JOINT COMMITTEE
UNDER
THE UNITED STATES AND THE REPUBLIC OF KOREA
STATUS OF FORCES AGREEMENT

AGREED VIEWS PERTAINING TO FACILITIES AND AREAS AND
THE STATUS OF UNITED STATES ARMED FORCES IN KOREA

In accordance with Article XXVIII of the United States-Republic of Korea (US-ROK) Status of Forces Agreement (SOFA) and pursuant to negotiations between delegations of the Government of the United States of America and the Government of the Republic of Korea between August and December 2000, the attached agreed views are approved by the US-ROK Joint Committee.

Signed at Seoul, Republic of Korea on January 18, 2001

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Lieutenant General
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AGREED VIEWS PERTAINING TO FACILITIES AND AREAS AND THE STATUS OF UNITED STATES ARMED FORCES IN KOREA

Article I, Definitions. Agreed View No. 1. Pursuant to US-ROK SOFA Article I, Paragraph (c). With regard to subparagraphs (i) and (ii) of Article I, Paragraph (c), it is understood that the term "children" includes natural children, adopted children and step-children, as well as wards under 21 whose care and physical custody has been entrusted to a sponsor or sponsor's spouse by legal decree or other instrument issued by a court or placement agency. The term "parents" means natural parents, adoptive parents who adopted the sponsor before the sponsor's 21st birthday, parents-in-law, adoptive parents-in-law who adopted the sponsor's spouse before the spouse's 21st birthday, stepparents and stepparents-in-law. The term "other relatives" means family members or wards who have been declared legally dependent by a court decree or by a government agency of the United States or the Republic of Korea and other persons or categories of persons as agreed by the Joint Committee. The military authorities of the United States will notify the authorities of the Republic of Korea whenever a person or persons are granted status as dependents under this agreement in the category of "other relatives."

Article XVII, Labor. Agreed View No. 1. Pursuant to the Understanding re US-ROK SOFA Article XVII, Paragraph 4(a)(v), it is agreed that the cooling-off period shall be up to 45 days unless the Joint Committee determines that 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.

Article XVII, Labor. Agreed View No. 2. Pursuant to the Understanding, Paragraph 3, re US-ROK SOFA, Article XVII, Paragraph 3 and Agreed Minutes 2 and 4, it is agreed that the United States Department of Defense may impose mission changes or resource constraints on the United States Forces Korea to reflect changes precipitated in law, appropriations, or national policy.

Article XXII, Criminal Jurisdiction. Agreed View No. 21. Pursuant to US-ROK SOFA, Article XXII, Paragraph 5(c).

1. Categories of cases to be defined as a heinous crime of murder or an egregious rape, under Paragraph 2 of the Agreed Minute re Article XXII, Paragraph 5(c), will be determined by the Joint Committee. If a case within that purview arises prior to such determination by the Joint Committee, it shall be handled by the two governments on a case by case basis.

2. When the authorities of the Republic of Korea intend to request the transfer of custody at the time of indictment:

(a) The Director of the 4th Prosecution Division of the Prosecution Bureau, Ministry of Justice, shall submit a standard form noting such intent to the Judge Advocate, United States Forces Korea. The form shall

be filled-out and contain the name of the person whose custody is to be sought and the offense for which the person will be indicted. The form will also state, if possible, the date, time, and place at which the detention hearing following the prosecutor's request for detention warrant will be conducted in accordance with the law of the Republic of Korea. A copy of the request for detention warrant shall accompany the form.

(b) If, following such hearing, the authorities of the Republic of Korea decide to request the transfer of custody of the accused, the Director shall submit a standard form containing the request to the Judge Advocate, United States Forces Korea. The form shall contain the name of the person whose custody is being sought, and the offense for which the person will be indicted. The form shall also contain a brief explanation of how the case qualifies as being eligible for pretrial transfer of custody, and an assurance to indict the person within 24 hours of transfer of custody, or otherwise, to release him. The form will also state the requested date for the transfer of custody, such date to be not less than five (5) calendar days from the date the request for transfer of custody is received by the Judge Advocate. A copy of the detention warrant issued by the judge at the detention hearing shall accompany the request form.

(c) Upon receipt of the form, the Judge Advocate, United States Forces Korea, shall notify the Provost Marshal, United States Forces Korea, who shall arrange for the physical transfer of the person. The authorities of the Republic of Korea shall provide to the Judge Advocate, United States Forces Korea, a copy of the prepared indictment approved for filing. The Provost Marshal shall thereafter transfer the person to the authorities of the Republic of Korea by the above requested date. The indictment must be filed within 24 hours of transfer of custody or the person must be released.

3. During the trial, the judge in charge of the trial of the accused can issue a detention warrant at any time, upon which the military authorities of the United States shall transfer custody to the Republic of Korea authorities. After issuance of the detention warrant, the Director of the 4th Prosecution Division of the Prosecution Bureau, Ministry of Justice, shall submit a standard form containing the request for the transfer of custody to the Judge Advocate, United States Forces Korea. The form shall contain the name of the person whose custody is being sought and the offense for which the person was indicted. The form shall also contain a brief explanation of how the case qualifies as being eligible for pretrial transfer of custody. The form will also state the requested date for the transfer of custody, such date to be not less than five (5) calendar days from the date the request for transfer of custody is received by the Judge Advocate. Copies of the indictment and the detention warrant shall accompany the request form. Upon receipt of the form, the Judge Advocate shall notify the Provost Marshal, United States Forces Korea, who shall arrange for the physical transfer of the person. The

Provost Marshal shall transfer him to the authorities of the Republic of Korea by the above requested date.

4. Under Paragraph 11 of the Agreed Minute re Article XXII, Paragraph 5(c), the authorities of the Republic of Korea may submit requests for the transfer of pretrial custody to the Judge Advocate, United States Forces Korea, in cases not otherwise covered when it has a material interest in such cases. When the military authorities of the United States agree to such requests, the provisions of the preceding paragraphs 1 and 2 shall apply *mutatis mutandis* to the procedures for the transfer of custody as appropriate.

5. When a member of the United States armed forces, of the civilian component or a dependent is arrested, detained or otherwise taken into custody by the authorities of the Republic of Korea, the arresting Republic of Korea law enforcement authorities will immediately notify the nearest Provost Marshal, United States Forces Korea, that such apprehension has been made and will, upon request, hand the person over. When the military authorities of the United States intend to request the transfer of custody of the person, the Provost Marshal shall prepare a standard form containing the request and provide it to the law enforcement authorities of the Republic of Korea maintaining the custody of the person. The form shall contain the name of the person whose custody is being sought, and the requested date for the transfer of custody.

6. When the authorities of the Republic of Korea intend to request the transfer of custody of a person in the custody of the military authorities of the United States, who has been sentenced to a term of confinement which sentence is not suspended, and where all judicial proceedings in the case have been concluded, the Director of the 4th Prosecution Division of the Prosecution Bureau, Ministry of Justice, shall submit a standard form containing the request to the Judge Advocate, United States Forces Korea. The form shall contain the name of the person whose custody is being sought, the offense of which he was convicted, the approved sentence and the length of confinement. The form will also state the requested date for the transfer of custody, such date to be not less than five (5) calendar days from the date the request for transfer of custody is received by the Judge Advocate. Upon receipt of the form, the Judge Advocate shall notify the Provost Marshal, United States Forces Korea, who shall arrange for the physical transfer of the person. The Provost Marshal shall transfer him to the authorities of the Republic of Korea by the above requested date.

Article XXII, Criminal Jurisdiction. Agreed View No. 22. Pursuant to the Understanding, Paragraph 10, re US-ROK SOFA, Article XXII, Paragraph 5(c). The standards for any facilities for pretrial confinement or restriction provided under Paragraph 10 of the Understanding re Article XXII, Paragraph 5(c) shall meet or exceed the standards established by the Joint Committee, for post-trial confinement facilities as set forth in Agreed View 13. Prompt notice of any transfer between facilities shall be given to the Judge Advocate, United States Forces Korea.

Article XXIII, Claims. Agreed View No. 1. Pursuant to US-ROK SOFA Article XXIII, Paragraph 5 and Paragraph 6. The Parties agree that paragraphs 5 and 6 of Article XXIII shall be the efficient legal remedy for traffic accidents causing property damage by a member of the United States armed forces or by a member of the civilian component. Such accidents covered by Article XXIII, Paragraph 5 or by the minimum insurance levels of $25,000 property damage liability per accident or thereafter agreed by the Joint Committee shall not be reported as a criminal violation. This is without prejudice to the rights of the victim.

Article XXIII, Claims. Agreed View No. 2. Pursuant to Paragraph 1 of Understandings, re US-ROK SOFA Article XXIII, Paragraph 5 and Paragraph 6.

1. (a) The Republic of Korea court in authority may request a liaison agency established or designated by the military authorities of the United States to ensure service of documents arising in non-criminal proceedings upon members of the United States armed forces, the civilian component, or upon dependents or invited contractors.

(b) Receipt of a request forwarded by a Republic of Korea court 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 Republic of Korea court in 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 Republic of Korea court in authority has received neither notification in writing that service has been effected in accordance with sub-paragraph (b) of this paragraph nor any communication stating that it has not been possible to effect service, the court in authority shall forward to the liaison agency another copy of the request 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 Republic of Korea court in 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 Republic of Korea court in authority in writing of the reasons for its inablility to do so.

(iii) If the person to be served has permanently left the Republic of Korea, the liaison agency shall notify the Republic of Korea court immediately of this fact, and shall render the Republic of Korea court all assistance in its power.

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

2. (a) When a plaint or other document initiating non-criminal proceedings before a Republic of Korea court in authority is served other than through the liaison agency, the Republic of Korea court in authority shall so notify the liaison agency in writing prior to or immediately upon service of process. The written notification shall include a copy of the plaint or other document initiating non-criminal proceedings.

(b) Service of documents upon members of the United States armed forces, the civilian component, or upon dependents or invited contractors by publication may, in addition, be effected by the publication of an extract from the document to be served in a journal to be named by, and in the language of, the United States; or if the United States so decides, by posting in the liaison agency office.

(c) Where service of any document is to be effected by a Republic of Korea process server upon a member of the United States armed forces, the civilian component, or a dependent or an invited contractor who is within facilities and areas of the United States armed forces, the military authorities of the United States shall take all measures necessary to enable the Republic of Korea process server to effect such service.

3. (a) Where a member of the United States armed forces or the civilian component or a dependent or an invited contractor is summoned to appear before the Republic of Korea court, the military authorities of the United States, unless military exigency requires otherwise, shall take all measures within their authority to secure his attendance, provided that such attendance is compulsory under Korean law. This does not apply in the case of dependents if the military authorities cannot give effective support to the Republic of Korea court to secure attendance. If the summons is not served through the liaison agency, the latter shall be informed immediately of the summons by the Republic of Korea court, which shall give the name of the addressee and his address, as well as the time and place of the hearing or taking of evidence.

(b) Where the Republic of Korea court requests the military authorities of the United States to submit documents or articles for evidence, or provide official information for non-criminal proceedings, the military authorities of the United States shall comply with the request, unless it is contrary to United States law. Such request shall be made through the liaison agency.

(c) Where the Republic of Korea court requests the military authorities of the United States to allow access to facilities and areas of the United States armed forces for the purpose of procuring evidence in non-criminal proceedings, and the rendering of all assistance possible to procure such evidence, the military authorities of the United States shall comply with the request, unless it is contrary to United States law. Such request shall be made through the liaison agency.

4. (a) The military authorities shall render all assistance in their power to secure compliance with judgments, decisions, orders and settlements in non-criminal proceedings of Republic of Korea courts in authority.

(b) A member of the United States armed forces, the civilian component, a dependent or an invited contractor may be deprived of his personal liberty by the Republic of Korea court in authority in non-criminal proceedings only to punish contempt of court or to secure compliance with a judicial or administrative decision or order that he culpably has failed or fails to obey.

Deprivation of liberty shall not be authorized with respect to an act or omission done in the performance of official duty. A certificate by the military authorities of the United States stating that the act or omission concerned was done in the performance of official duty shall be binding on the Republic of Korea court. In other cases the Republic of Korea authorities shall give due consideration to representations of the military authorities of the United States that compelling interests contravene such deprivation of liberty.

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

(d) A payment due to a member of the United States armed forces, the civilian component or an employee of the U.S. Government shall be subject to attachment, garnishment or other form of execution ordered by a Republic of Korea court in authority only to the extent permitted by United States law. Assistance under paragraph (a) of this Article shall also include providing information on possible execution against pay already disbursed.

(e) Where the enforcement of a judgment, decision, order and settlement in non-criminal proceedings of the Republic of Korea court in authority is to take place within a installation of a force, such enforcement shall be effected by a Korean enforcement officer in the presence of a representative of the military authorities of the United States.