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Criminal Jurisdiction Over Visiting Armed Forces

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The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. government, the U.S. Department of the Navy or the Naval War College.

## APPENDIX XXI

### LIBYA. MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding between the United States and Libya with respect to Criminal Jurisdiction provisions of Agreement of September 9, 1954. February 24, 1955. 7 UST 2051, TIAS 3607.

With respect to the "Agreement between the Government of the United States of America and the Government of the United Kingdom of Libya" signed at Benghazi on September 9, 1954, hereinafter referred to as "the Agreement," the two Governments have reached the following understanding concerning Article XX of the Agreement.

Under Paragraph (2) of Article XX of the Agreement the Government of the United Kingdom of Libya has reserved jurisdiction over members of the United States forces except as provided in Paragraph (1) of Article XX of the Agreement. In order to establish a policy which will govern the application of the provisions of Paragraph (2) the two Governments agree as follows:

(a) The Government of the United States of America declares that it is fully satisfied with the cooperation and understanding which the Libyan authorities have shown toward the United States military authorities in Libya.

(b) The Government of the United Kingdom of Libya declares that it is fully satisfied with the manner in which the United States military authorities have exercised disciplinary authority and criminal jurisdiction over members of the United States forces.

(c) The Government of the United States of America recognizes the interest of the Government of the United Kingdom of Libya in exercising the jurisdiction reserved to it in cases of particular importance to the United Kingdom of Libya.

(d) The two Governments recognize that it is in their common interest to take steps to ensure the continuation of the good relations that prevail between the people of the United Kingdom

of Libya and the members of the United States forces and also to ensure the effective discipline and security of the United States forces. To this end, the Government of the United Kingdom of Libya, in response to the desire of the Government of the United States of America, henceforth undertakes to waive its criminal jurisdiction in relation to members of the United States forces under the terms of the Agreement except in the case of an offense committed by a member of the United States forces which is considered by the Government of the United Kingdom of Libya to be of particular importance to the United Kingdom of Libya such as an offence against the safety of the Libyan State, an offence against the sovereignty or honor of the Libyan State, or an offence which the Libyan State considers to be of serious public concern, including sexual offenses which cause serious public concern. It is understood with respect to a case involving such an offence which is considered of particular importance to the United Kingdom of Libya that the Libyan authorities, taking into account the spirit of cooperation expressed in Article XX of the Agreement, will in the course of appropriate consultations between the Libyan authorities and the United States military authorities give sympathetic consideration to a request from the United States authorities for a waiver of the jurisdiction of the Libyan authorities in such a case. It is also understood that a waiver of jurisdiction in a case shall be final and thereafter the Libyan authorities will not exercise jurisdiction in relation to such a case.

(e) The Government of the United States of America undertakes to notify the Libyan authorities of the disposition made by the United States military authorities of all cases involving the waiver of jurisdiction referred to in the foregoing undertaking of the Government of the United Kingdom of Libya.

The two Governments agree that the policy set forth above shall be followed with regard to all cases arising since the time of entry into force of the Agreement, namely since twelve o'clock noon, Benghazi time, October 30, 1954.