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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 XVIII

KOREA. AGREEMENT ON JURISDICTION¹

Agreement between the United States and Korea relating to Jurisdiction over Offenses by United States Forces in Korea. July 12, 1950. 5 UST 1408, TIAS 3012, 222 UNTS 228.

The American Embassy presents its compliments to the Ministry of Foreign Affairs of the Republic of Korea and has the honor to state that in the absence of a formal agreement defining and setting forth the respective rights, duties and jurisdictional limitations of the military forces of the United States (excepting the United States Military Advisory Group to Korea, which is covered by the agreement signed in Seoul on January 26, 1950)² and the Government of the Republic of Korea, it is proposed that exclusive jurisdiction over members of the United States Military Establishment in Korea will be exercised by courts-martial of the United States.

It is further proposed that arrests of Korean nationals will be made by United States forces only in the event Korean nationals are detected in the commission of offenses against the United States forces or its members. In the event that arrests of Korean nationals are made under the circumstances set forth above, such persons will be delivered to the civil authorities of the Republic of Korea as speedily as practicable.

The Ministry of Foreign Affairs and the Government of the Republic of Korea will understand that in view of prevailing conditions, such as the infiltrations of North Koreans into the territory of the Republic, United States forces cannot be submitted, or instructed to submit, to the custody of any but United States forces. Unless required, owing to the nonexistence of local courts, courts of the United States forces will not try nationals of the Republic of Korea.

The American Embassy would be grateful if the Ministry of

¹ Came into force on 12 July 1950 by the exchange of the said notes.

² United Nations, *Treaty Series*, Vol. 178, p. 97.

Foreign Affairs would confirm, in behalf of the Government of the Republic of Korea, the above-stated requirements regarding the status of the military forces of the United States within Korea.

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The Ministry of Foreign Affairs of the Republic of Korea presents its compliments to the American Embassy and acknowledges the receipt of the Embassy's note of July 12, 1950, at Traejon.

The Ministry has the honor to inform the American Embassy that the Government of the Republic of Korea is glad to accept the propositions as set forth in the Embassy's note of July 12, 1950, that:

(1) The United States courts-martial may exercise exclusive jurisdiction over the members of the United States Military Establishment in Korea;

(2) In the event that arrest of Korean nationals by the United States forces are made necessary when the former are known to have committed offenses against the United States forces or its members, such person will be delivered to the civil authorities of the Republic of Korea as speedily as practicable; and

(3) The Ministry of Foreign Affairs understands that in view of prevailing conditions of warfare, the United States forces cannot be submitted to any but United States forces; and that courts of the United States forces will not try nationals of the Republic of Korea, unless requested owing to the nonexistence of local courts.