

No. 4702

UNITED STATES OF AMERICA
 (AS UNIFIED COMMAND AND ON ITS OWN BEHALF
 AND ON BEHALF OF THE STATES FURNISHING
 MILITARY FORCES OR FIELD HOSPITALS
 TO THE UNIFIED COMMAND)
 and
 KOREA

Utilities Claims Settlement Agreement (with exchange of
 letters). Signed at Seoul, on 18 December 1958

Official texts of the Agreement: English and Korean.

Official text of the exchange of letters: English.

Registered by the United States of America on 4 March 1959.

ÉTATS-UNIS D'AMÉRIQUE
 (AGISSANT EN QUALITÉ DE COMMANDEMENT UNIFIÉ
 ET EN SON PROPRE NOM ET AU NOM
 DES ÉTATS FOURNISSANT DES FORCES MILITAIRES
 OU DES HOPITAUX DE CAMPAGNE
 AU COMMANDEMENT UNIFIÉ)
 et
 CORÉE

Accord relatif au règlement de créances en matière de ser-
 vices publics (avec échange de lettres). Signé à Séoul,
 le 18 décembre 1958

Textes officiels de l'Accord: anglais et coréen.

Texte officiel de l'échange de lettres: anglais.

Enregistré par les États-Unis d'Amérique le 4 mars 1959.

No. 4702. UTILITIES CLAIMS SETTLEMENT AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA (AS
UNIFIED COMMAND AND ON ITS OWN BEHALF AND
ON BEHALF OF THE STATES FURNISHING MILITARY
FORCES OR FIELD HOSPITALS TO THE UNIFIED
COMMAND) AND KOREA. SIGNED AT SEOUL, ON
18 DECEMBER 1958

Whereas the United Nations by the resolution of the Security Council of 27 June 1950,² recommended that members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area ;

And whereas the United Nations by the resolution of the Security Council of 7 July 1950,² recommended that members furnishing military forces and other assistance to the Republic of Korea make such forces and other assistance available to a Unified Command under the United States ;

And whereas the United States of America, acting in its capacity as the Unified Command, employed the military forces contributed by members of the United Nations and by the Republic of Korea in repelling the armed attack and restoring international peace and security in the area ;

And whereas the United States of America, acting in its capacity as the Unified Command, and the Republic of Korea provided facilities, materials, supplies, equipment, utilities, services, and monies, for the support of the military forces employed against Communist aggression in Korea ;

And whereas the United States of America, acting in its capacity as the Unified Command, and the Republic of Korea consider it desirable to negotiate a settlement of claims and counterclaims arising from the rendition of utilities services,

¹ Came into force on 18 December 1958 by signature and, in accordance with article VIII (2), is deemed to have entered into operation and effect on 1 July 1957 in respect of the following States : Australia, Belgium, Canada, Colombia, Denmark, Ethiopia, France, Federal Republic of Germany, Greece, India, Italy, Luxembourg, Netherlands, New Zealand, Norway, Philippines, Sweden, Thailand, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America and Korea.

² United Nations, Security Council Document S/INF/4, p. 6.

Therefore, the Government of the United States of America, on the one hand, in its capacity as the Unified Command and on its own behalf, and the governments of those nations furnishing military forces or field hospitals to the Unified Command : namely, Australia, Belgium, Canada, Colombia, Denmark, Ethiopia, France, Germany, Greece, India, Italy, Luxembourg, the Netherlands, New Zealand, Norway, the Republic of the Philippines, Sweden, Thailand, Turkey, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland ; and the Government of the Republic of Korea, on the other hand ; have agreed as follows :

Article I

1. "Claims and counterclaims" means any demands or requests for, or assertion of right to, payment of money or restoration, replacement, rehabilitation, or removal of property in settlement of any obligation, charge, or account, expressed or implied, including counterclaims and offsets, arising from rendition of utilities services, including claims arising from use, alteration, loss, or destruction of, or damage to property in connection with transmission, use or consumption of any utilities, and includes claims and counterclaims arising from the rendition of personal services required in the establishment, maintenance, and operation of utilities, and those claims and counterclaims for reimbursement for improvements to personal property, but excludes claims arising out of formal written contracts for utilities services between the Republic of Korea and the Unified Command, between any one of the nations in the United Nations Command, and the Republic of Korea, between the Unified Command or any one of the nations in the United Nations Command and nationals of the Republic of Korea or other persons residing or owning property in the Republic of Korea, or claims arising out of private commercial contracts.

2. "Utilities services" includes but is not limited to the operation and use of transportation and communications facilities and systems, and the operation and use or consumption of electricity, gas, water, steam, heat, light, and power, however produced, and sewage disposal.

Article II

1. This agreement is limited to claims and counterclaims arising from the rendition of utilities services as defined in Article I hereof.

2. This agreement shall not apply to claims arising out of the economic assistance programs and out of the furnishing to the Republic of Korea military forces of material and common use items.

Article III

1. The Republic of Korea forever releases and agrees to hold harmless the United States of America, in its capacity as the Unified Command and on its own behalf, and the governments of those nations furnishing military forces or field hospitals to the Unified Command, and their nationals, from any and all claims arising from the rendition of utilities services in Korea, incident to the action to repel aggression in Korea, during the period from 25 June 1950 to and including 30 September 1955, against the Unified Command, the governments of those nations furnishing military forces or field hospitals to the Unified Command, or their nationals, by the Republic of Korea, nationals of the Republic of Korea, or other persons owning property, rendering services, or residing in Korea.

2. The United States of America, in its capacity as the Unified Command and on its own behalf, and the governments of those nations furnishing military forces or field hospitals to the Unified Command forever release and agree to hold harmless the Republic of Korea and its nationals from any and all claims arising from the rendition of utilities services in Korea, incident to the action to repel aggression in Korea, during the period 25 June 1950 to and including 30 September 1955 against the Republic of Korea, or its nationals, by the United States of America, in its capacity as the Unified Command and on its own behalf or the governments of those nations furnishing military forces or field hospitals to the Unified Command, and their nationals.

3. The United States of America, in its capacity as the Unified Command and on its own behalf, and the governments of those nations furnishing military forces or field hospitals to the Unified Command, and the Republic of Korea agree to the settlement of all claims and counterclaims arising from the rendition of utilities services in Korea for the period 1 October 1955 to and including 30 June 1957 by payment of \$7,250,000 which will be made by the respective responsible governments to the Republic of Korea. The obligation to reimburse the Republic of Korea will be the responsibility of the respective responsible governments, who will settle on terms and in currencies to be agreed upon.

4. In consideration of the settlement of utilities claims as provided in paragraph 3, article III :

A. The Republic of Korea forever releases and agrees to hold harmless the United States of America, in its capacity as the Unified Command and on its own behalf, and the governments of those nations furnishing military forces or field hospitals to the Unified Command, and their nationals, from any and all claims arising from the rendition of utilities services in Korea during the period from 1 October 1955 to and including 30 June 1957.

B. The United States of America, in its capacity as the Unified Command and on its own behalf, and the governments of those nations furnishing military forces

or field hospitals to the Unified Command, forever release and agree to hold harmless the Republic of Korea and its nationals from any and all claims arising from the rendition of utilities services in Korea during the period from 1 October 1955 to and including 30 June 1957.

Article IV

1. The United States of America, in its capacity as the Unified Command and on its own behalf, and the governments of those nations furnishing military forces or field hospitals to the Unified Command undertake to negotiate arrangements relating to the provision of utilities services and supplies to it by the Republic of Korea or by its nationals on and after the effective date of this agreement.

2. The expenditures, activities, and property of the United States of America, in its capacity as the Unified Command and on its own behalf, or of the governments of those nations furnishing military forces or field hospitals to the Unified Command, shall be relieved of all customs, duties, taxes, interest, imposts, and fees or charges of any description levied or authorized by the Republic of Korea, its agencies, or political subdivisions, in the field of utilities services.

Article V

The United States of America, in its capacity as the Unified Command and on its own behalf, and the governments of those nations furnishing military forces or field hospitals to the Unified Command, and the Republic of Korea agree to make available, each to the other, for inspection for a period of 2 years from the date of the signing of this agreement any record or documentary evidence, reasonably available, which may be required by either party to enable it to defend, answer, or establish any claim arising from the rendition of utilities services asserted against it during the period 25 June 1950 to and including 30 June 1957.

Article VI

It is agreed that the value of the Korean currency to be used in computing the value of utilities services rendered, supplies furnished or damages incurred, shall be the military conversion rate or the official rate used for United Nations Command expenditures at the time the supplies were furnished, the utilities services were rendered, or the damages were incurred.

Article VII

This agreement supersedes, in whole and in part, any agreement, expressed or implied, between the parties, relating to the settlement of claims and counterclaims arising from the rendition of utilities services between the dates 25 June 1950 to and including 30 June 1957.

Article VIII

1. This agreement shall be registered with the Secretary General of the United Nations in compliance with the provisions of Article 102 of the Charter of the United Nations.

2. This agreement shall be deemed to have entered into operation and effect on 1 July 1957.

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present agreement.

DONE at Seoul in duplicate, in the English and Korean languages, this 18th day of December 1958. The English and Korean texts shall have equal force, but in case of difference, the English text shall prevail.

For the Government of the United States of America, in its capacity as the Unified Command and on its own behalf and on behalf of the governments of those nations furnishing military forces or field hospitals to the Unified Command :

George H. DECKER, General U.S. Army
Commander in Chief, U.N. Command

For the Government of the Republic of Korea :

HYUN CHUL KIM

EXCHANGE OF LETTERS

I

18 December 1958

Dear Mr. Minister :

I refer to the agreement, signed today,¹ which settles claims for utilities services furnished the United Nations Forces in Korea.

On behalf of the Swedish Government, I hereby state that its acceptance of this agreement is made with the exception of Article VI concerning the value of the Korean currency to be used in computing the value of utilities services rendered, supplies furnished or damage incurred.

Furthermore, since the amount to be paid by the Government of Sweden under this agreement has not been determined on an exact accounting basis but is a nego-

¹ See p. 240 of this volume.

tiated amount, I am also asked to state, that the regulations given in Article VI shall in no way prejudice the settling of other Swedish debts to the Republic of Korea.

G. H. DECKER
General, United States Army
Commander in Chief

The Honorable Kim Hyun Chul
Minister of Finance
Republic of Korea
Seoul, Korea

II

MINISTRY OF FINANCE
REPUBLIC OF KOREA
SEOUL

18 December 1958

Dear General Decker :

Reference is made to the "Utilities Claims Settlement Agreement Between the Unified Command and the Republic of Korea" signed today, and your letter also of this date as to the desires of the Government of Sweden in reference to this Agreement.

The terms of this agreement are solely applicable to the Utilities Claims Settlement and therefore the provisions of Article VI shall in no way prejudice the settling of other Swedish debts to the Republic of Korea.

Accordingly, this letter confirms acceptance by the Government of Republic of Korea of the reservations on the part of Government of Sweden relative to Article VI of the Agreement.

Sincerely,

HYUN CHUL KIM
Minister of Finance
Republic of Korea

G. H. Decker
General, United States Army
Commander in Chief
United Nations Command