

DEFENSE

**Agreement Between the
UNITED STATES OF AMERICA
and the REPUBLIC OF KOREA**

Signed at Seoul January 15, 2009

and

Agreement Relating to Agreement

Effected by Exchange of Notes at
Seoul January 15, 2009



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

REPUBLIC OF KOREA

Defense

*Agreement signed at Seoul January 15, 2009;
Entered into force March 5, 2009.
And agreement relating to agreement.
Effected by exchange of notes
at Seoul January 15, 2009;
Entered into force March 5, 2009.*

AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND THE REPUBLIC OF KOREA
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

The United States of America and the Republic of Korea (hereinafter referred to as "the Parties") have agreed to take the following 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 (hereinafter referred to as "the Status of Forces Agreement") signed at Seoul on July 9, 1966, as amended, which sets forth the principles on the sharing of expenditures incident to the maintenance of the United States Armed Forces in Korea, in recognition of the goal of a strong and mutual commitment to the Republic of Korea - United States of America alliance.

Article I

The Republic of Korea shall bear, for the duration of this Agreement, as a special measure relating to Article V of the Status of Forces Agreement, a part of the expenditures associated with the stationing of the United States Armed Forces in Korea. The contribution of the Republic of Korea shall be categorized into Labor Cost Sharing, Logistics Cost Sharing, and Republic of Korea Funded Construction. Implementation of this Agreement shall be in accordance with a separate implementation arrangement between the concerned authorities of the Parties.

Article II

This Agreement shall determine the contribution of the Republic of Korea for 2009 through 2013. The contribution of the Republic of Korea for 2009 is 760 billion Korean Won. The 2010, 2011, 2012, and 2013 contributions shall be determined by increasing the contribution of the previous year by the inflation rate (Consumer Price Index) published by the Korea National Statistical Office using the 2008 rate for the 2010 contribution, the 2009 rate for 2011, the 2010 rate for 2012, and the 2011 rate for 2013. Further, the inflation rate used for any given year shall not exceed four percent.

Article III

The Labor Cost Sharing contributions shall consist of cash support and the Logistics Cost Sharing contribution shall consist of in-kind support. Republic of Korea Funded Construction shall consist of cash contributions and in-kind contributions. Republic of Korea Funded Construction shall be gradually shifted to the in-kind contributions from 2009, and the contributions of Republic of Korea Funded Construction shall be completely in-kind starting from 2011, except for expenses associated with design and construction oversight of facilities. If unexecuted in-kind contributions of Republic of Korea Funded Construction remain at the end of the year, those contributions shall roll over to the next year. Implementation details of the Republic of Korea Funded Construction, such as guiding principles and specific procedures, shall be in accordance with separate documents between the concerned authorities of the Parties.

Each year's Labor Cost Sharing payments shall be made in three equal payments on or before April 1, June 1, and August 1 of that year. Republic of Korea Funded Construction contributions provided in cash shall be paid, before the completion of the shift, in two equal payments with 50 percent paid on March 1 of the program year and 50 percent paid one year later (March 1). After the completion of the shift, expenses associated with design and construction oversight of facilities shall be paid on March 1 of each program year.

Article IV

All materials, supplies, equipment and services provided as part of the in-kind contribution shall be exempt from Republic of Korea taxes, or provided on an after-tax basis. Such materials, supplies, equipment and services procured by the Government of the Republic of Korea shall be exempt from individual consumption taxes and value added taxes. In the case of value added taxes, the zero rate shall be applied. If taxes are levied against any such materials, supplies, equipment or services, payment of such taxes shall not be made from cost-sharing funding.

Article V

This Agreement shall enter into force upon the date of the exchange of written notification by the Parties that their respective domestic legal procedures necessary for the entry into force of this Agreement have been completed, and shall remain in force until December 31, 2013.

The termination of this Agreement shall not affect the carrying out of any Republic of Korea Funded Construction projects which are selected every year in accordance with the agreed procedures under this Agreement, and not fully executed as of the date of termination of this Agreement.

Article VI

The Parties may consult on all matters regarding this Agreement through the Joint Committee provided for in Paragraph 1 of Article XXVIII of the Status of Forces Agreement, or through the Joint Cost-Sharing Committee, which is composed of representatives appointed by the Parties.

Article VII

This Agreement may be revised or amended in writing by mutual consent. The revision or amendment of this Agreement shall enter into force on the date when the Parties exchange written notifications that their domestic legal requirements for such revision or amendment have been fulfilled.

IN WITNESS WHEREOF, the undersigned, duly authorized for the purpose, have signed this Agreement.

DONE at Seoul this 15th day of January 2009, in duplicate, in the Korean and English languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA

FOR THE REPUBLIC OF KOREA

Handwritten signature of Kathleen Stephens in black ink.Handwritten signature of a Korean official in black ink, consisting of stylized characters and a horizontal line.

아메리카합중국과 대한민국 간의 상호방위조약 제4조에 의한 시설과
구역 및 대한민국에서의 합중국군대의 지위에 관한 협정
제5조에 대한 특별조치에 관한 미합중국과 대한민국 간의 협정

미합중국과 대한민국(이하 “ 당사국” 이라 한다)은 1966년 7월 9일 서울에서 서명되고 이후 개정된 「아메리카합중국과 대한민국간의 상호방위조약 제4조에 의한 시설과 구역 및 대한민국에서의 합중국군대의 지위에 관한 협정」(이하 “ 주한미군지위협정” 이라 한다) 중 주한미군의 유지에 수반되는 경비의 분담에 관한 원칙을 규정한 제5조와 관련하여, 한미 동맹에 대한 굳건하고 상호적인 의지라는 목표를 인식하면서 다음과 같은 특별조치를 취하기로 합의하였다.

제 1 조

대한민국은 이 협정의 유효기간 동안 주한미군지위협정 제5조와 관련된 특별조치로서 주한미군의 주둔에 관련되는 경비의 일부를 부담한다. 대한민국의 지원분은 인건비 부담, 군수비용 부담 및 대한민국이 지원하는 건설 항목으로 구성된다. 이 협정의 이행은 당사국 관계당국 간의 별도의 이행약정에 따른다.

제 2 조

이 협정은 2009년부터 2013년까지의 대한민국의 지원분을 결정한다. 2009년의 대한민국의 지원분은 7,600억원이다. 2010년, 2011년, 2012년, 2013년 지원분은 전년도 지원분에 대한민국 통계청이 발표한 물가상승률(소비자물가지수)만큼의 증가금액을 합산하여 결정되며, 2010년 지원분은 2008년도 물가상승률을, 2011년 지원분은 2009년도 물가상승률을, 2012년 지원분은 2010년도 물가상승률을, 2013년 지원분은 2011년도 물가상승률을 적용하여 결정된다. 다만, 해당 연도에 적용되는 물가상승률은 4%를 초과하지 아니한다.

제 3 조

인건비 부담은 현금지원이며, 군수비용 부담은 현물지원이다. 대한민국이 지원하는 건설은 현금지원과 현물지원으로 구성된다. 대한민국이 지원하는 건설은 2009년부터 점진적으로 현물지원으로 전환되며, 2011년부터는 시설의 설계 및 시공감리와 관련된 비용을 제외하고는 전면 현물로 지원된다. 만일 연도 말에 대한민국이 지원하는 건설의 미집행 현물지원분이 남아있을 경우, 동 지원분은 다음 연도로 이월된다. 대한민국이 지원하는 건설의 지침과 상세 절차 등 세부 이행사항은 당사국 관계당국 간의 별도의 문서에 따른다.

각 연도의 인건비 부담금은 3회씩 균등 분할하여 해당 연도의 4월 1일이나 그 이전, 6월 1일이나 그 이전, 그리고 8월 1일이나 그 이전에 지급된다. 대한민국이 지원하는 건설의 전면 현물화 이전에는 대한민국이 지원하는 건설의 현금지원분은 2회씩 균등 분할하여 해당 사업연도의 3월 1일 및 다음 연도의 3월 1일에 각각 50퍼센트씩 지급된다. 대한민국이 지원하는

건설의 전면 현물화 이후에는 시설의 설계 및 시공감리 관련 비용은 해당 사업연도의 3월 1일에 지급된다.

제 4 조

현물지원의 일부로 제공되는 모든 물자, 보급품, 장비 및 용역은 대한민국의 조세로부터 면제되거나 납세 후 금액을 기준으로 제공된다. 대한민국 정부가 조달하는 그러한 물자, 보급품, 장비 및 용역은 개별소비세 및 부가가치세가 면제된다. 부가가치세의 경우에는 영세율을 적용한다. 그러한 물자, 보급품, 장비 및 용역에 대하여 조세가 부과되는 경우 그러한 조세지불은 비용분담재원으로부터 이루어지지 아니한다.

제 5 조

이 협정은 당사국이 이 협정의 발효를 위하여 필요한 그들 각자의 국내법적 절차를 완료하였다는 서면통고를 교환하는 날에 발효하며, 2013년 12월 31일까지 유효하다.

다만, 이 협정의 종료는 이 협정에 근거하여 합의된 절차를 거쳐 각 연도에 선정되었으나 협정 종료시 완전하게 이행되지 않은 대한민국이 지원하는 건설 사업을 계속 이행해 나가는 데 영향을 미치지 아니한다.

제 6 조

당사국은 주한미군지위협정 제28조제1항에 규정된 합동위원회나 당사국이 임명하는 대표로 구성되는 방위비분담공동위원회를 통하여 이 협정에 관한 모든 문제를 협의할 수 있다.

제 7 조

이 협정은 상호합의에 의하여 서면으로 개정되거나 수정될 수 있다. 이 협정의 개정이나 수정은 당사국이 그러한 개정이나 수정을 위한 그들 각자의 국내법적 요건이 충족되었다는 서면통고를 교환하는 날에 발효한다.

이상의 증거로, 아래 서명자는 이 목적을 위하여 정당하게 권한을 위임받아 이 협정에 서명하였다.

2009년 1월 15일 서울에서 동등하게 정본인 영어 및 한국어로 각 2부를 작성하였다.

미합중국을 대표하여

대한민국을 대표하여

Ketulan Sghaus. 김 명철

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.

57

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

