, public safety or public health in the Agreement Area. It is further agreed that Chinese contractors shall be used to the maximum practicable extent

for such purposes; the decision as to their use is left to the discretion of the United States military authorities.

4. The cost of maintaining the areas and facilities jointly used by the Republic of China and the United States under this Agreement shall be shared by the two Governments on the basis of proportionate usage, unless otherwise agreed by the appropriate authorities of the two Governments.

5. Military agreements for the implementation of this Article shall be negotiated and signed by the military authorities of the two Governments.

6. The Government of the Republic of China and the Government of the United States will cooperate in taking such steps as may from time to time be necessary to ensure: (a) the security of the United States armed forces, the members thereof and of the civilian component, their dependents, and their property; (b) the security of installations, equipment, property, records, and official information of the United States; and (c) the punishment of offenders under the applicable laws of the Republic of China.

Agreed Minutes to Article III

1. Within the areas and facilities made available under this Agreement the United States military authorities may designate areas into which only personnel authorized by the local United States Commander may enter. The United States military authorities will be responsible for the internal security of these areas.

2. Members of the United States armed forces and civilian component may carry arms while entering, leaving or within the Agreement area when their official duties require them to do so. However, they shall observe the pertinent regulations on civil aviation of the Government of the Republic of China.

3. The Chinese military authorities shall be informed prior to any major alteration in existing buildings, and prior to any new construction or development. Major alterations to buildings furnished by the Government of the Republic of China shall be accomplished with the consent of Chinese military authorities.

Article IV

1. The areas and facilities made available by the Government of the Republic of China for the use of the United States armed forces shall be returned to the Government of the Republic of China whenever they are no longer needed for the purposes of this Agreement, and the United States Government agrees to keep its needs under continual observation with a view toward such return.

2. The United States Government is not obliged, when it returns such areas and facilities to the Republic of China, to restore them to the condition in which they were at the time they were made available to the United States armed forces or to compensate the Republic of China in lieu of such restoration.

3. At the termination of any activities or operations under this Agreement, the United States will be compensated by the Government of the Republic of China for the residual value (including scrap value), if any, of any installation or improvements used in such activities or operations and developed by the United States armed forces at their expense, if such installations or improvements have been or are to be sold, or if their use is desired, by the Republic of China. The residual value, if any, shall be determined by mutual agreement between the United States armed forces and the appropriate Chinese authorities.

Article V

1. Title to removable equipment, materials and supplies brought into or acquired in the Agreement Area by or on behalf of the United States armed forces shall remain with the United States unless otherwise agreed upon between the two Governments.

2. Such equipment, materials and supplies may be removed from the Agreement Area at any time. They may also be disposed of in the Agreement Area in accordance with arrangements between the appropriate authorities of the Republic of China and the United States relating to the disposal by the United States armed forces of their excess property.

Article VI

1. (a) The United States armed forces, in their activities and operations, shall endeavor not to interfere unnecessarily with navigation, aviation, communication or land travel to or from or within the Agreement Area. All questions relating to frequencies, power and like matters, used by active electronic devices employed by the United States armed forces shall be settled by mutual agreement between appropriate authorities of the two Governments.

(b) As a temporary measure, the United States armed forces shall be entitled to use, without radiation interference from Chinese sources, electronic devices of such power, type of emission, and frequencies as are reserved for such forces at the time this Agreement becomes effective.

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

Article VII

1. The United States shall have the right to bring into the Agreement Area for purposes of this Agreement persons who are members of the United States armed forces or the civilian component, and their dependents.

2. If the Chinese Government has requested the removal from the Agreement Area of a member of the United States armed forces or the civilian compo-

ment, or a dependent, the United States Government shall be responsible for transportation and other arrangements of departure.

3. Members of the United States armed forces shall be exempt from Chinese passport and visa laws and regulations in entering or leaving the Agreement Area. Members of the United States armed forces or the civilian component, and their dependents, shall be exempt from Chinese laws and regulations on the registration and control of aliens, but shall not be considered as acquiring any right to domicile or permanent residence in the Agreement Area.

4. Upon entry into or departure from the Agreement Area, members of the United States armed forces shall be in possession of, and present for examination by the Chinese authorities, 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.

For the purpose of their identification while in the Agreement Area, members of the United States armed forces shall be in possession of the above-mentioned personal identity card.

5. Members of the civilian component, their dependents, and dependents of the members of the United States armed forces shall be in possession of, and present for examination by the Chinese authorities, valid passports when entering or leaving the Agreement Area. Such persons shall be in possession of appropriate documents issued by the United States authorities so that their status may be verified by the Chinese authorities while in the Agreement Area.

6. The United States military authorities shall furnish to the Chinese military authorities samples of the personal identity card and name lists of those in the Agreement Area who have been issued such a card, and statistics regarding the number of military and civilian personnel and dependents in the Agreement Area.

7. If the status of a member of the United States armed forces or the civilian component, or of a dependent, is altered so that his or her presence in the Agreement Area is no longer connected with the United States armed forces, the United States authorities shall immediately inform the Chinese authorities and shall, if such person be required by the Chinese authorities to leave the Agreement Area, assure that transportation from the Agreement Area will be provided within a reasonable time at no cost to the Government of the Republic of China.

Article VIII

1. All equipment, materials, and supplies, imported by or on behalf of the United States armed forces for the official use of the United States armed forces,

or for the personal use of the members of the United States armed forces or the civilian component, and their dependents, shall be permitted entry into the Agreement Area free from customs duties and other related charges.

2. Save as provided expressly to the contrary in this Agreement :

- (a) members of the United States armed forces or the civilian component, and their dependents, shall be subject to the laws and regulations administered by the customs authorities of the Republic of China;
- (b) the customs authorities of the Republic of China shall have the right, under the general conditions laid down by the laws and regulations of the Government of the Republic of China, to search members of the United States armed forces and the civilian component, and their dependents, and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

3. Property consigned to and for the personal use of members of the United States armed forces or the civilian component, and their dependents, shall be subject to customs duties and other related charges, except that duties or charges shall not 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 the civilian component, and their dependents, when they first arrive in the Agreement Area or within six months after their first arrival;
- (b) vehicles imported by members of the United States armed forces or civilian component for the private use of themselves or their dependents, and parts as may be required for the proper maintenance of such vehicles;
- (c) reasonable quantities of furniture, household goods, and personal effects for the private use of members of the United States armed forces or the civilian component, and their dependents, which are : (i) mailed into the Agreement Area through United States military post offices; or (ii) brought into the Agreement Area subsequent to the six months period after their first arrival by such persons under special conditions and upon request made on their behalf by their commanding officers to the appropriate Chinese authorities.

4. Appropriate certification by the United States military authorities is required for granting exemption under paragraph 1 of this Article where property does not accompany the importer. Appropriate control measures shall be effected by the United States military authorities to carry out the intent of paragraph 3 of this Article and the Government of the Republic of China shall be informed of such measures.

5. The exemptions granted in paragraphs 1 and 3 of this Article shall not be interpreted as refunding customs duties and other related charges already collected by the Chinese customs authorities on imported goods when purchased in the local market in the Agreement Area.

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

- (a) units and members of the United States armed forces under orders, other than leave orders, entering or leaving the Agreement Area;
- (b) official documents and courier and communication documents under official seal;
- (c) mail in United States military postal channels; and
- (d) equipment, materials, and supplies shipped by, to, or on behalf of the United States armed forces and certified by them to be for their official use.

7. Goods imported into the Agreement Area free of duty shall not be disposed of in the Agreement Area to persons not entitled to import such goods duty free, unless in accordance with measures agreed upon between the appropriate authorities of the two Governments.

8. Goods imported into the Agreement Area free from customs duties and other related charges pursuant to paragraphs 1 and 3, or acquired in the Agreement Area, may be exported free from duties and other related charges.

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

10. (a) In order to prevent offenses against laws and regulations administered by the Chinese customs authorities, the appropriate Chinese 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 the Republic of China are handed to those authorities.

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

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

Agreed Minute to Article VIII, Paragraph 3 (b)

1. Not more than one motor vehicle per family may be imported duty free by members of the United States armed forces or the civilian component for the private use of themselves or their dependents, except for a replacement vehicle if certified to be necessary by the appropriate military authorities of the United States.

2. A replacement vehicle will not be certified as necessary unless the first vehicle is unusable and not economically repairable. Such a vehicle may be sold only for scrap. A replacement vehicle shall not be disposed of in the Agreement Area to persons not entitled to import a vehicle duty free, unless in accordance with measures agreed upon between the appropriate authorities of the two Governments.

Article IX

The United States armed forces may, subject to control measures which are or may hereafter be enforced by the Government of the Republic of China to ensure economic stability, obtain facilities, commodities and services from local sources in the Agreement Area. The appropriate Chinese authorities will assist and use their good offices insofar as practicable to see that such procurement is carried out on terms generally not less favorable than those accorded to agencies of the Government of the Republic of China under similar circumstances.

Agreed Minute to Article IX

The Procurement of "services" as used in Article IX also refers to the local employment by the United States forces of citizens or residents of the Agreement Area.

Article X

1. Equipment, materials, supplies and services procured by or on behalf of the United States armed forces in the Agreement Area shall, upon appropriate certification, be exempt from Commodity Tax, Salt Tax, Fuel Tax, and other taxes which may be found to constitute a significant and readily identifiable part of the gross purchase price of equipment, materials, supplies, and services thus procured. In the event of a disagreement as to whether there should be an exemption from a certain tax, the Government of the Republic of China and the United States Government will agree upon a procedure for granting such exemption or relief as is consistent with the purposes of this Article.

2. Members of the United States armed forces, or the civilian component, and their dependents, shall be exempt from any direct tax imposed on income, except income derived from sources in the Agreement Area other than that resulting from service with or employment by the United States armed forces or by the corporations provided for in Article XII of this Agreement or by other United States governmental establishments in the Agreement Area.

3. Members of the United States armed forces, or the civilian component, and their dependents, shall not be exempt from taxes relating to personal purchases of goods, services or real property except as provided in Article XIII of this Agreement. Members of the United States armed forces or the civilian component, and their dependents, shall be exempt from taxation in the Agree-

ment Area on the holding, use, transfer “*inter se*” or transfer by death, of movable property, tangible or intangible, the presence of which in the Agreement Area is due solely to the temporary presence of those persons therein. Such exemption shall not apply to property held for the purpose of investment in, or conduct of, business in the Agreement Area, or to any intangible property registered with the Government of the Republic of China.

4. Unless in accordance with procedures mutually agreed upon by the appropriate authorities of the two Governments, goods purchased tax-free in the Agreement Area by or on behalf of the United States armed forces shall not be disposed of in the Agreement Area to persons not entitled to such tax exemptions.

5. Official vehicles of the United States armed forces and the civilian component shall carry distinctive numbered plates issued by the United States military authorities or individual markings which will readily identify them. Such vehicles shall be exempt from all taxes, including the Operation-License Tax. They shall also be exempt from taxes or tolls payable in respect of the use of roads, except that they shall pay the same rates as comparable vehicles of the armed forces of the Republic of China for the use of roads which have been constructed or improved by private persons.

6. Privately owned vehicles shall carry license plates to be acquired from the appropriate Chinese authorities, but shall be exempt from the Operation-License Tax. Such vehicles shall not be exempt from license fees or from tolls imposed for the use of roads and bridges by such vehicles. Such fees or tolls shall not be greater than those paid by nationals of the Republic of China on comparable vehicles.

Article XI

1. Members of the United States armed forces or the civilian component, and their dependents, shall be subject to the foreign exchange controls of the Government of the Republic of China.

2. The United States armed forces, members of such forces or the civilian component, and their dependents, may use Chinese currency available in any United States accounts or acquired in accordance with foreign exchange control laws and regulations of the Republic of China.

3. (a) The United States armed forces may import, possess, or re-export for official purposes non-Chinese currencies and instruments. The members of the United States armed forces or the civilian component, and their dependents, may import, possess, or re-export non-Chinese currencies and instruments obtained as a result of service with or employment by the United States armed forces in connection with this Agreement or derived from transactions authorized by this Agreement or realized from sources outside the Agreement Area.

(b) The United States armed forces, members of such forces or the civilian component, and their dependents, shall not use non-Chinese currencies or instruments in payment for purchases of goods or services in the Agreement Area nor enter into any contract calling for payment in non-Chinese currencies or instruments in violation of foreign exchange controls of the Government of the Republic of China with any unauthorized persons, firms, or organizations, or with any persons, firms, or organizations ordinarily resident in the Agreement Area.

(c) The foregoing shall not preclude the use of non-Chinese currencies or instruments by the United States armed forces, members of such forces or the civilian component, and their dependents, for transactions involving only authorized United States organizations, activities, or personnel, or use in the purchase of goods or services from sources outside the Agreement Area.

4. The United States authorities shall, in cooperation with the Government of the Republic of China, take suitable measures to preclude the abuse of the privileges stipulated in the preceding paragraph or circumvention of the Chinese foreign exchange controls.

5. The United States may enter into contracts with American financial institutions to maintain and operate, under applicable United States banking regulations, military banking facilities for the use of the United States armed forces, members of such forces or the civilian component, and their dependents, and other persons authorized by the appropriate authorities of the Republic of China. Such facilities shall be permitted to maintain accounts in non-Chinese currencies and instruments and to perform all financial transactions in connection therewith including receipt and remission of funds to the extent provided in this Article.

Article XII

1. Persons, including corporations organized under the laws of the United States, and their employees, and their dependents, who are United States nationals, or third country nationals with permanent residence in the United States and acceptable to the Government of the Republic of China, and whose presence in the Agreement Area is solely for the purpose of executing contracts with the United States for the benefit of the United States armed forces shall, except as provided in this Article, be subject to the laws and regulations of the Republic of China.

2. The appropriate United States authorities shall inform the appropriate Chinese authorities as to the identity of such persons and their employees, and their dependents, before they are brought into the Agreement Area. Upon receipt of such information by the appropriate Chinese authorities, such persons and their employees and their dependents, shall be accorded the following treatment :

- (a) In entering or leaving the Agreement Area they shall be in possession of valid passports which shall be presented for examination by the Chinese authorities upon demand. They shall be exempt from Chinese laws and regulations on the registration and control of aliens, but shall not be considered as acquiring any right to domicile or permanent residence in the Agreement Area. They shall be in possession of appropriate documentation issued by the United States authorities and certified by appropriate Chinese authorities so that their status may be verified by Chinese authorities while in the Agreement Area.
- (b) They shall be accorded exemption from customs duties and related charges as provided for members of the civilian component under Article VIII of this Agreement.
- (c) They shall be exempt from income or corporation taxes on any income derived from a contract with the United States Government in connection with the construction, maintenance or operation of any of the areas or facilities covered by this Agreement. Other income derived from sources within the Agreement Area shall not by virtue of this provision be exempt from Chinese income or corporation taxes.
- (d) They shall not be exempt from taxes relating to personal purchases of goods, services or real property except as provided in Article XIII of this Agreement. They shall be exempt from taxation in the Agreement Area on the holding, use, transfer "*inter se*" or transfer by death, of movable property, tangible or intangible, the presence of which in the Agreement Area is due solely to the temporary presence of those persons therein. Such exemption shall not apply to property held for the purpose of investment in, or conduct of, business in the Agreement Area, or to any intangible property registered with the Government of the Republic of China.
- (e) They may import, possess, or re-export non-Chinese currencies and instruments obtained as a result of service with or employment by the United States armed forces in connection with this Agreement or derived from transactions authorized by this Agreement or realized from sources outside the Agreement Area. They shall not use non-Chinese currencies or instruments in payment for purchases of goods or services in the Agreement Area nor enter into any contract calling for payment in non-Chinese currencies or instruments in violation of foreign exchange controls of the Government of the Republic of China with any unauthorized persons, firms, or organizations, or with any persons, firms, or organizations ordinarily resident in the Agreement Area, except for transactions involving only authorized United States organizations, or personnel or use in the purchase of goods or services from sources outside the Agreement Area. But in re-exporting non-Chinese currencies and instruments a certification by the appropriate United States authorities shall be required. They may use, under applicable United States regulations, the banking facilities provided in Article XI, paragraph 5,

for the use of the United States armed forces, and members of such forces or the civilian component.

- (f) They shall be exempt from the laws and regulations of the Republic of China in regard to terms and conditions of their employment (i) in connection with the execution of contracts with the United States for the benefit of the United States armed forces or (ii) with the United States armed forces.
- (g) If authorized by the United States Government, they may use the services of the activities mentioned in paragraph 1, Article XIII, of this Agreement, and the United States military postal facilities for official mail only.

Agreed Minute, to Article XII, Paragraph 2 (b)

1. Such property, materials, equipment, supplies, and motor vehicles, imported free of duty into the Agreement Area for the execution of contracts with the United States for the benefit of the United States armed forces, as do not become a part of the completed works, shall remain the property of their importers, and may be removed from the Agreement Area at any time or disposed of in the Agreement Area in accordance with measures similar to those used for the disposal of surplus property of the United States armed forces and subject to claims resulting from contractual obligations assumed in dealings with persons residing in the Agreement Area or the Government of the Republic of China.

2. Not more than one motor vehicle per family may be imported duty free by such persons and their employees for the private use of themselves or their dependents, with the understanding that such vehicles may be disposed of in the Agreement Area only for scrap, or must otherwise be exported upon the owner's departure.

Article XIII

1. Commissaries, post exchanges, navy exchanges, messes, social clubs, theaters and other non-appropriated fund activities authorized and regulated by the United States military authorities may be established in the areas and facilities in use by the United States armed forces for the use of members of such forces or the civilian component, and their dependents, and such other persons as may be approved for this purpose by arrangement between the appropriate Chinese and United States authorities. Such activities shall not be subject to Chinese laws and regulations in respect to licensing, fees, taxes, charges, registration, and inspection, or similar controls.

2. (a) No Chinese tax shall be imposed on sales of merchandise or services by such activities.

(b) Purchases within the Agreement Area of merchandise and supplies by such activities shall be subject to normal Chinese taxes.

3. Except as such disposal may be authorized by the appropriate authorities of the two Governments in accordance with mutually agreed conditions, goods which are sold by such activities shall not be disposed of in the Agreement Area to persons not authorized to make purchases from such activities.

Article XIV

1. Subject to the provisions of this Article,

- (a) the military authorities of the United States shall have the right to exercise with respect to offenses committed within the Agreement Area all criminal and disciplinary jurisdiction conferred on them by the law of the United States over all persons subject to the military law of the United States;
- (b) the authorities of the Republic of China 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 Agreement Area and punishable by the law of the Republic of China.

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 the Republic of China.

(b) The authorities of the Republic of China 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 China, 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 the 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 all persons subject to the military law of the United States, in relation to :
 - (i) offenses solely against the property or security of the United States, or offenses solely against the person or property of a member of the United States armed forces or civilian component, or 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 China 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 China, unless they are members of the United States armed forces.

5. (a) The authorities of the Republic of China and the appropriate authorities of the United States will undertake, within the limits of their authority, to assist each other in the arrest of members of the United States armed forces or civilian component, and their dependents, in the Agreement Area and in handing them over to the authority which is to have custody in accordance with the provisions of this Article.

(b) The authorities of the Republic of China shall notify promptly the appropriate authorities of the United States of the arrest of any member of the United States armed forces or civilian component, or a dependent.

(c) The custody of an accused member of the United States armed forces or civilian component, or a dependent, shall be promptly entrusted to the military authorities of the United States pending conclusion of all judicial proceedings. The United States military authorities will make any member of the United States armed forces or civilian component, and their dependents, over whom the Republic of China is to exercise jurisdiction immediately available to the authorities of the Republic of China upon their request for purpose on investigation and trial.

(d) The United States military authorities shall notify promptly the authorities of the Republic of China of the arrest of any person subject to the military law of the United States in cases in which the Republic of China has the primary right to exercise jurisdiction.

6. (a) The authorities of the Republic of China and the appropriate authorities of the United States 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 authorities of the Republic of China and the military authorities of the United States 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 Agreement Area by the military authorities of the United States if the legislation of the Republic of China does not provide for such punishment in a similar case.

(b) The authorities of the Republic of China 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 Agreement Area.

8. Where an accused person has been tried in accordance with the provisions of this Article either by the authorities of the Republic of China or by the military authorities of the United States and has been acquitted, or has been convicted and is serving, or has served, his sentence, or has had his sentence suspended, or has been pardoned, he may not be tried again for the same offense within the Agreement Area 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 China.

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 China, 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 China;
- (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 China;
- (f) if he considers it necessary, to have the service of a competent interpreter; and
- (g) to communicate with a representative of the United States Government, 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 areas or facilities which they use under Article III of this Agreement. The military police of such forces

may take all appropriate measures to ensure the maintenance of order and security within such areas and facilities.

(b) Outside these areas and facilities, such military police shall be employed only subject to arrangements with the authorities of the Republic of China 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 the provisions of this Article shall be suspended immediately upon notice given by either Party. In such a case the two Governments shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended. Pending such agreement the United States military authorities shall have the primary right to exercise jurisdiction over all offenses which may be committed by persons subject to the military law of the United States in the Agreement Area.

Agreed Minutes to Article XIV

Re paragraph 1 (a)

The term “all persons subject to the military law of the United States” as referred to in this Article and in these Agreed Minutes is understood to include members of the United States armed forces and, unless the law of the United States provides otherwise, members of the civilian component, and dependents.

Re paragraph 1 (b)

1. The term “authorities of the Republic of China” is understood to have reference only to the District Courts, High Courts and Supreme Court of the Republic of China.

2. It is understood that the jurisdiction of the authorities of the Republic of China over members of the United States armed forces or the civilian component, and dependents, shall not extend to any offenses committed outside the Agreement Area.

Re paragraph 3 (a) (ii)

1. Whenever, in the course of criminal proceedings against a member of the United States armed forces or the 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 United States. The highest appropriate military authority of the United States may submit to the Chinese court or authority dealing with the case a certificate thereon.

2. The Chinese court or authority shall make its decision in conformity with the certificate. In exceptional cases, however, such certificate may, at the request of the Chinese court or authority, be made the subject of review through

discussions between the Government of the Republic of China and the United States Government. Nothing in this minute shall prejudice the operation of Article 269 of the Code of Criminal Procedure of the Republic of China in cases properly before a Chinese court under paragraph 3 of this Article.

Re paragraph 3 (c)

1. The Government of the Republic of China waives in favor of the United States the primary right granted to the Chinese authorities under subparagraph (b) of paragraph 3 of this Article in cases of concurrent jurisdiction, in accordance with paragraphs 2, 3, 4, 5, 6 and 7 of this minute.

2. Subject to any particular arrangements which may be made under paragraph 7 of this minute, the military authorities of the United States shall notify the competent Chinese authorities of individual cases falling under the waiver provided in paragraph 1 of this minute.

3. Where the competent Chinese authorities hold the view that, by reason of special circumstances in a specific case, major interests of Chinese administration of justice make imperative the exercise of Chinese jurisdiction, they may recall the waiver granted under paragraph 1 of this minute by a statement to the competent military authorities of the United States within a period of twenty-one days after receipt of the notification envisaged in paragraph 2 of this minute or any shorter period which may be provided in arrangements made under paragraph 7 of this minute. The Chinese authorities may also submit the statement prior to receipt of such notification.

(a) Subject to a careful examination by the Chinese authorities of each specific case and to the results of such examination, major interests of Chinese administration of justice within the meaning of paragraph 3 above may make imperative the exercise of Chinese jurisdiction, in particular, in the following cases :

- (i) security offenses against the Republic of China;
- (ii) offenses causing the death of a human being, robbery, and rape, except where the offenses are directed against a member of the United States armed forces or the civilian component, or a dependent; and
- (iii) attempts to commit such offenses or participation therein.

(b) In respect of the offenses referred to in subparagraph (a) of this paragraph, the authorities concerned shall proceed in particularly close cooperation from the beginning of the preliminary investigation in order to provide the mutual assistance envisaged in paragraph 6 of this Article.

4. In cases where the Government of the Republic of China has recalled its waiver of jurisdiction pursuant to paragraph 3 of this minute, and where a disagreement exists between the authorities concerned, the Government of the United States may make representations through diplomatic channels. The

Government of the Republic of China shall resolve the disagreement having due consideration to the interests of Chinese administration of justice, and to the interests of the United States Government.

5. (a) With the consent of the competent Chinese authorities, the military authorities of the United States may transfer to the Chinese courts or authorities for investigation, and if warranted, trial and decision, particular criminal cases in which jurisdiction rests with the United States.

(b) With the consent of the military authorities of the United States, the competent Chinese authorities may transfer to the military authorities of the United States for investigation, and if warranted, trial and decision, particular criminal cases in which jurisdiction rests with the Republic of China.

6. (a) Where a member of the United States armed forces or the civilian component, or a dependent, is arraigned before a court of the United States for an offense committed in the Agreement Area against Chinese interests, the trial shall be held within the Agreement Area

- (i) except where the law of the United States requires otherwise, or
- (ii) except where, in cases of military exigency or in the interests of justice, the military authorities of the United States intend to hold the trial outside the Agreement Area. In this event they shall afford the Chinese authorities timely opportunity to comment on such intention and shall give due consideration to any comments the latter may make.

(b) Where the trial is held outside of the Agreement Area, the military authorities of the United States shall inform the Chinese authorities of the place and date of the trial. A Chinese representative shall be entitled to be present at the trial, except where his presence is incompatible with the rules of the court of the United States or with the security requirements of the United States, which are not at the same time the security requirements of the Republic of China. The military authorities of the United States shall inform the Chinese authorities of the judgment and the final outcome of the proceedings.

7. In the implementation of the provisions of this Article and this agreed minute, and to facilitate the expeditious disposal of offenses of minor importance, arrangements may be made between the competent Chinese authorities and the military authorities of the United States. These arrangements may also extend to dispensing with notification and to the period of time referred to in paragraph 3 of this minute within which the waiver may be recalled.

Re paragraph 5 (c)

1. (a) Where jurisdiction is exercised by the military authorities of the United States, custody of members of the armed forces or the civilian component, or dependents, shall rest with the military authorities of the United States.

(b) Where jurisdiction is exercised by the Chinese authorities, custody of members of the armed forces or the civilian component, or dependents, shall

rest with the military authorities of the United States in accordance with paragraphs 2 and 3 of this agreed minute.

2. (a) Where the arrest has been made by the Chinese authorities, the arrested person shall be handed over to the military authorities of the United States if such authorities so request.

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

- (i) may transfer custody to the Chinese authorities at any time; and
- (ii) shall give sympathetic consideration to any request for the transfer of custody which may be made by the Chinese authorities in specific cases.

(c) In respect of offenses directed solely against the security of the Republic of China, custody shall rest with the Chinese authorities in accordance with such arrangements as may be made to that effect with the military authorities of the United States.

3. Where custody rests with the military authorities of the United States in accordance with paragraph 2 of this agreed minute, it shall remain with such authorities until the conclusion of all judicial proceedings held in accordance with this Article. The military authorities of the United States shall make the arrested person available to the Chinese authorities for investigation and criminal proceedings 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 competent Chinese authorities.

4. The United States shall retain the right to keep in custody the arrested person either in a detention institution of its own or with its armed forces. In order to ensure smooth implementation of the obligations imposed by the second sentence of paragraph 3 of this agreed minute, the military authorities of the United States shall keep the arrested person, where possible, in the vicinity of the seat of the Chinese authority dealing with the case; this, however, shall not constitute an obligation on their part to keep the arrested person outside the area in use by the United States armed forces.

Re paragraph 6

United States military authorities desiring the presence of Chinese witnesses or evidence before courts, boards, or for the purpose of official investigations, convened or conducted within the Agreement Area, should submit a written request to the nearest procurator's office or Judge, and a summons shall thereupon be issued. Such request for personal appearance of a Chinese witness will be made only after due consideration has been given to the utilization of a deposition. The rates and pay scales for witnesses set out in directives of the United States armed forces, or the pay scales used by Chinese courts for witnesses, will be utilized.

Re paragraph 9 (a)

The right to a prompt and speedy trial shall include public trial by a duly constituted court. Provided that all the rights granted by this Article are accorded an accused, he may be tried *in camera* if the court determines that a public hearing would be detrimental to public order or good morals.

Re paragraph 9 (b)

The right of the accused to be informed, in advance of trial, of specific charges against him shall mean that :

- (1) he shall not be arrested or detained without being at once informed of the charges against him;
- (2) he shall not be detained without adequate cause; and upon demand of the accused or any other person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Re paragraph 9 (c)

The right to be confronted with the witnesses against him shall include a full opportunity to examine all witnesses whose testimony is presented at the trial.

Re paragraph 9 (e)

The right to have legal representation includes the right to have and consult with legal counsel present at any preliminary investigations, examination or hearings, at which the accused is present, as well as throughout all stages of trial and appeal.

Re paragraph 9 (f)

The right to have the services of a competent interpreter shall exist from the moment of arrest or detention of the accused.

Re paragraph 9 (g)

The United States Government shall have the right to have a representative present, with whom the accused may communicate, at any preliminary investigations, examination, or hearings at which the accused is present, as well as at all stages of trial and appeal.

Re paragraph 9

1. In addition to the above guarantees, the accused shall not be compelled to incriminate himself.

2. No appeal will be taken by the prosecution from a judgment of acquittal nor may an appeal be taken by the prosecution from any judgment which the accused does not appeal except upon grounds of errors of law.

Additional Agreed Minutes

1. It is understood that only facilities agreed on by the Joint Committee will be utilized for the confinement or detention of members of the United States armed forces or the civilian component, or dependents. The appropriate authorities of the United States will be authorized to visit these persons periodically at the place of confinement in Chinese facilities and will be authorized to provide in appropriate cases supplementary care and provisions for such persons, such as clothing, food, bedding, and medical and dental treatment.

2. Nothing in this Article shall be construed to restrict the right of an accused to request a trial *de novo* by an appellate court. The appellate court shall grant such a request properly made in accordance with its rules and procedures.

Article XV

1. Each Government waives all its claims against the other Government for damage to any property owned by it and used by its land, sea or air armed forces, if such damage :

- (a) was caused by a member or an employee of the armed forces of the other Government in the execution of his official duties; or
- (b) arose from the use of any vehicle, vessel or aircraft owned by the other Government 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 by one Government against the other Government for maritime salvage shall be waived provided that the vessel or cargo was owned by one of the Governments and being used by its armed forces for official purposes.

2. In the case of damage caused or arising as stated in paragraph 1 to other property owned by either Government and located in the Agreement Area :

- (a) each Government waives its claim up to the amount of US\$ 1,400 or its equivalent in Chinese currency according to the prevailing official rate of exchange of the Government of the Republic of China;
- (b) claims in excess of the amount stated in subparagraph (a) shall be settled by the Government against which the claim is made in accordance with its domestic law.

3. For the purposes of paragraphs 1 and 2 of this Article the expression "owned by a Government" in the case of a vessel includes a vessel on bare-boat charter to that Government 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 other person than such Government).

4. Each Government waives all its claims against the other Government 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. (a) A member of the United States armed forces or the civilian component, or a dependent, shall not be afforded immunity from the jurisdiction of the civil courts of China except : (1) in a matter arising from his performance of official duty; or (2) in respect of any claim where there has been payment in full satisfaction of the claim.

(b) In case any private movable property, excluding that in use by the United States armed forces, which is subject to compulsory execution under Chinese law, is within the areas and facilities in use by the United States armed forces, the United States authorities shall, upon the request of Chinese courts, render all assistance within their power to see that such property is turned over to the Chinese authorities.

6. Claims (other than contractual claims) 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 the Agreement Area to third parties other than the two Governments shall be processed and settled in accordance with the applicable provisions of United States law. The United States Government shall entertain other non-contractual claims against members or employees of the United States armed forces, and may offer an *ex gratia* payment in such cases and in such amounts as is determined by the appropriate United States authorities.

7. The authorities of the Republic of China and the United States shall cooperate in the procurement of evidence for the fair disposition of claims under this Article.

8. Paragraphs 2 and 6 of this Article shall not apply to claims arising incident to combat activities.

9. 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 referred to in Article XVIII of this Agreement 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.

Agreed Minutes to Article XV

Agreed Minute No. 1—Re subparagraph 5 (a) of Article XV

If a claim arises out of an act or omission of a member or an employee of the United States armed forces, whether such act or omission occurred in the performance of official duty shall be determined in accordance with the laws of the United States. The highest appropriate authority of the United States may submit to the Chinese authority dealing with the case a certificate thereon. In exceptional cases, however, such certificate may, at the request of the Chinese

authority, be made the subject of review through discussions between the Government of the Republic of China and the United States Government.

Agreed Minute No. 2

Should the procedures provided for under this Article prove to be unsatisfactory, upon the request of the Government of the Republic of China the following claims article will be substituted *in toto*:

Article XV

1. Each Government waives all its claims against the other Government for damage to any property owned by it and used by its land, sea or air armed forces, if such damage :

- (a) was caused by a member or an employee of the armed services of the other Government in the execution of his official duties; or
- (b) arose from the use of any vehicle, vessel or aircraft owned by the other Government 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 Government against the other Government shall be waived, provided that the vessel or cargo salvaged was owned by one of the Governments 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 Government and located in the Agreement Area the issue of the liability of the other Government 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 China who hold or have held high judicial office.

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

(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 proportion by them.

(f) Nevertheless, each Government waives its claim in any such case up to the amount of US\$ 1,400 or NT\$ 56,000 in Chinese currency. 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 Government" in the case of a vessel includes a vessel on bare-boat charter to that Government 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 other person than such Government).

4. Each Government waives all its claims against the other Government 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 paragraphs 6 or 7 of this Article apply) arising out of acts or omissions of members or employees of the United States armed services 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 Agreement Area to third parties, other than the Government of China, shall be dealt with by China in accordance with the following provisions :

- (a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of China with respect to claims arising from the activities of its own armed forces.
- (b) China may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by China in Chinese currency.
- (c) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of China, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive upon the two Governments.
- (d) Every claim paid by China 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 two Governments as follows :
 - (i) Where the United States alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 per cent chargeable to the Republic of China and 75 per cent chargeable to the United States.
 - (ii) Where China 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 China or 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 China and the United States.

- (iii) Every half-year, a statement of the sums paid by China 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 Chinese currency within the shortest possible time.
- (f) Members and employees of the United States armed services (except employees who are nationals of China) shall not be subject to any proceedings for the enforcement of any judgment given against them in the Agreement Area 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 small maritime claims and 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 services (except employees who are nationals of China or ordinarily resident in the Agreement Area) arising out of tortious acts or omissions in the Agreement Area not done in the performance of official duty shall be dealt with in the following manner :
- (a) The appropriate authorities of the Republic of China shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all 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 appropriate authorities of the Republic of China of their decision and of the sum paid.
- (d) Nothing in this paragraph shall affect the jurisdiction of the courts of China 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 an act or omission of a member or an employee of the United States armed forces occurred in the performance of official duty, a certificate issued by the highest appropriate United States military authority shall be regarded as conclusive.

9. (a) The United States shall not claim immunity from the jurisdiction of the courts of China for members or employees of the United States armed forces in respect of the civil jurisdiction of the courts of China 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 Chinese law, is within the areas and facilities in use by the United States armed forces, the United States authorities shall upon the request of the courts of the Republic of China, render all assistance within their power to see that such property is turned over to the Chinese authorities.

(c) The authorities of the Republic of China and the United States 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 provided for in Article XVIII 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. Paragraphs 2 and 5 of this Article shall not apply to war damage.

Agreed Minute to Article XV, Paragraph 5 (g)

With respect to Article XV, subparagraph 5 (g), "small maritime claims" is defined as claims for the following types of damage :

- (1) damage to cultivation of marine animals and plants in coastal waters;
- (2) damage to fishnets;
- (3) damage to boats of less than twenty tons, involving individual claims for two thousand five hundred United States dollars or less;
- (4) damage of similar nature as may be mutually agreed through the Joint Committee.

Article XVI

The Republic of China grants permission to the United States armed forces, subject to the pertinent provisions of Articles VIII and XI of this Agreement, to establish, maintain, and operate, within the areas and facilities in use by the United States armed forces, United States military post offices for the use of members of the United States armed forces or the civilian component, and

their dependents, and such other persons as may be proposed by the appropriate United States authorities through diplomatic channels and approved by the appropriate Chinese authorities, for the transmission of mail between United States military post offices in the Agreement Area and between such military post offices and other United States post offices. Procedures for cooperation between Chinese post offices and United States military post offices shall be jointly determined by the appropriate Chinese and United States authorities.

Article XVII

1. Searches, seizures, or other inspections shall not be made of United States Government property at the disposal of the United States armed forces (including their authorized contractors) when entering, located in, or leaving the Agreement Area, including, but not limited to, mail in United States military channels, equipment, materials, and supplies, shipped by, to, or on behalf of the United States armed forces and certified by the appropriate authorities of the United States armed forces to be for their official use, official documents and courier and communications documents under seal.

2. (a) The persons or property of members of the United States armed forces or the civilian component, and their dependents, if within the areas and facilities in use by the United States armed forces, shall be exempt from searches, seizures, or other inspections except as may be agreed by the appropriate authorities of the two Governments.

(b) At the request of the appropriate authorities of the Republic of China, the authorities of the United States armed forces shall, within the limits of their authority, make such searches, seizures, or other inspections within the areas and facilities in use by the United States armed forces and fully inform the Chinese authorities as to the results thereof.

3. (a) The persons and property of members of the United States armed forces or the civilian component, and their dependents, if outside the areas and facilities in use by the United States armed forces and outside the private residences of such persons, shall be subject to searches, seizures, or other inspections by appropriate Chinese authorities in accordance with Chapter XI, Part I of the Code of Criminal Procedure of the Republic of China. The authorities of the United States armed forces shall, whenever practicable, be afforded the opportunity to be present and to provide assistance.

(b) The persons or members of the United States armed forces or the civilian component, and their dependents, within the private residences of such persons, shall be subject to searches by appropriate Chinese authorities in accordance with Chapter XI, Part I of the Code of Criminal Procedure of the Republic of China in connection with their arrest. Searches may also be made of such persons in such residences in accordance with Chapter XI, Part I of the Code of Criminal Procedure of the Republic of China not in connection

with their arrest provided that the authorities of the United States armed forces have been afforded the opportunity to be present and to provide assistance. Property discovered in searches under this paragraph shall be subject to seizure in accordance with Chapter XI, Part I of the Code of Criminal Procedure of the Republic of China.

4. The private residences, and property therein, of members of the United States armed forces or the civilian component, and their dependents, located outside the areas and facilities in use by the United States armed forces shall be subject to searches, seizures, or other inspections in accordance with Chapter XI, Part I of the Code of Criminal Procedure of the Republic of China provided that the authorities of the United States armed forces have been afforded the opportunity to be present and to provide assistance.

Article XVIII

1. Upon the entry into force of this Agreement, a Joint Committee shall be established as the means for mutual consultation between the Republic of China and the United States on all matters regarding the implementation of this Agreement.

2. The Joint Committee shall be composed of one representative each of the Republic of China and of the United States, each of whom shall have one or more deputies. The Joint Committee shall determine its own rules of procedure and appoint such subcommittees 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 Republic of China or the United States.

3. If the Joint Committee is unable to resolve a particular matter, it shall refer that matter to the respective Governments for further consideration through appropriate channels.

Article XIX

1. This Agreement shall be approved by the Republic of China and the United States in accordance with their respective constitutional procedures; notes indicating such approval shall be exchanged and this Agreement shall enter into force from the date of the exchange of notes.

2. The two Governments undertake to seek from their respective legislatures necessary legislative action with respect to any provision of the Agreement which requires such action for its execution.

3. Either Party may at any time request the revision of any Article of this Agreement, in which case the two Governments shall enter into negotiations through normal diplomatic channels.

Article XX

This Agreement, and agreed revisions thereof, shall remain in force while the Mutual Defense Treaty between the Republic of China and the United States of America, signed on December 2, 1954, remains in force, unless terminated earlier by agreement between the two Governments.

IN WITNESS WHEREOF, the undersigned representatives of the two Governments, duly authorized for the purpose, have signed this Agreement.

DONE in duplicate, in the Chinese and English languages, both texts authentic, at Taipei, on this thirty-first day of the eighth month of the Fifty-fourth Year of the Republic of China, corresponding to the thirty-first day of August of the Year One Thousand Nine Hundred and Sixty-five.

For the Government
of the Republic of China :

SHEN Chang-huan

For the Government
of the United States of America :

Ralph N. CLOUGH

EXCHANGE OF NOTES

I

*The American Chargé d'Affaires ad interim to the Chinese Minister
of Foreign Affairs*

No. 16

Taipei, August 31, 1965

Excellency :

With regard to Article XIV of the Agreement on the Status of United States Armed Forces in the Republic of China signed on this day, I have the honor to state the understanding of the Government of the United States of America that the cases enumerated in subparagraphs 3 (a) (i) (ii) and (iii) of the agreed minute re paragraph 3 (c) of that Article together with the offense of arson and offenses involving illegal possession of or trade in narcotics, and attempts to commit such offenses or participation therein, except when these offenses are directed against a member of the United States armed forces or the civilian component, or dependents, or the property of such member or dependent, comprise the cases with regard to which the competent Chinese authorities may hold by reason of special circumstances in a specific case that major interests of Chinese administration of justice within the meaning of paragraph 3 of the agreed minute make imperative the exercise of Chinese jurisdiction. The foregoing does not preclude agreement by the two Governments to recall the waiver

granted under paragraph 1 of the minute above referred to in an exceptional case involving a serious offense not enumerated herein or in subparagraph 3 (a) (i) (ii) or (iii), and the major interests of Chinese administration of justice.

I would greatly appreciate being informed by letter of the concurrence of Your Excellency's Government in this understanding.

Accept, Excellency, the assurances of my highest consideration.

Ralph N. CLOUGH
Chargé d'Affaires ad interim

His Excellency Shen Chang-huan
Minister of Foreign Affairs
Taipei, Taiwan

[TRANSLATION¹ — TRADUCTION²]

Wai-(54)-Pei-Mei (2)-13896

Taipei, August 31, 1965

Mr. Chargé d'Affaires :

I have the honor to acknowledge receipt of your note No. 016 of today's date reading as follows :

[*See note I*]

In reply, I have the honor to confirm, on behalf of the Government of the Republic of China, the above understanding.

Accept, Mr. Chargé d'Affaires, the assurances of my high consideration.

[SEAL] SHEN Chang-huan

The Honorable Mr. Ralph N. Clough
Chargé d'Affaires ad interim
Embassy of the United States of America
Taipei, Taiwan, China

¹ Translation by the Government of the Republic of China.

² Traduction du Gouvernement de la République de Chine.

V

*The American Chargé d'Affaires ad interim to the Chinese Minister
of Foreign Affairs*

No. 18

Taipei, August 31, 1965

Excellency :

I have the honor, on behalf of my Government, to forward the following statement of United States jurisdiction and administrative sanctions over members of the civilian component, their dependents, and the dependents of members of the United States Armed Forces :

As a result of decisions of the United States Supreme Court in 1960, civilians are no longer subject to trial by courts-martial in time of peace. Accordingly, members of the civilian component, their dependents, and the dependents of members of the United States Armed Forces are not persons subject to the military law of the United States as the term is used in Article XIV of the Status of Forces Agreement. The jurisdiction under the mentioned Article of the authorities of the Republic of China over such personnel is, at the present time, exclusive.

Notwithstanding the foregoing, United States military authorities have certain administrative and disciplinary sanctions which are effective in maintaining control over members of the civilian component and dependents. The United States hopes that the Republic of China will, in appropriate cases, take advantage of the availability of these sanctions as an alternative to criminal prosecution. In the view of the United States, it is mutually advantageous to have the United States Armed Forces deal, to the extent possible, with minor offenses by use of internal control measures.

Accept, Excellency, the assurances of my highest consideration.

Ralph N. CLOUGH
Chargé d'Affaires ad interim

His Excellency Shen Chang-huan
Minister of Foreign Affairs
Taipei, Taiwan