

ANNEX

ARTICLE CONCERNING CRIMINAL JURISDICTION

1. Subject to the provisions of this article—

(a) The military authorities of the sending State shall have the right to exercise within Japan all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;

(b) The authorities of Japan shall have jurisdiction over the members of the United Nations forces or of the civilian components thereof, and their dependents with respect to offences committed within the territory of Japan and punishable by the law of Japan.

2.—(a) The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to its security, punishable by the law of that sending State but not by the law of Japan.

(b) The authorities of Japan shall have the right to exercise exclusive jurisdiction over members of the United Nations forces or of the civilian components thereof, and their dependents with respect to offences, including offences relating to the security of Japan, punishable by its law but not by the law of the sending State concerned.

(c) For the purposes of this paragraph and of paragraph 3 of this Article a security offence against a State shall include—

(i) Treason against the State;

(ii) Sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:—

(a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of the United Nations forces or of the civilian component thereof in relation to—

(i) Offences solely against the property of security of that State, or offences solely against the person or property of another member of the force of that State or of the civilian component thereof, or a dependent;

(ii) Offences arising out of any act or omission done in the performance of official duty.

(b) In the case of any other offence the authorities of Japan shall have the primary right to exercise jurisdiction.

(c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this article shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in Japan, unless they are members of the force of that sending State.