

No. 021

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and Trade of the Republic of Korea and has the honor to refer to recent discussions between representatives of our two governments regarding the Agreement between the Republic of Korea and the United States of America concerning special measures relating to Article V of the agreement under Article IV of the Mutual Defense Treaty between the Republic of Korea and the United States of America regarding facilities and areas and the Status of United States Armed Forces in the Republic of Korea signed on January 15, 2009 (hereinafter referred to as "the SMA") and proposes that the in-kind construction contributions be implemented in accordance with the following principles:

- (1) The Republic of Korea Funded Construction remains under the SMA.
- (2) The United States of America, after consultation with the Republic of Korea, selects and prioritizes construction projects based on military needs.
- (3) The Republic of Korea awards construction contracts and implements construction projects in accordance with the corresponding timeline as identified and developed during project design.

(4) The United States is responsible for project design.

(5) The United States provides design specifications and a list of acceptable contractors to the Republic of Korea. Contractors shall be Republic of Korea companies selected from the United States Army Corps of Engineers Far East District's Pre-Qualified contractor list.

(6) Design and Construction oversight, which averages twelve (12) percent of the total project costs, is paid by the Republic of Korea in cash.

(7) Any bid savings shall be used for future projects.

(8) The United States and the Republic of Korea shall establish proper procedures to prevent unexecuted contributions. In the unlikely event that unexecuted contributions exist at the end of the year, those contributions shall roll over to the next year.

(9) An annual review system shall be established to ensure "in-kind" procedures are working. For the project or projects where it is determined "in-kind" procedures are not working, the Republic of Korea and the United States shall consult in an effort to resolve the problem, and take proper actions to complete the project or projects including providing cash to the United States.

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Thirty (30) percent of the 2009 Republic of Korea Funded Construction contribution shall be provided by the Republic of Korea in-kind, sixty (60) percent of the 2010 Republic of Korea Funded Construction contribution shall be provided by the Republic of Korea in-kind, and from 2011 to 2013 eighty-eight (88) percent of the Republic of Korea Funded Construction contribution shall be provided by the Republic of Korea in-kind.

If the foregoing is acceptable to the Republic of Korea, the Embassy has the honor to propose that this note, together with the Ministry's reply, shall constitute an agreement between the two governments, which shall enter into force at the same time as the SMA.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs and Trade the assurances of its highest consideration.

The Embassy of the United States of America,

Seoul, January 15, 2009





MINISTRY OF FOREIGN AFFAIRS AND TRADE
REPUBLIC OF KOREA

OGT-8

The Ministry of Foreign Affairs and Trade of the Republic of Korea presents its compliments to the Embassy of the United States of America and has the honor to refer to the Embassy's note No. 021 dated January 15, 2009, which reads as follows:

"The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and Trade of the Republic of Korea and has the honor to refer to recent discussions between representatives of our two governments regarding the Agreement between the Republic of Korea and the United States of America concerning special measures relating to Article V of the agreement under Article IV of the Mutual Defense Treaty between the Republic of Korea and the United States of America regarding facilities and areas and the Status of United States Armed Forces in the Republic of Korea signed on January 15, 2009(hereinafter referred to as "the SMA") and proposes that the in-kind construction contributions be implemented in accordance with the following principles:

- (1) The Republic of Korea Funded Construction remains under the SMA.
- (2) The United States of America, after consultation with the Republic of Korea, selects and prioritizes construction projects based on military needs.
- (3) The Republic of Korea awards construction contracts and implements construction projects in accordance with the corresponding timeline as identified and developed during project design.
- (4) The United States is responsible for project design.

(5) The United States provides design specifications and a list of acceptable contractors to the Republic of Korea. Contractors shall be Republic of Korea companies selected from the United States Army Corps of Engineers Far East District's Pre-Qualified contractor list.

(6) Design and Construction oversight, which averages twelve (12) percent of the total project costs, is paid by the Republic of Korea in cash.

(7) Any bid savings shall be used for future projects.

(8) The United States and the Republic of Korea shall establish proper procedures to prevent unexecuted contributions. In the unlikely event that unexecuted contributions exist at the end of the year, those contributions shall roll over to the next year.

(9) An annual review system shall be established to ensure "in-kind" procedures are working. For the project or projects where it is determined "in-kind" procedures are not working, the Republic of Korea and the United States shall consult in an effort to resolve the problem, and take proper actions to complete the project or projects including providing cash to the United States.

Thirty (30) percent of the 2009 Republic of Korea Funded Construction contribution shall be provided by the Republic of Korea in-kind, sixty (60) percent of the 2010 Republic of Korea Funded Construction contribution shall be provided by the Republic of Korea in-kind, and from 2011 to 2013 eighty-eight (88) percent of Republic of Korea Funded Construction contribution shall be provided by the Republic of Korea in-kind.

If the foregoing is acceptable to the Republic of Korea, the Embassy has the honor to propose that this note, together with the Ministry's reply, shall constitute an agreement between the two governments, which shall enter into force at the same time as the SMA.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs and Trade the assurances of its highest consideration.

Seoul, January 15, 2009."

The Ministry of Foreign Affairs and Trade of the Republic of Korea has the honor to inform the Embassy of the United States of America that the proposals set forth in the Embassy's note are acceptable to the Republic of Korea and to agree that the Embassy's note and this note shall be regarded as constituting an agreement between the two governments, which shall enter into force at the same time as the SMA.

The Ministry of Foreign Affairs and Trade avails itself of the opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Seoul, January 15, 2009

A handwritten signature in black ink, appearing to be the initials 'B.J.' with a stylized flourish.